SENATE—*Friday, September 18, 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:

Eternal Father, who has given us the day for work and the night for rest, we thank Thee that Thou dost watch over us both by day and night. Make this new day a day of quest and of conquest, a day when the Members of this body translate the ideals of democracy into practical political, social, and economic realities. In these testing times may we open our minds and hearts to the guidance of Thy spirit, that all plans and programs, all decisions and actions, may be implemented by those spiritual dynamics Thou hast placed at our disposal for the creation of a nobler civilization.

Give Thy higher wisdom to the President, to the Congress, to the judiciary, and all elements of the Government that in unity of purpose the Nation may be well served and be a blessing to all mankind.

Hear us in the name of the Lord of Life. 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 18, 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 Thursday, September 17, 1970, be dispensed with.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar to which there is no objection, beginning with Calendar No. 1182, and the remaining measures in sequence.

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

AMENDMENT OF THE BANKRUPTCY ACT

The bill (S. 4247) to amend the Bankruptcy Act, sections 2, 14, 15, 17, 38, and 58, to permit the discharge of debts in a subsequent proceeding after denial of discharge for specified reasons in an earlier proceeding, to authorize courts of bankruptcy to determine the dischargeability or nondischargeability of providing debts, and to provide additional grounds for the revocation of discharges was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 4247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (12) of subdivision a, section 2, of the Bankruptcy Act (11 U.S.C. 11(a)(12)) is amended to read as follows:

"(12) Discharge or refuse to discharge bankrupts, set aside discharges, determine the dischargeability of debts, and render judgments thereon;".

SEC. 2. Subdivision b of section 14 of the Bankruptcy Act (11 U.S.C. 32 (b)) is amended to read as follows:

"b. (1) The court shall make an order fixing a time for the filing of objections to the bankrupt's discharge and a time for the filing of applications pursuant to paragraph (2) of subdivision c of section 17 of this Act to determine the dischargeability of debts, which time or times shall be not less than thirty days nor more than ninety days after the first date set for the first meeting of creditors. Notice of such order shall be given to all parties in interest as provided in section 58b of this Act. The Court may, upon its own motion or, for cause shown, upon motion of any party in interest, extend the time for filing such objections or applications.

"(2) Upon the expiration of the time fixed in the order for filing objections or of any extension of such time granted by the court, the court shall discharge the bankrupt if no objection has been filed and if the filing fees required to be paid by this Act have been paid in full; otherwise, the court shall hear such proofs and pleas as may be made in opposition to the discharge, by the trustee, creditors, the United States attorney, or such other attorney as the Attorney General may designate, at such time as will give the bankrupt and the objecting parties a reasonable opportunity to be fully heard."

SEC. 3. Section 14 of the Bankruptcy Act (11 U.S.C. 32) is amended by adding at the end thereof the following new subdivisions:

"f. An order of discharge shall—

"(1) declare that any judgment theretofore or thereafter obtained in any other court is null and void as a determination of the personal liability of the bankrupt with respect to any of the following: (a) debts not excepted from the discharge under subdivision a of section 17 of this Act; (b) debts discharged under paragraph (2) of subdivision c of section 17 of this Act; and (c) debts determined to be discharged under paragraph (3) of subdivision c of section 17 of this Act; and

"(2) enjoin all creditors whose debts are discharged from thereafter instituting or continuing any action or employing any process to collect such debts as personal liabilities of the bankrupt.

"g. An order of discharge which has become final may be registered in any other district by filing therein a certified copy of such order and when so registered shall have the same effect as an order of the bankruptcy court of the district where registered and may be enforced in like manner.

"h. Within forty-five days after the order of discharge becomes final the court shall give notice of the entry thereof to all parties in interest as specified in subdivision b of section 58 of this Act. Such notice shall also specify the debts, if any, theretofore determined by the court to be nondischargeable, the debts, if any, as to which applications to determine dischargeability are pending, and those contents of the order of discharge required by subdivision f of this section."

SEC. 4. Section 15 of the Bankruptcy Act (11 U.S.C. 33) is amended to read as follows:

"SEC. 15. DISCHARGES, WHEN REVOKED.—The court may revoke a discharge upon the application of a creditor, the trustee, the United States attorney, or any other party in interest, who has not been guilty of laches, filed at any time within one year after a discharge has been granted, if it shall appear (1) that the discharge was obtained through the fraud of the bankrupt, that the knowledge of the fraud has come to the applicant since the discharge was granted, and that the facts did not warrant the discharge; or (2) that the bankrupt, before or after discharge, received or became entitled to receive property of any kind which is or which became a part of the bankrupt estate and that he knowingly and fraudulently failed to report or to deliver such property to the trustee; or (3) that the bankrupt during the pendency of the proceeding refused to obey any lawful order of, or to answer any material question approved by, the court. The application to revoke for such refusal may be filed at any time during the pendency of the proceeding or within one year after the discharge was granted, whichever period is longer."

SEC. 5. Clauses (2), (5), and (6) of subdivision a of section 17 of the Bankruptcy Act (11 U.S.C. 35(a) (2), (5), (6)) are amended to read as follows:

"(2) are liabilities for obtaining money or property by false pretenses or false representations, or for obtaining money or property on credit or obtaining an extension or renewal of credit in reliance upon a materially false statement in writing respecting his financial condition made or published or caused to be made or published in any manner whatsoever with intent to deceive, or for willful and malicious conversion of the property of another;"

"(5) are for wages and commissions to the extent they are entitled to priority under subdivision a of section 64 of this Act;"

"(6) are due for moneys of an employee received or retained by his employer to secure the faithful performance by such employee of the terms of a contract of employment;".

SEC. 6. Subdivision a of section 17 of the Bankruptcy Act (11 U.S.C. 35(a)) is amended by adding at the end thereof the following new clauses:

"(7) are for alimony due or to become due, or for maintenance or support of wife or child, or for seduction of an unmarried female or for breach of promise of marriage accompanied by seduction, or for criminal conversation; or

"(8) are liabilities for willful and malicious injuries to the person or property of another other than conversion as excepted under clause (2) of this subdivision."

SEC. 7. Section 17 of the Bankruptcy Act (11 U.S.C. 35) is amended by adding at the end thereof the following new subdivisions:

"b. The failure of a bankrupt or debtor to obtain a discharge in a prior proceeding under this Act for any of the following reasons shall not bar the release by discharge in a subsequent proceeding under the Act of debts that were dischargeable under subdivision a of this section in the prior proceeding: (1) discharge was denied in the prior

proceeding solely under clause (5) or clause (8) of subdivision c of section 14 of this Act; (2) the prior proceeding was dismissed without prejudice for failure to pay filing fees or to secure costs. If a bankrupt or debtor fails to obtain a discharge in a proceeding under this Act by reason of a waiver filed pursuant to section 14a of this Act or by reason of a denial on any ground under section 14c of this Act other than clause (5) or clause (8) thereof, the debts provable in such proceeding shall not be released by a discharge granted in any subsequent proceeding under this Act. A debt not released by a discharge in a proceeding under this Act by reason of clause (3) of subdivision a of this section 17 may nevertheless be dischargeable in a subsequent bankruptcy proceeding.

"c. (1) The bankrupt or any creditor may file an application with the court for the determination of the dischargeability of any debt.

"(2) A creditor who contends that his debt is not discharged under clause (2), (4), or (8) of subdivision a of this section must file an application for a determination of dischargeability within the time fixed by the court pursuant to paragraph (1) of subdivision b of section 14 of this Act and, unless an application is timely filed, the debt shall be discharged. Notwithstanding the preceding sentence, no application need be filed for a debt excepted by clause (8) if a right to trial by jury exists and any party to a pending action on such debt has timely demanded a trial by jury or if either the bankrupt or a creditor submits a signed statement of an intention to do so.

"(3) After hearing upon notice, the court shall determine the dischargeability of any debt for which an application for such determination has been filed, shall make such orders as are necessary to protect or effectuate a determination that any debt is dischargeable and, if any debt is determined to be nondischargeable, shall determine the remaining issues, render judgment, and make all orders necessary for the enforcement thereof. A creditor who files such application does not submit himself to the jurisdiction of the court for any purposes other than those specified in this subdivision c.

"(4) The provisions of this subdivision c shall apply whether or not an action on a debt is then pending in another court and any party may be enjoined from instituting or continuing such action prior to or during the pendency of a proceeding to determine its dischargeability under this subdivision c.

"(5) Nothing in this subdivision c shall be deemed to affect the right of any party, upon timely demand, to a trial by jury where such right exists.

"(6) If a bankruptcy case is reopened for the purpose of obtaining the orders and judgments authorized by this subdivision c, no additional filing fee shall be required."

SEC. 8. Clause (4) of section 38 of the Bankruptcy Act (11 U.S.C. 66) is amended by adding at the end thereof the following: ", determine the dischargeability of debts, and render judgments thereon".

SEC. 19. Subdivision b of section 58 of the Bankruptcy Act (11 U.S.C. 94(b)) is amended to read as follows:

"b. The court shall give at least thirty days' notice by mail of the last day fixed by its order for the filing of objections to a bankrupt's discharge and for the filing of applications pursuant to paragraph (2) of subdivision c of section 17 of this Act to determine the dischargeability of debts (1) to the creditors in the manner prescribed in subdivision a of this section; (2) to the trustee, if any, and his attorney, if any, at their respective addresses as filed by them with the court; and (3) to the United States attorney of the judicial district wherein the proceeding is pending. The court shall also give at least thirty days' notice by mail of the time and place of a hearing upon objections to a bankrupt's discharge (1) to the bankrupt, at his last known address as appears in his petition, schedules list of creditors, or statement of affairs, or, if no address so appears, to his last known address as furnished by the trustee or other party after inquiry; (2) to the bankrupt's attorney, if any, at his address as filed by him with the court; and (3) to the objecting parties and their attorneys, at their respective addresses as filed by them with the court."

SEC. 10. The provisions of this amendatory Act shall take effect on and after sixty days from the date of its approval and shall govern proceedings in all cases filed after such date.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1173), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to authorize the bankruptcy courts to determine dischargeability.

STATEMENT

The committee had before it a bill, S. 3523, introduced by Hon. Quentin N. Burdick on February 27, 1970.

On August 17, 1970, Senator Burdick introduced a perfected version of the bill, S. 4247.

In introducing the new bill, Senator Burdick set forth the purpose of the bill and the need for it as follows:

"Mr. President, I introduce, for appropriate reference, a bill to amend the Bankruptcy Act.

"This bill is a perfected version, which has wide support, of S. 3523 which I introduced on February 27, 1970.

"It is identical to H.R. 1871, a similar perfected version, which was introduced in the House of Representatives on August 10, 1970.

"The purpose of the proposed legislation is to effectuate more fully the discharge in bankruptcy by rendering it less subject to abuse by harrassing creditors. Under present law creditors are permitted to bring suit in State courts after a discharge in bankruptcy has been granted and many do so in the hope the debtor will not appear in that action, relying to his detriment upon the discharge. Often the debtor in fact does not appear because of such misplaced reliance, or an inability to retain an attorney due to lack of funds, or because he was not properly served. As a result, a default judgment is taken against him and his wages or property may again be subjected to garnishment or levy. All this results because the discharge is an affirmative defense which, if not pleaded, is waived.

"The proposed legislation is meant to correct this abuse. Under it, the matter of dischargeability of the type of debts commonly giving rise to the problem, that is, those allegedly incurred as a result of loans based upon false financial statements, will be within the exclusive jurisdiction of the bankruptcy court. The creditor asserting nondischargeability will have to file a timely application in the absence of which the debt will be deemed discharged. The bill provides that at the same time notice is given to creditors of the date by which objections to discharge must be filed, creditors are also notified of the date by which applications to determine nondischargeability of their debts must be filed. When timely filed, the matter will be heard in the bankruptcy court and final disposition made of it. The right to trial by jury as it presently exists is retained and the creditor's application does not subject him to the jurisdiction of the bankruptcy court for any other purpose.

"The actual focus of the bill is to give greater effect to the discharge for those who need it most, that is, the ordinary wage earner. It is as to this type of bankrupt that the present abuse of the bankruptcy discharge occurs.

"Section 4 of the bill is meant to accord greater protection to creditors by expanding the causes in section 15 of the Bankruptcy Act for which a discharge, once granted, can be revoked. Additionally, section 17b of the act will be amended to clarify existing case law regarding the status of debts during two or more bankruptcy proceedings of the same bankrupt, the earlier of which did not result in the bankrupt's obtaining a discharge.

"In all, the bill, without changing the policy adopted by the Congress in determining when and as to what debts a discharge may be obtained, is all inclusive in updating the procedural aspects of the discharge to protect more fully the interests of both classes, bankrupts and creditors."

The committee believes that the bill is meritorious and recommends it favorably.

MARIE M. RIDGELY

The bill (S. 876) for the relief of Marie M. Ridgely was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 876

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Marie M. Ridgely, of Suitland, Maryland, is relieved of liability to the United States in the amount of $2,201.75, representing amount received by her as a civil service annuitant while she was employed by the District of Columbia Board of Education for the period beginning June 1, 1965, and ending November 30, 1967. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this section.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Marie M. Ridgely an amount equal to the aggregate of the amounts paid by her, or withheld from sums otherwise due her, with respect to the indebtedness to the United States specified in the first section of this Act.

(b) No part of the amount appropriated in subsection (a) of this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1165), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve Marie M. Ridgely of liability to the United States in the amount of $2,201.75. This sum represents a debt Mrs. Ridgely owes to the United States as a result of an over-

payment to her while she was employed by the District of Columbia Board of Education as a temporary teacher.

STATEMENT

The government of the District of Columbia in its report to the committee sets forth the facts in the case as follows:

"This bill would relieve Marie M. Ridgely of Suitland, Md., of liability to the United States in the amount of $2,201.75. This sum represents a debt Mrs. Ridgely owes to the United States as a result of an overpayment to her while she was employed by the District of Columbia Board of Education as a temporary teacher. When Mrs. Ridgely changed her teaching status from that of a substitute teacher to that of a temporary teacher, an error in administration resulted in a failure to reduce her new salary by the amount of her civil service annuity. This resulted in an overpayment of $2,201.75 from June 1, 1965, through November 30, 1967.

"The District of Columbia is seeking legislation which would allow the District government to waive claims against a person which arise out of an erroneous overpayment by the government when the collection of such a claim would be against equity and good conscience. Although the Commissioner believes it is generally undesirable to provide special legislative relief to one person when others may be in a similar situation, the circumstances in Mrs. Ridgely's case are unusual and the District does not, therefore, oppose S. 876."

The committee believes that the bill is meritorious and recommends favorable consideration.

BILL PASSED OVER

The bill, S. 2229, for the relief of certain corporations, associations, and individuals, was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

DR. HASSAN CHAHARSOUGH VAKIL

The bill (S. 3420) for the relief of Dr. Hassan Chaharsough Vakil was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Hassan Chaharsough Vakil, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of December 23, 1958, and the period of time he has resided in the United States since that date should be held and considered to meet the residence and physical presence requirements of section 316 of the Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1167), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

DR. JOCELYN TANDOC-JUAREZ

The bill (S. 3771) for the relief of Dr. Jocelyn Tandoc-Juarez was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3771

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Jocelyn Tandoc-Juarez shall be held and considered to have been lawfully admitted to the United States for permanent residence as of June 30, 1965.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1168), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

ALBINA LUCIO Z. MANLUCU

The bill (S. 3869) for the relief of Albina Lucio Z. Manlucu was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Albina Lucio Z. Manlucu shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1169), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United State to Albina Lucio Z. Manlucu. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

MRS. JOAN LAGOIS HICKS

The bill (S. 3956) for the relief of Mrs. Joan Lagois Hicks was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Mrs. Joan Lagois Hicks shall be held and considered to have been lawfully admitted to the United States for permanent residence as of August 29, 1963.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1170), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

JURISDICTION OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO OVER CERTAIN CASES

The bill (S. 4235) to continue the jurisdiction of the U.S. District Court for the District of Puerto Rico over certain cases pending in that court on June 2, 1970, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 4235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13 of the Act entitled "An Act to provide for the appointment of additional district judges, and for other purposes", approved June 2, 1970 (Public Law 91–272; 84 Stat. 294), is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; however, nothing in this section shall impair the jurisdiction of the United States District Court for the District of Puerto Rico to hear and determine any action or matter begun in the court on or before June 2, 1970.".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1171), explaining the purposes of the measure.

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

STATEMENT

Section 41 of the act of March 2, 1917, 39 Stat. 95, 48 U.S.C. 863, grants to the U.S. District Court for the District of Puerto Rico certain special jurisdiction. In order to bring the jurisdiction of that court into line with that of the other U.S. district courts, this section was repealed by section 13 of the act of June 2, 1970, 84 Stat. 294. However, the recent enactment did not contain a saving clause applicable to cases pending on June 2, 1970 in the U.S. District Court for the District of Puerto Rico under the provision that was repealed. S. 4235 would add such a saving clause to section 13 of the act of June 2, 1970.

RECOMMENDATIONS

The report of the Department of Justice dated August 28, 1970, on S. 4235 and a letter to the Administrative Office of the United States Courts from the Honorable Albert B. Maris in reference to the companion bill in the House of Representatives are set forth below:

OFFICE OF THE DEPUTY
ATTORNEY GENERAL,
Washington, D.C., August 28, 1970.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 4235, a bill to continue the jurisdiction of the U.S. District Court for the District of Puerto Rico over certain cases pending in that court on June 2, 1970.

Section 41 of the act of March 2, 1917 (39

Stat. 965, 48 U.S.C. 863), grants to the U.S. District Court for the District of Puerto Rico certain special jurisdiction. In order to bring the jurisdiction of that court into line with that of the other U.S. district courts, this section was repealed by section 13 of the act of June 2, 1970 (84 Stat. 294). However, the recent enactment did not contain a saving clause applicable to cases pending on June 2, 1970 in the U.S. District Court for the District of Puerto Rico under the provision which was repealed. S. 4235 would add such a saving clause to section 13 of the act of June 2, 1970.

The Department of Justice has no objection to the enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

5050 U.S. COURTHOUSE,
Philadelphia, Pa., August 21, 1970.

Hon. WILLIAM E. FOLEY,
Administrative Office of the United States Courts, Supreme Court Building, Washington, D.C.

DEAR BILL: Replying to your letter of August 13 regarding H.R. 18761, I would say that the omission of a saving clause from the bill which became section 13 of the omnibus district judgeships act was probably an oversight. I do not believe we knew that there was any substantial number of pending cases which would be affected by it. In any event the amendment proposed by H.R. 18761 is proper and should be approved and supported.

Sincerely yours,

ALBERT B. MARIS,
Senior U.S. Circuit Judge.

JOSE LUIS CALLEJA-PEREZ

The bill (H.R. 1747) for the relief of Jose Luis Calleja-Perez was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1172), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to cancel outstanding deportation proceedings in the case of Jose Luis Calleja-Perez.

MRS. NIMET WEISS

The Senate proceeded to consider the bill (S. 732) for the relief of Mrs. Nimet Weiss which had been reported from the Committee on the Judiciary with an amendment in line 7, after the word "fee.", strike out "Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available,"; so as to make the bill read:

S. 732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Mrs. Nimet Weiss shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1174), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill as amended is to grant the status of permanent residence in the United States to Mrs. Nimet Weiss. The bill provides for the payment of the required visa fee. The bill has been amended to delete reference to a visa number deduction, inasmuch as the beneficiary would have been entitled to immediate relative status were it not for the death of her U.S. citizen husband.

ANASTASIA PERTSOVITCH

The bill (S. 3620) for the relief of Anastasia Pertsovitch was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Mrs. Anastasia Pertsovitch, the widow of Mr. Dmytro Pertsovitch, a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of said Act shall not be applicable in this case.

Amend the title so as to read: "A bill for the relief of Mrs. Anastasia Pertsovitch."

The title was amended, so as to read: "A bill for the relief of Mrs. Anastasia Pertsovitch."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1175), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of an immediate relative to Mrs. Anastasia Pertsovitch which is the status she would be entitled to were it not for the death of her husband, a citizen of the United States. The bill has been amended to correct the beneficiary's name.

RICHARD W. YANTIS

The Senate proceeded to consider the bill (S. 3805) for the relief of Richard W. Yantis which had been reported from the Committee on the Judiciary with an amendment on page 2, line 2, after the word "such", strike out "status.", and insert "status: *Provided,* That the beneficiary returns to the United States for permanent residence within one year following the effective date of this Act."; so as to make the bill read:

S. 3805

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Richard W. Yantis, who lost his United States citizenship under the provisions of section 349 of the Immigration and Nationality Act, may be naturalized by taking the oath prescribed in section 337 of such Act, within one year after the date of enactment of this Act, before any court referred to in section 310(a) of such Act or before any diplomatic or consular officer of the United States abroad. From and after naturalization under this Act, the said Richard W. Yantis shall have the same citizenship status as that which existed prior to the loss of such status: *Provided,* That the beneficiary returns to the United States for permanent residence within one year following the effective date of this Act.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1176), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill as amended is to provide for the restoration of U.S. citizenship to Richard W. Yantis, which was lost by obtaining naturalization in Canada. The bill has been amended to require the beneficiary to return to the United States for permanent residence within one year following the effective date of this Act.

KIM JULIA AND PARK TONG OP

The Senate proceeded to consider the bill (S. 3813) for the relief of Kim Julia and Park Tong Op which had been reported from the Committee on the Judiciary with an amendment in line 5, after the word "of", where it appears the second time, strike out "orphans" and insert "adopted children"; so as to make the bill read:

S. 3813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, section 204(c) of such Act, relating to the number of petitions which may be approved in behalf of adopted children, shall be inapplicable in the case of petitions filed in behalf of Kim Julia and Park Tong Op by Mr. and Mrs. Lester Gibson, citizens of the United States. The natural brothers or sisters of the said Kim Julia and Park Tong Op shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1177), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States in an immediate relative status of two alien children to be adopted by citizens of the United States, notwithstanding the fact that the adoptive parents have previously had the maximum number of petitions approved. The amendment is technical in nature.

BRUCE M. SMITH

The Senate proceeded to consider the bill (S. 3858) for the relief of Bruce M. Smith which had been reported from the Committee on the Judiciary with an amendment in line 6, after the word "residence", insert "on May 23, 1961,"; so as to make the bill read:

S. 3858

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, the periods of time that Bruce M. Smith has resided in the United States since he was lawfully admitted to the United States for permanent residence on May 23, 1961, shall be held and considered to meet the residence and physical presence requirements of section 316 of such Act. In this case the petition for naturalization may be filed with any court having naturalization jurisdiction.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1178), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to enable the beneficiary to file a petition for naturalization. The bill has been amended in accordance with established precedents.

HYUN JOO LEE AND MYUNG JOO LEE

The Senate proceeded to consider the bill (S. 4073) for the relief of Hyun Joo Lee and Myung Joo Lee which had been reported from the Committee on the Judiciary with an amendment in line 5, after the word "of", insert "adopted"; so as to make the bill read:

S. 4073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, section 204(c), relating to the number of petitions which may be approved in behalf of *adopted* children, shall be inapplicable in the case of petitions filed in behalf of Hyun Joo Lee and Myung Joo Lee by Mr. and Mrs. Bruce Boldon, citizens of the United States. The natural brothers and sisters of the said Hyun Joo Lee and Myung Joo Lee shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1179), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States in an immediately relative status of two orphans to be adopted by citizens of the United States, notwithstanding the fact that the prospecive adoptive parents have previously had the maximum number of petitions approved. The bill has been amended in accordance with established precedents.

STATE JURISDICTION OVER OFFENSES COMMITTED BY INDIANS IN INDIAN COUNTRY

The Senate proceeded to consider the bill (S. 902) to amend section 1162 of title 18, United States Code, relating to State jurisdiction over offenses committed by or against Indians in the Indian country which had been reported from the Committee on the Judiciary with an amendment on page 1, after line 5, strike out:

Alaska------ All Indian country within the State, except that on the Annette Islands, the Metlakatle Indian community may exercise concurrently such jurisdiction as was vested in it immediately prior to the date of enactment of the Act of August 8, 1958 (72 Stat. 545).

And, in lieu thereof, insert:

Alaska------ All Indian country within the State, except that on Annette Islands, the Metlakatla Indian community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1162 of title 18, United States Code, is amended by deleting the following:

"Alaska ------ All Indian country within the Territory" and inserting in lieu thereof the following:

"Alaska ------ All Indian country within the State, except that on Annette Islands, the Metlakatla Indian community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended."

SEC. 2. Subsection (c) of section 1162 of title 18, United States Code, is amended to read as follows: "(c) The provisions of sections 1152 and 1153 of this chapter shall not be applicable within the areas of Indian country listed in subsection (a) of this section as areas over which the several States have exclusive jurisdiction."

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1180), explaining the purposes of the measure.

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

AMENDMENT

Strike the indented language following line 5 of the first section, and insert the following language:

"Alaska * * * All Indian country within the State, except that on the Annette Islands, the Metlakatla Indian Community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended."

This is a technical amendment which makes the language of the bill more in harmony with other sections of title 18 regarding Indian affairs. The amendment has the same purpose as the original language of S. 902; that is, to restore to the Indians of the Metlakatla Indian community the self-government which they possessed prior to the enactment of Public Law 85–615.

PURPOSE

The purpose of the amended bill is stated fully in Senator Ervin's letter addressed to each of the members of the subcommittee. The text of Senator Ervin's letter follows:

DEAR SUBCOMMITTEE MEMBER: Enclosed is a copy of S. 902, which is now pending before the subcommittee.

The purpose of this bill is to alleviate a problem which exists in the administration of criminal justice in the State of Alaska. The enactment of Public Law 85–615 by Congress in 1958, vested exclusive criminal jurisdiction in the State of Alaska over all offenses, including misdemeanors, committed in the Indian country. Included under the coverage of this law was the Annette Island Reservation, the subject of the inequities attempted to be remedied by the introduction of S. 902. The record clearly shows, however, that the inclusion of those islands was inadvertent because the Indians of the Metlakatla community of the Annette Islands were capable of exercising jurisdiction over petty criminal offenses and had done so for some time.

Although the jurisdictional problem may seem rather technical, in actuality it is a very simple matter. Prior to the enactment of Public Law 85–615, the people of Metlakatla relied upon their own magistrate's court to handle petty criminal offenses, and only recently discovered that they no longer had jurisdiction over these crimes because of the exclusive jurisdiction of the State of Alaska. As Senator Gravel so succinctly stated in his remarks accompanying the introduction of S. 902:

"For the State to exercise jurisdiction over petty offenses is patently absurd since that requires the transportation of defendants, complainants, witnesses, and counsel from Metlakatla to Ketchikan—such trips to be made either by plane or boat. This works a hardship on all concerned."

What this simply means is that the people of Metlakatla are now without police protection because Indian officers and courts have no jurisdiction under Public Law 85–615.

The people of Metlakatla, through their mayor, Henry S. Littlefield, and the Legislature of Alaska have both urged Congress to amend Public Law 85–615 so as to grant to the Indians of Metlakatla jurisdiction over petty offenses.

As can readily be seen, there is no objection to the passage of this bill from the Indians themselves, or the State of Alaska. It also has the full support of the entire Alaskan congressional delegation, which is very anxious to see the enactment of this measure at the earliest possible date.

Passage of this bill would accomplish one of the aims I have espoused since I began working for the rights of American Indians.

I believe that whenever possible the Indians should be allowed to govern themselves rather than be the wards of the States or the Federal Government.

I should like to request that you, as a member of the Subcommittee on Constitutional Rights, approve an amendment to S. 902, which would strike the indented language following line 5 of the first section, and insert the following language:

"Alaska * * * All Indian country within the State, except that on the Annette Islands, the Metlakatla Indian community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended."

This is a technical amendment which makes the language of the bill more in harmony with other sections of title 18 regarding Indian affairs. The amendment has the same purpose as the original language of S. 902; that is, to restore to the Indians of the Metlakatla Indian community the self-government which they possessed prior to the enactment of Public Law 85–615.

I should like to request that you approve S. 902 with my proposed amendment as soon as possible because the Indians concerned are virtually without any sort of law and order.

With all kind wishes, I am,

Sincerely yours,

SAM J. ERVIN, Jr.,
Chairman.

SHERMAN WEBB

The bill (H.R. 17734) for the relief of Sherman Webb and others was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1181), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to pay to the named individuals the amounts listed, in full settlement of their claims against the United States for damages found due them in a congressional reference case proceeding for flooding caused by the unnecessary release of water from the Wappapello Dam and Reservoir in September 1965:

Name:	*Amount*
Sherman Webb of Qulin, Mo	$3,587.50
Hershel O. Vernon of Fisk, Mo	2,104.00
Taylor Underwood of Fisk, Mo	1,052.00
T. D. Burleson of Dexler, Mo	3,261.34
Louise Bombolaski of Dudley, Mo	13,294.85
Leroy Cato of Dudley, Mo	3,306.67
E. B. Bowie of Dudley, Mo	64,728.63
Milburn Taylor of Dudley, Mo	2,200.00
Loyd Thompson of St. Francis, Ark	1,366.67
Marlin Tinsley of Granite City, Ill	683.33
Pete Sandlin of Dudley, Mo	3,876.00
Arvil Bowie of Dudley, Mo	5,197.34
Ben W. White of Campbell, Mo	4,100.00
H. L. Underwood of Campbell, Mo	492.00
Joe Vanderfeltz of Campbell, Mo	252.00
Clem Bader of Campbell, Mo	1,414.00
W. H. Bowling of Dudley, Mo	7,462.67
Virgil T. Low of Piggott, Ark	4,760.00
Lawrence Sherflus of Dudley, Mo	5,835.50
J. D. Flagg of Piggott, Ark	1,608.73
Robert Feiser of Campbell, Mo	$2,456.66
John Feiser of Campbell, Mo	376.66
Armstrong Cork Co. of Campbell, Mo	443.34
L. F. Feiser of Campbell, Mo	163.34
John F. Stenger of Campbell, Mo	602.80
Marvin Fadler of Bernie, Mo	16,565.51
Joe Osborn and Jack Osborn (partners) of Kennett, Mo	14,649.02
Robert White of Bernie, Mo	15,950.00
Jerrell Stone of Bernie, Mo	2,930.34
Billie J. Barker of Bernie, Mo	1,465.16
Rex Young of Bernie, Mo	7,757.87
Jack Bowie of Dudley, Mo	3,878.93
Cranston C. Smith of Bernie, Mo	3,787.50
Omas Shipman of Bernie, Mo	1,355.47
Elmo Moore of Piggott, Ark	11,790.00
E. A. Hawkins and H. A. Hawkins of Kennett, Mo	17,766.67
Amos Linville of Campbell, Mo	2,003.00
Jess Creecy of Dudley, Mo	4,503.01
John L. Bowie of Fisk, Mo	18,918.67
Hauzie Wingfield of Campbell, Mo	3,587.50
Lofton Linderman of Fisk, Mo	1,182.00
Mike Feiser of Campbell, Mo	848.70
H. B. Talkington of Dexter, Mo	5,491.20
B. N. Maxwell of Campbell, Mo	1,687.50
John Clodfelter of Dudley, Mo	4,312.00
Dud C. Lewis of Piggott, Ark	2,938.46
Fred Templemire of Bernie, Mo	519.85
Lee Lipsey of Campbell, Mo	1,080.00
O. G. Branch of Dudley, Mo	2,017.34
Robert Stoner of Dudley, Mo	11,781.34
Elmer Battles of Dudley, Mo	1,669.34

STATEMENT

The Committee of the Judiciary of the House of Representatives in its favorable report on the bill said:

"On May 27, 1968. House Resolution 1098 of the 90th Congress was passed by the House of Representatives referring the bill H.R. 1624 of that Congress to the Chief Commissioner of the Court of Claims. The bill was referred to the Chief Commissioner in accordance with the congressional reference case provisions of sections 1492 and 2509 of title 28 of the United States Code. In accordance with the procedures applicable to such proceedings, the matter was referred to an individual commissioner for trial. On September 26, 1969, after a trial and briefing of the case by the parties, the Commissioner concluded that while there was not legal liability, the parties had a valid equitable claim against the United States. The opinion of the Trial Commissioner was considered by a review panel of commissioners and the opinion of the review panel, together with the commissioner's findings of fact were certified to the House of Representatives. That opinion and the findings of fact are made a part of this report.

Based upon the findings of fact and the conclusions and recommendations stated in the opinion of the review panel, the committee recommends that the bill, H.R. 17734, embodying those recommendations be considered favorably.

"The bill as originally introduced provided for a limitation of attorney's fees of 25 percent. After considering the matter the committee has determined that a reasonable limitation in this instance would be 15 percent. Accordingly, the committee has recommended an amendment fixing the limitation at 15 percent for the amounts set forth in the bill."

The committee believes that the bill as passed by the House of Representatives is meritorious and recommends it favorably.

JACK W. HERBSTREIT

The bill (H.R. 10149) for the relief of Jack W. Herbstreit was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1182), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to waive the 3-year limitation imposed in subchapter 4 of chapter 35 of title 5 of the United States Code so that Jack W. Herbstreit shall be granted employee rights and entitlements under that subchapter until the expiration of his current term as an elected official of the International Telecommunication Union or he ceases to serve in that capacity. The bill would further provide that the waiver would extend for the additional periods specified in that subchapter or the regulations issued pursuant to it following his separation and application for reemployment. The bill expressly provides that his service as an elected official of the International Telecommunication Union is not to constitute creditable service for the purpose of the civil service retirement system if such service forms the basis in whole or in part of an annuity or pension under the retirement system for the International Telecommunication Union.

STATEMENT

The proposed legislation passed the House of Representatives May 20, 1969. The facts of the case as stated in the accompanying House Report 91–202 are as follows:

"The bill, H.R. 10149, was introduced in accordance with the recommendations of an executive communication of the Department of Commerce which recommends its enactment. The Department stated the purpose of this legislation is to provide relief for Mr. Jack W. Herbstreit, who is an outstanding scientist and administrator who has earned many honors and awards during his 26 years of service with the Federal Government, including nomination and election to the international organization office which he presently holds.

"In 1966, the United States nominated Mr. Herbstreit as its candidate for directorship of the International Radio Consultative Committee, a highly responsible position in the International Telecommunication Union (ITU). The Department noted that his subsequent election to an approximately 6-year term in that position by an international assembly is a measure of the importance of his contributions to telecommunication science and the reputation which he has achieved internationally.

"Following the election, Mr. Herbstreit transferred to the ITU pursuant to the provisions of subchapter IV of chapter 35 of title 5, United States Code (5 U.S.C. 3581–4), and implementing regulations of the Civil Service Commission (5 CFR 352.301–352.312), which authorize the continuation of certain employee benefits for a limited period of time. Such employee benefits consist of entitlement to rights and benefits under the Federal retirement system, under the Federal program providing compensation for work injuries, under the Federal employees group life insurance program, and under the Federal employees' health benefits program. In addition, the employee is entitled to reemployment rights; he is given the option of retaining his accrued annual leave or receiving a lump-sum payment therefor; and he is entitled, upon timely reemployment, to recredit of sick leave, to certain benefits in fixing his rate of pay, and to service credit for the period of separation.

"Pursuant to the terms of subchapter IV, these benefits will terminate after Mr. Herbstreit has completed 3 years' service with the

ITU. As a result, he will suffer personal loss if he completes his 6-year term, instead of returning to the United States and resuming his Federal employment after 3 years' international service, as sections 3581–4 of title 5, United States Code, contemplate. The loss would be greater if he were reelected, even though the United States might wish him to be available for reelection.

"H.R. 10149 would avoid this inequitable result by waiving the provisions of law limiting the duration of Mr. Herbstreit's employee benefits and reemployment rights for his current term of service as an elected official of the ITU.

"The International Telecommunication Union is a treaty organization of which the United States is a member, enabling the nations of the world to cooperate in the use of the radio frequency spectrum and to avoid, or at least minimize, interference to member nations' radio stations. The ITU also coordinates the activities of many nations in telephone and telegraph communications.

"The ITU has several permanent organs including the International Radio Consultative Committee (commonly abbreviated by its initials in French—CCIR). The CCIR studies technical and operating questions relating to radio communications, and issues scientific and technical recommendations. The recommendations are considered and adopted at plenary assemblies of the committee. While they are not mandatory, unless adopted by the ITU, they are usually observed by the technical and operating services of the government administrations and private operating agencies of the countries belonging to the union. CCIR recommendations also influence the ITU's international allocations of the radio frequency spectrum—decisions of great importance to members of government, industry, and the public at large who use, or benefit from use of, radio communications. The Department of Commerce stated that the work of CCIR has great influence over the technical aspects of world radio communication activities, including, for example, satellite communications.

"The CCIR is headed by a director elected by its plenary assembly initially for a period equal to twice the interval between two consecutive plenary assemblies, ordinarily 6 years but possibly as much as a year longer. Thereafter, an incumbent is eligible for reelection to terms of approximately 3 years each.

"When a vacancy in the office of the CCIR was officially announced in late 1965, the Department of State searched carefully and selected Mr. Herbstreit as the best qualified candidate that the United States could put forth for the post, and the United States nominated him for the office. Thereafter, the CCIR, at its XI Plenary Assembly meeting at Oslo, Norway, elected Mr. Herbstreit its director for a term of approximately 6 years beginning September 1, 1966. Three ballots were required to select between Mr. Herbstreit and three other highly qualified candidates for the post, including Dr. Miroslav Joachim of Czechoslovakia, an experienced counselor in the CCIR secretariat, who ran nearest to Mr. Herbstreit in votes received. Thus, Mr. Herbstreit's election to this high international post is a significant distinction for himself, and for the United States as well. His acceptance of the position, however, has entailed considerable personal sacrifice.

"Prior to his election to the directorship, CCIR, Mr. Herbstreit was Deputy Director of the Institute of Telecommunication Sciences and Aeronomy of the Department of Commerce Environmental Science Services Administration. He reached this position in October 1965, after 25 years of exceptional scientific and science administrative service for the Federal Government. During that period, Mr. Herbstreit received the Harry J. Diamond Memorial Award of the Institute of Radio Engineers, the highest award that can be bestowed upon a U.S. Government scientist in the field of radio and electronics, for original research and leadership in radio wave propagation. He has also been awarded the rank of fellow in the Institute for Electrical and Electronics Engineers, and a similar rank in the American Association for the Advancement of Science. The Department of Commerce, which awarded him in 1966 its gold medal for outstanding scientific contributions, concurred in the nomination of Mr. Herbstreit to his present position because of its significance internationally and its significance to the development of a technology of great importance to the United States. In this connection, the Department noted that the loss of Mr. Herbstreit's capabilities has been keenly felt.

"The committee feels that it is important to recognize the fact that at present Mr. Herbstreit enjoys the benefits conferred by 5 U.S.C. 3581–4 and implementing civil service regulations upon former Federal employees who have left the Federal service to transfer to an international organization. However, these benefits and reemployment rights terminate 3 years after his separation from Federal employment (which was in August 1966), unless he leaves the CCIR within that period and returns to Federal service.

"Because of the 3-year time limitation in 5 U.S.C. 3581—4, Mr. Herbstreit will be confronted in August 1969 with a choice between (1) retaining participation in the retirement system and insuring reemployment with the U.S. Government by resigning his position as director of the CCIR and returning to the United States and his former employment, or (2) continuing to serve out his 6-year term as director and losing his benefits under 5 U.S.C. 3581—4. The committee is advised that Mr. Herbstreit feels that if he were to make this choice strictly on the basis of his personal interests, he would derive greater personal material benefit by resigning from his present international position in August 1969, and returning to Federal employment, partially because of the relation between salary and cost of living, but more particularly because of the loss of further opportunity to participate in the Federal retirement system.

"The Department of Commerce feels that resignation by Mr. Herbstreit from his present position would be adverse to the national interest, and that the policy requiring such a resignation to make possible continuation of Federal employee benefits should not be applied to his case. Mr. Herbstreit has given outstanding service to the United States during his 26 years of Federal employment. In addition, he is particularly well qualified, both technically and administratively, to carry out his present international position. The United States, as a technically advanced nation, stands to benefit greatly from effective performance in direction of the many significant activities of the technically oriented CCIR. Furthermore, there is presently inadequate U.S. citizen participation in the ITU. Mr. Herbstreit is one of only three U.S. nationals in the approximately 450-member staff of the ITU, and the only U.S. national in a position of importance.

"The Department of Commerce has stated that it does not believe that it would be in the best interests of the United States to require that the time limitation of 5 U.S.C. 3581–4 be applied to an individual who has served the Federal Government so well in the past, and who now holds such a significant and responsible international position. Accordingly the Department has urged enactment of the bill to waive the time limitation until Mr. Herbstreit completes his current term as an elected officer of the ITU, or ceases to serve in that capacity, whichever occurs first. As has been noted, the bill also bars dual retirement credit by prohibiting receipt of U.S. retirement benefits for any period of service for which he is also receiving retirement benefits from the retirement system for the ITU.

"The committee has carefully reviewed the facts outlined above and agrees that this is a proper subject for legislative relief. It is clear that the bill has been carefully drafted to extend to Mr. Herbstreit the benefits accorded him under relevant law during the period he served as an elected official of the International Telecommunication Union and the additional periods expressly provided in subchapter 4 of title 5 following separation and application for reemployment. The committee further notes that it is clear from the facts outlined that such a waiver is in the best interest of the United States."

In agreement with the Department of Commerce and the House of Representatives, the committee recommends that the bill be considered favorably.

"DAY OF BREAD" AND "HARVEST FESTIVAL WEEK"

The Senate proceeded to consider the joint resolution (S.J. Res. 218) providing for the establishment of an annual "Day of Bread" and "Harvest Festival Week."

Mr. DOLE. Mr. President, the plans for celebrating the International Day of Bread are well underway. Thirty other Senators joined me in sponsoring the resolution providing for this celebration. Millers and bakers throughout this Nation and the world are planning activities to honor and recognize this day—October 6.

Major events are planned in New York City, Chicago, Kansas City, Minneapolis, and Washington, D.C., as well as in the States of Kansas, North Dakota, Washington, New Jersey, Pennsylvania, North Carolina, Michigan, Texas, Utah, California, and many others.

Major grocery chains, such as Safeway Stores, have announced they will participate in the celebration through their advertising.

Many Governors will sign official proclamations in their States.

In Europe, a special ceremony will take place in Feldkirch, Austria, near the Swiss border, to proclaim the event with officials from Germany, Switzerland, and Italy participating. West German bakers are planning an event at the European Museum of Bread.

Bread, both as a food and as a symbol of all foods, has both spiritual and tangible value for all Americans—from those who produce our food supply to those who consume it.

The International Day of Bread, as part of a "Harvest Festival Week," is a time set aside as an expression of gratitude for the bounty of nature and as recognition of bread as the symbol of all foods.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1183), explaining the purposes of the measure.

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

PURPOSE

The purpose of the joint resolution is to designate Tuesday, the sixth day of October, 1970, as "Day of Bread" and that the week of October within which it falls as a period of "Harvest Festival," and to authorize and request the President to issue a proclamation calling upon the people of the

United States to join with those of other nations to observe this "Day of Bread" and "Harvest Festival Week" with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. RES. 218

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That as a token of man's gratitude for the bounty of nature and the annual harvest of farm and field, and in recognition of bread as a symbol of all foods, that Tuesday, the 6th day of October, 1970, be designated as a "Day of Bread" as a part of international observances, and that the week of October within which it falls be designated as a period of "Harvest Festival", and the President is requested to issue a proclamation calling on the people of the United States to join with those of other nations to observe this "Day of Bread" and "Harvest Festival Week" with appropriate ceremonies and activities.

JOINT RESOLUTION PASSED OVER

The joint resolution (S.J. Res. 225) authorizing the President to proclaim the period October 25 through 31, 1970, as Law Officers Appreciation Week was announced as next in order.

Mr. MANSFIELD. Mr. President, over. I ask that this resolution go to the foot of the calendar.

The ACTING PRESIDENT pro tempore. The resolution will be passed over, and be placed at the foot of the calendar.

NATIONAL PTA WEEK

The joint resolution (S.J. Res. 228) to authorize the President to designate the period beginning October 5, 1970, and ending October 9, 1970, as "National PTA Week" was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 228

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That as a tribute to the important contributions of the parent-teacher movement to the American way of life, and the continuing efforts of the National Congress of Parents and Teachers (National PTA) to provide quality living and quality learning for all Americans, the President is hereby authorized and requested to issue a proclamation designating "National PTA Week" from October 5, 1970, to October 9, 1970, and calling upon the people of the United States and interested groups and organizations to observe such period with appropriate ceremonies and activities.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1185), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to authorize and request the President of the United States to designate the period beginning October 5, 1970, and ending October 9, 1970, as National PTA Week.

STATEMENT

The National Congress of Parents and Teachers is an organization dedicated to providing quality living and quality learning for all Americans and this resolution would serve as a tribute to the important contributions of the parent-teacher movement to the American way of life.

The committee is of the opinion that this resolution has meritorious purpose by calling attention to the tremendous contributions of the PTA and accordingly recommends that Senate Joint Resolution 228 be considered favorably.

PROJECT CONCERN MONTH

The Senate proceeded to consider the joint resolution (H.J. Res. 1178) authorizing the President to proclaim the month of May 1970 as "Project Concern Month" which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, after the word "of", strike out "May" and insert "October".

The amendment was agreed to.

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

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

The title was amended so as to read: "Joint resolution authorizing the President to proclaim the month of October 1970 as 'Project Concern Month'."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1187), explaining the purposes of the measure.

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

PURPOSE

The purpose of the joint resolution as amended is to authorize and request the President to issue a proclamation that the month of October 1970 be observed as "Project Concern Month" and calling upon all citizens to aid in every way possible toward making this worthwhile project a continuing success.

NATIONAL VOLUNTEER FIREMEN'S WEEK

The Senate proceeded to consider the joint resolution (H.J. Res. 1154) authorizing the President to proclaim National Volunteer Firemen's Week from September 19, 1970, to September 26, 1970, which had been reported from the Committee on the Judiciary, with amendments, on page 1, line 5, after the word "from", strike out "September 19", and insert "October 24,"; and in the same line, after the word "to", strike out "September 26," and insert "October 31,".

The amendments were agreed to.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

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

The title was amended so as to read: "Joint resolution authorizing the President to proclaim National Volunteer Firemen's Week from October 24, 1970, to October 31, 1970."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1186), explaining the purposes of the measure.

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

STATEMENT

This joint resolution, as amended, would authorize the President to proclaim the period October 24, 1970, to October 31, 1970, as National Volunteer Firemen's Week and would call upon the people of the United States to observe such week with appropriate ceremonies and activities.

Throughout the United States the volunteer fire departments render great services to communities who would not otherwise have the facilities necessary for adequate fire protection. To call attention to the great services performed by citizens who are volunteer firemen, this resolution would bring to the attention of all of our people the great accomplishments of our volunteer firemen.

The committee is of the opinion that the joint resolution is meritorious and recommends favorable consideration of House Joint Resolution 1154, as amended.

DESIGNATION OF THE VETERANS' ADMINISTRATION FACILITY, BONHAM, TEX., FOR SAM RAYBURN

The Senate proceeded to consider the bill (H.R. 17613) to provide for the designation of the Veterans' Administration facility at Bonham, Tex.

Mr. YARBOROUGH. Mr. President, the bill before us today is of particular significance since it would honor the life and memory of one of the greatest statesmen in the history of America and the history of Texas, the late Speaker Sam Rayburn.

Sam Rayburn's career in the House of Representatives will be remembered not only for the length of time he served as Speaker, the longest of any man in history, but also for the many pieces of landmark legislation which he guided through the House of Representatives. During the 48 years that he served the people of America and Texas in the House, he placed his indelible imprint on every piece of legislation which benefits the lives of average Americans. Without his leadership, President Roosevelt's New Deal would have only been a dream, President Truman's Fair Deal programs would have never been passed and the New Frontier of President Kennedy would never have gotten underway. However, Sam Rayburn's talents were not limited to partisan measures alone. On the contrary he worked with both Republican and Democratic Presidents with the same vigor and devotion. The only group on earth that he showed special favor to were the people themselves, the farmer, the small businessman, the worker, and the veteran. To this group, he stood as a tower of strength and a defender of their interests.

Speaker Rayburn was always a strong advocate of beneficial veterans legislation. He worked long and hard to expand and improve the facilities of the Veterans' Administration. He was particularly interested in the Veterans' Administration medical and hospital programs. For years he worked to establish a Veterans' Administration Hospital in Bonham, Tex., his hometown, so that the many veterans of the rural areas of north Texas would have access to a first-class hospital. The Bonham Veterans'

Administration hospital was a great source of pride to him, and I feel certain that if he was alive today, he would be leading the fight to improve the standard of care in all Veterans' Administration hospitals.

It is the general practice not to name Veterans' Administration hospitals for individuals, regardless of their fame or reputation. However, in certain rare circumstances this practice has been varied in order to name such Veterans' Administration hospital for persons who, during their lifetimes, contributed significantly to better the lives of America's veterans. Prior to the bill we have before us today, only two Veterans' Administration hospitals have been named for individuals. These hospitals are the Royal C. Johnson Veterans' Administration Hospital in Sioux Falls, S. Dak., which is named for the first chairman of the Committee of World War Veterans Legislation, and the President Franklin Delano Roosevelt Veterans' Administration Hospital in Montrose, N.Y. It is only fitting that we now make another exception in this general practice and name the Bonham Veterans' Administration Hospital for the greatest Speaker of the House of Representatives in history, Sam Rayburn.

Mr. President, I urge all my colleagues to give this bill their full support so that this hospital will stand as a monument to this giant in American history.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1188), explaining the purposes of the measure.

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

EXPLANATION OF THE BILL

This House-passed bill would name the Veterans' Administration center (hospital and domiciliary) at Bonham, Tex., for the late Sam Rayburn, who served as Speaker of the House of Representatives longer than any other Member of the House in the history of the United States.

During his long period of service which began on March 4, 1913, until his death on November 16, 1961, Speaker Rayburn had always shown a keen interest in the affairs and general welfare of the veterans of this Nation. The hospital and domiciliary at Bonham had a special place in his heart.

While it is not the general practice of the Veterans' Administration to name its hospitals for individuals, exceptions have been made by the Congress. Public Law 79–93 designated the VA hospital at Sioux Falls, S. Dak., as the Royal C. Johnson Veterans' Hospital, after the first chairman of the Committee on World War Veteran Legislation, and Public Law 79–189 designated the hospital at Montrose, N.Y., as the President Franklin Delano Roosevelt VA Hospital.

There would be no additional expense to the Treasury as the result of the enactment of this legislation.

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

BILLS PASSED OVER

The bills, S. 3938, to amend title VII of the Housing and Urban Development Act of 1965, and H.R. 17795, to amend title VII of the Housing and Urban Development Act of 1965, were announced.

Mr. MANSFIELD. Mr. President, I ask that these two bills go over.

The ACTING PRESIDENT pro tempore. The two bills will be passed over.

AUTHORIZING DAVID MINTON TO APPEAR AS A WITNESS IN THE CASE OF UNITED STATES AGAINST BREWSTER, AND OTHERS

The resolution (S. Res. 464) to authorize David Minton, staff director and counsel of the Committee on Post Office and Civil Service, to appear as a witness in the case of United States against Brewster, and others, was considered and agreed to, as follows:

S. RES. 464

Resolved, That by the privileges of the Senate of the United States no evidence in the possession and under the control of the Senate of the United States can, by the mandate of process of ordinary courts of justice, be taken from such possession or control but by its permission; be it further

Resolved, That by the privilege of the Senate and by rule XXX thereof, no Member or Senate employee is authorized to produce Senate documents, papers, or evidence but by order of the Senate, and information secured by Senate staff employees pursuant to their official duties as employees of the Senate may not be revealed without the consent of the Senate; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or any legal officer charged with the administration of the orders of such court or judge, that testimony of an employee of the Senate is needful for use in any court of justice or before any judge or legal officer for the promotion of justice and that such testimony may involve documents, papers, or evidence related thereto under the control of or in the possession of the Senate, the Senate will take such order thereon as will promote the ends of justice consistently with the privilege and rights of the Senate; be it further

Resolved, That David Minton, staff director and counsel of the Committee on Post Office and Civil Service, be authorized to appear at the time and place and before the court named in such subpena, but shall not take with him any papers, documents, or evidence on file in his office, under his control, or in his possession as staff director and counsel of the Committee on Post Office and Civil Service; be it further

Resolved, That when the court determines (1) that any of the documents, papers, or evidence called for in such subpena have become part of the official transcripts of public proceedings of the Senate by virtue of their inclusion in the official minutes and official transcripts of such proceedings for dissemination to the public upon order of the Senate or pursuant to the rules of the Senate, and (2) that such documents, papers, and evidence are material and relevant to the issues pending before the court, then the court, through any of its officers or agents, shall have full permission to attend with all proper parties to the proceeding, and then always at a place under the orders and control of the Senate, and there to take copies of such documents, papers, and evidence in the possession or control of the said David Minton, excepting any other documents, papers, and evidence (including but not limited to, minutes and transcripts of executive sessions and any evidence of witnesses in respect thereto) which the court or other proper official thereof shall desire as such matters are within the privileges of the Senate; be it further

Resolved, That, notwithstanding any other provision of this resolution, when the court finds that the voting records of the Committee on Post Office and Civil Service insofar as they reflect the votes cast on the postage rate sections of H.R. 7977, Ninetieth Congress, first session, by Daniel B. Brewster as a member of that committee are material and relevant to the issues pending before the court, then the court, through any of its officers or agents, shall have full power to attend with all proper parties to the proceeding, and then always at a place under the orders and controls of the Senate, and there to take copies of so much of such voting records as reflects the votes cast by Daniel B. Brewster, but no votes cast by any other member of that committee; be it further

Resolved, That David Minton, staff director and counsel of the Committee on Post Office and Civil Service, in response to such subpena may testify to any matter determined by the court to be material and relevant for the purposes of identification of any document, paper, or evidence if such document, paper, or evidence has previously been made available to the general public, or if its disclosure is authorized by this resolution, but that said David Minton shall respectfully decline to testify concerning any and all other matters that may be based on his knowledge acquired by him in his official capacity either by reason of documents, papers, or evidence appearing in the files of the Committee on Post Office and Civil Service or by virtue of conversations or communications with any person or persons and he shall respectfully decline to testify concerning any matters within the privilege of the attorney-client relationship existing between said David Minton and the said committee or any of its members; and be it further

Resolved, That a copy of this resolution be transmitted to such court as a respectful answer to such subpena.

The preamble was agreed to as follows:

Whereas in the case of the United States of America against Daniel B. Brewster, et al. (criminal action number 1872–69), pending in the United States District Court for the District of Columbia, a subpena ad testificandum and duces tecum was issued by such court addressed to David Minton, staff director and counsel of the Committee on Post Office and Civil Service, United States Senate, directing him to appear as a witness before that court at 9 antemeridian on November 9, 1970, and to bring with him certain minutes and records (including tabulations of votes) of executive sessions of that committee pertaining to the postage rate sections of H.R. 7977, Ninetieth Congress, first session, such material being in the possession and under the control of the Senate of the United States: Now, therefore, be it

POLICE OFFICERS APPRECIATION WEEK

Mr. MANSFIELD. Mr. President, that completes the call of the calendar. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1201, Senate Joint Resolution 225.

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

The title of the joint resolution was read as follows:

S.J. Res. 225, authorizing the President to proclaim the period October 25 through 31, 1970, as Law Officers Appreciation Week.

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

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. MANSFIELD. Mr. President, I seek recognition.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I am delighted that this resolution has been reported unanimously by the Judiciary Committee and will shortly be passed, I assume, unanimously by the Senate.

Mr. President, we live in a time of lawlessness, a time of ever-mounting crime and violence. Broken down, it seems, is the whole fabric of community relations and the entire process of human dialog. On many fronts there is plain evidence of disrespect for law and even worse, disrespect—and in some cases utter contempt—for the man whose duty it is to enforce the law—the police officer, the lawman.

When it comes to public service, it is the police officer, the lawman, who must discharge perhaps the most important responsibilities of all. It is he, the police officer, who must protect our families and neighbors, our wives and loved ones, places of business, watch over the streets we drive and the sidewalks we walk. It is he, the police officer, who must respond to emergencies, to accidents and injuries, and to calls for help and assistance.

By no means do I say that embodied in every policeman are the qualities exemplified by the proverbial Good Samaritan. Nor do I deny that there are bad cops. Bad cops do exist, just as there are bad citizens. What I do say, however, is that the police do a job that few citizens want to do. And by and large, they do it pretty well. To put it starkly, life in many parts of this country has become brutal and violent. And it is the policeman who by his work is forced to confront the abundance of social problems that have made life brutal and violent. Maybe he is not the best equipped in every specialized respect to handle the job. But at least he is willing.

Nor is it an easy job. Indeed, it is performed at great risk to life and limb. In all last year, 86 policemen were killed while on duty. Over 35,000 of them suffered assaults. And the risk has become greater each year. Percentagewise these figures were up immensely over prior years.

Maybe I am not with it, but I find no humor at all in such crude characterizations as "pig." None whatsoever. Such a reference sickens me even more when I think of those officers who have been shot down and blown up with such cold abandon recently. Twenty police officers already have been murdered this year and scores of others wounded by snipers, bombers, and other assailants. This is not happening elsewhere. It is happening right here in our own Nation; in our own cities and towns. It is happening in Chicago, in Philadelphia and New York, in Los Angeles, and right here in Washington.

Attacks on the police have been one of the most deeply disturbing aspects of the current wave of violence. Responding to routine calls has ended too often in death and injury. These treacherous tactics of ambush, of kill and run, recall the worst days of gangsterism and bandit warfare. They cry out for swift, remedial action.

What kind of action? First of all, the policemen of America deserve and have every right to expect the cooperation and support of every American citizen. No matter how one views the causes of our many social ills, no matter how he envisions things as they ought to be, he need not hesitate to stand up and support his police officers. He may talk of closing the gap that exists between young and old, black and white, rich and poor. Why not do something about closing the ever-widening gulf that exists between the police officer and those he serves? Why not heal the bitter alienation that has produced this crisis?

Rather than dehumanizing law officers with insulting and degrading labels, let us recognize that the police force is composed of human beings who think and feel and react. That is the challenge before us. To take every step necessary to restore to the policeman what he deserves—faith and trust and respect. To do so will take more than just talk; more than mere lipservice. As a society we must become deeply concerned with the police of America, with their problems and their needs. After all, they, too, are Americans who have legitimate grievances, aspirations, and rights. And just as he seeks to protect us from crime and violence—risking his life in the process—so must we endeavor to protect and support the policeman, the lawman, and the fireman. Without him, society cannot survive.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled, "Police Under Attack but Standing Fast," published in the U.S. News & World Report of September 21, 1970.

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

[From the U.S. News & World Report, Sept. 21, 1970]

POLICE UNDER ATTACK BUT STANDING FAST

In spite of the mounting wave of attacks on police, a national survey by "U.S. News & World Report" shows this:

Police are not running away from the growing danger. No upsurge in resignations is reported by law-enforcement officials in key cities.

Recruiting of new policemen to expand police forces or to replace men lost by retirement does not appear to be lagging abnormally. In fact, some cities report it is easier to hire new men now than it was a few years ago.

Washington, D.C., on September 10, announced the successful completion of a recruiting drive that boosted the capital's police force to the record number of 5,100 officers. This was an increase of 1,100 men since January 1.

Personnel problems are cropping up in the police departments of some cities.

New York City, in a single week of early September, was hit by the resignation of two top police officials—Police Commissioner Howard R. Leary and Chief Inspector George P. McManus.

One New York City newspaper quoted sources close to Commissioner Leary as saying the "last straw" that brought about his resignation was a "city-hall attempt to play down reports of a plot to murder policemen."

Mayor John V. Lindsay denied that report. "The fact is," the mayor's spokesman said, "that Mayor Lindsay was advised last week by Police Commissioner Leary and the top command of the police department that at this time there was no evidence of any conspiracy in the recent series of outrages against individual police officers." Mr. Leary declined immediate comment.

Police toll. An official police report showed a sharp increase this year in the number of New York policemen injured in attacks so seriously as to require medical attention. The record:

Jan. 1 to Aug. 31	1970	1969
Wounded by gunshot	34	11
Cut or stabbed	44	33
Human bite	96	50
Punched	217	250
Kicked	154	54
Struck with object	158	89
Assaulted making arrest	152	101
Miscellaneous injuries	130	3
Total	985	591

Three New York policemen have been killed by attackers this year, compared with none in the same period of 1969.

Yet the New York police department reports no problems caused by police resigning or retiring prematurely.

There still are shortages of policemen in many cities. When larger forces are authorized to deal with rising crime, it is often hard to fill the new quotas. And the turnover in the ranks is high.

This, however, is described by officials as not a new situation—and not, apparently, caused by the increase in attacks on police. The shortages began with the rise of riots, officials say.

"The police-requirement problem was more severe four or five years ago than it is today," reported George O'Connor, chief of police programing for the Federal Law Enforcement Assistance Administration (LEAA).

According to Mr. O'Connor, low pay and a widespread disrespect for police have kept more people out of the profession than terrorism does now.

"Higher standards." From James Kelly of the International Association of Chiefs of Police came this comment:

"One problem in recruiting police is the higher standards now being required. Actually, you could fill the police ranks rather easily—but not with the kinds of people you want."

Pay has always been a problem. But pay scales have been raised recently in many cities.

One major city experiencing difficulties is Los Angeles, which is 558 men short. A recruiting officer there said:

"There is an element of fear. Men know there are jobs paying just as well that don't require being shot at."

A survey showed the following situations in other key cities: No new problems in Philadelphia, Detroit, Chicago or Cleveland; recruiting "going better now" in Houston; no increase in resignations in San Francisco or Oakland.

"A scary job." Morale is reported low in some cities. As one official put it:

"Being a policeman is a more scary job now, dangerous. And it seems to command less public respect. There are more social pressures against a man becoming a policeman. Any town hit by riots has a problem recruiting police. Blacks are especially hard to recruit."

Newark, N.J., with many black residents and once hit by a big riot, reports trouble getting "good black candidates." In Washington, however, about half the new recruits are Negroes.

At least 16 policemen have been slain in unprovoked attacks this year—twice as many as last year and four times as many as in 1968.

If this rise in terroristic assaults continues, officials fear it will begin to take its toll in thinning police ranks. So far, however, police are not abandoning the battle.

Mr. GRIFFIN. Mr. President, I commend the distinguished majority leader (Mr. MANSFIELD) for his excellent statement in connection with this resolution.

I also commend the distinguished junior Senator from Illinois (Mr. SMITH), who was the sponsor of this joint resolution which proclaims the period October 25 through October 31, 1970, as "Law Officers Appreciation Week."

Like the distinguished majority leader, I deplore the use of insulting and degrading labels to describe police officers.

Obviously, anyone who calls police officers "pigs" or "storm troopers in blue" is not performing a service that builds respect for those who enforce the laws of our land.

As in any other group, there are individual policemen who deserve criticism from time to time, and there is no suggestion here that they should be above criticism. But those who seek to pin degrading, insulting labels on the police as a group not only undermine respect for the law but they work against the best interest of our country.

Mr. WILLIAMS of Delaware. Mr. President, I wish to compliment the Senator from Montana on the tribute he has just paid to law enforcement officers and to join the Senator from Montana on the tribute he has just paid to law enforcement officers and to join the Senator from Montana and my colleague from Michigan in expressing the hope that the joint resolution will pass unanimously and that the Senate will be on record recognizing the tremendous job which law enforcement officers have done for all Americans. They deserve our respect and support, and I am sure they have the overwhelming respect and support of all Americans.

Mr. MANSFIELD. I agree.

Mr. SCHWEIKER. Mr. President, I commend the Senator from Montana for his very important and significant remarks.

I am rather saddened to report that only early this morning a Toledo, Ohio, policeman was shot to death in cold blood as he sat in his police cruiser on duty. According to the latest UPI dispatch, Police Chief Anthony Bosch said:

From the information I have received this was a cold blooded killing.

Apparently the assailant walked up to the police car and shot the police officer in cold blood.

Mr. President, this shocking and brutal slaying of a Toledo, Ohio, policeman today clearly illustrates the urgent need for immediate Federal attention to the rapidly spreading trend toward assassinating policemen.

Just 2 days ago I introduced a bill, S. 4348, to make the killing of a policeman a Federal crime. My legislation is specifically directed toward just the kind of radical revolutionary activity which occurred in Toledo last night—the cold-blooded killing of a police officer merely because he is a policeman. These criminals must be stopped now—we cannot afford to hesitate. I earnestly call upon my colleagues in the Senate to recognize that these are not isolated incidents, but that an unmistakable national trend has developed. Just over 2 weeks ago, a policeman in Philadelphia was brutually shot down as he sat at a desk in a lonely guardhouse. In Toledo last night, an officer sitting in a patrol car was shot at point blank range. We cannot allow this to continue. We must act now to provide Federal assistance to local police, because this is clearly a national problem. I ask that immediate action be taken on the legislation which I have proposed so that we can forcefully indicate that we will not stand by and allow these unprovoked attacks on our law-enforcement officials to continue.

Congress is often divided on great issues, and this is part of our constitutional process. But on this issue, we can, and must, act as one, to reaffirm our commitments to protect our public servants. We have a duty to provide national leadership to bring a halt to these senseless attacks on policemen. My bill provides for psychological warfare with legislative teeth.

Mr. President, I ask unanimous consent that the name of the Senator from Montana (Mr. MANSFIELD) and the Senator from Pennsylvania (Mr. SCOTT) be added as cosponsors of my bill, S. 4348.

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

The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 225) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the President is hereby authorized and requested to proclaim the period October 25–31, 1970, as Law Officers Appreciation Week and to call upon the people of the United States to observe such period with appropriate ceremonies and activities.

The preamble was agreed to, as follows:

Whereas the Nation is experiencing an accelerating increase in the incidence of crimes, and

Whereas the law enforcement officer is society's first line of defense against the lawlessness of its criminal element, and

Whereas the greatest majority of law enforcement officers are dedicated public servants who risk their lives to protect the persons and property of others, to insure domestic peace, and to promote compliance with just laws, and

Whereas the instances in which individual law enforcement officers conduct themselves in a manner contrary to their duty or to the public good are relatively very few, but are often exploited to undermine public confidence in law enforcement officers in general, and

Whereas mutual confidence and cooperation between citizens and law enforcement officers is essential to the preservation of individual rights: Now, therefore, be it

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet on occupational health and safety matters during the session of the Senate today.

Mr. GRIFFIN. Mr. President, consistent with the position taken yesterday by the distinguished minority leader, and at the request of other Senators, I respectfully object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. GRIFFIN. Then, if I may have the floor for a moment or two, I wish to ask the Presiding Officer a question.

Am I correct in my understanding that even though the Senate is in session, committees do not need permission to sit during the period for the transaction of routine business known as the morning hour?

The ACTING PRESIDENT pro tempore. Or until any pending business is laid before the Senate.

Mr. GRIFFIN. So, for example, at the present time—as I understand—there is no Senate rule that interferes with a committee meeting; is that true?

The ACTING PRESIDENT pro tempore. The Chair would call to the attention of the Senator from Michigan that we have been passing bills, so matters have been laid before the Senate.

Mr. GRIFFIN. So the unanimous-consent request to which I object——

The ACTING PRESIDENT pro tempore. It would be timely.

Mr. GRIFFIN. I am trying to make the point that the rule does not preclude a committee from meeting either before the Senate goes into session, which this morning was 10 o'clock, or even after the Senate is in session until the legislative business is laid down after the morning hour, if there is a morning hour; is that correct?

The ACTING PRESIDENT pro tempore. Committees could not meet now because business has been transacted.

Mr. GRIFFIN. I see.

Mr. MANSFIELD. But, Mr. President, that really is of a technical nature because we are going——

Mr. GRIFFIN. Ordinarily it would be the case, I understand.

The ACTING PRESIDENT pro tempore. Until the pending business or unfinished business——

Mr. GRIFFIN. Mr. President, I want to point out that in this case, the particular committee for which the request was made, the Committee on Labor and Public Welfare, met at 9 o'clock this morning. I happened to be there myself to introduce a nominee for an appointment. Accordingly, I know that this particular committee has been meeting since 9 o'clock.

In addition, I want to say on behalf of some Senators who have registered complaints with the leadership, that when the Senate is scheduled to convene at 10 a.m. and committees are permitted to sit while the Senate is in session, Senators are placed in a very difficult position. They have an obligation to be here on the floor, and if we expect

them to be here we cannot also expect them to be in committee meetings. The situation presents a dilemma. They cannot do both.

The joint leadership is driving to end the session. Many Senators believe that a reasonable calendar has been laid out.

Personally, I have no objection to any particular bill and I want to make that clear. But, as a member of the leadership, I can understand the frustration and the feeling of Senators who believe we should finish up this session, taking care of bills that have been reported, but holding to a minimum the addition to the calendar of more pieces of legislation. That does not mean, of course, that I agree with the judgment of other Senators in each case as to other bills which should be considered.

Mr. MANSFIELD. In view of the situation which has developed and in a spirit of comity, I ask unanimous consent that all these committees be allowed to meet until the conclusion of morning business. It will not take long.

Mr. GRIFFIN. I have no objection to that.

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

The point raised by the Senator from Michigan is covered by rule 25.5:

5. No standing committee shall sit without special leave while the Senate is in session after (1) the conclusion of the morning hour, or (2) the Senate has proceeded to the consideration of unfinished business, pending business, or any other business except private bills and the routine morning business, whichever is earlier.

Mr. GRIFFIN. I thank the Chair.

EXECUTIVE SESSION

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

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

The ACTING PRESIDENT pro tempore. The nomination on the Executive Calendar will be stated.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of John N. Irwin, II, of New York, to be Under Secretary of State.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered; and, without objection, it is confirmed.

AMBASSADOR

The assistant legislative clerk read the nomination of William B. Buffum, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered; and, without objection, the nomination is confirmed.

INTER-AMERICAN SOCIAL DEVELOPMENT INSTITUTE

The assistant legislative clerk proceeded to read sundry nominations in the Inter-American Social Development Institute.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations in the Inter-American Social Development Institute be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations in the Inter-American Social Development Institute are considered and confirmed en bloc.

NATIONAL SCIENCE FOUNDATION

The assistant legislative clerk read the nomination of Raymond L. Bisplinghoff, of Massachusetts, to be Deputy Director of the National Science Foundation.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered; and, without objection, the nomination is confirmed.

NATIONAL LIBRARY OF MEDICINE

The assistant legislative clerk read the nomination of James Chipman Fletcher, of Utah, to be a member of the Board of Regents, National Library of Medicine, Public Health Service.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered; and, without objection, it is confirmed.

The assistant legislative clerk read the nomination of John Phillip McGovern of Texas, to be a member of the Board of Regents, National Library of Medicine, Public Health Service.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered; and, without objection, it is confirmed.

OFFICE OF SCIENCE AND TECHNOLOGY

The assistant legislative clerk read the nomination of Edward E. David, Jr., of New Jersey, to be Director of the Office of Science and Technology.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered; and, without objection, it is confirmed.

AGENCY FOR INTERNATIONAL DEVELOPMENT

The assistant legislative clerk read the nomination of Donald G. MacDonald, of Vermont, to be an Assistant Administrator of the Agency for International Development.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered; and, without objection, it is confirmed.

FOUR CORNERS REGIONAL COMMISSION

The assistant legislative clerk read the nomination of Stanley Womer of Arizona to be Federal Cochairman of the Four Corners Regional Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered; and, without objection, it is confirmed.

NEW ENGLAND REGIONAL COMMISSION

The assistant legislative clerk read the nomination of Chester M. Wiggin, Jr., of New Hampshire, to be Federal Cochairman of the New England Regional Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered; and, without objection, it is confirmed.

INTERNATIONAL ATOMIC ENERGY AGENCY CONFERENCE REPRESENTATIVES

The assistant legislative clerk proceeded to read sundry nominations for International Atomic Energy Agency Conference Representatives.

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

The ACTING PRESIDENT pro tempore. Without objection, the nominations to the International Atomic Energy Agency Conference will be considered en bloc; and, without objection, they are confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO, ON MONDAY, SEPTEMBER 21, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Ohio (Mr. YOUNG) be recognized for not to exceed 20 minutes Monday morning next, after disposition of the reading of the Journal of the proceedings of the previous day and uncontested business on the calendar.

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

SENATOR ALLEN COMPLETES 100 HOURS OF DUTY AS PRESIDING OFFICER THIS SESSION

Mr. MANSFIELD. Mr. President, the distinguished Presiding Officer, the Senator from Alabama (Mr. ALLEN), has now completed in excess of 100 hours in

the Chair. This is a record which very few Senators reach, and it is a record of which the distinguished Senator from Alabama, now presiding, may well be proud.

OCCUPANCY OF THE CHAIR OF THE SENATE

Mr. MANSFIELD. Mr. President, occupancy of the Chair of the Senate is a position of high trust and distinction whose responsibility is shared with the Vice President in principle with all Senators.

The joint leadership has agreed on a formal practice which gives due regard to the demands on the time and energy of committee chairmen and others already in positions of added responsibility, and to the special educative value of service in the Chair to less senior Members.

For the information of the Senate, on Monday of this week, the Senate completed 1,000 hours during this session of Congress. This is among the busiest sessions in recent history and has occasioned convening at early hours and staying late into the evening. This was necessary if the President's program is to be enacted in a timely and responsible manner.

I wish to call the attention of the Senate to the outstanding service provided by the junior Senator from Alabama (Mr. ALLEN) who has just completed 100 hours this session as Presiding Officer of this body. These 100 hours comprise nearly 10 percent of the total hours the Senate has been in session.

It should be pointed out that this is the second year that Senator ALLEN has achieved 100 or more hours as Presiding Officer. During the first session, the Democratic pages of the Senate awarded him the "Golden Gavel," an annual recognition for the Senator who first reaches the 100-hour mark. He has won this prize again.

I wish to express the deep appreciation of the joint leadership to the Senator from Alabama for responding to every request to preside with good humor, patience, and an understanding of what it takes to keep the Senate operating smoothly and efficiently.

While the Senator from Alabama has achieved the high-water mark for this Congress, there are Senators on both sides of the aisle who should be mentioned as performing great service to the Senate as a whole. Members who have served more than 50 hours in the Chair this session are: Senator BELLMON, Senator CRANSTON, Senator EAGLETON, and Senator HUGHES.

The joint leadership extends its appreciation to them and to all Senators who are acting as Presiding Officers.

Again, on behalf of the entire Senate, I wish to congratulate the Senator from Alabama for his exemplary service.

The ACTING PRESIDENT pro tempore. The Chair, acting as the junior Senator from Alabama, is deeply grateful to the distinguished majority leader for his kind and gracious words.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the Senate at this time will proceed to the transaction of routine morning business, with a 3-minute limitation on statements.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I be allowed to proceed for 7 minutes.

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

PROPOSED SETTLEMENT OF C–5A CONTRACT DISPUTE

Mr. PROXMIRE. Mr. President, the proposed settlement of the C–5A contract dispute with Lockheed Aircraft Corp. represents one of the greatest Government giveaways ever attempted in a single stroke. The proposal, detailed in a briefing document entitled "The C–5A Restructured Contract" and dated August 31, 1970, is clear evidence that the Air Force is more interested in bailing out its giant aerospace contractor from financial difficulties than in carrying out its obligations to the American taxpayer. The Pentagon has apparently adopted a "public be damned" attitude and is rushing in with Government funds to save a faltering corporation.

The thrust of the new agreement appears to relieve the contractor of most of his financial responsibility during the duration of the C–5A program. This is accomplished by changing the contract from a fixed-price to a cost-plus type, in effect giving Lockheed a blank check, making a mammoth Government loan on overgenerous terms which include deferring repayment until 1974, and simply relinquishing valuable Government rights such as the $11 million owed by Lockheed because of late delivery. Almost the entire burden of the fouled-up C–5A program is being placed on the sagging shoulders of the taxpayer.

It may be recalled that I have long been critical of the C–5A contract which is legally classified as a fixed-price type agreement. Generally, under this kind of agreement, the contractor agrees to deliver his product for an agreed price. His commitment to the agreed price is what makes the contract "fixed." In the case of the C–5A, the Air Force widely advertised the fact that in return for awarding a multibillion dollar R. & D. and production program to a single contractor, the contractor entered into firm price commitments with the Government. But my basic criticism has been that because of built-in loopholes and the unwillingness of the Air Force to enforce the terms of the contract, Lockheed's firm price commitments were not worth the paper they were written on.

Publicly, the Air Force said it had a fixed-price contract and that there was a ceiling on the costs of the program beyond which the Government was not obligated to pay. Privately, the Air Force had decided to look the other way while costs went through the ceiling and to reimburse Lockheed for whatever costs were incurred or whatever costs Lockheed said were incurred. In fact, nothing was fixed except the Government's side of the bargain. The price commitments were stretched like taffy and went all over the place. The contract was labeled fixed-price, but the Air Force had created a cost-plus environment. That is, the Air Force treated the agreement as if it were required to pay whatever the costs turned out to be. The price commitments and the ceiling were merely legal fictions resting on an elevator built to go in one direction—up.

Last February I wrote to Assistant Secretary of the Air Force Philip N. Whittaker urging the Air Force to stand firm in its negotiations over the C–5A contract and not to allow itself to be coerced into bailing Lockheed out of its financial problems by the threat that Lockheed would simply stop working on its military contracts. In that letter, dated February 26, 1970, I said:

> I would hope that the Air Force will enforce the terms of the contract and not waive any more rights than it has already waived during these negotiations.

Mr. Whittaker replied that he was not aware of any such threats on the part of Lockheed. Yet 1 day later, on March 5, 1970, the Department of Defense disclosed a letter from Lockheed's chairman of the board to the Deputy Secretary of Defense in which Lockheed made precisely the kind of threat I had urged the Air Force not to succumb to. Lockheed had faced the Pentagon with an ultimatum: either pay it $641 million in claims, including about $500 million for the C–5A, over and above the contract prices, or Lockheed would stop work and not deliver the weapons involved. It was a blatant demand, not a request, for a bailout which could ultimately cost the Government a billion dollars.

Deputy Secretary David Packard has assured the Congress that any agreement entered into by the Government would be designed to salvage the C–5A program, not to bail out Lockheed. But the new Air Force proposal indicates quite the opposite. Under this proposal, the Air Force would disregard the original ceiling price of the contract and reimburse Lockheed for all costs incurred. In return, Lockheed would agree to assume a fixed loss of an unspecified amount, but apparently reducing its projected loss—were the existing contract enforced—by about one-half. The amount of the loss would be eventually repaid to the Government, payments to be deferred until 1974.

Of course, the merits of the case are largely disregarded in the Air Force proposal which states that:

> Consideration should be given to how supplemental agreement resolves outstanding issues and their respective dollar values as well as ability of Lockheed to tolerate loss.

Because Lockheed may not be able to tolerate a loss equivalent to what it ought to lose under the original agreement, the Air Force has volunteered the American taxpayer to tolerate the loss. Thus, under the restructured contract,

Lockheed is being offered a $25 million award fee, no doubt as an incentive for superior performance, and a $10 million termination allowance. In addition, the Air Force is offering to give up $11 million in penalties owed by Lockheed because of late deliveries.

In return for this bonanza, Lockheed would agree to reduce its profits on spare parts and undertake other obligations. But in my judgment, the proposal is clearly weighted in Lockheed's favor and intended to extricate the contractor from its financial dilemma. It completely circumvents the Armed Services Board of Contract Appeals and the administrative machinery which was created to adjudicate claims on military contracts. It is an informal, out-of-court settlement of issues which ought not be resolved in such a cavalier fashion. It is a bad precedent and it will cost the taxpayer hundreds of millions of dollars.

I believe that the Congress and the public are entitled to an explanation of this matter. It is becoming clearer all the time that the Pentagon, rather than concerning itself with national security and enforcing its contract for the C–5A aircraft, is acting as a broker and an intermediary between Lockheed and the financial community. The concern here appears to be not so much with the C–5A as with the well-being of the Lockheed Corp. This is an improper role for the Department of Defense to play, in my opinion, and one which compromises the best interests of the Government and the people.

The C–5A contract began with a "buy in." It is now ending with a "bail-out."

I ask unanimous consent to have printed, at this point in the RECORD, the text of the Pentagon briefing paper on the "Restructured C–5A Contract," dated August 31, 1970.

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

THE C–5A RECONSTRUCTED CONTRACT

IMPLEMENTATION

Supplemental agreement to present contract.

Authorized by Public Law 85–804 (Secretarial Memorandum of Approval).

Requires congressional coordination.

To be executed contemporaneously with letter of agreement.

Deviates from DOD Dir. 7200.4 (full funding).

Extinguishes disputes, claims, and issues arising from present contract.

FIXED LOSS TYPE CONTRACT

Cost reimbursement

No ceiling price—estimated cost.

Requires contractor investment of $100,000,000 (part of fixed settlement loss).

Fixed settlement loss (amount to be established).

Repayment by contractor of difference between investment and fixed loss upon completion.

Government funding

Less than fully funded (deviation from DOD dir. 7200.4).

Funds allotted incrementally to meet contractor's expenditures.

Contractor's commitments exceed expenditures (now by $320–$380,000,000—decreasing).

If terminated, contractor exposed by excess of his commitments over funds allocated.

Incentive provision

Award fee of $25,000,000.

Motivates contractor performance—including deficiencies.

Assesses performance beginning with date of supplemental agreement.

Evaluation group formed by SAFIL—all members above SPO level.

Three annual assessments (40%, 20%, 40%).

Not subject to disputes.

Contractor written comments on preliminary evaluation.

Implemented by contract amendment adjusting amount of fixed settlement loss.

TERMINATION ALLOWANCE

Offset effect on other Lockheed Georgia Government contracts of C–5A termination.

Not to exceed $10,000,000 for non-reimbursed losses.

Implemented by contract amendment adjusting amount of fixed settlement loss.

Negotiated by terminating contracting officer.

Management controls

Additional to usual cost reimbursement management controls.

Right to intensified management participation and authority—exercised by the C–5A SPD and the AFPRO.

Any level of involvement permitted.

Right of access to all data.

Rights in decision making process—may be exercised on a selective basis unilaterally by A.F.

Areas of involvement examples:

Plant activities.

Program plans and status.

Personnel resources.

Engineering activities.

Facility resources.

Changes

No added fee for additional *related* work.

Written expression of government's intention.

Limited recourse to disputes clause (abuse of administrative discretion only).

New work subject of separate contract.

C/SCSC Implementation

Resolution of all outstanding legal issues, disputes and claims

Presently surfaced issues (outstanding matters).

Future issues having origins in TPP contract (undiscovered matters).

Cannot revive current disputes—withdrawal of legal complaint.

Repayment provisions

$10,000,000 or 10% of net corporate earnings before taxes per year, whichever is greater.

Repayment commences at end of contractor's FY 1973.

Interest rate of ———% (ASPR provides 6%; to be determined).

Interest on unpaid balance starts with contractor's FY 1974.

Unilateral right of government to defer principal payment.

Deletion of

Total systems performance responsibility.

Correction of deficiencies (including ripple effect) clause.

Funded value engineering program.

Abnormal escalation.

Repricing formula.

Liquidated damages.

Performance incentives.

Not-to-exceed ceiling price.

R&D royalty on foreign and commercial sales.

Inclusion of

Restraint of competition provision (direct access to vendors).

Restraints on reimbursables under Stennis amendment precontract costs (anticipatory costs).

Stennis amendment limitations

Additive to fixed investment of $100,000,000.

Will not increase fixed settlement loss.

Reduces net amount owing Government at completion.

Implemented by supplement agreement to be exercised when funds are added.

Assumptions

Fixed settlement loss (pegged loss) will exceed $100,000,000 fixed contractor investment (unreimbursed allowable costs).

Contractor not precluded by its bankers from agreeing to limitation of Government liability in the event of termination.

Lockheed will not raise any new substantive issues prior to execution.

Funds will be appropriated by the Congress.

Limitations on $200,000,000 will be more-or-less along the lines of Stennis amendment.

Analysis

Original C–5A contract no longer a viable arrangement for program completion.

Areas of disagreement, until resolved, deprive parties of any assurance as to what is the not-to-exceed ceiling price, the target price, and the termination liability (if any) under the contract.

Disputes mitigate against continued funding, good performance, settlement of outstanding claims, resolution of "questioned" costs, and effective cost trade-offs.

Air Force is denied right of involvement in day-to-day management of the program.

In the interest of both parties that this program be seen through to completion by litigation of present disputes, issues, and claims: Or by restructuring of the present contract arrangement.

A finding by the Armed Services board of contract appeal will not be had early enough to permit uninterrupted continuation of the contract.

Confident decision will determine that the equities lay somewhere between the extremes being argued by both parties.

Result will be a higher ceiling price than now and a claim for further damages by Lockheed for the failure to fund the contract during the interim.

Range is from $70,000,000 to approximately $600,000,000 our best guess is in the neighborhod of $200,000,000–$300,000,000.

Decision could not come in time to hold off bankruptcy and victory would be only partial, and it would still be faced with a catastrophic loss.

Litigation offers no solution but only an ultimate financial settlement that contributes nothing toward attainment of either party's objective.

Restructuring of contract enables reaching an equitable settlement consistent with the interests of all parties.

Can convert present contract into an arrangement that facilities close management control and supervision by Air Force of remainder of the program.

Would increase likelihood of effective trade-offs between cost and performance, cost effectiveness in production and in correction of deficiencies, and reduced prices for spares.

For Lockheed, it would offer a greater assurance of ultimately working out its current financial problems.

Problems experienced and the cost growth to date is not a responsibility to be borne exclusively by the Air Force.

Necessary that a pegged loss be set which reflects relative equities, and that it be fixed and settled as part of the restructured contract—a fixed loss type contract.

Should bear some reasoned relationship to what compromise judgment might have been adjudicated by the ASBCA, relative benefits accruing to Lockheed, rights the Air

Force is losing, and the advantages accruing to Air Force.

Consideration should be given to how supplemental agreement resolves outstanding issues and their respective dollar values as well as ability of Lockheed to tolerate loss.

Would enable equitable resolution of all outstanding disputes, claims, and issues without time consuming and costly litigation.

Would facilitate further appropriation and funding of the program with confidence that it will be completed with minimum additional cost growth.

The restructured contract (supplemental agreement) achieves the following:

Uninterrupted continuation of C–5A production.

Resolution and compromise of all legal issues, disputes, and claims arising out of the TPP contract.

Establishment of a more manageable contractual relationship.

Limited potential for new disputes.

Elimination of ambiguous contract language.

Direct Air Force participation in the management and control of the program.

Direct access to vendors for spares and components.

Award fee concept to influence contractor performance.

Inclusion of additional related work without fee.

Government liability limited to dollars allotted.

Predetermined fixed loss and investment arrangement.

Quantifying the dollars involved, the following listing of "give and take" is helpful:

Litigation.—We think Lockheed's case is worth $70,000,000 vs. $600,000,000. We estimate it would probably be settled at a compromise figure of $200,000,000–$300,000,000. Thus, Lockheed would still be in a hole for $300,000,000–$400,000,000. Any fixed settlement loss less than this is in Lockheed's favor.

Spares.—Spares will be procured on a separate contract. Lockheed is giving up about $65,000,000 in spread between a ceiling of 110% vs. 130%.

Investment: By the end of the contract, Lockheed's unallowables would have been approximately $45,000,000. These will now be additive to its fixed investment of $100,000,000.

Stennis amendment: Will increase Lockheed's fixed investment by about $10,000,000 which it will have to carry until completion.

Performance incentive: Lockheed is giving up a $20,000,000 potential.

Additional work: Within reason, Lockheed has agreed additional work can be added without fee. How much this is worth is unknown. What is certain is that by eliminating abnormal escalation, we will reduce our ultimate costs by $50,000,000 to $60,000,000 for effort related to spares and other items between now and completion.

Royalty on commercial and foreign sales: No royalty repayment associated with the cost of development—more theoretical than actual.

Precontract costs: Costs incurred by Lockheed after announcement of award but before contract execution. These amount to about $900,000. Will be part of the cost of the restructured contract.

Termination charges: Amounts to $7,800,000 in subcontractor termination costs (current estimate) and $24,900,000 in additional costs for reduced quantities (current estimate) after change order No. 521. Permitting these costs to the extent otherwise reasonable and allowable under ASPR XV.

Disputed costs: $525,000 for additional fire protection and $640,000 for special test equipment and facilities in dispute under current contract. In the supplemental agreement, because it is cost reimburseable, we have agreed they are allowable.

Contracting officer letters: Work contractor was directed to do over his protestations that it constituted added scope and should result in adjustment of prices. Would have had to be resolved on a case-by-case basis: No current estimate of their value. These costs will now be allowable and costed to the Government.

Class II training equipment: Outstanding dispute as to Lockheed's commitment to furnish certain training equipment. We have compromised this issue right down the middle. Represents $3,100,000 in added cost to the Government.

Liquidated damages: Lockheed owes us $11,000,000 for late delivery. While disputed by Lockheed, the probable outcome was uncertain. We have given this up in the supplemental agreement.

Mr. PROXMIRE. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. PROXMIRE. 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.

Mr. GRIFFIN. Is there further morning business?

Mr. PROXMIRE. Mr. President, is the order for the quorum call rescinded?

The ACTING PRESIDENT pro tempore. It was called off by unanimous consent, on request of the Senator from Michigan.

Mr. PROXMIRE. 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. PROXMIRE. 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.

HUMAN RIGHTS—IN OUR NATIONAL INTEREST

Mr. PROXMIRE. Mr. President, the Convention on the Prevention and Punishment of the Crime of Genocide was adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, and signed on behalf of the United States on December 11, 1948. The Convention on the Political Rights of Women, was signed at New York on March 31, 1953, in behalf of certain governments, but not the Government of the United States of America. The Convention Concerning the Abolition of Forced Labor, adopted by the International Labor Conference at its 40th session was signed in Geneva, June 25, 1957—but not by the United States. These three Conventions still remain dormant in the Senate Foreign Relations Committee.

Yet the Senate Foreign Relations Committee has had a record of action and accomplishment on international treaties. Let us take a look at that record. In 1970, twelve treaties were submitted to the Foreign Relations Committee. Two of these treaties submitted within 1970 have since been ratified by the Senate—the treaty on extradition between the United States and New Zealand and an agreement between the Government of the United States and the Government of Canada relating to the operation of radiotelephone stations. In 1969, 11 treaties and international conventions were presented to the committee. Of these 11 treaties, 10 have been ratified by the Senate. Of these treaties, there were the Convention establishing the World Intellectual Property Organization, and Paris Convention for the Protection of Industrial Property; an agreement between the United States and the Government of Canada providing for additional temporary diversions from the Niagara River for power purposes; a protocol to the International Convention for the Northwest Atlantic Fisheries relating to panel membership and to regulatory measures; and a Convention on the Conduct of Fishing Operations in the North Atlantic. Again, in 1968, three treaties were referred and two were ratified by the Senate.

It is obvious that the Senate Foreign Relations Committee and the Senate of the United States is willing to act when an international agreement is in our national interest. By inaction on these treaties the Senate implies that the ratification of a treaty on human rights is not in our national interest. The validity and justification for these human rights conventions is acknowledged by a majority of nations throughout the world. We are one of the very few nations that has acted on none of these treaties. Establishing human rights is in "our national interest" and it must be an international goal. The gap between national and international commitment must be bridged. And the bridge in this case should be ratification of the Human Rights Conventions on Genocide, Political Rights for Women, and the Abolition of Forced Labor.

ORDER OF BUSINESS

Mr. PROXMIRE. 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 West 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.

THE STRENGTH OF THE SENATE

Mr. MATHIAS. Mr. President, from time to time, we have criticisms of the congressional system and criticism of the Senate as an institution. Various plans for reform and reorganization have been put forth. Many of these plans have great merit. Many of them I have supported. Many of them I hope to see become reality. But, over the long pull any institution, whether it is Congress or any

other form of collective human action, depends on the people who are involved in the work of that institution; and the strength of the institution is the strength of its individual members.

One of the great and enduring values of the U.S. Senate is the strength of individual Senators. We have had an interesting period in the life of our Government life in recent months, one which I think reflects great credit on a number of Senators. But I would like to mention particularly the work of the distinguished chairman of the Committee on Aeronautical and Space Sciences, the Senator from New Mexico (Mr. ANDERSON), and the ranking minority member, the Senator from Maine (Mrs. SMITH).

A very important contract was pending, one upon which a great deal of research and study had been expended, but when the final decision was made by NASA, questions were still left in the minds of very many people—the kind of questions which bring into doubt the integrity of government itself.

Senator ANDERSON and Senator SMITH of Maine never hesitated to execute their responsibility in the Committee on Aeronautical and Space Sciences. They acted vigorously and responsibly. The net result was that the original decision was turned about and a generally more satisfactory decision was reached because they were strong, because they were willing to act.

This was a situation which engaged the interest of Members of the Senate beyond the Committee on Aeronautical and Space Sciences. The distinguished chairman of the Government Operations Permanent Subcommittee on Investigations, the Senator from Arkansas (Mr. MCCLELLAN), took an active, helpful, and positive part. The Senator from Wisconsin (Mr. PROXMIRE) took an active constructive part. I express my appreciation to them, not from any parochial point of view, but from the point of view of the Senate as an institution, for the strength, the character, the vigor, and the leadership that each of them has exhibited in the context of an important NASA procurement contract.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House insisted upon its amendment to the bill (S. 3558) to amend the Communications Act of 1934 to provide continued financing for the Corporation for Public Broadcasting, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. MACDONALD of Massachusetts, Mr. VAN DEERLIN, Mr. SPRINGER, and Mr. BROYHILL of North Carolina were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. ALLEN) announced that on today, September 18, 1970, he signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

S. 58. An act providing for the addition of the Freeman School to the Homestead National Monument of America in the State of Nebraska, and for other purposes;

S. 621. An act to provide for the establishment of the Apostle Islands National Lakeshore in the State of Wisconsin, and for other purposes; and

S. 2208. An act to authorize the Secretary of the Interior to study the feasibility and desirability of a national lakeshore on Lake Tahoe in the States of Nevada and California, and for other purposes.

COMMUNICATION FROM AN EXECUTIVE DEPARTMENT

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

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on better controls needed over assessment and collection of postage for second-class mail, a money loser to the Post Office Department, dated September 18, 1970 (with an accompanying report); to the Committee on Government Operations.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. SPARKMAN, from the Committee on Banking and Currency, without amendment:

H.J. Res. 1366. Joint resolution to provide for the temporary extension of the Federal Housing Administration's insurance authority (Rept. No. 91-1206).

BILL INTRODUCED

A bill was introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. PASTORE:

S. 4365. A bill for the relief of Giovanni Metteo; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS OF BILLS

S. 421

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from New Mexico (Mr. MONTOYA), I ask unanimous consent that, at the next printing, the name of the Senator from Vermont (Mr. PROUTY) be added as a cosponsor of S. 421, to provide increased annuities under the Civil Service Retirement Act.

The ACTING PRESIDENT pro tempore (Mr. ALLEN). Without objection, it is so ordered.

S. 2968

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Connecticut (Mr. RIBICOFF), I ask unanimous consent that, at the next printing, the name of the Senator from Vermont (Mr. PROUTY) be added as a cosponsor of S. 2968, to amend the Internal Revenue Code of 1954 to increase the credit against tax for retirement income.

The ACTING PRESIDENT pro tempore (Mr. ALLEN). Without objection, it is so ordered.

S. 3942

At the request of the Senator from Oklahoma (Mr. HARRIS), his name was added to S. 3942, to provide for thorough health and sanitation inspection of all livestock products imported into the United States, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 18, 1970, he presented to the President of the United States the following enrolled bills:

S. 58. An act providing for the addition of the Freeman School to the Homestead National Monument of America in the State of Nebraska, and for other purposes;

S. 621. An act to provide for the establishment of the Apostle Islands National Lakeshore in the State of Wisconsin, and for other purposes; and

S. 2208. An act to authorize the Secretary of the Interior to study the feasibility and desirability of a national lakeshore on Lake Tahoe in the State of Nevada and California, and for other purposes.

FAMILY ASSISTANCE ACT OF 1970—SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENTS

AMENDMENT NOS. 924 AND 925

Mr. HOLLINGS. Mr. President, I submit the context of H.R. 18970, the ways and means trade bill, and ask that it be printed as an amendment to H.R. 16311, the family assistance plan and H.R. 17550, the social security bill, and, of course, that these be referred to the Finance Committee.

The purpose of this procedure is to be forthright with the U.S. Senate. We are in the closing days. The Mills bill, or Trade Act of 1970, has only been reported to the floor of the House of Representatives by the Ways and Means Committee. The House has not set a rule for the consideration of this bill and, of course, the House is yet to pass the bill. If and when it does, the bill will be referred to our Finance Committee and hearings will be set. By that time we will be in the closing minutes and hopefully in the meantime some House-passed bill affecting the revenue will reach the floor of the U.S. Senate for consideration.

At the moment the most likely are H.R. 16311 and H.R. 17550. If and when they reach the floor of the Senate for consideration we want the Senate to know weeks ahead of time that it is our intent to call the trade bill as an amendment and have it voted upon before we quit in October. We do not want to be charged with surprise and precipitous conduct. The contrary is true. The substance of the trade bill has been considered by the Senate several times during the past 3 years. On textiles, for example, on March 27, 1968, the Senate, by a vote of 55 to 31, passed the Hollings textile amendment. Only last December 10, 1969, by a vote of 65 to 30, the Senate passed the Cotton amendment on textiles and shoes. The American selling price provision, the escape clause revision, and all other matters have been a subject of hearings be-

fore the Finance Committee numerous times.

We do not want to get caught in the parliamentary maneuver of defeat by delay. So this is our way of giving notice. I emphasize that there are provisions of this bill which do not represent my views. Already my textile friends, for example, are asking for amendments. They say it is too open-ended, that the President ought to be mandated to impose quotas. The Domestic International Sales Corporation appears to me to be a windfall for the giant corporations of this land. And there will be Senators concerned over the oil quota provision. But this bill does represent weeks of hearings, months of deliberation and constant hard work on the part of the Ways and Means Committee. It is a delicately balanced piece of legislative handiwork. And so I will accept it, as it is.

I do not feel that the U.S. Senate can or should adjourn without expressing its will on the issue as to whether or not industrial jobs of this Nation ought to become another export and whether or not we will continue to contribute to our fast falling belance-of-payments problem.

The PRESIDNG OFFICER (Mr. YOUNG of Ohio). The amendments will be received and printed, and will be appropriately referred.

The amendments (No. 924) to H.R. 16311, and (No. 925) to H.R. 17550, were referred to the Committee on Finance.

ADDITIONAL STATEMENTS OF SENATORS

IT IS GOOD THAT THE WAR IS ENDING

Mr. PACKWOOD. Mr. President, American casualties in South Vietnam, once routinely numbering more than 100 a week—and sometimes several times that amount—are now so routinely well below 100 that we seem scarcely to notice.

That is too bad, because it is worth noticing that the President's actions in dealing with Vietnam have been so successful.

True, on August 22 it was pointed out prominently that 52 casualties suffered during the previous week were the lowest number in 4 years.

But since then, little has been said. Nevertheless, casualties continue to range lower. During the week ending August 29 there were 63 causalties. They went up to 87 during the week of September 5, but last week they were down again to 54. The total during that 4-week period was 256.

It goes without saying, of course, that 256 men killed in battle are 256 too many. But Mr. President, it is clear that we are approaching the day when we will have zero casualties.

One reason why the war has ceased to be a major issue is that all but a few Americans can see that the President is indeed winding down the war. They can see that his policy of disengagement without retreat and surrender is indeed working. The reduction in casualties is proof of that, just as the reduction in our numbers of men in Vietnam is proof. just as the reduction in the size of our draft calls is proof, and just as the reduction in the size of our defense budget is proof.

Mr. President, it is good that casualties continue to decline; it is good that the war is ending; and it is good that most Americans are aware of what is happening.

UNREALISTIC SCHOOL SITUATION IN THE SOUTH

Mr. ALLEN. Mr. President, last night's edition of the Washington Evening Star contained an excellent and most thought-provoking article by the eminent columnist James J. Kilpatrick.

In his article, Mr. Kilpatrick vividly describes both the tragic and unrealistic school situation confronting public education in the South and the judicial double standard which has been applied by the Federal courts in the matter of school desegregation in our Nation, as well as the political hypocrisy of many doctrinaire liberals who appear to be working for their own interests at the price of confusion during this dangerous hour in American history.

I ask unanimous consent that Mr. Kilpatrick's article be printed in the RECORD.

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

[From the Washington Star, Sept. 17, 1970]

FOR FAIR APPRAISAL OF THE SOUTH—ALL THE SOUTHS

(By James J. Kilpatrick)

AUBURN, ALA.—It is an old observation that there is no such thing as "one South." There are many Souths. And never has the truism been truer than it is today.

Yet a reporter who spends a few days traveling by car, deep in Dixie, finds a common thread binding much of the South together. The thread has a nice ironic twist to it—a twist not lost on white Southerners themselves. They invented the doctrine of "separate but equal," and applied it hypocritically for nearly a hundred years. Now they are on the receiving end of discrimination; they are protesting at the top of their lungs; and they are demanding equality under the law.

It might be funny if there were not such incipient tragedy mixed with it. For all the superficial tranquility with which new levels of desegregation have been accepted, racial tensions are running high.

In Richmond, Charlotte, Atlanta, Mobile, Jackson, one encounters the same bitter resentment. One hears it expressed at service stations and lunch counters, in the homes of old friends. Newspapers are overflowing with letters making the identical point. When It comes to the racial composition of public schools, it is a harsh rule for the South, and no rule at all for anywhere else.

Mississippi's able attorney general, Albioun Summer, has been traveling widely in recent weeks in an effort to expose the situation and to publicize the South's valid grievance. The schools of his state have been subjected since early this year to the Draconian edicts of the 5th U.S. Circuit. Mississippi also has had to bear the stinging criticism of Minnesota's Sen. Walter Mondale, a traveling evangelist for the virtues of coerced integration.

Judge Summer looks about the South, and he sees a blizzard of court orders to the same effect: Neighborhood schools must be broken up; children must be bused by the thousands to attain racial balance; faculties must be integrated without regard to the teachers' wishes—and if parents do not like it, well, let the parents be charged with contempt and threatened with sentence to jail.

All right, says Judge Summer; if this is what the Constitution demands, the Constitution must demand it everywhere. But how, he wonders, could the gentleman from Minnesota have overlooked the opportunities for evangelism in his own home state?

During the past school year, some 68,000 pupils attended the 101 schools of Minneapolis. Of these 5,500 pupils, or 8.1 percent, were black. But it is a remarkable thing. The great bulk of these black pupils of Minneapolis were concentrated in a handful of schools—at Hay, Bethune, Willard, and Field elementary schools, at Lincoln and Bryant junior high schools, and at Central and North high schools.

Meanwhile—horrible to contemplate—such elementary schools in Minneapolis as Morris Park and Lowell were lily white. Minnehaha had 1 black child in an enrollment of 516; Putnam had 1 in 455; Corcoran had 7 in 667. At Jordan Junior High, there were 2 blacks among 1,200. At Roosevelt High School, Judge Summer found 15 blacks in a student body of 2,331.

The situation was the same last year in neighboring St. Paul. Monroe Junior and Senior High School, for example, reported not a single black student in an enrollment of 1,037. Seven elementary schools—Van Buren, Sibley, Grant, Adams, Whittier, Deane and Gordon—counted white children, 3,020; and black children, 1.

Now, this is the kind of thing that outrages Mondale; it outrages him in Mississippi. It is the kind of thing that has resulted in massive court-ordered busing in Richmond, Norfolk and Charlotte. But no federal judge has ordered Minneapolis to do anything. St. Paul has not been converted; its acts have led to no perils. The South is asking why.

CULEBRA AND THE QUALITY OF LIFE

Mr. GORE. Mr. President, the tiny island of Culebra, which is a municipality of the Commonwealth of Puerto Rico, is inhabited by 726 U.S. citizens, most of whom make their living by fishing and farming; the yearly per capital income on Culebra is about $400, which is below the standard of living of virtually any other American community.

Since 1936 Culebra and its surrounding cays have been used by the U.S. Navy as targets for naval weapons practice, including naval shelling, aerial bombardment and strafing. During this period the people of Culebra have borne a greater share of the national defense burden than that borne by most other American communities. Since 1960 the level of weapons activity has increased dramatically to such a degree that during 1969 the Culebra target complex was in use an average of 9½ hours, day and night, for 6 days a week, with an additional 3½ hours on Sundays. This intensification, together with the Navy's proposal to acquire an additional one-third of the 7-mile by 2-mile island—the Navy now owns a little more than one-third of Culebra—has driven the vast majority of the Culebrans to ask that the Navy go elsewhere to test its modern arsenal.

According to the Armed Forces Journal, on December 5 of last year Rear Adm. Alfred R. Matter, then Commander of the Caribbean Sea Frontier, wrote a Puerto Rican land developer a letter which reveals what life is like on Culebra. The letter states, in part:

[The Culebra Island] complex is expanding and operations are becoming increasingly

intensive, frequently being conducted through seven days a week. As such use increases, inhabitants of nearby areas such as your property will be subjected to the noise of supersonic booms, gunfire, rocket fire, and heavy air traffic." Culebra's Fight for Life," *Armed Forces Journal*, May 23/26, 1970, p. 39.

According to a New York Times editorial:

Under existing conditions, Culebrans must cope with a nerve-wracking, noise-pollution problem from shelling, bombing and low-flying Navy jets." July 10, 1970, p. 32.

The Culebrans have received the support of the Puerto Rican press and virtually the entire political leadership of Puerto Rico. According to the influential San Juan Spanish language newspaper, El Mundo—

The case of Culebra has achieved something very rare in Puerto Rico—it has united the entire leadership at this Island for one cause.

El Mundo, editorial, August 7, 1970. In addition, some 23 Members of the Senate, representing all sides of the political spectrum, have expressed their concern for this issue, and numerous editorials have appeared throughout the country in sympathy with the Culebrans.

It is no accident, it seems to me, that such a broad spectrum of support for the Culebrans has developed. I believe that the distinguished Senator from Washington (Mr. JACKSON) has focused accurately on what is at stake in Culebra:

What is at stake is something more than the Navy's use of a training facility. In fact, *what is at stake is the quality of life on Culebra* and the Navy's right to decide how far it can go in affecting the lives and well-being of the people who live there." Cong. Rec., S. 14,381, August 27, 1970 (daily ed.) (emphasis added).

"The quality of life": that is an issue which touches all of us in our increasingly complex, urbanized society so deeply that it transcends the boundaries of partisanship to such an extent that Armed Forces Journal, which styles itself as "spokesmen of the services since 1863" was moved to declare:

The Journal sometimes gets stories that we'd rather not print. In many ways, this is one of them.

But we don't make the news: We report it.

* * * * *

Our hearts are with the United States Navy, but not about Culebra. Not now. Our biases, our opinions have shifted from the Navy's side to the Culebrans' as we tracked down and checked out the story on these pages.

* * * * *

What matters is . . . what now should be done. With the Culebrans. By the Navy. For the country which both of them love. "The Editors" "Culebra: The Mouse That Roared," *Armed Forces Journal*, May 23/26, 1970, p. 28.

Thus, the issue of the quality of life has the power to unite the Armed Forces Journal and the New York Times. And it has the power to reach from Culebra to Tennessee, to move me to add my name to those who support the Culebrans. In particular, I would like to express my support for the efforts of the Senator from Washington (Mr. JACKSON) to convince the Navy that its own best interests as well as those of both the United States and Puerto Rico would be served by a statesmanlike decision which recognizes the political and emotional realities. However, if the Navy's intransigence persists, I am prepared to vote for the Goodell-Cranston amendment to the military construction bill, which would preclude the use of Culebra and its surrounding cays for weapons practice. I am pleased to ask that my name be added as a cosponsor of that amendment.

FUTURE GENERATIONS WILL BE INDEBTED TO JACK FORSYTHE—HE HAS BEEN A GUIDING FORCE IN THE DEVELOPMENT OF EDUCATION AND HEALTH PROGRAMS

Mr. RANDOLPH. Mr. President, I join with Senators in tribute to John S. Forsythe, a long-time friend and valued adviser. It is, in one instance, a sad occasion to realize that Jack will no longer be at hand when members of the Committee on Labor and Public Welfare turn toward him for sagacious explanations. It is a joy however, to know that one yet young in years and yet with so many accomplishments can shed his immediate burdens and have a well-earned leisure.

Jack, a native of the Keystone State, has been true to his origin. For the past years, he has been the keystone for all socially significant legislation to move through our committee. As general counsel, he has been a guiding force in the formulation of major education and health measures whose impact on our society cannot be properly assessed for many years to come. As such, future generations of Americans will be indebted to the man we honor today.

In the Biblical sense, he is a "servant's servant."

As a young lawyer from the hard coal fields of Pennsylvania, he saw firsthand the hardships and injustices reaped by the years of the great depression. He dedicated himself to service to his country and to mankind, first in the Navy during World War II, then as a labor attorney in Government.

If one takes into account all the future generations yet unschooled, all the sick unhealed, all the lives to be enobled and enriched by the work that Jack has done over the past 29 years, there is a true record of service among us. I accord him the highest and most honored appellation. Jack Forsythe is a humanitarian.

ADDRESS BY EARL BOYD PIERCE BEFORE FEDERAL BAR ASSOCIATION CONVENTION

Mr. HARRIS. Mr. President, the General Counsel for the Cherokee Nation, Mr. Earl Boyd Pierce, of Ft. Gibson, Okla., spoke today to the National Convention of the Federal Bar Association. Mr. Pierce has served the Cherokee Nation distinguishably for more than 30 years and his knowledge of Indian law is amazing.

Mr. Pierce has fought particularly hard to secure and protect the property rights of the Cherokee Nation. In his remarks before the National Convention of the Federal Bar Association, he traces some of the history of the tribal leaders and attorneys efforts to protect the rights of the Cherokee Nation and to regain "a portion of the tribal heritage."

I ask unanimous consent that Mr. Pierce's remarks be printed in the RECORD, which I believe Senators and others will find very interesting.

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

SPEECH OF EARL BOYD PIERCE

Mr. Chairman, Ladies and Gentlemen, it is a great honor to attend again the National Convention of the Federal Bar Association. Our distinguished Chairman, Mr. Samuel J. Flickinger, deserves the grateful thanks of the Cherokees for permitting our second appearance at a National Convention. I will strive to avoid obscuring with rhetoric our new position with the Federal Government. In the 1830's and again in the 1890's Cherokee leaders were preoccupied resisting efforts to strip the Tribe of its land resources. For the past quarter century present day leaders and the Tribe's Attorneys, particularly Mr. Paul Niebell, Mr. Andrew C. Wilcoxen, and others, have sought relief in the courts to regain a portion of the Tribal heritage.

My active association as an Attorney for the Cherokees during a period of more than thirty years has taught the lesson that one should distinguish between individual and governmental acts relating to Tribal affairs. Oftentimes the Government has pursued a course of conduct costly to a particular Tribe but later afforded it a remedy under the judicial process; while harmful individual acts have been somewhat more difficult to rectify.

Students of history have pondered the language of Judge Nott of the Court of Claims, for example, in the Western (Old Settler) Cherokee Case,[1] where, in 1891, it was said: *"The Treaty of New Echota * * * was the act and deed of neither the Eastern nor Western Cherokees."* This language seems to strike down an important Cherokee Treaty[2]—the Treaty to resettle the Cherokees in present Oklahoma. Yet it has been enforced from the date of its proclamation and, happily, even as late as April of this year, 1970, by a very recent opinion of the Supreme Court[3] this 1835 Cherokee Treaty and the Patent issued pursuant thereto, sustained Indian fee title to 100 miles of the navigable Arkansas Riverbed in Oklahoma. But since the Court of Claims, in 1891, expressly held that neither the Eastern nor Western Cherokees *made* such Treaty, historians probably have a right to wonder who, in fact, made the Treaty.

For the United States, the Reverend J. F. Schermerhorn, appeared and acted as the Principal Treaty Commissioner. For the Cherokee Nation, certain individual Cherokees, some twenty in number, appeared, pretending to represent it. But as its leader stated, they possessed no authority whatever to bind the Nation and its people to the terms of the Treaty. They were not chiefs nor headmen, he said, elected to treat away the possessions of the Cherokee people, nor were they delegated by either the National Council or the Principal Chief of the Nation as agents to bind the Nation to the obligations of the Treaty. Although to this day this Treaty has been repeatedly mentioned and relied upon, Judge Nott's language has not been modified. Even on appeal by the United States to the Supreme Court, Judge Nott's decision in the case was affirmed in 148 U.S., without any reference to this specific but truthful language of Judge Nott in 27 Court of Claims.

Footnotes at end of article.

The Cherokee Treaty of 1835, of course, was a Treaty of Cession and not of amity; whereas the subsequent Treaty of August 6th, 1846 [4] was a Treaty of amity, and of mutual intra-tribal concessions. Here may be found the intent expressed by the three Cherokee factions to mutually accept the onerous terms of the Treaty of 1835. This treaty of 1846 is of greater interest and importance because under it the United States escaped liability for depriving the Western Cherokees by the 1835 Treaty of their exclusive title to nine million acres of Oklahoma land, acquired from the government eighteen years before, which the treaty of 1846 reconfirmed to the Eastern Cherokees.[5]

Moreover, and more recently, in 1891, other Commissioners for the United States, in order to induce the Cherokees to sell the Cherokee Outlet in Northwestern Oklahoma, containing 8,144,000 acres of Cherokee fee title land (in addition to the price of $1.29 per acre or $8,595,000, set forth in the agreement to be paid for the land) said Commissioners promised the Cherokee people in a separate provision of the contract, to render an accounting of all expenditures of their trust funds, from the beginning of the government.

The United States Commissioners further promised in writing that if the promised accounting resulted in a balance due the Cherokees that had been withheld and not been paid in strict accord with the terms of the Treaties, the sum thus declared to be due would be forthwith paid by the Congress, if in session, and if not, by the next ensuing Congress. The agreement of 1891, containing the above written promises, which constituted a vital part of the consideration for the sale of the land, was ratified by Congress and approved by the President on March 3, 1893.[6] On that date the United States took title and possession to that vast tract of country described in the agreement, and commonly referred to as the Cherokee Outlet, and in September of that year, homesteaded 6,022,000 acres of it to 40,000 citizens of the United States.

The remaining portion of the Outlet, some 2,121,978 acres had been assigned and confirmed by acts of Congress to six other "friendly" Indian Tribes, including the Osages, Kaws, Pawnees, Poncas, Otoes, and Tonkawas. In 1961, the Indian Claims Commission held that the entire Outlet had been obtained by duress, and eventually, in two separate cases, awarded judgments to the Cherokees aggregating more than $19,000,000, less offsets, as additional payment for the land.

But in respect to the promised accounting the United States apparently attempted to keep its word and forthwith employed, at its cost, in 1894, the nationally known firm of Slade and Bender, Certified Public Accountants of Akron, Ohio, who conducted the accounting in Washington, finished it the following year, 1895. The accounting reflected an unpaid balance due the Cherokees under the Treaty of 1835 of $1,111,284.70, plus interest from June 12, 1838, until paid.

The Cherokees, by Act of the National Council, forthwith approved the accounting [7] and forwarded to Interior their request for an appropriation by the Congress then in session. Certain officers in Interior immediately fomented a controversy over the question of the money due as interest, and Attorneys in the Department declined to approve the Accountant's report, and the matter was not referred to Congress for immediate payment as the contract of sale expressly provided for.

The proposal lingered for months in Interior and until eventually it became involved in the question of whether the Tribal Government should be terminated to pave the way to Statehood. In 1898 the Curtis Act [8] approved an agreement with the Choctaws and Chickasaws and the Creeks for allotments in severalty and the ending of their Tribal Governments. The Cherokees held out until July 1, 1902 [9] when by tribal vote the Act of Congress known as the Cherokee Allotment Agreement, was agreed to. In this agreement [10] the Cherokees were permitted to sue in the Court of Claims to settle the debt due them under the 1835 Treaty. Suit was brought for the Eastern, Emigrant, Cherokees, on the claim by Robert L. Owen against the United States in the Court of Claims.

Judgment was entered in favor of the Cherokees [11] in accordance with the Slade-Bender Award, the Court holding that the Cherokees were due the sum of $1,111,284.70 which had not been paid to them in accordance with the terms of the 1835 Treaty, and Acts of Congress enacted pursuant thereto, plus interest from June 14, 1838, until paid. The United States feeling aggrieved with this decision appealed to the Supreme Court, thus allowing the usually placid Chief Justice Fuller, in 202 U.S., in a lengthy quote from Justice Nott of the Court of Claims (by then Chief Justice of that Court) an opportunity to castigate with almost religious fervor the agents of the Government for the treatment the Cherokees had received in this vital phase of the transaction for the sale of the Outlet lands. Chief Justice Nott said, as repeated by Chief Justice Fuller: "The Cherokee Nation has parted with the land (the Cherokee Outlet), has lost the time within which it might have appealed to the Courts, and has lost the right to bring the items which it regards as incorrectly or unjustly disallowed to judicial arbitrament, and the United States are placed in the position of having broken and evaded the letter and spirit of their agreement."

After a complete review of every Treaty and Statute provision relating to this debt due the Cherokees the full amount of the Slade-Bender Award of $1,111,284.70 with interest from June 12, 1838, was allowed as a judgment against the United States as of the date of the Supreme Court Decision, April 30, 1906, aggregating more than six million dollars; the largest judgment, perhaps, the Court of Claims had at that time every rendered in an Indian Tribal case.

But, notwithstanding this splendid Court victory, the Cherokees soon faced a totally different, but just as perplexing, problem. The following March, 1908, the BIA Superintendent at Muskogee, doubtless believing that the *Tribal* Government had been terminated, but still reluctant to act against the Tribe's best interest, requested of the Commissioner advice concerning the ownership of the bed of the navigable portion of the Arkansas River in Oklahoma. At that time the Superintendent had several proposed sand and gravel lease proffered by local citizens and corporations on his desk for consideration. Also, he had a record showing official Cherokee Riverbed leasing activity stretching back for twenty years, and thus wrote Washington for direction in the matter.

In March of 1908 the Superintendent was advised by letter, prepared and signed by an Associate Commissioner, (see 40 Okla. Reports—Nolegs Case) approved by Secretary James Wilson, that the State of Oklahoma owned the navigable part of the Arkansas Riverbed in our State, and that the Cherokee Nation had no interest in the title whatever; that title to said bed became vested in the State under the Equal Footing Doctrine upon Oklahoma's admission to Statehood, November 16, 1907. At this time Cherokee leaders who had been under attack for fifteen years, if they knew of this policy statement, were too weary to resist it.

From that day until December, 1966, the policy of the Department followed the letter of Secretary Wilson, and no effort whatever was put forth by it to test the "grave" legal question concerning the Indian title to the bed of the navigable portion of the river.[12] The United States, by 1966, had expended several millions of dollars in the overall development of the Arkansas River for navigation and other *purposes*. Two hydro-electric power dams, now practically finished, but then just beginning to be built, costing over $200,000,000 were off the drawing boards, and as stated, were without consultation of the Cherokees in course of construction within our stretch of the river.

After a futile effort by the Tribe to negotiate settlement of the title question with the State of Oklahoma, and of the monies due the Tribe from sand and gravel, and gas production; and upon discovering an attitude from the Departments of Interior and Justice of (at first) neutrality, the Cherokees entered suit declaring their ownership of the bed and for an accounting against the State and sixteen oil companies, and two sand and gravel companies, and for an injunction against the interference with their possession of the property. After adverse decisions by two courts, the lower Federal Court at Muskogee, and the Tenth Circuit Court of Appeals in Denver, the case timely reached the Supreme Court here in Washington. Interior and Justice joined us in Denver and with much "vigor" [13] aided our effort there and in the Supreme Court, Amicus Curiae.

The 4 to 3 classical decision in our favor written by Mr. Justice Thurgood Marshall, supported by an able, caustic concurring opinion by Mr. Justice Douglas, held that the 100 mile stretch of the navigable portion of the Arkansas from Ft. Smith up to Muskogee belonged to the Cherokee and Choctak and Chickasaw Nations of Indians in Oklahoma.

So, when the Secretary of the Interior in 1908, attempted to give away the Tribal property and *property rights* in the navigable portion of the Arkansas River in Oklahoma, his act and deed was so irregular that neither court mentioned the existence of the excathedra opinion of the Secretary in 1908.

One wonders at the cost to the Tribe of 58 years of denial of its rights in the property in question. The Tribe does not know today the extent of the benefits to which it is entitled by reason of the ownership of this river.

The President advised Congress in July of this year that the Justice and Interior Departments had an obligation to develop the Tribe's property to the maximum benefits for the Tribe and to avoid any conflict of interest. Serious questions are now before the Tribe and the Government regarding the nature, extent, and value of all our "water rights" [14] in the riverbed. We are looking forward with considerable hope of settling these questions with finality and assurance that we have done the best for the Tribe. It may thus be observed that the Cherokees are at the threshold of a new relationship with the Government; whereas, instead of resurrecting and asserting long dormant and almost forgotten treaty claims against the government, the Cherokees will be striving to preserve its hard-won heritage under our magnificent Judicial System.

FOOTNOTES

[1] 27 Ct. Cls. 1, 28
[2] 7 Stat. 478
[3] 25 L.Ed. 2d, 615, 9 S. Ct ——.
[4] 9 Stat. 871
[5] 148 U.S.
[6] 27 Stat. 645.
[7] U.S. House Executive Document No. 182, 53d Congress, 3d Session.
[8] 30 Stat. 495.
[9] 32 Stat. 716.
[10] Sec. 68.
[11] 40 Ct. Cl. 252.
[12] 270 Fed. 100, 105.
[13] 25 L. Ed. 2nd 615, 627.
[14] President Nixon's Message to Congress July 8, 1970.

THE PRESIDENT'S MESSAGE ON FOREIGN AID

Mr. PACKWOOD. Mr. President, the foreign aid program has been, historically, a symbol of America's commitment to a free and peaceful world. As such, it has enjoyed the support of America's youth. But in recent years, enthusiastic commitment to solving the problems of development has often given way to a conviction that America can best serve the interests of poor nations by leaving them alone. A mood of isolationism has appeared on America's campuses.

The President's message on foreign aid is therefore doubly reassuring. For not only does it outline a practical program for meeting the challenges of development, but it also constitutes a reaffirmation of foreign assistance as a symbol of enlightened foreign policy.

Moreover, it contains a number of recommendations submitted to the President by the Youth Task Force on International Development which, composed of students from universities throughout the country, conducted an independent study of our aid program. The President's message may serve to demonstrate to the young people of America that this Nation can play a constructive role in the world.

Three specific features of the President's recommendations should be noted. First, his decision to increase the multilateral component of our aid program dramatically refutes the charge that the aid program is conceived to pursue narrow U.S. interests and further our policy goals at the expense of other nations. The multilateralization of foreign assistance will put into practice America's stated commitment to peaceful change through international cooperation.

Similarly, the President's recommendation that we untie, as far as possible, purchasing requirements will inspire confidence in our motives, both at home and abroad. This change will demonstrate to America's youth, as well as to the citizens of underdeveloped countries, that the overriding goal of the aid program is to further the development process.

Finally, the separation of foreign aid by function into security, humanitarian, and development assistance will clarify the program's objectives and priorities. The proposed separation of functions will help gain the attention and support of American youth for our development program.

The President's advocacy of these recommendations of the Peterson task force report may signal a turning point in the history of American relations with other nations. If his proposals are put into effect, they will demonstrate that our commitment to international cooperation is genuine. They will prove to America's youth—as to all of her concerned and idealistic citizens—that we desire, in practice as in theory, the free and independent development of all nations.

THE LESSONS TO BE LEARNED FROM THE SOVIET VIOLATION OF MIDEAST STANDSTILL

Mr. DODD. Mr. President, the Soviet-United Arab Republic violation of the Mideast standstill agreement gravely jeopardizes the security of Israel and the entire security of the free world.

Perhaps the only good thing that has emerged from this violation is a renewed awareness, at public and official levels, that Communist assurances cannot be trusted.

The violation has served to arouse the indignation of the American people and of Congress. Virtually every American editorial writer and columnist of any standing has condemned the Soviet violation in scathing terms, and has called upon the U.S. Government to demand that the Soviet-United Arab Republic side restore the situation which existed prior to the cease-fire.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a representative selection of editorials and newspaper columns on this subject.

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

(See exhibit 1.)

Mr. DODD. Mr. President, Columnist Joseph Alsop, in an article dated September 8, 1970, wrote:

> The black lies told by Soviet Ambassador Anatoli Dobrynin to Secretary of State William Rogers have now become too important to be passed over in silence. They were the key factor, in truth, in the ugly and deadly dangerous mess that the American policymakers have got themselves into in the Middle East.

On the same day, William F. Buckley, in his column, point out that Soviet Party boss Leonid Brezhnev only a week previously had stated that:

> What is needed is no new provocations and subterfuges designed to circumvent or violate the cease-fire agreement, but an honest observance of the agreement reached.

As Buckley commented aptly:

> Those lines could have been spoken by Hitler on the eve of any old invasion.

A few days later, on September 11, Columnists Roscoe and Geoffrey Drummond wrote:

> We have now seen again that Russia's word cannot be trusted. This can only mean one thing—that no agreement can safely be made with the Soviets which is not self-enforcing and which can be promptly verified.

Away back in 1955 the Subcommittee on Internal Security published a study entitled "Soviet Political Agreements and Results." The study revealed that the Soviet Union had, from the time of its establishment in November 1917, been guilty of roughly 1,000 violations of the treaties and agreements it has entered into. A second updated version of this study was brought out in 1959, and a third revised and updated edition was published in 1964.

But despite this long and overwhelming record of perfidy, there are those who tell us that we must not be distrustful of the Soviets, because distrustfulness on our part makes them more suspicious and more prone to engage in deception and subversion.

The truth is that we are disposed to be an overtrustful people. And while overtrustfulness may be a product of personal honesty and good intentions, it can lead to the most dangerous kind of consequences when dealing with a completely ruthless enemy, who suffers from no scruples of conscience.

We should have learned our lesson before the Cuban missile crisis, but the sad fact is that we had not. President Kennedy was at first disposed to believe Ambassador Anatoli Dobrynin, when he assured him that the Soviets had no offensive missiles in Cuba and no intention of placing them there. As Senator Robert Kennedy revealed in his diary, "Thirteen Days," Dobrynin during this period lied 19 consecutive times to President Kennedy about what the Soviets had done, were doing, and planned to do.

But now, apparently, we have been surprised once more by the Soviet violation of the standstill cease-fire agreement. That we should have been surprised at all is something that surpasses understanding because, as "Bill" Buckley pointed out:

> Soviet duplicity is about as unusual as polluted air here in New York City.

I believe that we must employ somewhat more forceful language than we have heretofore employed to make the Soviets realize that we do not view their violation of the cease fire as a peccadillo which we can afford to pass over in silence or near silence. If the Soviets want larger and more significant agreements in the strategic arms limitation talks and other areas, then they simply have to conduct themselves in a manner which inspires more confidence than does their conduct on the Cuban missile crisis and their current conduct in the standstill cease fire.

Mr. President, in the hope that it will make us less forgetful in the future than we have been in the past about the Soviet record of perfidy, I have today written to the chairman of the Subcommittee on Internal Security, the distinguished senior Senator from Mississippi (Mr. EASTLAND), urging that the subcommittee bring out an updated version of "Soviet Political Agreements and Results."

EXHIBIT 1

[From the Philadelphia (Pa.) Evening Bulletin, Sept. 8, 1970]

SMOOTH-TALKING DOBRYNIN BAMBOOZLED ROGERS ON COMBAT ZONE STANDSTILL

(By Joseph Alsop)

Washington—The black lies told by Soviet Ambassador Anatoli Dobrynin to Secretary of State William Rogers have now become too important to be passed over in silence. They were the key factor, in truth, in the ugly and deadly dangerous mess that the American policy-makers have got themselves into in the Middle East.

It is a sorry story of a great power being totally "bamboozled" by the smooth talk of an untruthful diplomat, plus its own imprudent wishfulness. The culminating Dobrynin lie concerned the so-called standstill cease-fire, which has now been flagrantly breached by the Soviets and their Egyptian puppets.

THE BACKGROUND

On June 2, shortly before his return to Moscow, Dobrynin had another of his delightful "Beel-and-Toli" chats with Secretary Bill Rogers. The secretary raised a conditional question: Would the Soviets, if there was a cease-fire, agree to a true standstill, with no attempt made by either side to strengthen its position in the combat zone?

The ambassador, with his usual amiability, assured his dear friend "Beel" that the Soviets would do just as he wished. This assurance given by "Toli," as Secretary Rogers calls Dobrynin, was a major influence on the American decision to proceed with its famous Mideast peace initiative. It must be added, however, that confirmation of Dobrynin's assurances was sought in both Moscow and Cairo.

SPECIFIC CLAUSE

A paper was drafted at the State Department for all parties to approve before the cease-fire itself. The key clause read as follows:

"Both sides will refrain from changing the military status quo within zones extending 50 kilometers to the east and the west of the cease-fire line. Neither side will introduce or construct any new military installations in these zones. Activities within the zones will be limited to the maintenance of existing installations . . ."

Most unwisely, the U.S. ambassador in Moscow, Jacob Beam, and the U.S. representative in Cairo, Donald C. Bergus, were not instructed to secure signatures or even initials, to confirm acceptance of the cease-fire terms set forth in the paper above-quoted. But verbally at least, the Russian and Egyptian acceptance was unequivocal.

GUARANTEE TO ISRAEL

On this basis, the U.S. Government felt free to assure the Israeli Government that we could guarantee there would be no violation of the crucial clause requiring a complete military standstill in the combat zone. The Israelis accepted the cease-fire on the basis of this American guarantee, whereupon the violations began on the very night of Aug. 6, when the cease-fire became effective.

Squalid as this may seem, the reluctance of certain American officials to admit they had been "bamboozled" quite obviously played a role in the American equivocating about the reality of the cease-fire violations. In the end, however, multiple and continuing violations could no longer be denied.

Concerning the effect of this introduction of large numbers of additional Soviet antiaircraft missiles into the combat zone, the U.S. Government simply was lied to on a matter of cardinal significance. Thus far, we have let the lying pass with hardly more than a whimper of protest.

"LIE" ABOUT CUBA

This is not the first occasion, either. The much earlier black lies told by Ambassador Dobrynin about the Soviet missiles in Cuba are set forth in the late Sen. Robert Kennedy's book, "The Thirteen Days." Despite this proven untruth in the past Ambassador Dobrynin's subsequent career as a deceiver has been startling, to put it mildly indeed.

Either directly or through very close staff members, Dobrynin has forged close links with several Fulbright-school senators. The links are so close, in fact, that the senators in question habitually believe Dobrynin, while they angrily disbelieve their own Government.

In other "Beel and Toli" chats, moreover, Dobrynin's persuasive mendacity contributed greatly to the basic conviction behind Secretary Rogers' policy. This is the conviction that in the Middle East, the Soviets "want a political settlement" that this country could easily accept.

The affair of the standstill cease-fire led the United States into the humiliation of offering a wholly phony guarantee to Israel. But that is only the end of a much longer story.

After the Cuban missile crisis, President Kennedy refrained from asking for Dobrynin's recall, on the ground that the ambassador may not have known he was lying. It was a poor argument then.

It is poorer now.

[The Philadelphia Inquirer, Sept. 11, 1970]

SOVIET VIOLATION OF STANDSTILL, DOUBLE-CROSS MAKE IT CLEAR HER WORD CAN'T BE TRUSTED

(By Roscoe and Geoffrey Drummond)

WASHINGTON.—The Soviet Union has done an evil thing to the world, to the United States and to itself.

Its act: Brazen and callous violation of the Arab-Israeli standstill by joining with Egypt to put new missile batteries in the truce zone.

The Kremlin thereby broke its word, lied to the United States and double-crossed the developing peace.

The consequence is that Moscow is recklessly despoiling a vital ingredient of what looked like a most promising era of negotiation—in the Middle East, in nuclear arms control, in improving East-West relations.

Every Soviet commitment can't be totally and instantly verified. There has to be some trust in the fragile process of peacemaking.

But where is it today on the Soviet side? Russia publicly accepted the Middle East standstill and then covertly acted within hours to break it. The Russian-Egyptian violations were so immediate as to leave little doubt that the intention to dishonor the agreement was planned in advance.

The violations were detected by the Israelis the very night the truce began. Soon they were verified by the United States and the U.S. has now tardily acknowledged what it knew to be true for some time.

American officials had been loath to indict the Soviets bluntly and openly with the grave offense they perpetrated. The hope was that without too much fuss it would be easier to stop the violations.

But the evil thing which the Soviets have done is so crass, so heedless, so dangerous that it is far better to see it and say it as it is.

The Kremlins can't have its peace and eat it too.

Nearly everybody wants to see the Arab-Israeli peace talks resumed at the U.N. in New York.

Nearly everybody wants to see the Suez truce zone returned to the status of before the Soviet-Egyptian violations or to see the military balance restored in some other way.

Nobody wants to see the progress which has apparently been made in the nuclear arms talks exploded in midstream by this new evidence of Soviet bad faith.

But the present will not be helped and the future will not be benefited by glossing over the lesson we and all who deal with the Soviets must doubly learn from what has just happened.

We say doubly learn because this is nothing new. Eight years ago the Soviet Union did to the United States almost exactly what it has been doing to Israel. It gave its word and broke it. It talked peace and practiced war.

This was the lesson of the Cuban missile crisis of 1962—and we didn't learn it.

Robert Kennedy reveals in his diary, "Thirteen Days," that while the Soviets were secreting offensive missiles in Cuba they lied 19 times to the President of the United States. These lies came from the Soviet foreign minister sitting in the White House and from the Soviet ambassador speaking "on instructions from Nikita Khrushchev."

They lied about what they planned, they lied about what they were doing and what they had done. They lied when they hoped to deceive and they lied when they knew they may have failed to deceive.

This was the lesson of the Cuban missile crisis of 1962 and this is the lesson of the Israeli missile crisis of 1970.

We are not saying that everything that has been going so well—the attempts to lay some building blocks for a more stable world—will be thrown away.

But how can Israel believe that any Russian word guaranteeing the security of its frontiers can mean anything?

How can the United States believe that any part of a nuclear arms agreement which rests on Russia keeping its word can be trusted?

We have now seen again that Russia's word cannot be trusted. This can only mean one thing—that no agreement can safely be made with the Soviets which is not self-enforcing and which can be promptly verified.

[From the Philadelphia Evening Bulletin, Sept. 8, 1970]

(By William F. Buckley, Jr.)

NEW YORK.—The Administration has decided to roll a carpet over the Middle East crisis, leaving it to the professional diplomats to stitch back together Israeli confidence in the desirability of cease-fire. What happened, of course, was Soviet duplicity. Since Soviet duplicity is about as unusual as polluted air here in New York City, nobody seems to be paying much public attention to it, and the treatment of it has been relatively sleepy.

A week ago, Soviet party boss Leonid Brezhnev made a television speech stressing the desirability of peace in the Middle East. "What is needed is no new provocations and subterfuges designed to circumvent or violate the cease-fire agreement, but an honest observance of the agreement reached."

Those lines could have been spoken by Hitler, on the eve of any old invasion. Several days after they were spoken, it transpired that Egyptians were moving fresh missile batteries into the "stand-still" zone, and of course the terms of the cease-fire were that no side would take military advantage over the other in that zone.

SOVIETS DECEIVED?

We do not know what the various ambassadors are saying to one another. Those who wish to believe that the poor old Soviet Union was itself deceived by the Egyptians will probably believe it anyway. But it would require one to believe in the most serious mutiny against Bolshevik power since Kronstadt. Because every Egyptian battalion is accompanied by at least one Soviet specialist, and every battery is, by Egyptian military terminology, the equivalent of a battalion.

Since at least 15 batteries have sneaked into the standstill zone at this writing, that means at least 15 Soviet officials moved in concert in explicit defiance of what Brezhnev was prattling about on network TV.

If indeed they were acting against Soviet orders, which is about as credible as that invasion of Poland was a surprise to Hitler, then they could be recalled, and publicly executed in Red Square. It being unlikely that this is going to happen, we shall have to settle for the conventional wisdow, which is that the word of the Soviet Union is much, much worse than that of Al Capone.

AN OLD STORY

The point of stressing this is not to make a moral judgment, but to describe some of the problems we repeatedly get into as a result of trusting the Soviet Union. The President of the United States solemnly assured Israel, at a press conference in San Clemente, that it would have nothing to fear from a truce. Presumably Mr. Nixon would not have ventured such a guarantee except that he had the "word" of the Soviet Union that it would agree to abide by the truce.

The result of the duplicity is not only the relatively insignificant military enhancement of the Egyptian position along the west bank of the Suez Canal; it is the extremely grave matter of a defaulted American promise. What President Nixon did, in effect, was to underwrite Soviet sincerity. How that was done by a man who came to prominence by understanding the mind of Alger Hiss one

truly wonders. At any rate, that is how we stand.

ISRAEL COMPENSATED?

On the military point, Israel has been less agitated than one would expect. Less agitated than she is entitled to be. One can only suppose that the United States has made it up to Israel by promising X number of jets or warships or whatever; and, of course, Congress behaved very magnanimously in giving to the Executive, by overwhelming vote, the authority to give Israel just about anything she wants.

On the international point, Mr. Nixon has a good deal to retrieve. If he succeeds in appeasing Israel, he will have succeeded in stilling the voice of the party primarily wounded by the Soviet move. What one hopes he realizes is that the wound upon Israel is easily sutured, but our own is not. Because what we suffer from is a loss of credibility as a world peacemaker. Why would any country in the future accept an American assurance, if it is so glibly overridden by the Soviet Union?

[From the Christian Science Monitor, Sept. 12, 1970]

RUSSIA'S EVIL ACT

(By Roscoe Drummond)

WASHINGTON.—It is still not possible to measure the magnitude of the evil thing which the Soviet Union has done.

It has talked peace and practiced perfidy.

It isn't just that the Soviets and the Egyptians have imperiled the Arab-Israeli talks. The evil is far-greater than that. The Kremlin has doublecrossed the future peace.

It has done so by erecting a massive roadblock of bad faith in the way of the most promising prospect to lay the building blocks of a more stable world.

PLANNED DECEPTIONS

It has called into serious question the sanctity of all its present and future international agreements.

It has done this by collaborating with Egypt in moving some 200 SAM-2 missile batteries into the truce zone in violation of the military standstill which the world assumed all four nations accepted in good faith.

But it is now evident that Moscow and Cairo accepted it in bad faith and were preparing in advance to violate it. The speed with which the Soviet-built missile launchers were rushed into the Suez truce zone, beginning the very night the standstill went into effect, shows that deception was brazenly and callously planned.

It can certainly be put into the record that American officials were naive and ill-prepared for what happened. They made little advance preparation to inspect promptly against possible violations, and the violations were accumulating rapidly for at least two weeks before the Americans, handicapped by their own wishful thinking, were willing to confirm what the Israelis saw from the start.

DOUBLECROSSED PEACE

For the United States to have put too much faith in the word of the Soviet Union is a mistake. But for the Soviet Union to have broken its word, to have lied to the world and to have doublecrossed the peace is a heinous offense. It recalls the shocking incident when, on Dec. 7, 1941, a Japanese emissary sat across the desk from Secretary of State Cordell Hull assuring the U.S. of Japan's peaceful intentions shortly before the bombs were to pour down on Pearl Harbor.

Even rescue of the Israeli-Arab talks from the Soviet-Egyptian conspiracy to violate the truce by restoration of the military balance either by withdrawal of the missile sites or by increased American arms for Israel will not repair all the damage. The worst has been done because the men in the Kremlin have heedlessly and deliberately thrown away a crucial ingredient in building the peace which has shown so much headway in recent months.

All international commitments cannot be instantly and totally verified. Some trust is indispensable.

But how can the Soviet word be accepted in good faith on anything in light of what the Russians have just done?

LIES

Perhaps the lesson has come to us again just in time and this time we will take it to heart and not let the memory slip wishfully away.

The fact is that the Suez missile crisis has elements of the Cuban missile crisis. Robert Kennedy's diary of what went on in Washington during the period Moscow was secreting offensive missiles into Cuba reveals why it took so long for the U.S. to believe the evidence which was accumulating.

Robert Kennedy reports that during these 13 days, the Soviet Foreign Minister and the Soviet Ambasasdor, saying that they were speaking "on instructions from Nikita Khrushchev," lied 19 times to the President of the United States. They lied after their country had done it. They lied even after they knew the President knew what they had done.

And now it's happened again—this time in the Middle East.

We must learn and the world must learn that the Soviet word cannot be accepted at face value unless its observance can be effectively and continuously verified.

This will be the only way any future peace can be built.

[From the Philadelphia Inquirer, Sept. 3, 1970]

IT'S TIME FOR NIXON TO STRAIGHTEN POLICY ON TANGLED MIDEAST

(By William S. White)

WASHINGTON.—The situation in the Middle East is becoming dangerously out of hand—and so is the position of the United States in that situation. It is thus imperative that President Nixon take at once the most direct and above all the most highly visible personal control of our policy.

Rightly or not, the truth is that the Israelis feel they cannot deal in realism or usefulness with the State Department—and certainly not with a United Nations whose secretary-general, U Thant, has so often and so undeniably shown a pro-Arab bias.

Secretary of State William Rogers has been so extremely "even-handed," in a state of facts in which the victim of endless Arab aggression which is Israel is treated with less sympathy than is demanded by either justice or basic American interest, as to have lost much of the confidence of the Israelis. But the Soviet Union is not for a moment following this odd posture, which more or less equates one horse with one rabbit.

To the exact contrary, the Russians are increasingly supplying Soviet-based Egypt with missiles that increasingly menace the one Israeli lifeline, the Israeli air force. What that force now means to Israel is hardly less than what the RAF meant to England in the Battle for Britain.

In short, it is not really debatable any more that the Soviet Union and Egypt are persistently violating the American-arranged cease-fire. And nothing effective about this is being done or planned by the U.N. Nor is the quality and volume of assistance being given by us to Israel adequate, in the circumstance, either in military terms or perhaps even importantly in terms of morale.

That Secretary Rogers and his associates have had to walk a very high and swaying rope in all this business is certainly true enough. No one denies that this has been the most difficult and delicate job all around.

Nevertheless, there is a great deal more that could be done by us without inadmissible risk (anything that any great Power may do in meeting its responsibilities does of course involve some degree of risk) than has been done to date.

Perhaps even more significantly, we have got our priorities mixed up. The first mixup is simply that what is on our plate here is too big in all its implications for the State Department and so Mr. Nixon should take personal command—and be clearly seen to have taken personal command—without a moment's further delay.

The second mixup in our current approach is that in this government's utterly understandable desire to damp things down in the Middle East it is rather sweeping under the rug the gut and inescapable reality of all.

This is that the Soviet Union is not only patently the master of Egypt but has also plainly taken Egypt up as a major military client, whereas we have put our faith in negotiation rather than face the hard fact that the maintenance of the life of Israel is our unalterable obligation.

This is not to say that negotiation is a bad thing. It is to say that in the current state of affairs we on our side are negotiating from comparative weakness whereas the Soviet-Egyptian side is negotiating from ever-growing strength.

Every reasonable man ought to feel sorry for the President in this wretched tangle, and particularly since the extreme doves on the Vietnam war have created an emotional climate in which the mere mention of the words "military" or "military assistance" is enough to throw many people into a kind of neurotic seizure.

Nevertheless, the President is the President and he must not only perform as such—as in truth he is doing—but must also be universally seen as unambiguously and personally in charge of the whole shop. Only the head man ought to be acting upon—and, again above all, talking about—affairs at this juncture.

[From the Pasadena (Calif.) Star News, Aug. 25, 1970]

TRUSTING THE U.S.S.R.

The Soviet Union currently has the opportunity to prove that its word can be trusted. Thus far it apparently has failed—to the consternation of the West.

The United States has asked Israel to ignore reported violations of the Middle Eastern cease-fire and go ahead with peace talks, which start today at United Nations Headquarters, as if nothing has happened. Worried and feeling let down by their best friends, the Israelis have indicated they will abide in the hope that the serious talking to the Russians got in Washington last week will prove effective. They proceeded to name Abba Eban as their delegate even though new violations were found Sunday.

Americans, West Germans and other Westerners have reason to feel highly apprehensive about the Soviet ability to keep promises. The situation is even more important than the Middle East issue alone. There is an intricate range of East-West current negotiations aimed at the relaxation of tensions between the nuclear giants. All of these will go down the drain if the Russian promises are not to be trusted.

If the Soviets are still up to their old game of disregarding agreements whenever and wherever they think they can get away with it, what is the value of the Soviet-West German non-aggression treaties? What is the value of the strategic arms limitation talks? What would be the value of solving the Indochina conflict?

It may well be that Secty. of Defense Melvin Laird and Assistant Secty. of State Joseph Sisco are right when they claim that the truce violations are difficult to prove and in any case not important enough to stymie

talks widely regarded as the last chance for peace in the Mideast.

But there is little doubt that violations, about which Israel has repeatedly complained to the U.S. and United Nations, have taken place. Considerable photographic evidence has been publicly displayed demonstrating that Soviet SAM–2 and SAM–3 missile batteries were moved into the cease-fire zones after the truce went into effect—despite stipulations to the contrary.

It is reminiscent of eight years ago when the Kremlin was caught red-handed in the attempt to smuggle nuclear missiles into Cuba. The same Soviet ambassador, Anatoly Dobrynin, with whom the U.S. is now dealing, sat in President John F. Kennedy's White House office bluntly denying that Moscow was up to anything at all. On President Kennedy's desk was a folder containing U–2 photos of the missile installations.

Only two years ago the Soviet invasion of Czechoslovakia was preceded by an amicable Soviet-Czech meeting in Cierna. It was later realized that the meeting was designed to lull Czech reformists and the world at large into a state of false security so that the brutal attack—which had been carefully planned—could come as total surprise.

The list is long and includes dozens of broken agreements with the United States, scores of infringements of promises to the U.N., and such bloody trickery as took place in Budapest in 1956 when Soviet leaders were comforting the Hungarian government while Soviet tanks sped toward the capital city in the dead of night.

Dispatches from the United Nations Headquarters display considerably less optimism regarding the state of the world than they did 10 days ago. Everyone is hoping that violations of the Suez truce accord are minor, but they must be acknowledged as proof that the leopard has not changed its spots.

[From The New York Times, Sept. 13, 1970]

MIDEAST MISSILE MADNESS

While the lawless and inhuman acts of Palestinian extremists draw the censure of a horrified world, the Soviet Union and Egypt are compounding the damage to their own credibility, to the prospect for a Mideast settlement and to the future willingness of others to enter agreements with them by claiming that Egypt's massive missile buildup in the Suez area was permitted by the language of the standstill cease-fire pact.

The report now that these movements have included a few SAM-3 low-altitude antiaircraft missiles—which are entirely manned by Soviet military personnel—offers further evidence of Moscow's complicity in Egypt's SAM-2 violations. It also heightens the danger of direct Soviet involvement in combat from the first hour of a truce breakdown.

The State Department, by releasing the language of the cease-fire accord, has completely discredited the Egyptian thesis, supported by Moscow, that "redeployment" of missiles already within the truce zone and repair of damaged revetments are permitted by the cease-fire agreement. The Soviet-Egyptian claim, if valid, might have offered some flimsy cover to the violations, which, U–2 reconnaissance shows, go far beyond such activities. But the truce accord in fact provides that "both sides will refrain from changing the military status quo" in the Suez Zone. It forbids either side to "introduce or construct" new military installations and limits maintenance of existing installations to "their present sites and positions."

Grave as are the immediate local consequences of the missile violations, even more serious are the bald-faced efforts to justify—rather than rectify—those violations. They bring into question the utility of the "era of negotiations" predicated by President Nixon. Chances for East-West agreements to limit strategic arms, to revise European security arrangements and to reduce NATO and Warsaw Pact forces undoubtedly have been impaired by this glaring display of Soviet bad faith.

It is difficult to see how Russia's real interests can be served by this Mideast missile madness. The consequences for Egypt could be even more disagreeable.

Israel is in possession of huge buffer territories—occupied while winning the war Egypt provoked in 1967—that provide far more defensible borders than those it can obtain from peace negotiations. Egypt's central objective in the projected negotiations is to get Israel to withdraw from the bulk of those territories. Withdrawal is more likely to be impeded than encouraged by threats, a build-up of military power and continued violations of the standstill cease-fire.

The fundamental interests of Egypt and the Soviet Union now lie in abandoning preposterous pretexts and rectifying their truce violations. The essential task of negotiating a settlement cannot be expected to make any headway during a breakdown of the standstill agreement designed to set those negotiations in motion.

TRIBUTE TO JACK FORSYTHE

Mr. RANDOLPH. Mr. President, on behalf of the Senator from Wisconsin (Mr. NELSON), I ask unanimous consent to have printed in the RECORD a statement by him on the retirement of Jack Forsythe.

There being no objection, Senator NELSON's statement was ordered to be printed in the RECORD, as follows:

JACK FORSYTHE WILL BE MISSED BY MEMBERS OF THE SENATE LABOR AND PUBLIC WELFARE COMMITTEE

Mr. NELSON. Mr. President, when the Committee on Labor and Public Welfare, on which I am privileged to serve, meets for its next meeting, one of the Senate's ablest committee staff members will be absent for the first time in 15 years.

After compiling an outstanding record of service to both the House of Representatives and to the Senate, John S. Forsythe is retiring from his position as General Counsel of the Labor and Public Welfare Committee.

Jack Forsythe has been respected and valued as an aide to all the members of the Committee. He has served as General Counsel during one of the most productive periods in our nation's history with regard to the enactment of landmark legislation in the fields of education, health, labor relations, employment, manpower, poverty, veterans affairs, and other critical programs under the jurisdiction of the Labor and Public Welfare Committee.

His wisdom and ability to clearly translate often complex solutions to pressing problems into concise legislative language has been an invaluable resource for members of the Committee. This clarity and focus has enabled the Committee to challenge the vital issues facing our nation in the domestic field.

Jack Forsythe has served the Committee well. He has served the Congress well. He has served the nation well.

CORRECTION OF ANNOUNCEMENTS ON VOTES

Mr. GRIFFIN. I ask that the permanent RECORD be corrected to show the following omissions from the CONGRESSIONAL RECORD of September 17, 1970:

On vote No. 308, the Dominick amendment No. 907, the Senator from California (Mr. MURPHY) was paired with the Senator from New York (Mr. GOODELL). If present and voting the Senator from California would have voted "yea" and the Senator from New York would have voted "nay."

Also, on vote No. 309, the Dominick amendment No. 908, the Senator from California (Mr. MURPHY) was paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from California would have voted "yea" and the Senator from New York would have voted "nay."

UNANSWERED QUESTIONS ABOUT THE SST

Mr. PEARSON. Mr. President, the advisability of Federal funding for the SST continues to be a subject of controversy within this body. As a member of the Appropriations Committee, I have been troubled by the fact that recent hearings both before the Joint Economic Committee and before our Transportation Subcommittee, were generally limited to questions of funding and left unanswered many other important questions relating to the SST's impact on aviation, other modes of transportation, and our environment.

It was for these reasons that I wrote my distinguished friend, the chairman of the Commerce Committee (Mr. MAGNUSON), suggesting that the public interest would be served by exploring in detail, either before the Aviation and the Energy, Natural Resources, and Environment Subcommittees, meeting jointly—or before the full Commerce Committee—these important matters within their area of expertise and responsibility. It was my hope that these hearings could provide the opportunity for a Boeing representative, Secretary Volpe, and other qualified witnesses who have not testified, to help inform the Senate and to bring the merits of this program into clearer focus.

It is apparent the hearings I suggest will be denied. The matter is now before the Appropriations Committee rather than a legislative committee, and as we approach the end of the session, time is of the essence. But, I must also, in candor, state my considered opinion that several vitally important questions about the SST remain unanswered. Moreover, I remain convinced that the Senate would be well served by the kind of thorough, impartial investigation and analyses that have not been undertaken to date. Accordingly, I wish to make clear for the record my request and my thoughts in this matter.

THE PRESIDENT'S STATEMENT ON HIJACKING

Mr. DODD. Mr. President, I strongly applaud President Nixon's determined statement that the United States "can and will deal effectively with piracy in the skies."

I believe every American will support President Nixon's decision to place armed guards aboard all U.S. commercial airliners.

I also believe there will be unanimous support in Congress for the three-point plan the President outlined to help deal with the problem in the future.

The President said that it was imperative for all nations to agree on a plan for the extradition or punishment for all hijackers. He called upon the international community to take joint action to suspend airline service with those countries which refused to punish or extradite hijackers. Finally, he said that he had directed the Secretary of State to ask for an emergency meeting of the International Civil Aviation Organization.

I note that the President's proposals very closely parallel the three central proposals of a Senate concurrent resolution on hijacking which I submitted almost 2 years ago, on January 29, 1969. At that time, I know, my proposals were considered too radical by some of the desk officers in the State Department. The aggravation of the problem since that time has now made it obvious that the situation can be dealt with only by means of radical action.

Mr. President, I ask unanimous consent that the text of the concurrent resolution on hijacking which I submitted in the Senate on January 29, 1969, be printed in the RECORD.

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

SENATE RESOLUTION ON HIJACKING

JANUARY 29, 1969.

Whereas the past two years have witnessed a growing international epidemic of the hijacking of commercial airplanes, which has endangered the lives of many hundreds of passengers and resulted in serious inconvenience to both passengers and airlines; and

Whereas the epidemic has now reached such proportions in the Western Hemisphere that no passenger on a commercial flight in the Caribbean area can be certain that his flight will not terminate in Havana; and

Whereas the Tokyo Convention on Hijacking, although it represents a first step in the direction of controlling the problem, is, by common consent, inadequate to cope with the situation that exists today;

Therefore be it resolved by the Senate of the United States (the House of Representatives concurring) that it is the sense of the Congerss that the Administration should move immediately to strengthen the Tokyo Convention by adding clauses to it which (i) call for the automatic extradition of all hijackers to the flag of the country of the hijacked aircraft, and the immediate release of hijacked aircraft, together with their crews and passengers; and (ii) make it mandatory for the signatory nations to terminate bilateral air transport arrangements with any country that refuses to become a party to the new international convention on hijacking;

And be it further resolved that if the machinery of the International Civil Aviation Organization proves inadequate or too slow moving to bring the epidemic of hijacking under control in the immediate future, it is the sense of the Congress that the government of the United States should seek to deal with the problem through a special international conference, convened on an emergency basis no later than March 31, 1969.

THE VICE PRESIDENT'S ADDRESS AT AMERICAN LEGION CONVENTION

Mr. PACKWOOD. Mr. President, it was a distinct pleasure and a great privilege to have Vice President AGNEW visit my home State of Oregon on September 2, 1970. The purpose of his visit was to address the annual national convention of the American Legion. He was enthusiastically received as he reported on his recent Asian tour. I ask unanimous consent that his remarks to the American Legion in Portland be printed in the RECORD.

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

ADDRESS BY THE VICE PRESIDENT

Governor McCall, Commander Patrick, Mr. Don Johnson, Mrs. Davidson, Honored Guests and my fellow Legionnaires—especially those people from Maryland I know.

I'm proud to be at this distinguished gathering. Thank heaven the people here aren't so sophisticated they long for an American defeat.

As you know, I've just returned from an Asian tour during which I visited many countries including Vietnam and Korea. I brought back many messages from our brave troops there to some of our more dovish Senators. The soldiers asked me to deliver those messages personally because you're not supposed to send that stuff through the mail.

After I leave here, at the President's request I'm going to stop in Texas and brief former President Johnson on my Asian trip. Then I return to Washington.

First, let me thank you for your support—in the great, non-partisan tradition of the American Legion—for the Administration in its efforts to bring about a just and lasting peace in Vietnam, and in the world.

Having just returned from Asia, I can say that these efforts now hold great promise of success.

I would like to thank you, in particular for your support of the President's difficult decision on Cambodia.

Those who opposed the move into Cambodia four months ago thought it would prolong the war, increase American casualties and jeopardize our troop withdrawal program. When the President made it—and I can say this with authority, because I sat in those councils—he did so precisely for the purpose of achieving the opposite results.

Having just been in Vietnam and in Cambodia, I have seen what the results have been. And it can be said now that this decision was one of the important turning-points in this long and difficult war.

The success of the Cambodian venture has assured that our program of troop withdrawal can go forward. The process of Vietnamization has been greatly strengthened. The President said that by destroying enemy supplies we would reduce American casualties. And American casualties are down. In fact, two months have now passed since the end of the Cambodian campaign—and the number of Americans killed in action in those two months since Cambodia is the lowest for any two-month period since February, 1966—the lowest, that is, in the last four-and-a-half years.

Now, let there be no mistake what our goal is in Vietnam. Our goal is peace—a just peace. I can understand the impatience of those who cry out for "peace now"—but let's not have "peace now" if it means "pay later" with a bigger and more terrible war. By achieving a peace that discourages aggression, that gives the South Vietnamese a chance to find their own way and determine their own future, we'll increase the chance of a peace in the Pacific that can last through this final third of the century.

America's veterans now know all too well that this nation has been called on now to fight four wars in the space of only half a century.

From the standpoint of the United States, it is significant to note that three of those four wars have come to us from the Pacific.

For the balance of this century we can do better—and we must do better. By ending the war in a way that discourages future wars, we can greatly increase the chances that for the balance of the century we can in fact have peace in the Pacific, and peace from the Pacific.

But as we talk about the war in Vietnam, let us not forget the man who's had to fight the war, and whose sacrifices will have helped secure the peace.

We who came back from World War II, from Korea, were honored for our service in wars that the overwhelming majority of our countrymen supported.

Today's veteran—the Vietnam veteran—comes back to a country deeply divided by a war that he has been called on to fight.

He comes back to find many saying that the war is immoral. Yet never has America fought for so unselfish a purpose. We have not sought any treaties nor any bases. The shores of the United States itself were not immediately threatened, as they were in World War II. And the man himself went, not because he wanted war, but because his country called on him—just as other soldiers, in other wars, have answered their country's call.

Just as I did. Just as you did. Whatever our own views on the war, we should be proud of our young men who have done their duty, and who have served in Vietnam. I have noted with dismay that some political leaders who have themselves been critics of the war have lamented that our best young men have gone to Canada. The best are not those who ran off to Canada, but those who went to Vietnam.

In the months ahead, we will have many men coming home from Vietnam. But we must recognize that it will be necessary for the United States to keep many men in uniform for a long time to come.

Serving in the armed forces in peacetime has not, traditionally, been a calling that has commended the measure of respect in this country that it deserves.

In fact, we find among many today a tendency to look with disrespect at men who wear the uniform—whether as members of the peace forces abroad or of the peace forces at home. It's time we gave those men the respect and the honor they deserve—because it is their service that enables the rest of us to live in peace.

Speaking now not just of Vietnam but of the larger subject of world peace, I also want to thank the American Legion for its vigorous and steadfast support of a strong national defense.

This is probably the first time in the Legion's long history when continuing widespread national support for a strong defense was even a serious question.

The spirit the Legion represents is what has kept America strong—and what has kept the peace.

The real peace lobby today is composed of those who maintain the peace, not those who disturb it.

One of the great strengths of America is the essential determination of her people that what must be done will be done—resisting the temptation of the easy way that seems an easy way out, but is actually only an easy way in—into more wars, more tragedy and more human suffering.

Faced with a challenge to the peace, it may seem easy—and it may seem tempting—simply to walk away from the challenge, or to pretend that it doesn't exist, or to dismiss it as simply "cold-war rhetoric." This provides an excuse for not meeting it. But though excuses may be good in the short run, they're no good in the long run. In the long run we're judged purely by results.

Americans have fought three wars in a generation—four in half a century—not because we like war, not because we wanted war, and not because we coveted foreign dominions, but because the aggressions of others drew us into war. The goal of the real peace lobby now is to ensure that this next generation can live without war. And

in order to insure that goal, in order to achieve that effort, we have to concentrate on the strengths of many for the security of all of us.

What principally has averted war on a global scale since World War II, what has given security to the billion-and-a-half people who live in the free world, has been the strength of the United States of America.

We didn't ask for this responsibility. But because of what happened in World War II, we were the ones who had this strength. We held an umbrella of strength over Western Europe, Asia, and the new nations of Africa—not for the purpose of dominating those nations, but rather for the right to defend free people who want to chart their own future without outside interference.

Now, to be sure, the world has changed. Devastated nations have been rebuilt. New nations are growing stronger. There have been shifts in the power relationships. The United States is no longer the dominant power that it once was—meaning not that we are weaker, but that others are stronger, including our friends as well as our potential adversaries.

Therefore, we have both a need and an opportunity to establish new kinds of partnerships, in which America continues to assist other free nations. But they themselves play the primary role in their own defense.

The solid rock on which the new Nixon Doctrine is built, however, remains the continuing strength of the United States.

One aspect of maintaining that strong defense on which, once again, I wish to thank the American Legion for its strong support, has been the decision to go ahead with the anti-ballistic missile.

We were faced last year with a difficult decision—a very difficult decision. The Soviet Union, with its tremendous build-up of land-based missiles and missile carrying submarines, had been closing the gap and moving ahead in some categories. We had either to settle for an inferior position—with all the dangers that would have posed to the future security not only of the United States, but of the world—or do something. What we decided to do was to build defensive weapons system.

That system was not for the purpose of threatening anyone else, but rather for the purpose of ensuring that we could not be successfully threatened.

Now we have demonstrated our good faith by indicating that we are willing to limit that system if the Soviet Union will limit its own system.

There's been a great deal of talk about "reordering priorities." We have reordered priorities. Others claim we haven't gone far enough. Faced with the desire to do something more domestically, the automatic answer of many is: cut defense.

We take a different approach. We begin by asking: What the minimum level of military expenditures that we can set without jeopardizing the peace of the world? Then we say: Let's cut to that level—but no further.

We recognize that the first priority—the one that makes all else possible—is peace, and peace depends on security.

We all want that peace. The question is how do we achieve it—and what kind of peace do we achieve.

We seek a world—and a nation—in which each country, and each person, shows a decent regard for his neighbors' rights, for his neighbors' privacy, for his neighbors' dignity.

The principle of mutual respect is threatened abroad, and therefore we have to maintain a strength sufficient to preserve it.

The principle of mutual respect is threatened here at home, and therefore we have to be firm in defending it.

The real advocates of peace, Ladies and Gentlemen, are those who respect the rights of others, not those who infringe upon those rights; those who seek accommodation, not confrontation.

One of the tragedies of life in America today is that when we speak of maintaining peace, we do have to speak not only of peace abroad, but of peace at home.

We find bombs exploding not just in Vietnam, but in our own cities.

We find many of those who most loudly condemn "the system" violating those basic human decencies, those patterns of mutual respect for the rights of one another, on which a free system rests.

Those of us who have worn this nation's uniform in the past have worn it proudly—and when we have saluted the flag, we have done so proudly. We believe in what that flag represents.

And that belief and that pride did not leave us just because we changed to civilian clothes.

We know the country has its faults, but we also know it has great and enduring strengths—and one of those strengths is the best system yet for correcting our faults.

There are some who look at the faults, and cry that "the system" has failed. Their problem is they just don't understand the system.

Those who condemn "the system" in America call it unresponsive; they claim that it only protects the status quo.

They couldn't be more wrong.

The American system is the greatest engine of change and progress the world has ever seen. The American system has produced more goods, more widely distributed than any other system, any time, any place. It has given more people more true freedom—in the sense not only of political freedom, but in the sense of freedom to work at jobs of their own choosing than any other system, any time, any place. And it provides the best means yet devised by man of directing progress not toward the ends that some arbitrary authority might choose, but toward the ends that the people themselves choose.

In preserving the American system, we are defending the ideal of freedom. We also are preserving a process of change—a process that gives each person the right to be heard, and lets no one voice dominate.

Ours is a system rooted in law. It is based on respect for law, and on laws that deserve respect—and also on respect for those who have the responsibility for upholding the law.

At the very heart of the American system is respect for the rights of others—and we have built a body of laws designed to protect those rights. And that's precisely what the bulk of our laws are all about.

We don't brand murder and arson and rape just as an excuse to put people in jail. We do it to protect the right of the ordinary citizen—the noncriminal—not to be killed, not to have his house burned down, nor to be assaulted.

By the same token, we have laws that have the effect of limiting the way in which opinions can be expressed. We have a first amendment that guarantees the right of free speech and free assembly. But smashing windows, burning offices, assaulting people in the streets, are not acts of speech or assembly. Those are trespasses on the equally sacred right of others to be safe in their lives and their property, and in the free enjoyment of their liberty.

Confronted with a choice, the American people would choose the policeman's truncheon over the anarchist's bomb. But true peace lies neither in the bomb nor the truncheon. It lies in that pattern of mutual respect and mutual forbearance that is the essence of a civilized society. That pattern is what has to be strengthened and maintained.

America hasn't survived for nearly two centuries, and become the world's richest nation, and its strongest, because we were weak or dispirited or because we had a "system" that didn't work. The other free nations of the world haven't turned to us time and time again to help preserve their freedom because we held freedom lightly. When we poured out our resources to help the poor and the disadvantaged, it hasn't been because we didn't care. As we have erected new batteries of legal safeguards for the rights of minorities, it hasn't been because we were racist or bent on oppression.

We have done all these things because the heart of America is good, and because its arm is strong—and because we believe in liberty and justice, not just for a favored few but for all people.

We have done them because our "system" is good—and we have been able to do them because our system works.

So let's not be bowled over by those who dismiss "the system"—or dismayed by their pessimism about the future.

Let's look instead at the great promise—the real promise—that the future holds for this country of ours.

We are going to have peace in Vietnam.

We are moving slowly, surely, and with steady purpose toward a world in which we can have peace in the last third of this century.

We are moving toward the time when we can limit the awesome growth of arms, and devote more of our resources to meeting the needs of our people here at home.

Because of the enormous and increasing wealth that our system produces, we can move not only against those ugly blotches that its excesses have produced—fouled air, polluted water, scarred landscapes, urban congestion—but also toward better health care, better education, greater and more rewarding job opportunities, and a level and a quality of life that no one in the world would ever have dared dream of only a short time ago.

The thing we have to remember is not simply to sit back and let government do it, but rather for all of us to pitch in together—for each of us to recognize that he has his own "thing" to do.

"The system"—our democratic system, here in America—is not a something-for-nothing machine. It requires that each of us contributes. Its base is not government. Its base is people. Its great strength is not the great strength of government, but the strength of the people. And its guiding genius is not the genius of government, but the fundamental wisdom of 200 million Americans—old and young, East and West—who time and again have demonstrated that the real needs of people are best understood by the people themselves.

As we strive to restore and maintain the peace—both abroad and at home—it is important that we maintain it in a way that preserves liberty, and that encourages the flourishing of those richly humane values that lie at the heart of the American spirit and the American experiment. But this we can do together, and in so doing we will find once again that what divides us is far less than what unites us.

In that spirit, as we approach the future, we can do so confident of the basic strength of the American people, and the basic goodness of the American system. This will be preserved and in turn will preserve our liberties and those of our children.

It's been a privilege to address you this noon.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

STATUS OF UNFINISHED BUSINESS—DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the unfinished business, Senate Joint Resolution 1, be temporarily laid aside and that it remain in that status until the conclusion of morning business on Monday night.

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

SMALL BUSINESS AMENDMENTS ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1176.

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

The title of the bill was read, as follows:

A bill (S. 4316) to clarify and extend the authority of the Small Business Administration, and for other purposes.

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

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

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. McINTYRE. Mr. President, the bill now before the Senate, S. 4316, represents a combination of a number of bills which have been considered by the Small Business Subcommittee. These are S. 3699, the small business amendments of 1970, introduced by Senators BIBLE, JAVITS, PACKWOOD, PERCY, PROXMIRE, and TOWER and me on April 9, 1970; S. 3528, introduced by me on March 2, 1970; S. 2609, introduced by Senator BAYH on July 14, 1969; and S. 1750, introduced by Senator BIBLE on April 1, 1969.

The subcommittee held hearings on June 15, 16, and 17, 1970, and took testimony from the sponsors of the various bills, officials of the Small Business Administration, the Department of the Interior, the Corps of Engineers, and the Department of Commerce. We also heard from businessmen and representatives of trade associations. Those hearings have been printed and distributed to Senators.

The Committee on Banking and Currency voted to report a clean bill, S. 4316, which incorporates much of the substance of the bills which we had considered.

S. 4316 would authorize the Small Business Administration to participate in making loans to persons and organizations not normally engaged in lending activity as well as with banks and other lending institutions. This is an effort to get more private money into loans to small businesses.

The bill would provide for the payment of tuition costs for economically or socially deprived persons in courses in business management and it would authorize SBA to provide management counseling for economically or socially deprived persons seeking Government assistance relating to starting or continuing a small business. This would offer more opportunity for increased management assistance to those persons who need this type of assistance very badly.

S. 4316 would define a minority enterprise small business investment company—MESBIC—as a small business investment company whose portfolio is devoted solely to minority enterprises. It is hoped that the SBIC program can assist in broadening the help available to our minority citizens.

This bill would establish at SBA a program whereby SBA would guarantee any surety up to 90 percent of its loss as the result of the breach of the terms of a construction surety bond. This new program is designed to assist those small contractors who are now unable to get surety bonds. The ability to get the required bonding will increase the number of small contractors in the construction field.

This part of the bill is a part of the administration bill and is also taken from the Bayh bill of last year. I should like to say in, support of this provision, that the surety guarantee provision is an effort to assist small contractors to get the bonding which is required on construction projects in amounts up to $500,000.

Mr. President, our hearings developed that the small contractor needs four things and he needs them badly.

They are, first, skilled workers. Second, management experience. Third, capital. Fourth, the ability to get bonded.

Efforts are being made in the Small Business Administration and elsewhere to meet the first three of these requirements so that this provision in the bill is attempting to make it possible for the small contractor to get the required bonding.

Section 301 of S. 4316 would establish a program at the Small Business Administration whereby the SBA would guarantee up to 90 percent of any loss a surety company would make on a surety bond guaranteed by the SBA. The SBA would look at the contractor. The SBA would look at the construction contract and if it believed that the contractor can do the job and that the contract is reasonable, it will guarantee a surety against 90 percent of its loss.

The criteria are set out in the bill. This surety guarantee program is recommended by the SBA and is recommended by a complete study that was recently made at HUD.

Mr. President, I ask for the yeas and nays on final passage of the bill.

The yeas and nays were ordered.

Mr. McINTYRE. Mr. President, this HUD study concludes that a surety guarantee program such as this is needed and that it will succeed; so we were happy on the committee that not only the administration had suggested this portion of the bill but also that the distinguished Senator from Indiana (Mr. BAYH) had seen the deficiency here and had introduced a bill to deal with this situation a year ago.

S. 4316 would require SBA to see that the firms which received SBA financial assistance do not use these funds to purchase equipment which would add to our pollution problem. It would also give priority to loan applications of those small business firms which are in the business of pollution control, and it would make disaster loans available to small business firms whose businesses suffer because of the pollution of our streams.

This bill would also authorize SBA to make disaster loans to those small business firms which are required to upgrade their facilities to meet new State and Federal pollution standards and also to those companies which have to upgrade their facilities to meet the standards of the Wholesome Meat Act.

We on the subcommittee are aware of the tendency of Congress to enact perfectly valid laws in fields where we are attempting to do away with abuses, or trying to help a particular industry to bring up its standards, such as on safety or quality. Frequently, in the process of doing that, we find that the result has been, in attempting to help small businesses come up to the standards we think are proper for the public safety and health, to bear down very heavily on the small businesses. However, the larger firms are able to grit their teeth and go ahead and do the job of complying. The Senator from Nevada (Mr. BIBLE) introduced legislation which is included in this bill to alleviate this problem under the Wholesome Meat Act.

As we look at the record, so far as pollution measures are concerned, and as we see that stricter and stricter laws are needed, we also need to have some place where small business can go for help: under this bill he will be able to receive some assistance from the Federal Government through the SBA, in the form of low interest rate loans. Thus the small businesses can continue to meet standards and continue to be in competition with their larger brothers.

Mr. President, the bill would also amend the Small Business Act to make the rate of interest charged on disaster loans conform to the formula set out in the Disaster Assistance Act of 1970. This rate is based on the cost of money to the United States less 2 percent. At the present time, this would mean that this type of loan would carry a rate of interest of something on the order of 5⅜ percent.

These are the main features of S. 4316. I believe that this bill will assist the Small Business Administration to do a better job in helping our many small businesses throughout the country.

Mr. SPARKMAN. Mr. President, I will take a few minutes if I may. I send to the desk an amendment on behalf of the distinguished Senator from Indiana (Mr. BAYH), who unfortunately is not able to be here today.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 13, strike out lines 17 through 19 and insert the following:

"TECHNICAL ASSISTANCE AND COUNSELING FOR SMALL CONSTRUCTION CONTRACTORS"

"SEC. 302. Section 8 of the Small Business Act is amended by adding at the end thereof a new subsection as follows:

"'(f)(1) The Administrator shall, after consultation with representatives of the Department of Labor and the Department of Housing and Urban Development, develop programs for broadening the participation of small business enterprise in the construction industry. Such programs shall include (A) the provision of technical instruction and counseling with respect to the managing, financing, and operation of small construction concerns and the techniques of successful bidding on construction contracts (including instruction and counseling to enable such concerns and associations thereof to participate fully in the benefits provided by the Administration's surety bond guarantee program under part B of title IV of the Small Business Investment Act of 1958), and (B) the correlation and dissemination of information concerning opportunities for small business concerns to participate as prime contractors or subcontractors on construction projects.

"'(2) Programs under this subsection shall be developed and carried out on a local basis having regard for varying conditions prevailing in the construction industry in different areas of the country.

"'(3) The Administrator shall in the implementation of his overall technical assistance program give priority to technical assistance and counseling to small construction contractors and whenever necessary obtain the temporary or intermittent services of experts or consultants, or an organization thereof, in accordance with section 3109 of title 5, United States Code, but at rates for individuals not to exceed $100 per diem.

"SHORT TITLE

"SEC. 303. This title may be cited as the Small Construction Contractor Assistance Act of 1970'."

Mr. SPARKMAN. Mr. President, I should like to say this in explanation of the amendment. In hearings before the Small Business Subcommittee, the Senator from Indiana (Mr. BAYH) had offered an amendment that was much broader than this amendment. He has greatly cut down his amendment, to the point that I think had it been offered on this matter in the subcommittee, it would have been accepted.

The Senator from Indiana had to leave the city, and I am offering it in his behalf.

I believe that the distinguished Senator from New Hampshire, the chairman of the Small Business Subcommittee of the Banking and Currency Committee, is well familiar with the provisions of the amendment. I believe he has discussed it with the Senator from Indiana.

Mr. McINTYRE. Mr. President, I appreciate on behalf of the Senator from Indiana (Mr. BAYH) the fact that the Senator has been able to offer this amendment to the bill at this time. The history of this matter records the fact that the Bayh bill, which he introduced in 1969, asked among other things for a national task force. This task force was to sweep far and wide across the country attempting to find areas where small business contractors could be aided.

We felt in the committee that it was a duplication in some respects and was too broad. However, in the amendment offered on behalf of the Senator from Indiana, we find, as the Senator from Alabama said, that if there had been this narrow approach, we would have probably agreed to accept it.

Mr. President, the distinguished Senator from Indiana deserves a strong commendation for his concern for promoting the expansion of small business in the construction field. He has testified on this subject before the Subcommittee on Small Business and has, in the past, submitted proposed legislation in this area. Indeed, the committee voted to adopt a portion of one of his proposals regarding surety bonds for contractors in the present bill.

The Small Business Administration has not yet had the opportunity to comment on the amendment offered by the Senator from Indiana. However, it has been examined by the ranking minority member of the Subcommittee on Small Business and myself, and we both feel that it has considerable merit. At this late stage in the year, I feel that the most appropriate course of action would be to accept this amendment and carry it to conference, if this legislation gets that far.

If the sponsor of the amendment understands that we will be taking this subject to a later study by the Small Business Administration, I will be happy to recommend that the Senate adopt it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PERCY. Mr. President, it is a source of great personal satisfaction to me that this small business bill has come to the floor today. Having served on the subcommittee and the full committee when its provisions were discussed and debated, having worked with the administration on its contents, and having spent numerous hours with my own staff in hewing out our position to make sure the bill reflected what my experience in business had led me to believe is now required, I enjoy something of a personal sense of pride in the invocation features of the bill developed by the Nixon administration, and so ably supported and articulated by the chairman of the subcommittee, the Senator from New Hampshire (Mr. McINTYRE).

The bill, in my judgment, provides essential new tools and opportunities for the Nation's small businessmen. Its specific provisions have already been ably reviewed by my distinguished colleague, Senator McINTYRE, but I would just like to indicate my enthusiasm for this new legislation which, among other things, seeks to deal in innovative ways with the special problems of small businessmen by extending loan participation to lenders not normally engaged in lending activities, by permitting banks to wholly own MESBIC's, by providing guarantees to sureties on construction bonds, and by offering relief to small businesses who must undergo the costs of compliance with new environmental control standards. I think these provisions represent new hope in assuring the stability and position of small business in our economy.

Furthermore, Mr. President, I think this bill attests to the commitment of the President and this administration to come to grips with the hard problems of small business and particularly minority enterprise.

The President's work in this regard is typically pragmatic. It reflects a nuts-and-bolts analysis of the problems, and a willingness to meet these problems head-on rather than through some indirect approach which threatens to do no more than smother the problems with money.

The chairman of the Small Business Subcommittee, with whom I have worked so closely on this legislation, is also to be commended. He has, at every juncture, come forward with the insight and resolve needed to fight these important battles for small businessmen. His leadership has been helpful, bipartisan, and he deserves the recognition of the Senate in this regard.

Mr. President, it was my intention to give a speech today on an amendment I will offer. However, because I understand that the amendment is to be opposed by the distinguished Senator from Wisconsin (Mr. PROXMIRE), I thought it was well to give the speech last night in the RECORD together with the letter from the Small Business Administration so that the Senator from Wisconsin would have an opportunity to study the argument overnight and perhaps for a little while this morning. This would give the Senator a chance to appraise the matter and to present a counterproposal, with which he is always fully equipped.

Mr. President, at this time if it is appropriate, I call up my amendment. The substance of the argument in favor of it was given in the RECORD last night.

This amendment will authorize the SBA to grant interest subsidies to borrowers who receive loans guaranteed by the administration. The language approximates that contained in the original bill which, for want of sufficient background information at the time of our executive session, the Banking and Currency Committee chose to delete. I participated in that decision.

Since that time, I have spent a good deal of time talking to Secretary Stans and Mr. Sandoval, the head of the Small Business Administration. I have talked with a number of the very competent younger men who have been brought into the program and who have had special training and experience in banking. These men will have the problem of implementing and carrying out this program.

I am, therefore, convinced that it has been fairly researched and fully coordinated by the Department of Commerce and the Small Business Administration. They are enthusiastic about the carrying forward of those provisions.

They are aware of certain concerns that I tried to articulate to them that I felt represented some of the feelings I have heard in the Banking and Currency Committee. They are aware of these concerns. They intend to see that they will not come to pass. They will guard against them in the implementation of the program.

They feel this is an innovation and a new approach. It will require a modest amount of money and will really provide

a helping hand to small business that could not be provided otherwise. Because of these representations that have been made to me and the constant overseeing responsibility that we will exercise in the implementation of the interest subsidy program, I fully support it.

We in the Banking and Currency Committee really developed the concept of interest subsidies. It was a principle that I introduced with respect to the home ownership bill. It has had some flaws in it, but I do not know what we would have done without it. I do not know how we would have moved ahead to offer promise for home ownership to the people if we had not had interest subsidies.

The principle has been so well established that it has been carried forward into other programs. It is because of this that this idea is introduced now with respect to small business. It pulls the banks together in partnership with small business and gives them a banking relationship from the outset. A limit of 3 years is put on such subsidies. Thus only businesses in their early life have the benefit of this interest supplement program. I feel it is a big step in the right direction. It carries out and fully implements what the President said in his message when he said that we want to extend a helping hand to black capitalism; let us now extend a helping hand to minorities that have heretofore been deprived of the opportunity to participate in the free enterprise system.

Therefore, I offer this amendment and call it up at this time.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 1, beginning with line 8, strike out all through line 13, on page 2, and insert the following:

"SEC. 101. (a) In connection with the financial assistance programs established by the Small Business Act, title V of the Small Business Investment Act of 1958, and title IV of the Economic Opportunity Act of 1964—

"(1) The Small Business Administration is authorized to make loans in cooperation with persons or organizations not normally engaged in lending activity, as well as with banks or other lending institutions, and to enter into agreements with respect to the servicing of the loans.

"(2) The Small Business Administration is authorized to make interest subsidy grants on an annual basis to small business concerns which are about to be established or have been in existence for less than five years and which receive loans guaranteed by the Administration. In no case, however, shall the annual amount of such a grant exceed the product of the amount of the loan multiplied by the least of (A) 3 per centum; (B) one-third of the prevailing rate of interest applicable to the loan; or (C) the difference between the prevailing rate of interest applicable to the loan and 5½ per centum. No grant shall be made under this paragraph relating to interest due on a loan later than three years from the time the loan was disbursed, and each grant under this paragraph shall be charged, in the amounts thereof relating to each of such years, to the respective appropriations current at the time the grant agreement is entered into and to the appropriations current on the respective anniversaries thereof. The Administration shall issue regulations stipulating the conditions under which grants may be made under this paragraph. Such regulations shall include provisions to insure that the interest rate and other terms of the related loans are reasonable.

"(b) The Small Business Administration shall include in its annual report to the Congress a full and complete summary of its operations under the authority conferred by subsection (a) of this section. Such report shall state along with other relevant information (1) the names of the persons or organizations in cooperation with which the Administration has made loans under the authority conferred by subsection (a)(1), and (2) the names of the small business concerns receiving interest subsidy grants under the authority conferred by subsection (a)(2), together with the amounts involved."

Mr. McINTYRE. Mr. President, will the Senator yield, so that I may ask him a few questions?

Mr. PERCY. I am delighted to yield.

Mr. McINTYRE. First of all, I think we all recognize that the first 5 years of any business are in most instances the most perilous. We are trying to move in the direction of helping these new enterprises. I think the Senator has agreed there was not a formula or criterion laid down in the original presentation that was firm enough for us to go along with. So we bypassed it for the time being and did not make it a part of this bill.

Does the Senator from Illinois, in view of discussions he has had with Mr. Sandoval of the Small Business Administration and Mr. Stans of the Department of Commerce feel satisfied that this will work and would not be detrimental to the whole scope of business guaranteed loans?

Mr. PERCY. Yes, I am. I have gone over very carefully with the Small Business Administration the figures that they have had on losses, and the somewhat higher loss figures they have had from newer businesses. They are aware of the risks involved and also what can happen if we give this added help to small businesses in the earlier years.

I am satisfied their criteria and judgment, and the involvement of the bank in this program, will be an adequate safeguard. The amount of money required is modest, compared with the stimulus it will offer the small business community and the hope and encouragement it would offer the introduction of new ideas, new product lines, and so forth.

Mr. McINTYRE. I note that the amendment states under section (b) that the Small Business Administration shall include in its annual report to Congress a full and complete summary of its operation.

Each year we will have that report and we will have a firm grasp on the program and know how it is working. Is that right?

Mr. PERCY. I assure the chairman that I would like to work with him and wait for the report to come in. I would like to keep in touch with the people administering the program so that we know month by month that it is serving its purpose, just as I kept a close tab on the so-called Chicago plan where automatic approval was given after 3 days if a turndown was not given at the Small Business Administration. I was concerned about that program when it started. It had the name "Chicago" attached to it. I participated in the planning meetings that were held. I put as much expertise into it as I have. Now, SBA is so enthusiastic with it that they would like to extend it nationwide.

I would like to do the same thing here and work with our chairman on this matter.

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

Mr. PERCY. I am happy to yield to my colleagues from New York, who has been so instrumental in working with the Select Committee on Small Business and innovating new ideas for the small business community.

Mr. JAVITS. I favor this amendment very strongly. The Senator was rather understating his case when he said this just started with the housing effort, which was a most brilliant initiative entering into Congress.

We have had interest subsidies for rural electrification and we have had interest subsidies for rural telephones and also in the field of loans to college students. It is one of the ways we have to get guaranteed loans for college students when we annually fell flat on our faces in trying to make available necessary money for college students under the NEA program.

The gift of an interest subsidy is probably the answer to the crushing budget problems we face. As the Senator may know, I was able in connection with hospital modernization to do the same thing.

I would like to point out to the Senator that we are trying to get the banks to cooperate more intensely in the small business field.

There is a large consortium of New York banks meeting for this purpose. They are achieving some results. They do not yet have a New York plan to equal the Chicago plan. I wish they did.

One thing we have learned, whether we like it or not, is that we have not gotten behind the small business situation with sufficient management expertise. There could be no better witness for that than the Senator from Illinois, who was a most successful business administrator.

Right now, we are primarily on the money equation. I know that is not the whole answer, but it is an answer. To use the money equation effectively, we have to be able to decrease the cost of money and make more money obtainable so that the small business entrepreneur who is facing big losses can become more involved in the economic mainstream.

We might as well try to avoid some of these losses by soaking them up, by making his carrying charges lower. We will have to pay for it one way or another, and I believe it is better to pay for it in that way than to take it as a loss to the small business community and ultimately to the economy at large.

I commend the Senator and I hope the Senate agrees to the amendment.

Mr. PERCY. Mr. President, I thank the Senator for his deep interest in this field.

In the words of the President, when he sent his message to Congress, he said:

The risk of failure for small business is high and the early years are most perilous. These are the years in which the small busi-

nessman most often finds himself short of working capital and when high interest rates can have their greatest impact.

The experience of the distinguished Senator in this regard with many small businessmen would lead him to believe the President is right.

Mr. JAVITS. I approve of the amendment and I hope the Senate agrees to it.

Mr. PROXMIRE. Mr. President, I strongly oppose this amendment. This amendment was rejected, and wisely so by the Committee on Banking and Currency. It makes a program of questionable value anyway much more questionable. All of us are aware of the fact that the SBA program making a limited number of loans has been under attack for years.

There are 4.5 million small business firms and only 40,000, or one out of 100 receive loans from the Small Business Administration.

We know from experience in our States how many people have asked us to assist them in getting small business loans. We know that many worthy firms have to be turned down. You can imagine how this lineup is going to grow when they find loans are available with a 3-percent below market sweetener, a subsidy giving a clear advantage over competition.

But only one firm in 1,000 will get this advantage.

And how do we determine who gets in and who is shut out? There is no criteria in the bill. The answer or course is political pressure.

Furthermore, this is a departure from sound principles the SBA has followed which for years has confined assistance to repayable loans with interest, as I understand the facts. It is true this amendment would give this handout only to new firms that have been in business for less than 5 years. Furthermore it would only go to firms getting SBA financial assistance.

Third, the amount is 3 percent, or the difference between the prevailing rate of interest on the loan and 5½ percent, whichever is the smaller.

Fourth, it authorizes interest subsidy grants on an annual basis but the amendment has no precise language as to the amount—it is, in fact, open ended. The original estimate of cost, under the original language, was $20 million.

Furthermore, the amount required to fund this is not in the budget. President Nixon has vetoed an education bill on the ground that it represented an authorization that exceeded his budget request. Here we are going ahead and authorizing an open ended amount that exceeds the budget request, because there is nothing in the budget for it. We checked with the Budget Bureau a few minutes ago, and they said there is nothing in the budget providing for this.

One might say that this is not such a big universe of firms that might be eligible; it is only new firms. The statistics are that 2 million or 2½ million small businesses are 5 years old or less.

Furthermore, the SBA cannot tell us—we have asked them—how many firms would be eligible under the program. They should know, but do not know.

SIGNIFICANCE OF FIGURES

However, with 8,255 guaranteed loans in fiscal year 1970, about 40,000 guaranteed loans must have been made in the last 5 years.

If the average loan is $50,000 and the maximum rate of the grant is 3 percent, this means an average grant of $1,500.

The maximum number of grants which could be made would therefore be 3,300—$5 million divided by $1,500.

But there are about 2.5 million small business firms in the country less than 5 years old—530,000 formed each year, less 10,000 failures a year, times 5 years.

Some 40,000 guaranteed loans were made by the SBA in the last 5 years—not all of which are eligible, since some of these loans were made to firms 5 years old or older. But something more than 10,000 of these firms must be less than 5 years old—SBA makes a crude estimate of 40 percent—or 16,000.

The point is that the demand for the interest grants will vastly exceed the number available.

A grant is very lucrative. Neither the principal nor the interest must be paid back. Thus, thousands of businesses would be standing in line to get the grants—worth $1,500 gratis to them.

If these could be granted in an expeditious way, and not through the offices of Representatives and Senators, this program would be improved. I think we are aware that so many of these loans in the past have been made based on pressure, based on whether a borrower knew a Senator or a Congressman. While this factor may be exaggerated in the trade, certainly many small businessmen think that that is the way to get a small business loan. That has certainly been the approach to my office. They feel the one way to get a small business loan is through one's Senator or Congressman and, if they have "clout," they will get it. If we think we have been under pressure before, we are really asking for it if we pass this kind of amendment.

At any rate, the feeling by American business generally is that the loans would be made and the determination of who is going to get the grants would be made on the basis of who has political pull. I wish it were not that way, but the only way we can prevent that is by having criteria in the bill providing that the money is going to go to minority businesses, or is going to businesses operating in inner-core cities, or is going to poverty areas in rural sections, or businesses operated by wounded veterans, or something of that kind. As it is, there are no criteria; everybody is eligible.

We know what happens. There are those who are "more eligible," "more equal" than others. There are those who have political influence. I do not say that in any cynical way, but I mention it as a matter of realism. The way to eliminate that is to write clear and distinct criteria into the amendment which can be justified. Without such criteria, and there is none in this amendment, lucky borrowers will be chosen by political pull. With only 3,300 grants per year for 2 million firms, this has to be true.

The administration has made no provision in the budget for the appropriation. This will add to the President's budget. While the $5 million per year figure is given, the amendment itself authorizes no such limited amount. It is an unlimited authorization.

The pressures to increase appropriations for direct grants will soon be overwhelming. With a potential universe of 2.5 million firms 5 years old or less, this could end up as a terrific boondoggle.

This amendment gives us the worst of all worlds. Because of the failure of the anti-inflation policies, and the increase in interest rates due to that policy, small businesses are in trouble. The direct answer is to follow policies to reduce interest rates. This is the fundamental answer to the problem for small business, housing, farmers, and others caught in the credit squeeze and high interest rates.

Instead, high interest rate policies are continued. Then a favored few are bailed out through grants to reduce the effective interest rates.

In any case, the American people get it in the neck. Either they pay high interest rates or, as taxpayers, they pay taxes to support the grants given to businesses to make up for the high interest rates.

For an administration claiming it favors free enterprise, says it is opposed to needless spending, and accuses Congress of busting the budget, this is a most curious proposal. If it provided a loan, to be paid back with interest, that would be one thing. But they propose a grant, never to be paid back.

Furthermore, it authorizes funds not in the budget and funds beyond those asked for by the President.

The general thrust of the legislation is to help economically or socially deprived persons to establish small businesses and to receive training to run small businesses, and to help those who suffer disasters beyond any individual control, disasters from social events, or Government action.

This amendment does not limit itself to helping the poorest or neediest or urban ghetto business. It is across the board to anyone who has been in business less than 5 years and who has a small business guaranteed loan.

A direct grant of 3 percent of the interest on a loan might conceivably be justified to a business which had been bombed out in an urban riot, but to give it across the board is to set a bad precedent.

The amendment contains no guidelines. Initally, in committee, it did not provide for them, even by the agency. It now does that or allows the agency to make regulations, but basically the amendment is general, across the board, lacking in specifics, and unclear on a dozen important items, especially in the amount that may be authorized. This is open ended.

The distinguished Senator from Illinois (Mr. PERCY), a very valued member of the Banking and Currency Committee and a very extraordinary man, who made great contributions to the housing bill passed in 1968, has argued that this is simply an application to small business of the provisions contained in the

housing bill. I certainly dispute that. As we all know, sections 235 and 236 do provide for interest rate subsidies.

The answer is that the two are not at all alike. The housing interest rate subsidy was designed to get around the budgetary limitations. In addition, it has to go to low-income groups.

On the first point, if the Federal Government buys a mortgage or finances a house costing $20,000, that $20,000 goes into the budget as a 1-year capital outlay. This is true even though a Government institution holds a mortgage on that house, secured by real property, and which pays back principal and interest. It is a 1-year budget outlay of $20,000.

Under the interest subsidy program, the same house could be subsidized, or built or financed—whatever term you want to use—for an average of $600. By subsidizing the difference between the market rate of interest and what the individual renter or buyer could afford—at 25 or 20 percent of his income—instead of having a budget outlay of $20,000, the Government could get one house built for an average of $600 for 1 year.

This has neither of these redeeming features: First, it is not channeled to the especially needy; and, second, it is not a big budget saver—as the housing subsidy is. In fact, it may end up being a big budget buster.

As a matter of fact, it would provide this subsidy to a small business that was either already borrowing from the Federal Government or getting a guarantee from the Federal Government which would not affect the Government, but the proposal by the Senator from Illinois (Mr. PERCY) would.

It would mean that the Federal Government would have to pay out more. It would in no way economize on the impact on the budget. When only 3,300 firms out of a universe of 4.5 million can get a direct interest rate grant, and when the amendment contains no limitation on funds—or even if it did, it would soon be broken—the pressures to extend this bonanza across the board will be overwhelming.

If one business gets it, why should not his competitor? If one man has an "in" with the SBA or a local Congressman, how are they going to refuse a second or third or fourth?

We will soon be universalizing this practice.

Mr. President, I do think that in view of the fact that the committee rejected this proposal, and it has now come up on the floor, when we have not had a chance to have the kind of exhaustive inquiry such a vast departure from SBA practice deserves, I do hope the Senate will reject this amendment.

Mr. BENNETT. Mr. President, I would like to ask a question of the Senator from Wisconsin. I have listened to what he said, and it seems to me he has directed his criticism entirely to paragraph 2 of the amendment. Is he also rejecting paragraph 1?

Paragraph (1) which says:

The Small Business Administration is authorized to make loans in cooperation with persons or organizations not normally in lending activity, as well as with banks or other lending institutions, and to enter into agreements with respect to the servicing of the loans.

It is the understanding of the Senator from Utah that this involves a loan made to a church or a foundation, or a nonprofit organization, of one type, and this would seem to me——

Mr. PROXMIRE. I have no objection to that part. Frankly, I had thought that was in the bill itself. But that particular part of the amendment I would have no objection to.

Mr. BENNETT. With the approval of the sponsor of the amendment, I would like to suggest that this section be separated, and then ask the manager of the bill if he will not accept section 1 of the amendment. Is it in the bill?

Mr. McINTYRE. Yes; in the drafting of the Percy amendment this section is repeated merely for clarification.

Mr. PERCY. If the distinguished Senator will yield, there is a report back requirement under both of those provisions, and for that reason, the legislative counsel advised that we include in this amendment paragraph 1, which we knew was already in the bill itself. This simplifies the language of the bill so far as the report back requirement is concerned.

Mr. BENNETT. Where do we stand on this thing? Should it be reenacted here, or is it already in the bill, so that it needs no reenactment?

Mr. McINTYRE. It is already in the bill, so it needs no reenactment.

Mr. PERCY. Mr. President, I very much appreciate the comments of the distinguished Senator from Wisconsin on this amendment, which I hope will enable the Senate to have a clarification and, for the RECORD, make certain that we do have close surveillance over the implementation of this amendment.

May I ask whether it is the intention of the distinguished Senator from Wisconsin to have a rollcall vote, or whether he would be satisfied with a voice vote?

Mr. PROXMIRE. No; I have no intention to ask for a rollcall.

Mr. PERCY. Then let me be very brief in responding, because I understand we have other pending business.

The distinguished Senator has said that only about one out of 100 small businesses actually use the facilities and services of SBA. I think this is a testimony to the creativity, imagination, and resourcefulness of the commercial banking field, that it takes care of 99 out of 100 cases of small businesses, and suffers along with them, I presume, a part of the higher loss rate that is incident among small businesses. But the one out of 100 who come to SBA, of course, cannot come and get assistance unless they have been barred from and denied the resources of the banking community. That is why they come to the Government.

I am not particularly worried about a lineup of businesses coming to SBA. I think that SBA would want to encourage more businesses to come that might not be inclined to come for assistance and help, which might otherwise go under. What we want to try to do is reduce the incidence of failure among small businesses. By coming to SBA, by linking up with a bank that they could not do otherwise, by having technical assistance offered that they might not otherwise know was available, we might be able to reduce this 55 to 60 percent incidence of failure of small businesses in their first 3 years of operation.

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

Mr. PERCY. I yield.

Mr. PROXMIRE. I would wholeheartedly agree that there could be a value to small business operations in the regular program without the amendment. But I think there is too much politics about this. I do think that a strong case could be made for what the Senator from Illinois is saying. I cannot understand, however, why we have to supplement the loan with a handout. The firms that can get Government loans here could not otherwise get a loan. I can testify from my own association with small businessmen in Wisconsin that, while there is a resentment against this program now by many small businessmen who see their competitors getting loans when they are not, that they are really going to be unhappy when they see their competitors getting loans from the Government at well below the market rate.

I ask the Senator, How does small business work if it does not work on a competitive basis? If you are a firm that cannot cut the buck, you go under; as the Senator knows, that is the way the free enterprise system works. If we are going to subsidize a firm simply because they are having a tough time, it seems to me there is no place we can logically draw the line.

Mr. PERCY. I presume there is little question but what the SBA would prefer to assist borrowers directly, rather than through the guarantee program, if direct funding money were available. However, the shortage of funds has been a longstanding problem, what one might consider a fact of life.

The Senator has said there is no limit on this. There actually is a limit. A separate appropriation for this section would have to be made, and I would like to give some estimates as to what the actual cost would be, so we know what we are dealing with.

Mr. PROXMIRE. Mr. President, I said there is no limit in the bill. There is not in the authorization. Of course, every authorization can be limited by the amount of the subsequent appropriation.

Mr. PERCY. That is true, but——

Mr. PROXMIRE. It seems to me that a sound authorization would provide a limitation in this case.

Mr. PERCY. Perhaps we should put into the RECORD some of the representations made by SBA to us, and on which I am basing my judgment as to the size of the program and whether we can absorb it.

I am, first of all, comforted by the fact that the Bureau of Budget and Management has approved this program, and has supported the letter that Mr. Sandoval has sent to our able chairman:

The average size of an SBA loan is $50,000. The average size of an interest subsidy will be about 2½ percent. This amendment sets up a formula for determining the amount of subsidy, but in no case permits a subsidy

greater than 3 percent of the amount of the loan. Therefore, in fiscal 1970, had there been an interest subsidy program in effect, the cost, at the most, would have been about $3,750,000. This amount would double in a second year, it would triple in the third year, but would then continue at that level-out basis—

Because, as the distinguished Senator knows, no business can have it longer than for a 3-year period.

SBA makes an average of about 9,000 business section 7(a) loans per year. That is 6,547 business loans, 1,707 economic opportunity loans; the total represents a rounding out of about 9,000. Direct and immediate participation loans are excluded since the guarantee program is the only one on which the interest subsidy would be paid.

Approximately 3,000, or about one-third, of the total business loans are to new businesses. It is true that these losses are higher for new businesses. But the failure rate of small business generally across the country is 4 to 5 percent. The failure rate for SBA aided small business is 4 to 6 percent, which, when we consider that the banking community has already rejected these businesses and said they cannot have commercial loans, is, I think, a very reasonable rate and goes right to the heart of the whole purpose of what Congress has tried to do through the years in supplementing and implementing and encouraging small business to come forward.

The distinguished Senator has indicated that everyone is eligible. I do not know what the term "everyone" means. Certainly, the amendment itself limits the number of businesses that would be eligible. No business is eligible that has been in business over 5 years. No business is eligible that would have a loan for longer than 3 years. There is a limitation.

There is not discrimination in this bill, just saying it is only available to minority groups. I think the common problems of struggling small businesses know no color barriers, and I think we should offer this opportunity to everyone.

We know that we are trying to encourage minority enterprises. We know that traditionally they have had the most difficult problem getting commercially backable loans. I assume that there would be a relatively high number of businesses that would come to SBA under this program who are minority enterprises, whether they are Spanish-speaking, Mexican, whether they be black or whatever. The tradition of going to the banks has not been ingrained in these minority groups as it has, say, in ethnic groups that have had apparently no difficulty in past years in establishing quickly and readily commercial banking relationships. But because at the very outset, the moment they come into the subsidy program, they must establish a banking relationship, it acts as a funnel, an assembly line, from businesses that have not traditionally had these banking relationships to go to banks and establish a commercial banking relationship.

For those reasons, I feel that the program is potentially sound. We will certainly want to audit it and monitor it very carefully. But it has been well thought through and is an innovation that is worthwhile. For that reason, I support it fully, and I trust that the Senate will.

Mr. McINTYRE. Mr. President, I think it is easy for us to understand why the statistics show that the first few years are the most difficult in the life of a new business. It is the time of trial and error. The owner is learning, day by day, the many things he has to know if he is going to make a success of his business. New markets have to be developed; new products tested. One of the things he will learn is that it costs money to borrow money. Interest rates are important. They are a big factor in the financial structure of his business. We all know that high interest costs are burdensome or there would not be so much talk about their importance.

The proponents of this Percy amendment do not contend that this interest subsidy will be the most important factor in the final determination of the success or failure of a business. But we do contend that it may well be one of the main factors which could tip the scale on the side of success.

I would like to point out in closing that the Percy amendment contains a provision—I have already stressed this in my colloquy with the Senator from Illinois—which requires SBA to report to the Congress on the businesses which receive the subsidy and the amount received. I can assure the Senate that the Small Business Subcommittee will follow this program closely. If there is any sign that it is not doing what we hope and expect it will do, I will lead the fight to have it abolished.

Mr. President, I strongly recommend that the Percy amendment be adopted.

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

Mr. McINTYRE. I yield.

Mr. MANSFIELD. Mr. President, does this amendment have to do with the interest subsidy provisions?

Mr. McINTYRE. This amendment is the interest subsidy provision. The purpose of this amendment is to follow the suggestion of President Nixon when he sent this bill here; and that is that we all recognize that the first 5 years, which is the incubator period, are the most perilous for a small business.

We had some difficulty with it in executive session, and we think that now has been ironed out. It is going to be closely monitored and closely watched. This interest subsidy will be no greater than 3 percent at any time. Hopefully, this may be a little boost to the small business world.

Mr. MANSFIELD. I just want to indicate my support of the amendment offered by the Senator from Illinois.

Mr. PERCY. I thank the distinguished majority leader for his support. We appreciate it very much, indeed.

Mr. WILLIAMS of Delaware. Mr. President, I do not question the sincerity of the Senator from Illinois and the other Senators in sponsoring this amendment. But I think the Senator from Wisconsin made a valid point which should not be overlooked, and that is that this amendment would create a problem in the competitive system with respect to those small businesses which are not getting Government loans and which have to pay the regular interest rates or others who do get a small business loan and still have to pay the regular rates, as compared with the businesses which get subsidized interest rates under this Percy amendment. Who makes this determination in borderline cases? I think it is opening up a problem which can reflect adversely on the program that has served small business so well in the past. I think it is a mistake.

Mr. McINTYRE. I recognize the validity of what the Senator from Delaware has said, but I think that Senator Percy and I feel that we are trying to find different areas and different approaches that will be of assistance to small business.

In the deliberations of this body, we do many things that might appear a bit confusing in the clear light of day. For example, when we try to step in and save the C–5A aircraft—I think the escrow account in that is $200 million—to save this weapons system, are we not in fact rewarding mismanagement, and is that not a bad example?

Mr. WILLIAMS of Delaware. I agree.

Mr. PROXMIRE. I agree wholeheartedly with that statement.

Mr. WILLIAMS of Delaware. We have had several of those situations. While we support the principle of the Small Business Administration, we are all disturbed somewhat that there has been evidence of political influence in these loans on both sides. This is not partisan. We have had such examples, and they were wrong.

I was very much disturbed over some of the disaster loans that were made by the Small Business Administration in Alaska, where they made the 3-percent loans to top political figures. It happened to involve both political parties. They got loans far in excess of the destruction as a result of the disaster there, and then took the 3-percent money and reinvested it in other businesses or paid off higher interest rate mortgages.

There has been political abuse in this program. I think we are opening up another avenue where there may be political or other abuse. I know that is not the intention of the manager of the bill or the Senator from Illinois. I do not want to indicate that it is. I do not question their good intentions, but I do question the advisability of taking this step, which may lead to adverse criticism of a program which has done some good heretofore.

Mr. McINTYRE. Let me respond to the Senator from Delaware and the Senator from Wisconsin. It may be that the Senator from Delaware and the Senator from Wisconsin do know of some of these abuses. I have heard of some of them occurring. But, insofar as the Senator from New Hampshire is concerned, I have always maintained that, whether one was a Republican, a Democrat, or an independent, he could go to SBA. I have asked SBA to take another look or to go over an application; but, in the final analysis, I want to say that the decision—with respect to the SBA in New Hampshire, anyway—rests pretty fairly and squarely on the merits of the application. I, for one Senator, have never tried to use my influence to have them make a loan they should not have made.

Mr. WILLIAMS of Delaware. I am sure of that.

The case to which I referred was a matter of record that was sent to Congress by the Comptroller General under date of May 28, 1969. There was rather severe criticism of the mismanagement and the manner in which those loans were granted. The Comptroller General was very critical of the Small Business Administration officials who approved some of those loans.

There is another point which has nothing to do with this particular amendment, but while we are discussing it I should like to mention it. In the Finance Committee it was called to our attention that the Small Business Administration was making loans to small business investment companies whose sponsors in turn were making loans to themselves for the establishment of nursing homes. This was in violation of the rules as self-dealing. We tried to get a report on this. They refused to give us access to the information, and we asked the Comptroller General. Much to our surprise the Comptroller General was also refused access to these documents on the basis that Small Business was referring their report to the Department of Justice. I inquired of the Department of Justice, and apparently they are not going to take any action because they do not see any criminal violation; but they are holding the reports with the result that this is used as a bottleneck or an excuse to keep the critical information from Congress. I am sure the manager of the bill will agree that this is not the intention of the Congress. We should have access to the investigative reports which admittedly bear evidence of fraud.

Perhaps the subcommittee will want to examine this type of self-dealing loan for the SBA says there were violations of the rules or of the law but that for some reason the Department of Justice feels it does not merit prosecution; yet they refuse to allow the Finance Committee, while dealing with cases of abuse, to see the report. It is obvious that the Government will lose money, and they will not be paid; so I believe we are entitled to the information. I frankly have been critical of the SBA for using this excuse wherein by referring it to the Department of Justice which does not intend to pursue any criminal prosecution they keep the report from congressional committees.

Mr. McINTYRE. I will be happy to cooperate in every way I can to get the information for the Senator. The SBIC's are doing a good job. They could do a better job if given the opportunity. But if there is a self-dealing aspect here, I would like to know about it and I pledge my cooperation.

Mr. WILLIAMS of Delaware. I am not raising this question in connection with this particular amendment, but I would appreciate it if the Senator would have his staff work with the staff of the Finance Committee to help us get that information. It is nonrelated and perhaps should not be brought up in connection with this particular proposal.

Mr. McINTYRE. I shall be happy to do so.

Now, Mr. President, I am happy to yield to the Senator from Illinois.

Mr. PERCY. Mr. President, first, I associate myself with the remarks of the chairman and will cooperate in any way I can to see that information is made available for scrutiny and analysis.

The distinguished chairman used the phrase "put the light of day" on something. I think that the Senator from Wisconsin has put the light of day on many things. I hope that we will put the light of day on many other commendable projects, projects which are hardly small business, but that are multimillion-dollar projects such as the SST. I hope we can put our focus on that.

But here, I should like, at any rate, to try to clarify one aspect of the comments made by the distinguished Senator from Delaware (Mr. WILLIAMS). He indicates that this is a new program and a new venture, and that we would be setting up some form of discrimination between businesses, that one would be getting something that the others do not have.

Well, Mr. President, first, no business gets anything if it can be handled by a commercial bank. They have to be rejected and turned down for that. If one business says, "You are getting something that I am not," the other business can reply, "A commercial bank will be able to take care of your venture. You apparently have enough capital resources and you are far enough along so that what you have is bankable, but the banks will not give me any loan and I have been turned down. Because of that turndown, I have no place to go except to the SBA for help."

In principle, what we have to do, then, in order to have no discrimination, would be to repeal the direct loan program. We now have a direct loan program. It has been successful. It has worked. It offers an interest rate of 5.5 percent. I have not heard a great deal of complaint from one business to another that one of them is getting these loans and the other is not because of the difference between that one is commercially bankable and the other is not.

We do not have enough funds in the direct loan account. This is a way, therefore, to provide a subsidy for bank money to come in and bring a bank into the picture. It is that distinction that we should clarify and that this amendment is addressed to.

Now Mr. President, I am happy to yield to the Senator from Alaska (Mr. STEVENS) who is the only other cosponsor of the amendment.

I appreciate very much his deep interest in this subject.

Mr. STEVENS. I thank the Senator from Illinois. I am very much interested in this subject. As an aside, let me tell my good friend from Delaware that the unfortunate part about the Comptroller General's activities with regard to disaster loans is that they have 20–20 hindsight. They are not involved at the time of a disaster.

Having lived through two of our worst natural disasters, I can tell the Senator that the aftermath following a disaster has a great deal to do with how loans are processed and the attitude of the SBA that time is critical to preventing people from leaving the area.

Had the SBA not moved with the dispatch it did after the Anchorage earthquake, for instance, we could well have lost a great portion of our population. The SBA activities were directly related to the restoration of confidence in the rebuilding of Alaska following that great disaster.

The loans the Senator has mentioned, and I have seen the reports, all involve a little bit of hindsight in terms of judgments made and the experience of the loan officers. I do not think this is the place to argue whether the Comptroller General was correct in his assessment, looking backward. But, looking prospectively is what we are dealing with in terms of the SBA, I hope.

I would hope that we would not lose sight of the fact that the SBA, has in fact, regenerated the small businesses of this country, and that the amendment of the Senator from Illinois is absolutely necessary if small businesses are to get the assistance from the Government which they need, in order to keep pace in a period of high interest rates, particularly those small businesses that cannot go into the capital market to get the money they need to modernize and expand.

I thank the Senator from Illinois very much for permitting me to cosponsor the amendment because it is vital to our area. The Small Business Administration is sort of the Nation's bank in Alaska. I am sure the Senator from Delaware knows that. There is a great deal of money outstanding in Alaska, either guaranteed or in direct loans, from the Small Business Administration. The program has been successful. It has brought about the development of small businesses owned by Alaskans who are able to participate in this expansion of the oil industry and the gas industries up there, and I would hope that we would find a way to a clear support of the approach of the Senator from Illinois by his amendment. It is a fine one. I am very much pleased to sponsor the amendment. I thank the Senator from Illinois for yielding to me.

Mr. WILLIAMS of Delaware. Mr. President, I want to assure my good friend from Alaska that I was not speaking critically about Small Business Administration operations in the disaster areas in general terms. I was referring to a specific criticism of the Comptroller General on specific loans. In order that I may be more specific, Mr. President, I ask unanimous consent to have printed in the RECORD excerpts from the Comptroller General's report preceded by a copy of an article appearing in the National Observer under date of June 30, 1969.

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

SOME ALASKANS REAPED BONANZA OUT OF DISASTERS

FAIRBANKS, ALASKA.—When the Chena River flooded the city of Fairbanks two years ago it did $70,000 damage to the Fairbanks Daily News-Miner, according to publisher C. W. Snedden. The Small Business Administration (SBA) of the Federal Government

came to the newspaper's aid with a low-interest loan of $665,000.

The same flood waters lapped at the ground floor of the Golden Nugget motel, doing $140,000 worth of damage. The SBA helped out owner Don Pruhs with a loan of $894,000.

And so it went. A local newspaper called Jessen's Weekly got a disaster loan of $347,600 and emerged from the flood as Jessen's Daily. The black-and-white Fairbanks station of Northern Television, Inc., added $390,000 to the $140,000 it collected in flood insurance and went back on the air in living color. A young woman with a house appraised at less than $31,000 got a $42,500 loan to repair it. One businessman blandly admits that he used his disaster loan to buy his wife a new car.

The Small Business Administration was set up by Congress to lend money to small businesses that don't quite qualify for ordinary loans from banks. Its definition of "small" varies from industry to industry, and can include firms with sales up to $5,000,000 annually or 250 employes. Even these limits may be waived in an area struck by a natural disaster.

A number of Alaskans, including some with SBA loans of their own, have criticized the liberality with which the Federal agency has lent money in their state. Out of $626,900,000 in disaster loans made by the agency since its founding in 1953, almost one-fourth, or $155,900,000, was devoted to the Fairbanks flood and a 1964 earthquake centered near Anchorage. That works out to more than $550 in disaster loans for each Alaskan. The other 49 states have received $471,000,000 in disaster loans, or $2.35 for each resident of those states.

Mr. Snedden estimates that 90 per cent of the property owners in Fairbanks got loans from the SBA because of the flood. The SBA in Washington says it disbursed $61,500,000, about $3,000 for every man, woman, and child in the city.

"It was tighter here than in Anchorage" Mr. Snedden says of the SBA disaster program. The agency made loans of $95,400,000 after the Anchorage earthquake, although total damage to private real property was estimated at the time to be $77,000,000. The General Accounting Office, which audits the executive branch and reports to Congress, has criticized the SBA for being unusually free with the taxpayers' money in the 1964 disaster. It charged that low interest loans were made to wealthy men who could have raised the money elsewhere, and that many loans were used to pay off old debts or "upgrade" businesses instead of merely restoring them to the level that preceded the disaster.

ECONOMY "IN JEOPARDY"

"These guys with the green eyeshades don't understand the nature of an emergency," retorts Eugene Foley, who was head of the SBA in Washington when the earthquake shattered Anchorage. "We were facing a situation where the economy of a whole state was in jeopardy."

The Anchorage earthquake was the most powerful ever recorded in North America, and it took more than 100 lives. The downtown section of the city is still scarred by a wide expanse of gravel where buildings used to be. Another severely hit area was the exclusive suburb of Turnagain, where the homes of some of the richest men in Alaska vanished, both house and yard, into the sea. The victims got home loans from SBA on a scale comparable to what they had lost.

Among those who got home loans were: Elmer E. Rasmuson, chairman of the board of the 22-branch National Bank of Alaska, the state's largest; Al Swalling, president of the Matanuska Valley Bank who says he got a home loan of $145,000; Dr. Asa Martin, a director of the same bank and a successful private investor; and Robert B. Atwood, publisher of the Anchorage Daily Times and an investor in the hotel, airline, and other industries.

Mr. Atwood bought a house in a good subdivision after the earthquake, and the state government gave him two lots in another subdivision to make up for the property he had lost. But he also got a loan of $275,100 more than three years after the quake and built a home that is sometimes called "the grandest house in Alaska." He bought Anchorage's only public golf course to serve as a site.

FORMER GOVERNOR WAS HELPED

Another belated recipient of a disaster loan was former Alaska Gov. William Egan, whose house in the town of Valdez was destroyed in the 1964 earthquake. He borrowed $55,000 from the SBA in 1967 and bought a home in Anchorage.

The General Accounting Office said that it reviewed 196 earthquake loans and found that 25 went to people who could have recovered from the disaster with their own resources, 38 were used to "upgrade" property beyond the pre-earthquake level, and 36 were used to pay off previous loans. The last of these categories could be a real windfall—because disaster loans carry only 3 per cent interest and may last for as long as 30 years.

Fairbanks insurance agent Wally Cathcart used his own situation to explain the dramatic advantages of this "3 per cent money." Without it, he said, his current payments on three pieces of property would be an unbearable $701 per month. But thanks to an SBA disaster loan, he pays $400 per month.

"I'm afraid Fairbanks is the last monument that SBA is going to build," Mr. Cathcart added. He was referring to stricter rules laid down by the SBA in April of last year, banning the use of SBA money to pay off old debts, and requiring borrowers to use up a reasonable amount of their own resources before turning to the SBA for money to recover from a disaster. Such loans are now limited to $35,000 for a home and its contents, and to $100,000 for a business. An SBA official in Washington says the tighter rules were a "partial result" of criticism stirred by the relatively free hand with which loans were made in Fairbanks.

HELP FOR THE GOLDEN NUGGET

The most criticized loan was that of $894,000 to the Golden Nugget motel. Only $140,000 of this was intended to repair flood damage. Another $50,137 was allocated to make up for "economic injury," meaning the period of slow business that followed the flood. The remaining $703,863 was used to replace all of the motel's old debts with 3 per cent financing.

The Travelers Inn across the street was denied a similar bonanza when it asked for complete refinancing. It got $467,900 to pay for flood damage, but only $155,500 toward paying old debts. The Golden Nugget is owned by a business associate of the Democratic national committeeman for Alaska while the Travelers Inn is owned by Republican Walter Hickel, now Secretary of the Interior. The difference in treatment led to dark rumors, still heard in Fairbanks, that the Democratic Administration then in Washington gave out disaster loans on the basis of political favoritism.

"If it was political favoritism, it was pretty mixed-up politics," said real-estate salesman Earl Cook. Mr. Cook went to Washington after the flood to protest against what he felt was the arbitrary manner in which some borrowers were bailed out of their previous debts with 3 per cent loans, while others were only allowed to borrow the money needed to repair actual damage. He said he met "hostility" instead of enlightenment at SBA headquarters, but nevertheless he notes that Republicans did as well as or better than Democrats when the loans were handed out.

The largest SBA loan recorded after the flood was for $1,000,000, and it went to the Burgess Construction Co., headed by Alaska's Republican national committeeman, Lloyd Burgess. Mr. Burgess and his business interests received two other loans for another $526,400.

The big loans to wealthy businessmen have led to complaints of favoritism among some ordinary homeowners in both Anchorage and Fairbanks, and to charges of racial prejudice by some of the Negroes in Fairbanks. But it is the small loans to ordinary citizens that have given the local SBA office some of its biggest headaches. Of 63 Alaskan disaster loans referred to the SBA's liquidation department because of nonpayment in nine recent months, almost all were unsecured loans of less than $3,000, made to individuals immediately after the flood to help them get back on their feet. The SBA made many small loans in a hurry because the flood swept into town on Aug. 14. Winter reaches Fairbanks as early as September, so reconstruction had to be started immediately. It was these small loans that were hardest to collect.

This points up one of the paradoxes involved in lending money to cover all the damage caused by acts of God. The wealthiest people are entitled to the most money because their losses are the greatest. Destitute survivors are the least able to pay it back.

"I have yet to meet a guy who can afford a $200,000 loss," said Mr. Foley, explaining the large loans to wealthy citizens after the earthquake. "And if this guy has demonstrated ability to repay, should he be debarred from getting a loan?

"The Asa Martins and the Bob Atwoods "are the guys who get everything started," Mr. Foley added. "They are the success symbols, the examples that other people follow. There were people who were going to leave Alaska for good after the quake, until they saw that Al Swalling was going to rebuild, and decided 'Well, if Swalling will stick it out, I suppose I can.'"

Similarly, to the accusation of "upgrading," private business with disaster loans, Mr. Foley says: "We permitted some of that. We wanted to stimulate the economy. If we didn't permit them to upgrade, they would say the hell with it and go back to Seattle."

THREAT OF BANKRUPTCY

As far as using Government money to refinance old debts, local businessmen point out that many homeowners would have had to file for bankruptcy if the new disaster loan had simply been piled on top of their original mortgage. A mass of bankruptcies could have destroyed the local banking system. One SBA official in Washington says that "if we had not refinanced these loans there would not be a bank left in Anchorage today."

Mr. Foley's orders to extend loans with "compassion" made him one of the most popular men in Alaska. The state's Democrats held a $25-a-plate testimonial dinner for him in Anchorage. Acquaintances said Mr. Foley considered moving to Alaska and capitalizing on his earthquake-born popularity by running for the U.S. Senate. The publisher of the Anchorage Daily News said the SBA administrator inquired about buying an interest in the newspaper, but was rebuffed.

But many Alaskans were denied the refinancing given to some of their neighbors, and they do carry SBA loans on top of their mortgages. "The bulk of the borrowers just had to swallow their losses," says banker Rasmuson. "The SBA loans in no sense offset them. All kinds of businesses around here are carrying debt that by normal standards is way too large."

So there are two defensible sides to any argument over whether the SBA lent too much money to too many people who

really didn't need it. And even if such loans were made, there is the justification that the small permanent staff of the SBA in Anchorage was not set up to handle thousands of disaster claims in short order. Much of the work was done by temporary reinforcements who were unfamiliar with Alaska and who did not remain to supervise their loans or follow up on talks with borrowers. Fairbanks alone has seen 250 temporary personnel pass through the local SBA on six-week assignments.

Less defensible, perhaps, was the bending of the SBA's completely separate development company loan program to disaster purposes. The program provides for low-interest loans to small businesses that are guaranteed by a corporation of local businessmen set up for this purpose. The creation of these development-loan corporations was apparently encouraged by the SBA in fishing towns south of Anchorage after the earthquake, without much worry over the repayment ability or even the good faith of the borrowers.

As a result, the development company loan program in Alaska has become a kind of disaster area in itself. The program nationwide has suffered only 25 failures out of 2,267 loans, a rate of less than 1 per cent. The failure rate in Alaska is 6 out of 52 loans, a rate of more than 10 per cent. Several other loans are in trouble or have been.

"The success of the development-loan program depends on how much responsibility the local development company is willing to take, and on evaluating the amount of management skill available," said Robert Butler, the head of the SBA's Anchorage office. "We failed the course on both counts in Kenai and Soldotna. In some small towns the companies just used the program as a conduit to get financing for their members. A lot of it was self-interest, fixing up one person with a cement contract and another person with something else."

"It's pretty tough when you have people not acting in good faith, promising one thing and then doing another," said Mr. Butler's deputy, Harold Kenny.

SPECIAL HANDLING

In fairness to Mr. Butler's staff, it should be recorded that the development-loan program was administered by special representatives from Washington when most of the bad loans were made, because the regular Anchorage staff was swamped with earthquake work. "People from Washington couldn't believe how lacking in facilities some of those towns were," said Mr. Butler. "There was a need for better facilities, and in the emergency of the earthquake, the development company loan program was thought of as a supplement to disaster loans."

The most disastrous of the development corporations was the Central Peninsula Development Corp. It was founded in Soldotna by local businessmen who put up land and raw material, but only $13,000 in cash, according to the last president of the now defunct organization. With this slim capital the corporation borrowed $350,000 to build a hospital that did not qualify for normal Federal hospital programs, $346,500 to build a fish processing plant, $344,000 to build a warehouse, and $350,000 to build a motel.

Three years later, the hospital is a dirt-floored shell that needs at least $500,000 more work before it can be used. It went bankrupt after a local fisherman had collected $28,000 in fees for running an unsuccessful fund drive to finish it.

The fish plant also lacks a floor, and its dock has fallen into the Kasilof River. It is also bankrupt, and the SBA says it discovered that the fishermen on its board of directors had hired an engineer without the agency's approval and deviated from the original specifications for building the dock.

The warehouse went bankrupt because nobody around Soldotna had anything to put in it.

The motel was the only one of the corporation's projects that did not go bankrupt. It was behind on its payments until a chain bought out the original owners.

Another defunct development corporation was located in Valdez, but it had only one project, a fish processing plant that ran through a $230,000 loan and went broke.

SEVERAL LEADERS QUIT

The Coal Point Development Corp. in Homer has not gone out of business and the fish processing plant that is its only project is not behind on its payments. But the original president and several directors of the development corporation have all quit, in an argument over who should get the contracts to run and build the plant.

The Kenai City Development Corp. had two successful projects, a movie theater and cement factory. A $340,000 motel project fell behind on its payments but was rescued by a new owner. Its fourth project, a commercial greenhouse, went bankrupt without paying a nickel on its four-year-old loan of $312,300 from the SBA. The present board of the development corporation still has hopes of saving the greenhouse under new management, however.

Except for the development company loan program, most Alaskan businessmen insist that the SBA made relatively few errors in rescuing their state from economic disasters. Mr. Foley points out that his agency was highly praised by a special Presidential disaster commission at the time of the earthquake, and that the primary criticism then was that he did not lower the interest rates to an even more liberal level.

Mr. Rasmuson summed up much Alaskan business opinion:

"When disaster strikes, the big problem is to get things going again. The SBA did that. It's easy enough to sit back later and second guess."

ELIGIBILITY AND REASONABLENESS OF LOAN AMOUNT

In many instances, the records indicated that SBA personnel reviewing loan applications had not obtained a complete description of the damage to property or reliable estimates of the cost to restore the property to its predisaster condition or to replace it. We believe that a more detailed review of several loan applications by SBA should have disclosed that, although damage had been sustained, the eligibility of the applicant or the amount of the loan was questionable.

We believe that the following two examples demonstrate the adverse effect that can result from the approval of disaster loans without the benefit of information necessary for determining eligibility for and limitation of assistance.

SBA participated with a bank in a $200,000 loan to a partnership for the construction of a new building to replace a building damaged by the earthquake. The loan was originally approved for $100,000 on the basis of a reported income and damage loss and was later increased to $200,000 to finance increased construction costs of the new building. SBA provided 90 percent of the loan, or $180,000. At the time of the disaster, the partnership, a contracting firm, owned a one-story building constructed in 1962 for about $80,000. In its application for the disaster loan, the borrower submitted, in support of the amount of estimated loss, a letter from an architect, which stated in part that:

"Examination of your site and test drilling logs taken in close proximity to the site preclude any possibility of repairing your foundation and any additional building. * * * We would recommend your making only necessary repairs at this time to existing building. Your plans for a second floor must be shelved.

"Your loss should be calculated at a loss of lot and building valuation loss. Our estimate of this would be approximately $100,000. * * *"

We were advised by the architect that the estimated loss was based on a combination of income and damage losses and that he had no idea what the dollar amount of damage was to the building.

At the time of our review, the damaged building had been repaired and was being utilized; but we were unable to obtain a statement of costs incurred to repair the building. We were informed by an official of the City of Anchorage that the only building permit for the building, other than for its actual construction, was issued in July 1965 for remodeling at an estimated cost of $11,500.

The documentation in SBA's records supporting its reasons for approving a loan for $200,000 was the above-mentioned letter from the architect to the borrower. We estimated that, based on the difference between the 3-percent interest rate charged the borrower and the 4.125-percent interest rate paid to the Treasury by SBA in the year the loan was approved, the additional cost to SBA over the term of the loan for its share of the unsupported amount of about $188,500 will be about $16,900.

SBA approved two disaster loans totaling about $3.3 million to a private utility company, which included about $2.2 million to be used for expansion of facilities. The utility company, which provided service to areas outside the City of Anchorage, reported physical damages of about $103,000 and an economic injury loss of about $108,000 as a result of the disaster.

In May 1964 the company requested a $2 million disaster loan to provide about $1,021,000 for facilities expansion, about $768,000 for debt refinancing, and about $211,000 for the repair of physical damage and for loss due to economic injury. The utility company indicated that an expansion of its facilities was necessary and justified on the basis of a need to establish new water facilities in outlying areas in order to provide adequate services to sites for construction of new homes and relocation of damaged homes.

An SBA loan specialist in Alaska reported that, of the borrower's estimated losses of $211,000, only about $96,000 for physical damages could be verified and recommended that a loan for that amount be approved. A Washington official, however, approved the loan for $2 million as requested and reported that SBA officials, including the Administrator, agreed that the "application as presented is eligible" for a disaster loan. In May 1965 the borrower requested an additional disaster loan for about $1.4 million to provide about $1.3 million for completion of the facilities expansion and the remainder for repair of the physical damage. A $1,255,000 loan was approved by Washington officials.

We estimated that, based on the difference between the 3-percent interest rate charged the utility company and the interest rates charged SBA by the Treasury in the years the two loans were approved, the cost to SBA over the term of the loans for the unsupported portion of about $3,204,000 will be about $359,900.

The following example demonstrates the effect of basing the amounts of the loans on the cost of construction in Alaska:

An apartment building destroyed in the disaster was reported to have been 85 percent complete at the time of the disaster. The building, situated on about 27,700 square feet of land, was to have 70 units and to contain a total of about 76,300 square feet. SBA approved a disaster loan for $1,937,215 which included $650,000 for refinancing of prior liens. The balance of $1,287,215 was to cover the tangible loss claimed—$1,177,215 for construction and financing and $110,000 for land costs of the partially completed building.

The borrower used the loan funds and $263,000 from other sources, to acquire two shopping centers in Oregon having about 116,900 square feet of building area and about 424,300 square feet of land area. The borrower thereby obtained about 40,600 square feet or 53 percent more building space and about 396,600 square feet or about 14 times more land area than before the disaster.

We estimated that, based on construction cost differential data provided by a valuation service company, suggested to us by an SBA appraiser, it would have cost about $754,000 to construct, to the same stage of completion, a building in Oregon equal in size to the building destroyed in Alaska. However, the amount included in the approved loan for the purchase of the replacement buildings in Oregon was based upon a total cost of $1,177,215, which the borrower had incurred in constructing the destroyed building in Alaska, or $423,215 more than the cost in Oregon.

The PRESIDING OFFICER (Mr. YOUNG of Ohio). The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

AMENDMENT NO. 914

Mr. JAVITS. Mr. President, I call up my amendment No. 914 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, between lines 13 and 14, add the following subsection (c):

"(c) The Economic Opportunity Act of 1964, as amended, is hereby amended as follows: Strike the amount '$25,000' wherever it shall appear in section 402 of that Act and insert in lieu thereof the amount '$100,000.'"

Mr. JAVITS. Mr. President, the point of my amendment is to increase the allowability of loans to small business, which can qualify for an economic opportunity loan, from $25,000 to $100,000.

The reason for my interest is, one, that I am the ranking minority member of the Small Business Committee and, second, that I am the ranking minority member on the Committee on Labor and Public Welfare, which deals with poverty.

We have had—and I mentioned this in the course of debate a minute ago—conferences in New York with some 30-odd leading banks. These conferences have discussed problems with regard to small business loans in the minority entrepreneurship field; one point raised was that there is an inadequate allowability in amount. It is necessary to distinguish between the economic opportunity loan program and the regular SBA section 7(a) loan program.

From the point of view of the borrower there are four important differences between these programs. First, whereas any small business concern may qualify for the section 7(a) loan, only small business concerns in areas of high unemployment or owned by low-income individuals qualify for economic opportunity loans. Second, the maximum limit on section 7(a) loans is $350,000; on economic opportunity loans it is $25,000. Third, section 7(a) loans must be of sound value or adequately secured; there is no such regulation for economic opportunity loans, only a regulation that there be "reasonable assurance of repayment." Fourth, the SBA may guarantee section 7(a) loans only up to 90 percent; economic opportunity loans may be guaranteed the full 100 percent.

In the so-called franchising field, the $25,000 figure is often inadequate, although in most cases the $25,000 figure is enough.

Indeed, as the Senator from New Hampshire (Mr. MCINTYRE) has pointed out, there is a $14,000 average of loans made under section 402 of the Economic Opportunity Act. Those were loans for minority entrepreneurship employment; perhaps a better chance of success in some cases requires a little bit more money than that.

Sometimes the necessary additional amount was only marginal. Sometimes it was only a matter of $30,000 or $35,000 as compared with the $25,000 limit.

These are very vivid examples of what I am talking about. I hope they will appeal to the chairman of the committee and the ranking minority member with relation to the problem involved in a major development effort like that of what we call Bedford-Stuyvesant in New York, started by the late Robert Kennedy.

I participated in that effort with the mayor of New York, John Lindsay. That project has caught hold and is doing quite well. It is not doing well enough to say that it is a success. But it is probably making more effort in that direction than any other organization effort that I know of around the country.

We tried the same thing in the South. There we run into the problem of trying to employ local people. The minute we do that, a small manufacturing concern that might manufacture mattresses or something like that runs into the $25,000 barrier.

I have discussed this matter with the Senator from New Hampshire (Mr. MCINTYRE). He is very sympathetic to it.

I hope very much that he might favor the amendment. Although we have talked about a reduced amount, I put in the amendment exactly as I proposed it. However, I am prepared to reduce the amount to $50,000 if it should find favor with the chairman of the subcommittee and enable him to take it to conference.

I introduced a bill on this subject which, because it related to poverty, was referred to the Committee on Labor and Public Welfare. The bill has not yet had hearings. However, the facts are evident. I testified to them myself. It is a field in which I have done a good deal of work and know a good deal about.

The matter is a relatively important, though not the most important, aspect of the bill. Considering the time of the session, I hope very much that the Senator from New Hampshire can accept the amendment and then have the Small Business Administration check it through and check out everything I have said. If it does happen to be worthy of the attention of Congress, at least by being in this bill, it will have attention before another year expires.

Mr. MCINTYRE. Mr. President, I have discussed this amendment at some length with the distinguished Senator from New York (Mr. JAVITS) both off the floor on yesterday and again today.

I am sympathetic to the goal of increasing the loan limitations on EOL loans. However, in view of the record over the past year, when the average EOL loan has been approximately $14,000, operating under the present $25,000 limitation, I feel that there is some question whether the need for increasing the present limit is severe.

Furthermore, I am informed by the Small Business Administration that, in the past year, over 99.4 percent of the funds budgeted for this program were actually dispersed, indicating to me that the Government would have a very difficult time funding any increase in the size of EOL loans.

Finally, I would like to point out for the record that the Subcommittee on Small Business has not had the opportunity to study this proposal in hearings.

However, in view of the lateness of the session, the lack of complexity of the Senator's proposal, and the cogent arguments which the Senator has presented on behalf of his proposal, I am prepared, after consultation with my colleague from Illinois, to carry the Senator's amendment to conference.

I do so especially because of the Senator's willingness to request an increase of only an additional $25,000, to $50,000, and I appreciate his understanding of the problems which the subcommittee would encounter if we tried to accept language raising the limit to $100,000.

I think, too, that the Senator from New York has indicated the attitude we have toward it. He has spoken to me about the franchise questions in New York. He has spoken to me about the fact that he is willing that we dig in and get more information on this matter. And if, in the last analysis, we find that it will not stand the test, he appreciates that we might have to drop it in any conference we might have on this bill.

Bearing in mind what I have previously said, we will take the amendment to conference with the best of intentions and hope that we will work out something that will be of assistance to the Senator's constituents.

Mr. JAVITS. Mr. President, I thank my friend, the Senator from New Hampshire.

Mr. President, I modify my amendment as follows:

In line 4, strike the figure of $100,000 and insert the figure of $50,000.

The PRESIDING OFFICER. The amendment is accordingly so modified.

Mr. JAVITS. Mr. President, I think we will find that the pressure of the minority loan proposition is so great and there are so many cases that they have loaned almost to the limit of the authorization.

Some may indicate that this is not a highly desirable change. They may be better off from the point of view of serving the function of actually making fewer loans to encourage employment and more appreciable entrepreneurship relating to slum and ghetto employment.

That is why I like the proposition of the Senator from Illinois (Mr. PERCY) so much with reference to the loss ratio which we are suffering on these loans. We will do everything we can to keep it as low as possible.

Mr. President, I ask unanimous consent that the names of the Senator from Ohio (Mr. YOUNG) and the Senator from Oregon (Mr. HATFIELD) be added as cosponsors of the amendment.

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

Mr. McINTYRE. Mr. President, I move the adoption of the amendment as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York, as modified.

The amendment was agreed to.

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

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

The bill is open to further amendment. If there be no further amendment to be proposed, 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.

Mr. McINTYRE. Mr. President, I want to say in closing how much I have appreciated the cooperation of the distinguished Senator from Illinois and also that of the chairman of the Banking and Currency Committee.

I particularly address myself to the busy office of the Senator from Illinois. We have been in perfect harmony as we have tried to work out something that would be helpful to the small business world.

I also point out to the Senate that I think we received the administration bill on this matter some time in April. With all of the complications of the Senate schedule, particularly those in the banking and currency field, we moved as expeditiously as we could for hearings. I think that the track record on this particular bill has been extremely good.

I commend the ranking minority member of the subcommittee very much for his great help.

Mr. PERCY. Mr. President, just 6 weeks or so ago, I received a call from Secretary of Commerce Stans indicating that in his judgment this was a matter of urgency. It was considered by the administration to be must legislation. It was designed to implement a pledge personally made by the President of the United States to the small business community and to minority enterprises. Secretary Stans said that they would appreciate expeditious handling of this matter.

I transmitted the contents of that message to our distinguished chairman of the subcommittee and to the distinguished chairman of the Committee on Banking and Currency. Their cooperation has been total and complete, utterly bipartisan, as we have all tried to approach our responsibilities on the Committee on Banking and Currency. Whatever differences of opinion we have had we have worked out by getting to the heart of the matter, by discussing the nature of the problem, and by finding a solution to it.

I feel that there has been total cooperation on both sides of the aisle and total harmony and cooperation between the executive and the legislative branches of Government.

The newspapers have reported differences of opinion within the executive branch, between, possibly the SBA and the Department of Commerce on these matters. I am happy to see that there has been this shakedown period, and there seems to be complete harmony now. I see a great effort toward teamwork in the administration, and movement forward in the innovations in this bill.

I thank the Senator for his leadership, and his total and complete cooperation.

Mr. McINTYRE. I thank the Senator.

Mr. President, the yeas and nays have been ordered; is that not correct?

The PRESIDING OFFICER. The Senator is correct. 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 Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), (the Senator from Minnesota (Mr. McCARTHY), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Virginia (Mr. SPONG), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), the Senator from Georgia (Mr. RUSSELL), and the Senator from Washington (Mr. MAGNUSON), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Hampshire (Mr. COTTON), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Illinois (Mr. SMITH), 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 South Carolina (Mr. THURMOND) is absent on official business.

If present and voting, the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Illinois (Mr. SMITH), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 62, nays 0, as follows:

[No. 315 Leg.]

YEAS—62

Aiken	Ervin	Pearson
Allen	Gore	Pell
Allott	Griffin	Percy
Anderson	Gurney	Prouty
Baker	Hansen	Proxmire
Bennett	Harris	Randolph
Bible	Hatfield	Ribicoff
Boggs	Holland	Saxbe
Brooke	Hollings	Schweiker
Burdick	Hughes	Smith, Maine
Byrd, Va.	Inouye	Sparkman
Byrd, W. Va.	Javits	Stennis
Case	Jordan, N.C.	Stevens
Church	Jordan, Idaho	Symington
Cook	Mansfield	Talmadge
Cooper	Mathias	Williams, N.J.
Cranston	McIntyre	Williams, Del.
Curtis	Metcalf	Yarborough
Dole	Miller	Young, N. Dak.
Dominick	Packwood	Young, Ohio
Ellender	Pastore	

NAYS—0

NOT VOTING—38

Bayh	Hart	Moss
Bellmon	Hartke	Mundt
Cannon	Hruska	Murphy
Cotton	Jackson	Muskie
Dodd	Kennedy	Nelson
Eagleton	Long	Russell
Eastland	Magnuson	Scott
Fannin	McCarthy	Smith, Ill.
Fong	McClellan	Spong
Fulbright	McGee	Thurmond
Goldwater	McGovern	Tower
Goodell	Mondale	Tydings
Gravel	Montoya	

So the bill (S. 4316) was passed, as follows:

S. 4316

An act to clarify and extend the authority of the Small Business Administration, 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 "Small Business Amendments Act of 1970".

TITLE I

AUTHORITY OF THE SMALL BUSINESS ADMINISTRATION UNDER VARIOUS LOAN PROGRAMS

SEC. 101. (a) In connection with the financial assistance programs established by the Small Business Act, title V of the Small Business Investment Act of 1958, and title IV of the Economic Opportunity Act of 1964—

(1) The Small Business Administration is authorized to make loans in cooperation with persons or organizations not normally engaged in lending activity, as well as with banks or other lending institutions, and to enter into agreements with respect to the servicing of the loans.

(2) The Small Business Administration is authorized to make interest subsidy grants on an annual basis to small business concerns which are about to be established or have been in existence for less than five years

and which receive loans guaranteed by the Administration. In no case, however, shall the annual amount of such a grant exceed the product of the amount of the loan multiplied by the least of (A) 3 per centum; (B) one-third of the prevailing rate of interest applicable to the loan; or (C) the difference between the prevailing rate of interest applicable to the loan and 5½ per centum. No grant shall be made under this paragraph relating to interest due on a loan later than three years from the time the loan was disbursed, and each grant under this paragraph shall be charged, in the amounts thereof relating to each of such years, to the respective appropriations current at the time the grant agreement is entered into and to the appropriations current on the respective anniversaries thereof. The Administration shall issue regulations stipulating the conditions under which grants may be made under this paragraph. Such regulations shall include provisions to insure that the interest rates and other terms of the related loans are reasonable.

(b) The Small Business Administration shall include in its annual report to the Congress a full and complete summary of its operations under the authority conferred by subsection (a) of this section. Such report shall state along with other relevant information (1) the names of the persons or organizations in cooperation with which the Administration has made loans under the authority conferred by subsection (a)(1), (2) the names of the small business concerns receiving interest subsidy grants under the authority conferred by subsection (a)(2), together with the amounts involved.

(c) The Economic Opportunity Act of 1964, as amended, is hereby amended as follows: Strike the amount "$25,000" wherever it shall appear in section 402 of that Act and insert in lieu thereof the amount "$50,000".

BUSINESS MANAGEMENT AND RELATED TECHNICAL ASSISTANCE FOR DISADVANTAGED PERSONS

SEC. 102. (a) The Small Business Administration is authorized to extend grants to public or private organizations to pay all or part of the costs of providing business management assistance and related technical aid to socially or economically disadvantaged persons.

(b) The purposes of the grants made under this section may include the following:

(1) planning and research, including feasibility studies and market research;

(2) the identification and development of new business opportunities;

(3) the furnishing of centralized services with regard to public services and Government programs;

(4) the establishment and strengthening of business service agencies, including trade associations and cooperatives;

(5) the encouragement of the placement of subcontracts by major businesses with small business concerns owned by socially or economically disadvantaged persons, including the provision of incentives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns;

(6) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business and academic communities, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served;

(7) payment of all or part of the costs, including tuition, of the participation of socially or economically disadvantaged persons in courses and training programs for the development of skills relating to any aspect of business management; and

(8) provision of guidance or advice to socially or economically disadvantaged persons seeking government assistance relating to the establishment or continuance of small businesses.

(c) To the extent feasible, services under this section shall be provided in a location which is easily accessible to the individuals and small business concerns served.

(d) Section 406 of the Economic Opportunity Act of 1964 is repealed.

RESEARCH AND STUDIES

SEC. 103. The Small Business Administration may conduct research and studies with a view to identifying categories of small businesses which lack growth possibilities, as distinguished from small business built around innovations promising rapid growth, and with a view to identifying the nature and causes of small business failures. Where necessary for the successful conduct of such research or study, or of any other research or study which it is authorized to undertake, the Administration shall employ the services of experts and consultants.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 104. Appropriations are authorized in such amounts as may be necessary for the purposes of the programs under sections 101, 102, and 103.

TITLE II

DEFINITION OF MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANY

SEC. 201. Section 103 of the Small Business Investment Act of 1958 is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph:

"(8) the term 'minority enterprise small business investment company' (hereinafter called MESBIC) means a small business investment company, the investment policy of which is to make investments solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages."

ORGANIZATION OF MESBICS

SEC. 202. Section 301 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this section, a MESBIC may be organized and chartered under State nonprofit corporation statutes, and may be licensed by the Administration to operate under the provisions of this Act."

PURCHASE OF MESBIC STOCK BY BANKS

SEC. 203. Section 302 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding subsection (b)(2) of this section, or any other provision of law, shares of stock and other equity or debt securities issued by a MESBIC shall be eligible for purchase by banks and other financial institutions, subject to the 5 per centum limitation of subsection (b)(1) of this section. A MESBIC shall not be ineligible for assistance under this Act because of any such purchase."

GUARANTEE OF DEBENTURES ISSUED BY SMALL BUSINESS INVESTMENT COMPANIES

SEC. 204. Section 303(b) of the Small Business Investment Act of 1958 is amended—

(1) by inserting the following in lieu of the first sentence thereof: "To encourage the formation and growth of small business investment companies, the Administration is authorized (but only to the extent that the necessary funds are not available to the company from private sources on reasonable terms), when authorized in appropriation Acts, to purchase, or to guarantee the timely payment of all principal and interest as scheduled on, debentures issued by any such company. Such purchases or guarantees may be made by the Administration on such terms and conditions as it deems appropriate, pursuant to regulations issued by the Administration. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.";

(2) by inserting "or guaranteed" following "purchased" each place it appears in paragraphs (1) and (2) and in the second sentence thereof;

(3) by inserting "or guarantees" following "purchases" in the last sentence of paragraph (2) thereof; and

(4) by inserting "or guarantee" following "purchase" in paragraph (3) thereof.

INVESTMENT IN UNINCORPORATED BUSINESSES BY SMALL BUSINESS INVESTMENT COMPANIES

SEC. 205. Section 304(a) of the Small Business Investment Act of 1958 is amended by inserting "and unincorporated" after "incorporated".

REMOVAL OF 90 PER CENTUM LIMITATION ON SMALL BUSINESS INVESTMENT COMPANIES DEFERRED PARTICIPATIONS IN LOANS

SEC. 206. Section 305(b) of the Small Business Investment Act of 1958 is amended by striking out the second sentence.

TITLE III

SURETY BOND GUARANTEES

SEC. 301. Title IV of the Small Business Investment Act of 1958 is amended—

(1) by striking out the title heading and inserting in lieu thereof the following:

"TITLE IV—GUARANTEES"

"PART A—LEASE GUARANTEES";

(2) by striking out "this title", wherever it appears in sections 401 and 402, and inserting in lieu thereof "this part";

(3) by amending section 403 thereof to read as follows:

"SEC. 403. There is hereby established a revolving fund for use by the Administration in carrying out the provisions of parts A and B of this title. Initial capital for such fund shall consist of not to exceed $10,000,000 transferred from the fund established under section 4(c) of the Small Business Act: *Provided*, That the last sentence of such section 4(c) shall not apply to any amounts so transferred. Into the fund established by this section there shall be deposited all receipts from the guarantee programs authorized by this title. Moneys in such fund not needed for the payment of current operating expenses or for the payment of claims arising under such programs may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as initial capital for such funds shall not be so invested but shall be returned to the fund established by section 4(c) of the Small Business Act, in such amounts and at such times as the Administration determines to be appropriate, whenever the level of the fund herein established is sufficiently high to permit the return of such moneys without danger to the solvency of the programs under this title. The Administration shall pay into miscellaneous receipts of the Treasury, as of the close of each fiscal year, interest on the net outstanding disbursements of the initial capital from the fund at rates determined by the Secretary of the Treasury, taking into consideration the average yield on outstanding long-term, interest-bearing marketable public debt

obligations of the United States as of the month of June preceding such fiscal year."; and

(4) by adding at the end thereof the following:

"PART B—SURETY BOND GUARANTEES

"DEFINITIONS

"SEC. 410. As used in this part—

"(1) The term 'bid bond' means a bond conditioned upon the bidder on a contract entering into the contract, if he receives the award thereof, and furnishing the prescribed payment bond and performance bond.

"(2) The term 'payment bond' means a bond conditioned upon the payment by the principal of money to persons under contract with him.

"(3) The term 'performance bond' means a bond conditioned upon the completion by the principal of a contract in accordance with its terms.

"(4) The term 'surety' means the person who (A) under the terms of a bid bond, undertakes to pay a sum of money to the obligee in the event the principal breaches the conditions of the bond, (B) under the terms of a performance bond, undertakes to incur the cost of fulfilling the terms of a contract in the event the principal breaches the conditions of the contract, or (C) under the terms of a payment bond, undertakes to make payment to all persons supplying labor and material in the prosecution of the work provided for in the contract if the principal fails to make prompt payment.

"(5) The term 'obligee' means (A) in the case of a bid bond, the person requesting bids for the performance of a contract, or (B) in the case of a payment bond or performance bond, the person who has contracted with a principal for the completion of the contract and to whom the obligation of the surety runs in the event of a breach by the principal of the conditions of a payment bond or performance bond.

"(6) The term 'principal' means (A) in the case of a bid bond, a person bidding for the award of a contract, or (B) the person primarily liable to complete a contract for the obligee, or to make payments to other persons in respect of such contract, and for whose performance of his obligation the surety is bound under the terms of a payment or performance bond. A principal may be a prime contractor or a subcontractor.

"(7) The term 'prime contractor' means the person with whom the obligee has contracted to perform the contract.

"(8) The term 'subcontractor' means a person who has contracted with a prime contractor or with another subcontractor to perform a contract.

"AUTHORITY OF THE ADMINISTRATION

"SEC. 411. (a) The Administration may, upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety against loss, as hereinafter provided, as the result of the breach of the terms of a bid bond, payment bond, or performance bond by a principal on any contract up to $500,000 in amount, subject to the following conditions:

"(1) The person who would be the principal of the bond is a small business concern.

"(2) The bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon.

"(3) Such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section.

"(4) The Administration determines that there is a reasonable expectation that such person will perform the covenants and conditions of the contract with respect to which the bond is required.

"(5) The contract meets requirements established by the Administration for feasibility of successful completion and reasonableness of cost.

"(6) The terms and conditions of any bond guaranteed under the authority of this part are reasonable in light of the risks involved and the extent of the surety participation.

"(b) Any contract of guarantee under this section shall obligate the Administration to pay to the surety a sum not to exceed 90 per centum of the loss incurred by the surety in fulfilling the terms of his contract as the result of the breach by the principal of the terms of a bid bond, performance bond, or payment bond.

"(c) The Administration shall fix a uniform annual fee which it deems reasonable and necessary for any guarantee issued under this section, to be payable at such time and under such conditions as may be determined by the Administration. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration shall also fix such uniform fees for the processing of applications for guarantees under this section as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith. Any contract of guarantee under this section shall obligate the surety to pay the Administration such portions of the bond fee as the Administration determines to be reasonable in the light of the relative risks and costs involved.

"(d) The provisions of section 402 shall apply in the administration of this section."

TITLE IV

POLLUTION CONTROL STANDARDS APPLICABLE TO FACILITIES ACQUIRED WITH SMALL BUSINESS ADMINISTRATION LOANS

SEC. 401. Section 7(a) of the Small Business Act is amended—

(1) by striking "paragraph (5)" in paragraph (4) and inserting "paragraphs (5) and (8)"; and

(2) by adding at the end thereof a new paragraph as follows:

"(8) The Administrator shall require that any equipment, facilities, or machinery to be acquired with assistance under this subsection be so designed as to prevent any violation of applicable air or water quality standards or other standards regarding environmental pollution in accordance with such standards as the Administrator shall prescribe after consultation with the Secretary of Health, Education, and Welfare and the Secretary of the Interior. In the processing of applications for financial assistance made under this subsection the Administrator shall give priority to those applications which he determines will further the development or utilization of new or improved methods of waste disposal or pollution control. The rate of interest for the Administration's share of any loan with respect to which such determination has been made shall be 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.

DISASTER LOANS

SEC. 402. (a) Section 7(b)(4) of the Small Business Act is amended—

(1) by inserting "(A)" after "injury"; and

(2) by inserting before the semicolon at the end thereof the following: ", or (B) as the result, directly or indirectly, of the pollution of any stream, lake, or other body of water from sources other than the business operations of such concern".

(b)(1) Section 7(b) of such Act is amended—

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

(B) by adding after paragraph (5) new paragraphs as follows:

"(6) 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 determines to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to comply with applicable air or water quality standards or other standards regarding environmental pollution imposed by Federal or State law, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph; and

"(7) 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 assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed by the Federal Meat Inspection Act, as amended by the Wholesome Meat Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(2) The third sentence of section 7(b) of such Act is amended by striking "or (5)" and inserting ", (5), (6), or (7)".

(3) Section 4(c)(1) of such Act is amended by inserting "7(b)(6), 7(b)(7)" after "7(b)(5),".

CHANGE IN INTEREST RATE APPLICABLE TO SMALL BUSINESS ADMINISTRATION DISASTER LOANS

SEC. 403. (a) The next to the last sentence of section 7(b) of the Small Business Act is

TECHNICAL ASSISTANCE AND COUNSELING FOR SMALL BUSINESS CONTRACTORS

SEC. 302. Section 8 of the Small Business Act is amended by adding at the end thereof a new subsection as follows:

"(f)(1) The Administrator shall, after consultation with representatives of the Department of Labor and the Department of Housing and Urban Development, develop programs for broadening the participation of small business enterprise in the construction industry. Such programs shall include (A) the provision of technical instruction and counseling with respect to the managing, financing, and operation of small construction concerns and the techniques of successful bidding on construction contracts (including instruction and counseling to enable such concerns and associations thereof to participate fully in the benefits provided by the Administration's surety bond guarantee program under part B of title IV of the Small Business Investment Act of 1958), and (B) the correlation and dissemination of information concerning opportunities for small business concerns to participate as prime contractors or subcontractors on construction projects.

"(2) Programs under this subsection shall be developed and carried out on a local basis having regard for varying conditions prevailing in the construction industry in different areas of the country.

"(3) The Administrator shall in the implementation of his overall technical assistance program give priority to technical assistance and counseling to small construction contractors and whenever necessary obtain the temporary or intermittent services of experts or consultants, or an organization thereof, in accordance with section 3109 of title 5, United States Code, but at rates for individuals not to exceed $100 per diem."

SHORT TITLE

"SEC. 303. This title may be cited as the "Small Construction Contractor Assistance Act of 1970".

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."

(b) The amendment made by subsection (a) takes effect upon the date of enactment of the Disaster Assistanct Act of 1970, or the date of enactment of this Act, whichever is the later.

Mr. McINTYRE. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

THE SMALL BUSINESS RECORD

Mr. BIBLE. Mr. President, the Senator from New Hampshire (Mr. McINTYRE) has performed an outstanding service in piloting the composite Small Business Amendments of 1970 through the Senate. As chairman of the Select Committee on Small Business I should like to commend him for this achievement in a very busy year.

Having recently appeared as a witness before Senator McINTYRE's subcommittee, I can testify to his alert and diligent attention to small business legislation, which has extended to two sets of hearings during this 91st Congress, each of 3 days duration. The small business community and the Nation are fortunate to have leadership of this caliber in the small business field.

The Northeastern region has produced other outstanding Senators and members of the Small Business Committee—men truly devoted to economic justice and fair play for the smaller man, including the former Senator from Massachusetts, Mr. Saltonstall, the distinguished minority leader (Mr. SCOTT), and the present ranking Republican member of the select committee, the Senator from New York (Mr. JAVITS). Of course, the South has contributed such pioneers as Senators SPARKMAN, SMATHERS, and LONG, and I like to believe that the West also has made its contributions.

It has been my privilege to work with these men, year in and year out, in small business causes, through innumerable hearings, executive sessions, and on the floor of the Senate. It is because of such unheralded but continuing effort on the part of such men on a bipartisan basis that the Small Business Act of 1953, the Small Business Investment Act and Tax Acts of 1958, and the 1966 and 1967 amendments were enacted into law.

Accordingly, I believe that any implication by the President of the United States that Congress is not doing its job for small business is unwarranted and unwise. It is unwarranted because of the record which I have briefly reviewed, and it is unwise because of the large amount of work still to be done on which we will need the help of all concerned with small business and new business enterprise against the massive forces of giant corporations, conglomerates and big money in this country.

With our small businessmen facing rising costs, tight money, record-high interest rates, liquidity problems, adverse changes in the tax law last year, the onrush of new technology, the imposition of new pollution and consumer standards, and a cutback of 58 percent on small business loans, it will take Congress and the President working together to make it possible for small business to weather this period and survive in order to enrich our economy and society in the future as it has in the past.

This year it has been a particular pleasure to see the bill move forward in such an expeditious fashion.

Mr. McINTYRE. Mr. President, I thank the Senator from Nevada for his kind remarks and always enjoy working with him as a member of the Select Committee on Small Business, of which he is chairman.

Mr. MANSFIELD. Mr. President, the very able and distinguished Senator from New Hampshire (Mr. McINTYRE) is to be highly commended for the outstanding manner in which he handled the Small Business Act clarifications contained in this measure. As chairman of the Subcommittee on Small Business of the Senate Banking and Currency Committee, Senator McINTYRE brings to the Senate the highest level of understanding and expertise in this area. As always, the Senate is indebted to him for his expert guidance, his wisdom, and his persuasive capacities.

To be commended equally is the ranking minority member of the subcommittee, the very articulate and able Senator from Illinois (Mr. PERCY). He added a great deal to our understanding and appreciation of the measure and I wish to thank him for his efforts on behalf of moving this measure through to final passage.

Cooperating in his usual thoughtful and thorough manner was the Senator from Wisconsin (Mr. PROXMIRE) who long ago established an outstanding reputation in every endeavor relating to business and economy. The senior Senator from New York (Mr. JAVITS) whose efforts and interest on behalf of small business are well known to all of us is also to be recognized for his very helpful participation in the debate.

The Senate as a whole is to be commended for the magnificent manner in which it moved toward completion of this measure with full regard for the views of each Member.

U.S. BICENTENNIAL COMMISSION LAUDED; NEW CHAIRMAN AND MEMBERSHIP LISTED; RHODE ISLAND'S UNIQUE PLACE IN HISTORY NOTED

Mr. PASTORE. Mr. President, as one of the eight Members of the Congress who are members of the American Revolution Bicentennial Commission, and also as a Senator from one of the 13 original States, I participate in, or am kept reliably advised on Commission matters.

First, Dr. J. E. Wallace Sterling, former president of Stanford University who agreed to serve 1 year in the organizational period of the Bicentennial Commission, has resigned. I ask unanimous consent that his letter of resignation to the President and the President's letter of reply be printed in the body of the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PASTORE. Second, on August 6 the mayor of Dallas, Tex., the Honorable Erik Jonsson, sent the Bicentennial Commmission staff the following commendation:

> As the Mayor of a large city in America, I have learned so very vividly the importance of a sincere, dedicated staff to back any and all programs that are developed by public officials and Commissions. I wish to express to each and every member of the ARBC staff that as a member of the ARBC I deeply appreciate the efforts and energies and talents that have been so dedicately given to our united effort in planning for our Nation's 200th Anniversary.

Third, a new Chairman of the Bicentennial Commission was named this month. He is David J. Mahoney, of California and New York. He is the chief executive officer of Norton Simon Inc., a corporation with annual sales of about $1 billion. Mr. Mahoney has been described in one magazine article as a "tough-minded kid from the streets of New York, with Irish pride of independence." He started life as a truck driver and mail clerk. His philosophy is that success comes to persons who share a sensitivity for people and that this sensitivity must be used for the good of the public.

Mr. President, in this connection I ask unanimous consent that an up-to-date list of the names and addresses of the Bicentennial Commission members, alternates, and consultants be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. PASTORE. Fourth, I call attention to three letters-to-the-editor which appeared recently in the Washington Post, one from Mr. Louis Bean and two from Mr. M. L. Spector, Executive Director of the Commission. The letters deal with Commission plans on a nationwide basis. I ask unanimous consent, Mr. President, that the letters be printed in the body of the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

Mr. PASTORE. Rhode Island, Mr. President, has a deep-seated interest in the activities of the Bicentennial Commission. Our State began its battle for independence before the Declaration of Independence was signed. It declared itself free of British rule on May 4, 1776. It was a group of Rhode Island patriots which, disgusted with trade restrictions and taxation without representation, burned the British revenue ship *Gaspee* in 1772.

Rhode Island also is recognized in history for its "Battle of Conscience" initiated by Roger Williams in 1636.

It was Rhode Island which gave the Quakers protection in 1657.

It was Rhode Island which welcomed and protected the Jews from Holland in 1658.

It was Rhode Island which helped the Baptist Church establish its first church in America in 1938.

Although Rhode Island is known as the smallest State in size, it is not generally well-known that it has the longest name: the official name under which it entered the Union as the 13th State was "Rhode Island and Providence Plantations."

These items, Mr. President, are just a few of the hundreds of historical facts which make the people of my State so interested in the bicentennial era and in the nationwide commemoration of our 200th year of freedom.

EXHIBIT 1

AMERICAN REVOLUTION BICENTENNIAL COMMISSION,
Stanford, Calif., July 6, 1970.

Hon. RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Now that the Report of the American Revolution Bicentennial Commission has been placed in your hands, I must ask you to accept my resignation as Chairman of the Commission.

Since you did me the honor of appointing me to that Chairmanship a year ago, I have postponed work on several obligations to which I had earlier committed myself. I must now turn my time and attention to the discharge of those obligations.

Thank you for the opportunity you gave me to work with the Commission.

Please be assured of my continuing best wishes.

Sincerely yours,

J. E. WALLACE STERLING.

THE WHITE HOUSE,
Washington, D.C., July 22, 1970.

Hon. J. E. WALLACE STERLING,
Chairman, American Revolution Bicentennial Commission, Stanford, Calif.

DEAR WALLACE: Your letter submitting your resignation as Chairman of the American Revolution Bicentennial Commission has reached me. While I regret that you have found it necessary to leave this responsibility, I am pleased that you will continue to serve as a member.

The leadership you have given to the Commission has earned the gratitude of all of your fellow citizens. I am familiar with the valuable work the Commission has accomplished to date and I want you to know how much I appreciate the careful and incisive judgment you brought to the demanding task of directing the Commission's activities.

With warm personal regards.

Sincerely,

RICHARD NIXON.

EXHIBIT 2

COMMISSION MEMBERSHIP

CONGRESSIONAL MEMBERS

Senator Edward W. Brooke, Room 232, Old Senate Office Bldg., Washington, D.C. (202) 225–2742.

Senator Harry F. Byrd, Jr., Room 417, Old Senate Office Bldg., Washington, D.C. (202) 225–4024.

Senator Norris Cotton, Room 4121, New Senate Office Bldg., Washington, D.C. (202) 225–3324.

Senator John O. Pastore, Room 3215, New Senate Office Bldg., Washington, D.C. (202) 225–2921.

Representative Harold D. Donohue, Room 2265, Rayburn Office Bldg., Washington, D.C. (202) 225–6101.

Representative John O. Marsh, Jr., Room 223, Cannon Office Bldg., Washington, D.C. (202) 225–6561.

Representative John P. Saylor, Room 2354, Rayburn Office Bldg., Washington, D.C. (202) 225–2065.

Representative G. Wm. Whitehurst, Room 1227, Longworth Bldg., Washington, D.C. (202) 225–4215.

PUBLIC MEMBERS

Chairman: Mr. David J. Mahoney, Chairman of the Board, Norton Simon, Inc., 230 Park Avenue, New York, New York. (212) 983–8800.

Chairman Emeritus: Dr. J. E. Wallace Sterling, Office of the Chancellor, Stanford University, P.O. Box 5096, Stanford, California. (415) 321–2300, Ext. 3481.

Vice Chairman: Mr. Hobart Lewis, President and Executive Editor, Reader's Digest, Pleasantville, New York. (914) 769–7000. New York City Office: (212) 972–4000.

Mr. James Biddle, President, National Trust for Historic Preservation, 748 Jackson Place N.W., Washington, D.C. (202) 382–3304.

Dr. Daniel J. Boorstin, Director, Museum of History and Technology, The Smithsonian Institution, Washington, D.C. (202) 381–5785.

Mrs. Catherine Drinker Bowen, 260 Booth Lane, Haverford, Pennsylvania. (215) MI 9–4975. Summer Residence: Eastern Point, Gloucester, Mass. (617) 283–2608.

Mr. James S. Copley, Chairman of the Corporation, Copley Newspapers, 7776 Ivanhoe Avenue, La Jolla, California. (714) 454–0411.

Dr. Luther H. Foster, President, Tuskegee Institute, Tuskegee Institute, Alabama. (205) 727–8501.

Mrs. Ann Hawkes Hutton, 6900 North Radcliffe Street, Bristol, Pennsylvania. (215) 493–4076.

Mr. James E. Holshouser, Jr., P.O. Box 328, Boone, North Carolina. (704) 264–8809.

Mr. George Irwin, 428 Maine Street, Quincy, Illinois. (217) 224–2006.

Honorable Erik Jonsson, Mayor of Dallas, 3300 Republic National Bank Tower, Dallas, Texas. (214) 742–7341.

Mr. George E. Lang, Vice President, Restaurant Associates Industries, Inc., 1540 Broadway, New York, New York. (212) 974–6741.

Mr. Thomas W. Moore, Chairman of the Board, TICKETRON, 375 Park Avenue, New York, New York. (212) 644–2120.

Mr. Clarke T. Reed, P.O. Box 479, Greenville, Mississippi. (601) 335–2341.

Mr. Frederick A. Seaton, 209 Tribune Building, 908 West Second Street, Hastings, Nebraska. (402) 463–3456.

Dr. Paul S. Smith, 14314 Bronte Drive, Whittier, California. (213) 698–5232.

EX-OFFICIO MEMBERS

Honorable William P. Rogers, Secretary of State, Washington, D.C. (202) 632–9630.

Honorable Melvin R. Laird, Secretary of Defense, Washington, D.C. (202) OX 5–5261.

Honorable John N. Mitchell, Attorney General of the United States, Department of Justice, Washington, D.C. (202) RE 7–8200, Ext. 2001.

Honorable Walter J. Hickel, Secretary of the Interior, Washington, D.C. (202) 343–6704.

Honorable Maurice H. Stans, Secretary of Commerce, Washington, D.C. (202) 967–2113.

Honorable Elliot L. Richardson, Secretary of Health, Education, and Welfare, Washington, D.C. (202) 962–2351.

Honorable L. Quincy Mumford, Librarian of Congress, The Library of Congress, Washington, D.C. (202) 967–7205.

Honorable S. Dillon Ripley, Secretary of the Smithsonian Institution, Washington, D.C. (202) 381–5005.

Dr. James B. Rhoads, Archivist of the United States, National Archives and Records Service, Washington, D.C. (202) 963–3434.

ALTERNATES AND REPRESENTATIVES FOR EX-OFFICIO ARBC MEMBERS

Department of State

Honorable John Richardson, Jr., Assistant Secretary for Educational and Cultural Affairs, Department of State, Room 6218, Washington, D.C. 101–22464.

Francis J. Colligan, Senior Policy Adviser, Bureau of Educational and Cultural Affairs, Department of State, Room 4332, Washington, D.C. 101–22807.

James D. Hurd, Information Plans Officer, Bureau of Public Affairs—P/PG, Department of State, Room 6805, Washington, D.C. 101–21618.

Paul A. (Tony) Cook, Acting Chief, Facilitative Services Division, Bureau of Educational and Cultural Affairs, Department of State, Room 4823, Washington, D.C. 101–23166.

Department of Defense

Eugene J. Sleevi, Deputy Director for Community Relations, Office of the Assistant Secretary of Defense (Public Affairs), The Pentagon, Room 1E798, Washington, D.C. 11–52113.

Department of Justice

Miss Patricia H. Collins, Attorney Advisor, Department of Justice, Room 5216, Washington, D.C. 187–2049.

Department of the Interior

Robert R. Garvey, Jr., Liaison Officer, ARBC, National Park Service, 801 19th Street N.W., Washington, D.C. 183–38607.

Department of Commerce

Honorable Rocco C. Siciliano, Under Secretary of Commerce, Department of Commerce, Room 5838, Washington, D.C. 189–4625.

J. William Nelson, Director, U.S. Expositions Staff, Department of Commerce, Room 1729, Washington, D.C. 189–5211.

Department of Health, Education, and Welfare

Mrs. Barbara Wainscott, Confidential Assistant to the Secretary, Department of Health, Education, and Welfare, Room 5322 North, Washington, D.C. 13–23667.

Library of Congress

Mrs. Elizabeth E. Hamer, Assistant Librarian of Congress, Library of Congress, Washington, D.C. 182–5218.

Dr. Robert A. Rutland, Coordinator of Bicentennial Program, Library of Congress, Washington, D.C. 182–5099.

Smithsonian Institution

John J. Slocum, Special Assistant for Bicentennial Planning, Arts and Industries Building, The Smithsonian Institution, Washington, D.C. 144–6167.

National Archives

Dr. Herbert E. Angel, Deputy Archivist of the United States, National Archives and Records Service, Room 111, Washington, D.C. 13–33408.

Dr. Frank Burke, Director of Educational Program Staff, National Archives and Records Service, Room G–12, Washington, D.C. 13–36404.

Federal Council on the Arts and Humanities

Dr. Harold Arberg, Chief, Arts and Humanities Program, Office of Education, 400 Maryland Avenue S.W., Room 3137, Washington, D.C. 13–33975.

Department of Housing and Urban Development

John Chapin, Special Assistant to the Secretary, Department of Housing and Urban Development, 451–7th Street S.W., Room 10218, Washington, D.C. 755–7237.

United States Information Agency

Dr. W. Kenneth Bunce, Acting Associate Director of Policy Plans, United States Information Agency, 1750 Pennsylvania Avenue N.W., Room 709, Washington, D.C. 101–24978.

The White House

Leonard Garment, Special Consultant to the President, The White House, Washington, D.C. 145–2775.

Bradley H. Patterson, Jr., Assistant to Mr.

Leonard Garment, The White House, Washington, D.C. 145–2647.

Congressional alternates

Hamilton H. Wood, Jr., Assistant Administrative Assistant to Senator Edward W. Brooke, Old Senate Office Building, Room 232, United States Senate, Washington, D.C. 180–2742.

David Fiske, Administrative Assistant to Senator Harry F. Byrd, Jr., Old Senate Office Building, Room 417, United States Senate, Washington, D.C. 180–4024.

Chris Mathisen, Administrative Assistant to Congressman John O. Marsh, Jr., Cannon Office Building, Room 223, House of Representatives, Washington, D.C. 180–6561.

Victor Powell, Press Assistant to Congressman G. William Whitehurst, Longworth Building, Room 1227, House of Representatives, Washington, D.C. 180–4215.

Alternate for Mr. James Copley

Richard F. Pourade, Editor Emeritus, The San Diego Union, 940 Third Avenue, San Diego, California (714) 234–7111.

ARBC consultants

Mr. Everett H. Bellows, Vice President, Washington, Olin Mathieson Chemical Corporation, 1730 K Street N.W., Washington, D.C.

Mr. John Golden, Director of Stanford Research Institute, Washington, 1611 North Kent Street, Arlington, Virginia.

Mr. Edmond C. Hutchinson, Vice President, Research Analysis Corporation, McLean, Virginia.

Mr. Frank Parker, President, Research Analysis Corporation, McLean, Virginia.

Mr. James F. Ragan, Jr., 9171 Wilshire Blvd., Beverly Hills, California.

Mr. John E. Orchard, 15108 Emery Lane, Rockville, Maryland.

Public Relations Society of America unpaid consultants

Mr. Robert V. Guelich, Vice President, Director of Public Relations, Montgomery Ward & Company, 619 West Chicago Avenue, Chicago, Illinois.

Mr. Harry Carlson, President, Wolcott, Carlson & Co., Inc., 575 Madison Avenue, New York, New York.

EXHIBIT 3

[From Letters to the Editor Column, The Washington Post, Aug. 9, 1970]

THE '76 BICENTENIAL

I would like to record the active support of the American Revolution Bicentennial Commission for the ideas expressed by Louis Bean in his July 14 Letter to the Editor.

The guidelines which the commission set forth in its report (Senate Doc. 91–76) call for a truly nationwide event that is at once a solemn rededication and a joyous celebration. As stated in the report, the Commission sees the bicentennial as an opportunity to reflect and to innovate, to review and reaffirm the principles on which the country was founded, to honor the past, to express new ideas, to set goals and to strive to achieve them. Within this framework, the commission defined the goal of the bicentennial as follows: "To forge a new national commitment, a new spirit for '76, a spirit which vitalizes the ideals for which the revolution was fought; a spirit which will unite the nation in purpose and in dedication to the advancement of human welfare as it moves into its third century."

The commission is aware of the important role that each state must play if the full potential of the bicentennial is to be realized. For that reason, at the Governors' Conference last year, Dr. J. E. Wallace Sterling, chairman of the commission, asked that each state establish its own bicentennial commission to develop and coordinate bicentennial activities in its area. As of July 23, each state and territory has either established such a commission or appointed a representative. Several cities have set up similar commissions and many of the organizations with whom we have been in contact have also designated a liaison.

This initial national network was the chief means through which the program recommendations contained in our report were submitted. Its further development, both in scope and operation, is critical if the bicentennial is truly to afford each individual the opportunity to respond fully to the challenges and excitement inherent in the commemoration of the 200th anniversary of the founding of our nation.

Needless to say, our current plans are formative and flexible and we welcome all ideas and suggestions which will enhance and forward the development of such a significant occasion.

M. L. SPECTOR,
Executive Director, American Revolution Bicentennial Commission.
WASHINGTON.

[From Letters to the Editor Column, the Washington Post, July 14, 1970]

CELEBRATING 1976

The decision to center the 200th anniversary celebration in only four Eastern centers, Boston, Philadelphia, Washington and Miami raises the question: why not celebrations all over the country? You indicate that 35 to 50 million persons may visit the four cities for the 1976 celebrations. That means that over 150 millions will not be sharing or participating. It seems to me that they too might have an interest in recognizing the significance of the Declaration of Independence, and under the stimulus of the occasion might want to become involved in projects to be accomplished by 1976 for the pride and benefit of their communities in the years to come.

Since every state has good reason to celebrate its basic dependence on the 1776 Declaration, shouldn't every governor undertake to find out what special objectives the people of his state would like to set for themselves to be accomplished by 1976 as their contribution to the occasion? Certainly there is something of outstanding significance that each state could attempt under the spur of the 200th anniversary that might otherwise not be done.

Perhaps each governor should ask one commission to draw up plans of a statewide significance and another commission of, say, mayors to draw up plans of interest and meaning to various cities and rural areas. For example, there are slums to be cleared, schools and hospitals to be built, parks and recreation facilities to be laid out throughout the country as well as in the four designated cities in the East. Other sources of interest and ideas as to what states and cities might want to accomplish in the next six years as appropriate to the occasion and for the next generation might be the heads of universities and colleges, the heads of state, business, labor and farm organizations, and citizen groups, including those engaged in promoting the performing arts.

Let the four cities provide the fairs, the entertainments and the spectaculars to draw 35 to 50 million persons to the Eastern historical centers, but let every community take a hand in celebrating locally, contributing its special new accomplishment to the national dedication for something better for the next generation.

LOUIS BEAN.

Washington.

I want to thank you for your editorial in your Saturday, July 4, 1970, Post. I am especially pleased to see that The Post has seen the advantages of the commission's recommendations for Washington. However, I should like to point out that the commission had some specific things to say about the timeframe for Washington's efforts. It stated: "The Commission further urges that the target date of 1976 be set for the accomplishment of as much as possible for this renewal program."

I am delighted that we see eye to eye on this.

M. L. SPECTOR,
Executive Director, American Revolution Bicentennial Commission.
WASHINGTON.

FOREIGN BANK SECRECY AND BANK RECORDKEEPING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1155, S. 3678.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill by title, as follows:

S. 3678, to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in United States currency be reported to the Department of the Treasury, 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 Banking and Currency with amendments on page 2, line 9, after the word "that", strike out "photocopies" and insert "microfilm or other reproductions and other records"; at the beginning of line 17 insert "in the United States"; in the same line, after the word "where", insert "the Secretary of the Treasury determines that"; in line 25, after the word "evidence," insert "in such form"; on page 3, line 1, after the word "account", insert "in the United States"; in line 4, after the word "account.", insert "The Secretary may make such exemptions from any requirement otherwise imposed under this subsection as he deems appropriate."; in line 9, after the word "a", strike out "photocopy" and insert "microfilm or other reproduction"; at the beginning of line 10, strike out "or other copy"; on page 4, line 7, after the word "question.", insert "Any period so prescribed shall not exceed six years unless the Secretary determines, having regard for the purposes of this section, that a longer period is necessary in the cast of a particular type of record or evidence."; in line 12, after the word "shall", strike out "make an" and insert "include in his"; in line 13, after the word "Congress", strike out "of" and insert "information on"; on page 5, after the material following line 1, insert:

128. Compliance.
129. Administrative procedure.

In line 3, after the word "that", strike out "adequate" and insert "certain"; in line 14, after the word "businesses", insert "in the United States"; in line 15, after the word "where", insert "the Secretary of the Treasury determines that"; on page 6, line 7, after the word "functions", insert "in the United States"; in line 26, after the word "checks,", strike out "or"; in the same line, after the word "checks", insert "or similar instruments"; on page 7, line 1, after the amendment just above stated, strike out "for third parties"; in line 2, after the word "own", insert "nonfinancial"; after line 7, insert:

(5) Performing such similar, related, or substitute functions for any of the foregoing or for banking as may be specified by the Secretary in regulations.

On page 8, after line 23, insert:

§ 128. Compliance

The Secretary shall have the responsibility to assure compliance with the requirements of this title and to the greatest extent possible delegate such responsibility to the appropriate bank supervisory agency, or other supervisory agency.

§ 129. Administrative procedure

The administrative procedure and judicial review provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code, shall apply to all proceedings under this chapter, section 21 of the Federal Deposit Insurance Act, and section 411 of the National Housing Act.

On page 9, in the printed matter following line 13, after "Sec. 205. Compliance", strike out "procedures"; and in the same printed matter, after "211. Immunity of witnesses.", insert

212. Availability of information to other Federal agencies.

213. Administrative procedure.

On page 10, after line 1, strike out "The purposes of this title are (1) to facilitate the supervision of financial institutions properly subject to Federal supervision, (2) to aid duly constituted authorities in lawful investigations, and (3) to provide for the collection of statistics necessary for the formulation of monetary and economic policy." and insert "It is the purpose of this title to require certain reports or records where such reports or records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings." after line 15, strike out:

(c) The term "individual" means a natural person.

(d) The term "person" includes individuals, partnerships, trusts, estates, associations, corporations, and all other entities cognizable as legal personalities.

And, in lieu thereof, insert:

(c) The term "person" includes natural persons, partnerships, trusts, estates, associations, corporations, and all entities cognizable as legal personalities. The term also includes any governmental department or agency specified by the Secretary either for the purpose of this title generally or any particular requirement thereunder.

(d) The term "United States", used in a geographical sense, includes the States and the District of Columbia, and to the extent the Secretary shall by regulation specify, either for the purposes of this title generally or any particular requirement thereunder, the Commonwealth of Puerto Rico, the possessions of the United States, United States military establishments, and United States diplomatic establishments.

On page 11, line 15, after "(4)", insert "an agency or"; at the beginning of line 20, insert "credit union, industrial bank"; on page 12, line 2, after the word "issuer", strike out "or"; in the same line, after the word "redeemer", insert "or casher"; at the beginning of line 4, strike out "other than for its own account"; in line 9, after the word "company;", strike out "or"; after line 9, insert:

(17) a travel agency;

(18) a licensed transmitter of funds;

(19) a telegraph company;

(20) a Federal, State, or local government institution which performs any of the functions of any of the businesses listed above; or

At the beginning of line 16, strike out "(17)" and insert "(21)"; in line 17, after the word "similar", strike out "or"; in the same line, after the word "related", insert "or substitute"; after line 20, strike out:

(f) The team "domestic financial institution" means any person which does business as a financial institution in any place subject to the jurisdiction of the United States.

And, in lieu thereof, insert:

(f) The term "domestic", used with reference to institutions or agencies, limits the applicability of the provision wherein it appears to such institutions or agencies to the extent that they perform any functions as such within the United States.

On page 13, after line 11, strike out:

(h) The term "foreign financial agency" means any financial agency which transacts any business as such at any place not subject to the jurisdiction of the United States.

And, in lieu thereof, insert:

(h) The term "foreign", used with reference to institutions or agencies, limits the applicability of the provision wherein it appears to the extent that they perform any functions as such outside the United States.

On page 14, line 7, after the word "of", insert "travelers' "; at the beginning of line 8, strike out "bills, notes, bonds, or other obligations or instruments" and insert "bearer negotiable instruments, and bearer investment securities, or their equivalent"; in line 16, after the word "Compliance", strike out "procedures"; after line 16, insert:

(a) The Secretary shall have the responsibility to assure compliance with the requirements of this title and to the greatest extent possible delegate such responsibility to the appropriate bank supervisory agency, or other supervisory agency.

At the beginning of line 21, insert "(b)" on page 17, after line 8, strike out:

Whenever in the judgment of a United States attorney the testimony of any witness, or the production of books, papers, or other evidence by any witness in any case or proceeding before any grand jury or court of the United States involving any violation of this title is necessary to the public interest, he, upon the approval of the Attorney General or his designated representative, may make application to the court that the witness be instructed to testify or produce evidence subject to the provisions of this section. Upon order of the court the witness shall not be excused from testifying or from producing books, papers, or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no such witness may be prosecuted or subjected to any penalty of forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self incrimination, to testify or produce evidence, nor may testimony so compelled be used as evidenced in any criminal proceeding against him in any court, except a prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this section.

And, in lieu thereof, insert:

Whenever a witness refuses on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding involving any violation of this title before or ancillary to—

(1) a court or grand jury of the United States,

(2) an agency of the United States, or

(3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House,

and the person presiding over the proceeding communicates to the witness an order requiring him to give testimony or provide other information, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination. No such testimony or other information so compelled under the order or evidence or other information which is obtained by the exploitation of such testimony may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

§ 212. Availability of information to other Federal agencies

The Secretary shall, upon such conditions and pursuant to such procedures as he may by regulation prescribe, make any information set forth in reports filed pursuant to this title available for a purpose consistent with the provisions of this title to any other department or agency of the Federal Government on the request of the head of such department or agency.

§ 213. Administrative procedure

Subject to section 203(j), the administrative procedure and judicial review provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code, shall apply to all proceedings under this title.

On page 21, line 4, after the word "except", strike out "that," and insert "that (1),"; in line 6, after the word "prescribe,", insert "and (2) any such person may, at his election and in lieu of filing the report in the manner hereinabove prescribed, file the report with the Secretary."; in the printed matter following line 13, after "Sec. 234. Remission by the Secretary.", insert: "235. Enforcement authority."

In line 20, after the word "place", strike out "subject to the jurisdiction of" and insert "within"; at the beginning of line 22, strike out "not subject to the jurisdiction of" and insert "outside"; on page 22, line 1, after the word "place", strike out "subject to the jurisdiction of" and insert "within"; at the beginning of line 3, strike out "not subject to the jurisdiction of" and insert "outside"; in line 6, after the word "to", strike out "any place subject to the jurisdiction of"; in line 8, after the word "place", strike out "not subject to the jurisdiction of" and insert "outside"; in line 10, after the word "exceeding", strike out "$5,000" and insert "$10,000"; in line 11, after the word "exceeding", strike out "$10,000" and insert "$20,000"; in line 15, after the word "and", where it appears the second time, insert "may"; in line 16, after the word "information", insert "and any additional information,"; on page 24, after line 17, insert:

§ 235. Enforcement authority

(a) If the Secretary has reason to believe that monetary instruments are in the process of transportation and with respect to which a report required under section 231 has not been filed or contains material omissions or misstatements, he may apply to any court of competent jurisdiction for a search warrant. Upon a showing of probable cause, the court may issue a warrant authorizing the search of any or all of the following:

(1) One or more designated persons.

(2) One or more designated or described places or premises.

(3) One or more designated or described

letters, parcels, packages, or other physical objects.

(4) One or more designated or described vehicles.

Any application for a search warrant pursuant to this section shall be accompanied by allegations of fact supporting the application.

(b) This section is not in derogation of the authority of the Secretary under any other law.

On page 25, the printed matter following line 12, after "Sec. 241. Records", strike out "and reports"; in line 13, after the word "Records", strike out "and reports"; at the beginning of line 14, insert "(a)"; in the same line, after the word "Treasury,", insert: having due regard for the need to avoid impeding or controlling the export or import of currency or other monetary instruments and having due regard also for the need to avoid burdening unreasonably persons who legitimately engage in transactions with foreign financial agencies,: in line 19, after the amendment just above stated, strike out "shall" and insert "may"; on page 26, line 1, after the word "records", strike out "or to file reports, or both, setting forth"; and insert "containing"; after line 13, insert:

(b) No person required to maintain records under this section shall be required to produce or otherwise disclose the contents of the records except in compliance with a subpena or summons duly authorized and issued or as may otherwise be required by law.

On page 27, after line 2, strike out:

(3) The form, frequency, and manner of filing of any reports required under section 241.

At the beginning of line 5, strike out "(4)" and insert "(3)"; at the beginning of line 7, strike out "(5)" and insert "(4)"; at the beginning of line 9, strike out "(6)" and insert "(5)"; in line 12, after the figure "7", strike out "(a)"; in line 14, after the figure "7", strike out "(a)"; in line 15, after "78g", strike out "(a)"; in the same line, after the word "by", strike out "striking the first sentence and inserting in lieu thereof" and insert "adding at the end thereof"; in line 17, after the word "following", insert "now subsection"; after the amendment just above stated, strike out " 'For the purpose of preventing the excessive use of credit for the purchase or carrying of securities, the Board of Governors of the Federal Reserve System shall from time to time prescribe rules and regulations in accordance with this section. These rules and regulations shall apply with respect to the amount of credit (regardless of who or where the lender may be) that any person may initially obtain and subsequently retain on any security (other than exempted security), and to the amount of credit (regardless of who or where the borrower may be) that any person may initially extend and subsequently maintain on any security (other than an exempted security). It shall be unlawful for any person knowingly to obtain or retain credit in any amount in violation of any rule or regulation under this section, and it shall be unlawful for any person, whether or not knowingly, to obtain or retain credit in an aggregate amount exceeding $1,000,000 at any one time in violation of any rule or regulation under this section.' "; on page 28, after line 9, insert:

"(f)(1) It is unlawful for any United States person or any foreign person controlled by a United States person or acting on behalf of or in conjunction with such person, to obtain, receive, or enjoy the beneficial use of a loan or other extension of credit from any lender (without regard to whether the lender's office or place of business is in a State or the transaction occurred in whole or in part within a State) for the purpose of (A) purchasing or carrying United States securities, or (B) purchasing or carrying within the United States securities, or (B) purchasing or carrying within the United States of any other securities if under this section or rules and regulations prescribed thereunder, the loan or other credit transaction is prohibited or would be prohibited if it had been made or the transaction had otherwise occurred in a lender's office or other place of business in a State.

"(2) For the purposes of this subsection—

"(A) The term 'United States person' includes a person which is organized under the laws of any State or, in the case of a natural person, a citizen or resident of the United States; a domestic estate; or a trust in which one or more of the foregoing persons has a cumulative direct or indirect beneficial interest in excess of 50 per centum of the value of the trust.

"(B) The term 'United States security' means a security (other than an exempted security) issued by a person incorporated under the laws of any State, or whose principal place of business is within a State.

"(C) The term 'foreign person controlled by a United States person' includes any noncorporate entity in which United States persons directly or indirectly have more than a 50 per centum beneficial interest, and any corporation in which one or more United States persons, directly or indirectly, own stock possessing more than 50 per centum of the total combined voting power of all classes of stock entitled to vote, or more than 50 per centum of the total value of shares of all classes of stock.

"(3) The Board of Governors of the Federal Reserve System may, in its discretion and with due regard for the purposes of this section, by rule or regulation exempt any class of United States persons or foreign persons controlled by a United States person from the application of this subsection."

On page 30, line 16, after "(a)", strike out "No" and insert "Whenever required in any particular case or class of transactions by such rules, regulations, or orders as the Commission may adopt as necessary or appropriate in the public interest, no"; on page 31, line 2, after the word "security", strike out the comma and "if such transaction was initiated by a", and insert "with any"; in line 4, after "203", strike out "(h)"; on page 32, line 7, after the word "States.", strike out the quotation marks; after line 7, insert:

"(d)(1) Rules, regulations, and orders under this section shall be issued by the Commission only after it has made a study and report as herein provided. The study shall seek to determine insofar as is possible the probable effects of the implementation of this section on the economic interests of the United States, with particular reference to the balance of payments. Such study shall be made in collaboration with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System. A report of its findings and recommendations shall be made by the Commission to the Committees on Banking and Currency of the Senate and House of Representatives not later than six months after the date of enactment of this section.

"(2) No rule, regulation, or order shall be issued under this section if the Commission determines, after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, that it would unduly and adversely affect the balance of payments of the United States. Any rule, regulation, or order so issued shall be rescinded or amended if at any time the Commission determines, after consultation with said Secretary or Board, that it has had or is having such effect on such payments."

And on page 34, line 3, after the word "enactment", insert a semicolon and "except that that part of such amendment which directs the Securities and Exchange Commission to make a study and report shall become effective on the date of enactment."; so as to make the bill read:

S. 3678

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

TITLE I—FINANCIAL RECORDKEEPING

Chapter 1.—INSURED BANKS AND INSURED INSTITUTIONS

§ 101. Retention of records by insured banks

The Federal Deposit Insurance Act is amended (1) by redesignating sections 21 and 22 as 22 and 23, respectively, and (2) by inserting the following new section immediately after section 20:

"SEC. 21. (a)(1) The Congress finds that adequate records maintained by insured banks have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings. The Congress further finds that microfilm or other reproductions and other records made by banks of checks, as well as record kept by banks of the identity of persons maintaining or authorized to act with respect to accounts therein, have been of particular value in this respect.

"(2) It is the purpose of this section to require the maintenance of appropriate types of records by insured banks in the United States where the Secretary of the Treasury determines that such records may have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(b) The Secretary of the Treasury (referred to in this section as the 'Secretary') shall prescribe regulations to carry out the purposes of this section.

"(c) Each insured bank shall maintain such records and other evidence, in such form as the Secretary shall require, of the identity of each person having an account in the United States with the bank and of each individual authorized to sign checks, make withdrawals, or otherwise act with respect to any such account. The Secretary may make such exemptions from any requirement otherwise imposed under this subsection as he deems appropriate.

"(d) Each insured bank shall make, to the extent that the regulations of the Secretary so require—

"(1) a microfilm or other reproduction of each check, draft, or similar instrument drawn on it and presented to it for payment; and

"(2) a record of each check, draft, or similar instrument received by it for deposit or collection, together with an identification of the party for whose account it is to be deposited or collected, unless the bank has already made a record of the party's identity pursuant to subsection (c).

"(e) Whenever any individual engages (whether as principal, agent, or bailee) in

any transaction with an insured bank which is required to be reported under the Currency and Foreign Transactions Reporting Act, the bank shall require and retain such evidence of the identity of that individual as the Secretary may prescribe as appropriate under the circumstances.

"(f) In addition to or in lieu of the records and evidence otherwise referred to in this section, each insured bank shall maintain such records and evidence as the Secretary may prescribe to carry out the purposes of this section.

"(g) Any type of record or evidence required under this section shall be retained for such period as the Secretary may prescribe for the type in question. Any period so prescribed shall not exceed six years unless the Secretary determines, having regard for the purposes of this section, that a longer period is necessary in the case of a particular type of record or evidence.

"(h) The Secretary shall include in his annual report to the Congress information on his implementation of the authority conferred by this section and any similar authority with respect to recordkeeping or reporting requirements conferred by other provisions of law."

§ 102. Retention of records by insured institutions.

Title IV of the National Housing Act is amended by adding at the end thereof the following new section:

"SEC. 411. The Secretary of the Treasury shall prescribe such regulations as may be appropriate to carry out, with respect to insured institutions, the purposes set forth in section 21 of the Federal Deposit Insurance Act with respect to insured banks."

Chapter 2.—OTHER FINANCIAL INSTITUTIONS

§ 121. Congressional findings and purpose

(a) The Congress finds that certain records maintained by businesses engaged in the functions described in section 123(b) of this Act have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings. The Congress further finds that the power to require reports of changes in the ownership, control, and management of types of financial institutions referred to in section 122 of this Act may be necessary for the same purpose.

(b) It is the purpose of this chapter to require the maintenance of appropriate types of records and the making of appropriate reports by such businesses in the United States where the Secretary of the Treasury determines that such records or reports may have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 122. Ownership and control

The Secretary may by regulation require any type of uninsured bank or uninsured institution to make such reports as the Secretary may require in respect of its ownership, control, and management and any changes therein.

§ 123. Authority of Secretary

(a) The Secretary may by regulation require any uninsured bank or uninsured institution or any person engaging in the business of carrying on any of the functions in the United States referred to in subsection (b) of this section—

(1) to require, retain, or maintain, with respect to its functions as an uninsured bank or uninsured institution or its functions referred to in subsection (b), any records or evidence of any type which the Secretary is authorized under section 21 of the Federal Deposit Insurance Act to require insured banks to require, retain, or maintain; and

(2) to maintain procedures to assure compliance with requirements imposed under this chapter. For the purposes of any civil or criminal penalty, a separate violation of any requirement under this paragraph occurs with respect to each day and each separate office, branch, or place of business in whch the violation occurs or continues.

(b) The authority of the Secretary under this section extends to any person engaging in the business of carrying on any of the following functions:

(1) Issuing or redeeming checks, travelers' checks or similar instruments, except as an incident to the conduct of its own nonfinancial business.

(2) Transferring funds or credits domestically or internationally.

(3) Operating a currency exchange or otherwise dealing in foreign currencies or credits.

(4) Operating a credit card system.

(5) Performing such similar, related, or substitute functions for any of the foregoing or for banking as may be specified by the Secretary in regulations.

§ 124. Injunctions

Whenever it appears to the Secretary that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation under this chapter, he may in his discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts of practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Secretary, any such court may also issue mandatory injunctions commanding any person to comply with any regulation of the Secretary under this chapter.

§ 125. Civil penalties

(a) For each willful violation of any regulation under this chapter, the Secretary may assess upon any person to which the regulation applies, and, if such person is a partnership, corporation, or other entity, upon any partner, director, officer, or employee thereof who willfully participates in the violation, a civil penalty not exceeding $1,000.

(b) In the event of the failure of any person to pay any penalty assessed under this section, a civil action for the recovery thereof may, in the discretion of the Secretary, be brought in the name of the United States.

§ 126. Criminal penalty

Whoever willfully violates any regulation under this chapter shall be fined not more than $1,000 or imprisoned not more than one year, or both.

§ 127. Additional criminal penalty in certain cases

Whoever willfully violates any regulation under this chapter, section 21 of the Federal Deposit Insurance Act, or section 411 of the National Housing Act, where the violation is committed in furtherance of the commission of any violation of Federal law punishable by imprisonment for more than one year, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

§ 128. Compliance

The Secretary shall have the responsibility to assure compliance with the requirements of this title and to the greatest extent possible delegate such responsibility to the appropriate bank supervisory agency, or other supervisory agency.

§ 129. Administrative procedure

The administrative procedure and judicial review provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code, shall apply to all proceedings under this chapter, section 21 of the Federal Deposit Insurance Act, and section 411 of the National Housing Act.

TITLE II—REPORTS OF CURRENCY AND FOREIGN TRANSACTIONS

Chapter 1.—GENERAL PROVISIONS

§ 201. Short title

This title may be cited as the "Currency and Foreign Transactions Reporting Act".

§ 202. Purposes

It is the purpose of this title to require certain reports or records where such reports or records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 203. Definitions and rules of construction

(a) The definitions and rules of construction set forth in this section apply for the purposes of this title.

(b) The term "Secretary" means the Secretary of the Treasury.

(c) The term "person" includes natural persons, partnerships, trusts, estate, associations, corporations, and all entities cognizable as legal personalities. The term also includes any governmental department or agency specified by the Secretary either for the purpose of this title generally or any particular requirement thereunder.

(d) The term "United States", used in a geographical sense, includes the States and the District of Columbia, and to the extent the Secretary shall by regulation specify, either for the purposes of this title generally or any particular requirement thereunder, the Commonwealth of Puerto Rico, the possessions of the United States, United States military establishments, and United States diplomatic establishments.

(e) The term "financial institution" means any person which does business in any one or more of the following capacities:

(1) an insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(2) a commercial bank or trust company;

(3) a private banker;

(4) an agency or a branch within the United States of any foreign bank;

(5) an insured institution as defined in section 401 of the National Housing Act;

(6) a savings bank, building and loan association, credit union, industrial bank, or other thrift institution;

(7) a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934;

(8) a broker or dealer in securities or commodities;

(9) an investment banker or investment company;

(10) a currency exchange;

(11) an issuer, redeemer or cashier of travelers' checks, checks, money orders, or similar instruments;

(12) an operator of a credit card system;

(13) an insurance company;

(14) a dealer in precious metals, stones, or jewels;

(15) a pawnbroker;

(16) a loan or finance company;

(17) a travel agency;

(18) a licensed transmitter of funds;

(19) a telegraph company;

(20) a Federal, State, or local government institution which performs any of the functions of any of the businesses listed above; or

(21) any other type of business or institution performing similar related or substitute functions specified by the Secretary by regulation for the purposes of the provision of this title to which the regulation relates.

(f) The term "domestic", used with reference to institutions or agencies, limits the applicability of the provision wherein it appears to such institutions or agencies to the extent that they perform any functions as such within the United States.

(g) The term "financial agency" means any person which acts in the capacity of a financial institution or in the capacity of a bailee, depository, trustee, agent, or in any other similar capacity with respect to money, credit, securities, or gold or transactions therein, on behalf of any person other than a government, a monetary or financial authority when acting as such, or an international financial institution of which the United States is a member.

(h) The term "foreign", used with reference to institutions or agencies, limits the applicability of the provision wherein it appears to the extent that they perform any functions as such outside the United States.

(i) References to this title or any provision thereof include regulations issued under this tile or the provision thereof in question.

(j) All reports required under this title and all records of any such reports are specifically exempted from disclosure under section 552 of title 5, United States Code.

(k) For the purposes of section 1001 of title 18, United States Code, the contents of reports required under any provision of this title are statements and representations in matters within the jurisdiction of an agency of the United States.

(l) The term "monetary instruments" means coin and currency of the United States, and in addition, such foreign coin and currencies, and such types of travelers' checks, negotiable instruments, and bearer investment securities, or their equivalent as the Secretary may by regulation specify for the purposes of the provision of this tile to which the regulation relates.

§ 204. Regulations

The Secretary shall prescribe such regulations as he may deem appropriate to carry out the purposes of this title.

§ 205. Compliance

(a) The Secretary shall have the responsibility to assure compliance with the requirements of this title and to the greatest extent possible delegate such responsibility to the appropriate bank supervisory agency, or other supervisory agency.

(b) The Secretary may by regulation require any class of domestic financial institutions to maintain such procedures as he may deem appropriate to assure compliance with the provisions of this title. For the purpose of both civil and criminal penalties for violations of this section, a separate violation shall be deemed to occur with respect to each day and each separate office, branch, or place of business in which the violation occurs or continues.

§ 206. Exemptions

The Secretary may make such exemptions from any requirement otherwise imposed under this title as he may deem appropriate. Any such exemption may be conditional or unconditional, by regulation, order, or licensing, or any combination thereof, and may relate to any particular transaction, to the type or amount of the transaction, to the party or parties or the classification of parties, or to any combination thereof. The Secretary may in his discretion, in any manner giving actual or constructive notice to the parties affected, revoke any exemption made under this section. Any such revocation shall remain in effect pending any judicial review.

§ 207. Civil penalty

(a) For each willful violation of this title, the Secretary may assess upon any domestic financial institution, and upon any partner, director, officer, or employee thereof who willfully participates in the violation, a civil penalty not exceeding $1,000.

(b) In the event of the failure of any person to pay any penalty assessed under this title, a civil action for the recovery thereof may, in the discretion of the Secretary, be brought in the name of the United States.

§ 208. Injunctions

Whenever it appears to the Secretary that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of the provisions of this title, or of any order thereunder, he may in his discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other 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 without bond. Upon application of the Secretary, any such court may also issue mandatory injunctions commanding any person to comply with the provisions of this title or any order of the Secretary made in pursuance thereof.

§ 209. Criminal penalty

Whoever willfully violates any provision of this title or any regulation under this title shall be fined not more than $1,000, or imprisoned not more than one year, or both.

§ 210. Additional criminal penalty in certain cases

Whoever willfully violates any provision of this title where the violation is—

(1) committed in furtherance of the commission of any other violation of Federal law, or

(2) committed as part of a pattern of illegal activity involving transactions exceeding $100,000 in any twelve-month period.

shall be fined not more than $500,000 or imprisoned not more than five years, or both.

§ 211. Immunity of witnesses

Whenever a witness refuses on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding involving any violation of this title before or ancillary tc—

(1) a court or grand jury of the United States.

(2) an agency of the United States, or

(3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House,

and the person presiding over the proceeding communicates to the witness an order requiring him to give testimony or provide other information, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination. No such testimony or other information, so compelled under the order or evidence or other information which is obtained by the exploitation of such testimony may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

§ 212. Availability of information to other Federal agencies

The Secretary shall, upon such conditions and pursuant to such procedures as he may by regulation prescribe, make any information set forth in reports filed pursuant to this title available for a purpose consistent with the provisions of this title to any other department or agency of the Federal Government on the request of the head of such department or agency.

§ 213. Administrative procedure

Subject to section 203(j), the administrative procedure and judicial review provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code, shall apply to all proceedings under this title.

Chapter 2.—DOMESTIC CURRENCY TRANSACTIONS

Sec.

221. Reports of currency transactions required.

222. Persons required to file reports.

223. Reporting procedure.

§ 221. Reports of currency transactions required

Transactions involving any domestic financial institution shall be reported to the Secretary at such time, in such manner, and in such detail as the Secretary may require if they involve the payment, receipt, or transfer of United States currency, or such other monetary instruments as the Secretary may specify, in such amounts, denominations or under such circumstances, as the Secretary shall by regulation prescribe.

§ 222. Persons required to file reports

The report of any transaction required to be reported under this chapter shall be signed or otherwise made both by the domestic financial institution involved and by one or more of the other parties thereto or participants therein, as the Secretary may require. If any party to or participant in the transaction is not an individual acting only for himself, the report shall identify the person or persons on whose behalf the transaction is entered into, and shall be made by the individuals acting as agents or bailees with respect thereto.

§ 223. Reporting procedure

(a) The Secretary may in his discretion designate domestic financial institutions, individually or by class, as agents of the United States to receive reports required under this chapter, except that an institution which is not insured, chartered, examined, or registered as such by any agency of the United States may not be so designated without its consent. The Secretary may suspend or revise any such designation for any violation of this Act or section 21 of the Federal Deposit Insurance Act, or section 41 of the National Housing Act.

(b) Any person (other than an institution designated under subsection (a)) required to file a report under this chapter with respect to a transaction with a domestic financial institution shall file the report with that institution, except that (1), if the institution is not designated under subsection (a), the report shall be filed as the Secretary shall prescribe, and (2) any such person may, at his election and in lieu of filing the report in the manner hereinabove prescribed, file the report with the Secretary. Domestic financial institutions under subsection (a) shall transmit reports filed with them, and shall file their own reports, as the Secretary shall prescribe.

Chapter 3.—REPORTS OF EXPORTS AND IMPORTS OF MONETARY INSTRUMENTS

Sec.

231. Reports required.

232. Forfeiture.

233. Civil liability.

234. Remission by the Secretary.

235. Enforcement authority.

§ 231. Reports required

(a) Except as provided in subsection (c) of this section, whoever, whether as principal agent, or bailee, or by an agent or bailee, knowingly—

(1) transports or causes to be transported monetary instruments—

(A) from any place within the United States to or through any place outside the United States, or

(B) to any place within the United States from or through any place outside the United States, or

(2) receives monetary instruments at the termination of their transportation to the United States from or through any place outside the United States

in an amount exceeding $10,000 on any one occasion or in an aggregate amount exceeding $20,000 in any one calendar year shall file a report or reports in accordance with subsection (b) of this section.

(b) Reports required under this section shall be filed at such times and places, and may contain such of the following information and any additional information, in such form and in such detail, as the Secretary may require:

(1) The legal capacity in which the person filing the report is acting with respect to the monetary instruments transported.

(2) The origin, destination, and route of the transportation.

(3) Where the monetary instruments are not legally and beneficially owned by the person transporting the same, or are transported for any purpose other than the use in his own behalf of the person transporting the same, the identities of the person from whom the monetary instruments are received, or to whom they are to be delivered, or both.

(4) The amounts and types of monetary instruments transported.

(c) Subsection (a) does not apply to any common carrier of passengers in respect of monetary instruments in the possession of its passengers, nor to any common carrier of goods in respect of shipments of monetary instruments not declared to be such by the shipper.

§ 232. Forfeiture

(a) Any monetary instruments which are in the process of any transportation with respect to which any report required to be filed under section 231(1) either has not been filed or contains material omissions or misstatements are subject to seizure and forfeiture to the United States.

(b) For the purpose of this section, monetary instruments transported by mail, by any common carrier, or by any messenger or bailee, are in process of transportation from the time they are delivered into the possession of the postal service, common carrier, messenger, or bailee until the time they are delivered into or retained in the possession of the addressee or intended recipient or any agent of the addressee or intended recipient for purposes other than further transportation within, or across any border of, the United States.

§ 233. Civil liability

The Secretary may assess a civil penalty upon any person who fails to file any report required under section 231, or who files such a report containing any material omission or misstatement. The amount of the penalty shall not exceed the amount of the monetary instruments with respect to whose transportation the report was required to be filed. The liabilities imposed by this chapter are in addition to any other liabilities, civil or criminal, except that the liability under ths section shall be reduced by any amount actually forfeited under section 232.

§ 234. Remission by the Secretary

The Secretary may in his discretion remit any forfeiture or penalty under this chapter in whole or in part upon such terms and conditions as he deems reasonable and just.

§ 235. Enforcement authority

(a) If the Secretary has reason to believe that monetary instruments are in the process of transportation and with respect to which a report required under section 231 has not been filed or contains material omissions or misstatements, he may apply to any court of competent jurisdiction for a search warrant. Upon a showing of probable cause, the court may issue a warrant authorizing the search of any or all of the following:

(1) One or more designated persons.

(2) One or more designated or described places or premises.

(3) One or more designated or described letters, parcels, packages, or other physical objects.

(4) One or more designated or described vehicles. Any application for a search warrant pursuant to this section shall be accompanied by allegations of fact supporting the application.

(b) This section is not in derogation of the authority of the Secretary under any other law.

Chapter 4.—FOREIGN TRANSACTIONS

Sec.
241. Records required.
242. Classification and requirements.

§ 241. Records required

(a) The Secretary of the Treasury, having due regard for the need to avoid impeding or controlling the export or import of currency or other monetary instruments and having due regard also for the need to avoid burdening unreasonably persons who legitimately engage in transactions with foreign financial agencies, may by regulation require any resident or citizen of the United States, or person in the United States and doing business therein, who engages in any transaction or maintains any relationship, directly or indirectly, on behalf of himself or another, with a foreign financial agency to maintain records containing such of the following information, in such form and in such detail, as the Secretary may require:

(1) The identities and addresses of the parties to the transaction or relationship.

(2) The legal capacities in which the parties to the transaction or relationship are acting, and the identities of the real parties in interest if one or more of the parties are not acting solely as principals.

(3) A description of the transaction or relationship including the amounts of money, credit, or other property involved.

(b) No person required to maintain records under this section shall be required to produce or otherwise disclose the contents of the records except in compliance with a subpena or summons duly authorized and issued or as may otherwise be required by law.

§ 242. Classification and requirements

The Secretary may prescribe:

(1) Any reasonable classification of persons subject to or exempt from any requirement imposed under section 241.

(2) The foreign country or countries as to which any requirement imposed under section 241 applies or does not apply if, in the judgment of the Secretary, uniform applicability of any such requirement to all foreign countries is unnecessary or undesirable.

(3) The magnitude of transactions subject to any requirement imposed under section 241.

(4) Types of transactions subject to or exempt from any requirement imposed under section 241.

(5) Such other matters as he may deem necessary to the application of this chapter.

TITLE III—MARGIN REQUIREMENTS

§ 301. Amendment of section 7 of the Securities Exchange Act of 1934

(a) Section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) is amended by adding at the end thereof the following new subsection:

"(f) (1) It is unlawful for any United States person, or any foreign person controlled by a United States person or acting on behalf of or in conjunction with such person, to obtain, receive, or enjoy the beneficial use of a loan or other extension of credit from any lender (without regard to whether the lender's office or place of business is in a State or the transaction occurred in whole or in part within a State) for the purpose of (A) purchasing or carrying United States securities, or (B) purchasing or carrying within the United States of any other securities, if, under this section or rules and regulations prescribed thereunder, the loan or other credit transaction is prohibited or would be prohibited if it had been made or the transaction had otherwise occurred in a lender's office or other place of business in a State.

"(2) For the purposes of this subsection—

"(A) The term 'United States person' includes a person which is organized under the laws of any State or, in the case of a natural person, a citizen or resident of the United States; a domestic estate; or a trust in which one or more of the foregoing persons has a cumulative direct or indirect beneficial interest in excess of 50 per centum of the value of the trust.

"(B) The term 'United States security' means a security (other than an exempted security) issued by a person incorporated under the laws of any State, or whose principal place of business is within a State.

"(C) The term 'foreign person controlled by a United States person' includes any noncorporate entity in which United States persons directly or indirectly have more than a 50 per centum beneficial interest, and any corporation in which one or more United States persons, directly or indirectly, own stock possessing more than 50 per centum of the total combined voting power of all classes of stock entitled to vote, or more than 50 per centum of the total value of shares of all classes of stock.

"(3) The Board of Governors of the Federal Reserve System may, in its discretion and with due regard for the purposes of this section, by rule or regulation exempt any class of United States persons or foreign persons controlled by a United States person from the application of this subsection."

(b) The amendment made by subsection (a) of this section does not affect the continuing validity of any rule or regulation under section 7 of the Securities Exchange Act of 1934 in effect prior to the effective date of the amendment.

TITLE IV—SECURITIES TRANSACTIONS INVOLVING FOREIGN FINANCIAL AGENCIES

§ 401. Information required to be furnished to the Securities and Exchange Commission

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended (1) by redesignating sections 31, 32, 33, and 34 as 32, 33, 34, and 35, respectively, and (2) by inserting the following new section immediately after section 30:

"SECURITIES TRANSACTIONS INVOLVING FOREIGN FINANCIAL AGENCIES

"SEC. 31. (a) Whenever required in any particular case or class of transactions by such rules, regulations, or orders as the Commission may adopt as necessary or appropriate in the public interest, no person engaged in the business of effecting transactions in securities for the accounts of others, or of buying and selling securities for his own account through a broker or otherwise, shall knowingly make use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, to execute or cause to be executed, or to effect or cause to be effected, directly or indirectly, any transaction in any domestic security with any foreign financial agency (as defined in section 203 of the Currency and Foreign Transactions Reporting Act), unless at or before the time of transaction—

"(1) such foreign financial agency has disclosed to such person the identity of all persons having any beneficial interest in such transaction; or

"(2) such person has accepted in good faith a certification from such foreign financial agency that no citizen or resident of the United States has any beneficial interest in the transaction to be effected.

"(b) No citizen or resident of the United States shall, directly or indirectly, purchase or sell or arrange for the purchase or sale of any domestic security, from or through a foreign financial agency, unless such citizen or resident—

"(1) gives a written authorization to such agency to disclose his identity to any person (A) engaged in the business of effecting transactions in securities for the account of others or for his own account through any means, instrumentality, or facility referred to in subsection (a), and (B) the services of which are utilized in connection with such purchase or sale; and

"(2) files periodic reports with the Commission disclosing the details of any such purchase or sale in accordance with such regulations as the Commission may prescribe.

"(c) As used in this section, the term 'domestic security' means a security the issuer of which is a resident of, or is organized under the laws of, or has its principal place of business in, a place within or subject to the jurisdiction of the United States.

"(d) (1) Rules, regulations, and orders under this section shall be issued by the Commission only after it has made a study and report as herein provided. The study shall seek to determine insofar as is possible the probable effects of the implementation of this section on the economic interests of the United States, with particular reference to the balance of payments. Such study shall be made in collaboration with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System. A report of its findings and recommendations shall be made by the Commission to the Committees on Banking and Currency of the Senate and House of Representatives not later than six months after the date of enactment of this section.

"(2) No rule, regulation, or order shall be issued under this section if the Commission determines, after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, that it would unduly and adversely affect the balance of payments of the United States. Any rule, regulation, or order so issued shall be rescinded or amended if at any time the Commission determines, after consultation with said Secretary or Board, that it has had or is having such effect on such payments."

TITLE V—EFFECTIVE DATES

§ 501. Effective dates

(a) Except as otherwise provided in this section, this Act and the amendments made thereby take effect on the first day of the seventh calendar month which begins after the date of enactment.

(b) The Secretary of the Treasury may by regulation provide that any provision of title I or II or any amendment made thereby shall be effective on any date not earlier than the publication of the regulation in the Federal Register and not later than the first day of the thirteenth calendar month which begins after the date of enactment.

(c) The Board of Governors of the Federal Reserve System may by regulation provide that the amendment made by title III shall be effective on any date not earlier than the publication of the regulation in the Federal Register and not later than the first day of the thirteenth calendar month which begins after the date of enactment.

(d) The Securities and Exchange Commission may by regulation provide that the amendment made by title IV shall be effective on any date not earlier than the publication of the regulation in the Federal Register and not later than the first day of the thirteenth calendar month which begins after the date of enactment; except that that part of such amendment which directs the Securities and Exchange Commission to make a study and report shall become effective on the date of enactment.

Mr. BENNETT. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The Chair advises the Senator from Utah that there are some committee amendments which must be acted on first.

Mr. BENNETT. Then I ask the Chair to hold the amendment at the desk.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. 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. PROXMIRE. Mr. President, the purpose of the bill is to provide law enforcement authorities with greater evidence of financial transactions in order to reduce the incidence of white-collar crime. The bill is particularly directed at obtaining more information on the use of secret foreign bank accounts by U.S. citizens or residents. It is sometimes called the "Swiss bank" bill. The main substantive provisions of the bill are summarized as follows:

First, U.S. banks and other financial institutions are required to maintain records of financial transactions and keep copies of checks pursuant to regulations of the Secretary of the Treasury.

Second, the Secretary is authorized to require reports on currency deposits or withdrawals by the U.S. financial institution involved and the party to the transaction.

Third, persons who export or import currency or its equivalent in amounts greater than $10,000 on one occasion or $20,000 in 1 year are required to file reports in accordance with Treasury regulations.

Fourth, the Secretary is given authority to require U.S. citizens to keep records of their transactions with foreign financial agencies.

Fifth, the restrictions on purchasing securities on margin would be extended to U.S. borrowers whereas the existing law only applies to lenders.

Sixth, the Securities and Exchange Commission is given authority to prohibit U.S. broker-dealers from accepting securities orders from foreign financial agencies unless the foreign agency discloses the party for whom it is acting or certifies that it is not acting for a U.S. citizen or resident.

Seventh, U.S. citizens or residents who have securities accounts in foreign banks would be required to give the foreign bank permission to disclose their identity when effecting transactions with U.S. broker-dealers.

Eighth, U.S. citizens or residents who have securities accounts in foreign banks would be required to file reports on their securities transactions in such accounts in accordance with regulations of the SEC.

The responsibility for writing implementing rules and regulations is assigned to the Secretary of the Treasury and the SEC. Both of these agencies have broad exemptive authority which can be used to prevent an undue burden to legitimate commercial and tourist transactions.

Mr. President, since there is still some controversy on title IV of the legislation, I would like to discuss this section in more detail.

Title IV of the committee bill adds a new section 31 to the Securities Exchange Act of 1934. Section 31(a) of this new section gives the SEC selective authority to prohibit U.S. broker-dealers or other financial institutions from accepting securities orders initiated by foreign financial agencies unless the foreign agency discloses all persons who have a beneficial interest in the transaction or certifies that it is not acting on behalf of a U.S. citizen or resident.

The purpose of this provision is to prevent U.S. citizens from using foreign securities accounts to avoid our securities laws and regulations, escape our income taxes, or otherwise violate our laws. The total volume of securities transactions initiated by foreigners is about 9 percent of the total volume on the New York Stock Exchange. Obviously, securities orders from abroad constitute a significant and rapidly growing segment of our securities markets.

During 1969, purchases and sales of U.S. stocks by foreigners reached $23 billion. Nearly $8 billion of this amount came from one country—Switzerland—whose secrecy laws make it impossible to determine who the real traders are. Just think of that. We would think it might come from, perhaps, England, or Germany or Italy. But little Switzerland, with a modest per capita income, and about 1 percent of free Europe's population makes about 40 percent of its American investment, somehow it comes up with $8 billion to invest in our stock market.

The $23 billion in foreign transactions largely outside the surveillance of the SEC may be compared with a total volume of $27 billion on the New York Stock Exchange in 1935 at a time when the SEC regulations first went into effect. In other words, unregulated foreign transactions have almost exceeded the New York Stock Exchange dollar volume during the early years of the SEC. Obviously we cannot maintain investor confidence in the integrity of our securities market if a substantial and growing percentage of that market is outside the scope of SEC jurisdiction.

The need for the disclosures required by the bill is becoming greater with the growth of foreign trading. For example, should a ring of stock manipulators attempt to rig a market, their identity can be tracked down if they initiate their transactions through a U.S. broker-dealer. However, if the stock swindlers establish an account in a country with strict secrecy laws, such as Switzerland, they are completely free from SEC dis-

covery. Thus, if the SEC finds that a stock is being manipulated it has no way of tracking down the wrongdoers.

Internal Revenue Service agents are likewise frustrated by foreign bank secrecy laws. Even though the IRS suspects a citizen is shielding untaxed capital gains, there is no way of proving it if the transactions were channeled through a secret foreign bank account.

Similarly, corporate officials are able to trade on inside information with impunity. All they have to do is to route their stock transactions through a secret foreign bank account.

The need for title IV is widely acknowledged by law-enforcement officials. In response to a question during the hearings, the Chairman of the SEC testified that the disclosure provisions of title IV would be "very helpful" in enforcing our securities laws.

The U.S. attorney for the southern district of New York, Mr. Whitney North Seymour, Jr., has testified that "speaking from a law-enforcement point of view, I can visualize that such requirements would both be of assistance to us in giving us information leading to violations of margin requirements, insider trading, that sort of thing, and also I would think I could conceive that would serve as a self-policing technique by discouraging the use of these foreign banks as hidden conduits and nominees for transactions which are in plain violation of our laws."

Likewise, the former U.S. attorney for the southern district of New York, Mr. Robert Morgenthau, who has had a great deal of experience because he is located where he is and has a responsibility that relates to the New York area, has testified that the disclosure provision of title IV "would be extremely helpful to law-enforcement agencies in the development of cases."

As originally drafted, the disclosure provisions of title IV would have been imposed on all foreign securities transactions without provision for SEC discretion. The President of the New York Stock Exchange had some misgivings about this across-the-board approach and recommended a more flexible procedure whereby SEC could apply the disclosure requirements on a selective basis. Stock exchange officials explained the rationale for the selective approach as follows:

> The thrust of this, Mr. Chairman, is to give some flexibility but not to eliminate the requirement totally as some have suggested. We see some value in having this authority in the statute, but we see a lot of problems if it is required in every case.

That was the opinion of the president of the New York Stock Exchange.

The committee agrees with the conclusions of the New York Stock Exchange and has adopted language giving SEC discretionary authority to apply the disclosure requirements on a selective basis. Thus, if the SEC suspected a particular stock was being or about to be manipulated from abroad, it could apply the disclosure requirements to subsequent transactions in that stock. Or, if it had reason to believe that a particular U.S. brokerage firm, foreign financial agency, or class of agencies or agencies in a particular country were engaging in questionable transactions, it could selectively apply the disclosure requirements to those transactions.

Despite the solid support for the disclosure provisions of title IV on the part of law enforcement officials and the New York Stock Exchange, some fears have been expressed by certain banks, securities firms, and Treasury officials. Concern has been voiced that the disclosure provisions could adversely affect the flow of foreign investment and weaken the U.S. balance of payments.

The disclosure requirements of title IV do not require a foreign financial agency to reveal the identity of its customers if the customer is a foreigner and is not acting on behalf of an American citizen. Thus, foreign investors would have no occasion to stop trading in U.S. securities. Likewise, it is difficult to envision U.S. citizens objecting to having their identity disclosed to a U.S. broker when trading through a foreign account, assuming the transactions were legitimate. His identity would be available to the U.S. broker, anyway, if he initiated the transaction directly in the United States. For example, rule 405(1) of the New York Stock Exchange requires member firms to "use due diligence to learn the essential facts relative to every customer."

The disclosure provisions of title IV would merely reenforce and extend the stock exchange's "Know Your Customer" rule to American citizens who, for reasons of convenience or otherwise, initiate their securities transactions through a foreign account rather than directly in the United States.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PROXMIRE. I yield.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on the bill be limited to 30 minutes, to be equally divided between the manager of the bill and the ranking minority member, with the understanding that the opening statements by the Senator from Utah (Mr. BENNETT) and the Senator from Wisconsin (Mr. PROXMIRE) are to be excluded from that time.

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

Mr. PROXMIRE. It is possible that the disclosure requirements would deter some illegitimate transactions by U.S. citizens who have been using a secret foreign bank account as a cloak for their illegal operations. In such cases, the flow of "foreign" investment which actually is coming from Americans would be reduced; however, the reduced inflow is likely to be counterbalanced by a reduced outflow of U.S. funds to secret foreign bank accounts. Thus, the impact on the balance of payments would be exactly offset.

Finally, it is remotely conceivable that some American lawbreakers, deterred by the disclosure requirements, would keep their funds in foreign accounts and invest them in other countries. While such an action could have an adverse effect on the balance of payments, the committee seriously questions the morality of sustaining our balance of payments by catering to white-collar criminals. Such a policy can only be self-defeating in the long run by breaking down confidence in the integrity of our capital markets.

No factual evidence or studies were presented to the committee that the disclosure provisions of title IV as amended by the committee would weaken our balance of payments other than the unsupported allegations of those who made the argument. Similar warnings were made in 1933 by the President of the New York Stock Exchange, who predicted that "grass will grow on Wall Street" if the Truth in Securities Act were passed.

Nevertheless, in deference to the fears of Treasury officials, the committee further amended title IV to prevent any regulation from going into effect or remaining in effect if the SEC determined, after consultation with the Treasury and the Federal Reserve Board, that the regulation has or would have an unduly adverse effect upon the balance of payments. Moreover, no regulations could go into effect until the SEC completed a study, in collaboration with the Treasury and the Federal Reserve Board, of the potential effects of the regulation on U.S. economic interests and reported its findings to the Senate and House Banking and Currency Committees within 6 months of enactment.

So we have a double protection. In the first place, we make it necessary for the SEC, before it puts this into effect, to determine whether in their judgment it would have an adverse effect on the balance of payments. They have to consult the Federal Reserve Board in this connection, and they consult the Treasury in this connection. In addition, we provide that the regulations would not go into effect until the House and Senate Banking and Currency Committees were fully informed, so that any fears on the part of members of our committees with respect to the balance of payments could also be communicated to the Securities and Exchange Commission, which I think all of us know is a competent and careful and thoughtful agency, and which is directly influenced, and should be directly influenced by congressional attitudes in this respect. Of course, this law provides the channel through which they would be.

In conducting such a study, the committee expects the SEC to take into account any positive impact of the regulations on U.S. economic interests such as strengthening confidence in the integrity of our securities markets, as well as any potentially negative effect.

Title IV of the bill also adds a new section 31(b) to the Securities Exchange Act of 1934. Section 31(b) contains two substantive provisions.

First, U.S. citizens or residents who have accounts with foreign financial agencies are required to give the foreign agency permission to disclose their identity to a U.S. broker-dealer whenever the foreign agency effects transactions in securities on behalf of the U.S. citizen or

resident. Second, the SEC is authorized to issue regulations prescribing that such U.S. citizens or residents file periodic reports on their securities transactions in their foreign account.

By requiring U.S. citizens to waive the secrecy features of a foreign account when it is used for securities trading in the United States, the U.S. citizen is merely placed on the same footing as if he initiated the transaction directly with a U.S. broker-dealer. The committee does not question the right of U.S. citizens or residents to trade in U.S. securities through a foreign account as long as the facts of the transaction are available to U.S. law enforcement agencies. The waiver required by section 31(b) will also permit foreign financial agencies to make the disclosures provided for under section 31(b) without violating their own secrecy laws.

The reporting provision included under section 31(b) should enable the SEC to prevent violations of our securities laws by obtaining additional information on securities transactions initiated abroad by U.S. citizens.

The provisions of section 31(b) are strongly supported by the New York Stock Exchange. During the hearings, Mr. Robert Haack, president of the exchange, testified that—

> We support fully new section 31(b) which, in our opinion, should discourage some U.S. persons who are considering transacting business in domestic securities abroad.

In the absence of such a provision, more Americans may be expected to establish secret foreign bank accounts for their securities trading in order to escape the surveillance of the SEC.

I might say in conclusion, Mr. President, that all of us are aware of the great concern the American people feel about crime in this country. Recently, I sent a questionnaire to 100,000 people in Wisconsin and I received a great response—the biggest I have ever had. I asked them about their concerns and their No. 1 concern was crime, closely followed by pollution.

Congress has taken some pride in the anticrime legislation it has passed. But if we are going to be able to go to the American people and convince them that we mean business, we should be willing to crack down on the white-collar crime that affects some people we know and deal with and affects those with power and influence, with at least as much vigor as we bear down on the crime that affects the little man.

This is one of the few bills to come before Congress this year to deal with crimes committed by the rich and powerful. It will give law enforcement authorities what they ask for.

The title which the distinguished Senator from Utah (Mr. BENNETT) will try to knock out in the amendment he intends to offer, would knock out one of the most important law enforcement provisions in the bill, a provision which, I say, has been enthusiastically supported by experienced law enforcement authorities who have had to deal with white-collar crime, which we are trying to cope with here.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as amended be considered as original text for purposes of further amendment.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered, and the amendments are considered and agreed to en bloc.

Mr. BENNETT. Mr. President, I was very much interested in listening to the statement of my good friend from Wisconsin.

I confess I am a little amazed and a little bit chagrined at his ability to take advantage of the situation. We have time limits for discussion of any amendment but none for the opening statement. I observe that the Senator from Wisconsin has spent some time in his opening statement presenting a case against my amendment and he still has 45 minutes to go.

Mr. PROXMIRE. If the Senator will yield, as I understand it, both my opening statement and that of the Senator from Utah, under the unanimous consent agreement, are exempt from the time limitation. The Senator can talk about his amendment in his opening statement, if he wishes to do so without time constraint.

Mr. BENNETT. The Senator from Utah, in accordance with the spirit of the unanimous-consent agreement, will devote the controlled time to discussion of the amendment.

Mr. President, S. 3678 has worthy purposes which should be supported by all Members of the Senate. Its major purpose is to provide more information on international transactions involving U.S. residents or citizens and thus minimize the use of secret foreign bank accounts for illegal purposes. Another purpose of the bill is to authorize the Secretary of the Treasury to require the maintenance of records by U.S. financial institutions where he determines that such records may have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

Legislation of this type is a necessary supplement to the action already taken by the Treasury to curtail the use of foreign bank accounts and international transactions for tax evasion and other crimes. The Treasury program includes administrative action, new regulations, treaty negotiation, legislative proposals, and cooperation with private institutions which are also interested in reducing illegal activities both here in this country and through the use of foreign transactions.

In my view, it is important in our efforts to reduce crime, that we fully consider the effects of our actions on the traditional freedoms this country has provided to its citizens, such as the prohibition against unreasonable searches and seizures and the rights of our citizens to privacy. Moreover, it is highly important that we do not unnecessarily restrict the regular and efficient flow of legitimate domestic and international business or personal transactions, or diminish the willingness of foreigners to hold and use U.S. dollars and securities.

As a final major concern, I believe that in our zeal to correct abuses, we must assure that the costs and inconveniences of our action do not outweigh the benefits to our revenue system and our law enforcement objectives.

In most respects, I believe that the bill reported by the committee has achieved a reasonable balance.

A major change made by the committee left the determination of records that would be required of domestic transactions entirely to the discretion of the Secretary of the Treasury.

More than 20 billion checks are drawn annually on banks in the United States, but only a small percentage of these is likely to be of use in criminal, tax, or regulatory investigations or proceedings.

As part of a concerted, broad effort to solve the problems which exist with respect to foreign secret bank accounts and foreign transactions, the Treasury has developed recommendations as to the kinds of records of foreign transactions which banks and other institutions should be required to maintain. The Treasury has indicated its intent to require financial institutions to retain or maintain in the United States records of the following international transfers of funds—

First, remittances transferring funds from within the United States outside the United States;

Second, remittances transferring funds from outside the United States into the United States;

Third, checks of $1,000 or more drawn on domestic financial institutions negotiated outside the United States, and accompanying cash letters, when first received in the United States;

Fourth, purchases of $1,000 or more made outside the United States which are charged on credit cards of domestic financial institutions;

Fifth, checks drawn on financial institutions outside the United States negotiated in the United States, when transmitted abroad for immediate credit or collection;

Sixth, foreign drafts issued by United States financial institutions;

Seventh, drafts issued by financial institutions outside the United States which are paid in the United States;

Eighth, disbursements under letters of credit issued by domestic financial institutions for the benefit of payees located outside the United States;

Ninth, disbursements under letters of credit issued by financial institutions outside the United States for the benefit of payees located in the United States;

Tenth, documentary collections by financial institutions pursuant to which funds are transferred from outside the United States into the United States; and

Eleventh, documentary collections by financial institutions pursuant to which funds are transferred out of the United States from inside the United States.

On the other hand, Treasury officials testified that neither the Treasury nor any other person or group has as yet made a study adequate to determine which records of domestic transactions are likely to have a high degree of use-

fulness in criminal, tax, or regulatory investigations or proceedings. In the absence of such a determination, it is not possible to justify the reproduction and retention of domestic records involving hundreds of billions of checks and other transactions.

The committee action, making it clear that no records or copies of domestic transactions would be required of any financial institution unless the Secretary of the Treasury determines that such copies or records will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings and then by regulation, requires such records to be maintained, was very wise, in my opinion.

Mr. President, the bill reported by the committee is much improved as a result of amendments accepted by the committee. There are, however, certain provisions still remaining which are either impractical, duplicative, provide little if any reliable information, or create foreign relations problems and balance-of-payments problems for the United States. I believe that the Senate should further amend the bill to attempt to resolve or minimize these problems.

Mr. President, at this point I ask that the amendment which I have sent to the desk be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. BENNETT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment reads as follows:

On page 30, beginning with line 5, strike all through line 4 on page 33.

On page 33, line 5, delete "TITLE V" and insert "TITLE IV".

On page 33, line 6, delete "501" and insert "401".

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. BENNETT. Mr. President, I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized for 20 minutes.

Mr. BENNETT. Mr. President, this is the amendment to which the Senator from Wisconsin referred at great length in his opening statement.

Title IV of the bill before us contains a major provision regarding securities transactions which should be deleted because it would not provide reliable information; it would be simple to evade; it would be difficult if not impossible to administer; it would unnecessarily invade individual rights to privacy; it would establish certain extraterritorial requirements on foreign agencies in order for them to transact business involving U.S. securities; it would seriously undermine efforts of the U.S. Government to contain efforts of foreign governments to restrict purchases of U.S. securities by their citizens; and it would strengthen the hand of those abroad who are working for administrative or legislative harassment of U.S.-owned financial institutions within the borders of their foreign countries.

Title IV would require certifications by foreign institutions before transacting business in U.S. securities in which no U.S. citizen or resident is involved. Further, the title authorizes the Securities and Exchange Commission to require periodic filing of reports with the Commission disclosing the details of any purchases or sales of securities from or through a foreign financial agency. Chapter 4 of title II requires U.S. citizens or residents to keep records on their transactions with foreign financial institutions, but these records are not available to law enforcement agencies except "pursuant to legal process in order to guard against any undue abridgment of the individual's right to privacy." Title IV has no such protection of an individual's right to privacy.

In an attempt to muster support for title IV, frustrations of Internal Revenue Service agents have been used. I would like to point out that the Internal Revenue Service is a subdivision of the U.S. Treasury, and the Treasury strongly recommends the deletion of title IV.

So, obviously the superior authority does not feel that the frustrations of one of its departments offset the damage that this title could do.

As a member of the Finance Committee which has jurisdiction in the Senate over our tax laws, I have had the opportunity to work closely with the Treasury and I can assure Members of this body that one of the Department's major concerns is to maintain the integrity of our tax laws. It is a mistake to assume that the Treasury is less interested in maintaining the integrity of our tax laws than are those who may favor title IV.

The committee report quotes Chairman Budge, of the Securities and Exchange Commission, as saying that title IV would be "very helpful" in enforcing our securities laws. Chairman Budge did suggest that the provisions of title IV could be helpful, but more important than the quote taken out of context is the fact that the SEC Chairman repeatedly stated he would have to defer to Congress and the other branches of Government in weighing the benefits to enforcement against the burdens imposed. Because this became an issue before the committee, I requested Chairman Budge to clarify his position on title IV. In his response Chairman Budge stated:

It is difficult to estimate how useful it might be because we could never know as to the accuracy of the information supplied.

He added:

On the broad overall national policies, as stated in my testimony, we would defer to the opinion of the Department of the Treasury, which has represented that the provisions of Title IV would be detrimental to the balance of payments and create difficulties in international relations.

Mr. President, I ask unanimous consent that the letter from Chairman Budge be printed at this point in the RECORD.

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

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., August 3, 1970.

Hon. WALLACE F. BENNETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Pursuant to your telephonic request, this will confirm the Commission's position on title IV of S. 3678. As stated in my testimony, to the extent that the bill would discourage U.S. persons from utilizing foreign instrumentalities to evade our laws, it might be useful to such agencies as the Commission in its enforcement and regulatory functions. It is difficult to estimate how useful it might be because we could never know as to the accuracy of the information supplied.

On the broad overall national policies, as stated in my testimony, we would defer to the opinion of the Department of the Treasury, which has represented that the provisions of title IV would be detrimental to the balance of payments and create difficulties in international relations.

We are concerned with a relatively recent development in that foreign investors were previously very substantial net purchasers of American securities, whereas recently the trend has been in the opposite direction.

Sincerely yours,
HAMER H. BUDGE, *Chairman.*

Mr. BENNETT. Mr. President, there is no doubt that title IV would be detrimental to both the balance of payments and the securities markets. The large and growing volume of foreign transactions in the U.S. market not only makes a major contribution to the balance of payments, but substantially increases the liquidity of U.S. securities markets and adds to the needed supply of new funds in the economy.

In 1968 and 1969 foreign purchases and sales of U.S. stocks and bonds, most of which were listed on some U.S. exchange, accounted for the equivalent of about 15 percent of all trading in all listed securities on all exchanges in the United States and the third market. This investment is not only important from the current account point of view in terms of substantial services income from commissions, but, as it is long-term investment on the whole, it therefore makes a very significant contribution to balancing U.S. international accounts. At the end of 1968 foreigners owned in excess of $19 billion of U.S. common stocks and about $10 billion of bonds. In 1968 there were net purchases of $4.2 billion of corporate stocks and bonds and in 1969, $2.7 billion of such investments by foreigners. In the first 7 months of this year, foreigners invested a total of $423 million in corporate stocks and bonds, being net investors in each of the 7 months in corporate bonds, and net investors in stocks in 3 of the 7 months.

In this regard I cannot overstate my personal concern over the possible consequences of enactment of title IV. We must recognize gross transactions of foreign purchases of U.S. corporate bonds during calendar year 1969 of more than $3 billion in purchases and $1.8 billion in sales.

Foreign purchases of U.S. common stock exceeded $12.4 billion in 1969 with sales totaling more than $10.9 billion. This results in a gross figure of more than $28 billion in transactions in stocks and bonds by foreigners during a single

year—about one-seventh of total trading in all listed securities in the United States. The commission consequence of such a transaction volume must approximate $200 million annual gross income for the U.S. securities industry.

This consideration must be faced in the light of the rapidly developing securities exchanges in London, Paris, Tokyo, Amsterdam, and Zurich where they are beginning at an ever-increasing rate to deal in U.S. securities.

The disclosure or certification requirements in title IV could well result in a major shift of those transactions and commissions to the foreign exchanges. Neither our securities industry nor our Nation can afford to provide the added incentives for such a shift of this transaction business overseas, especially when we gain nothing in terms of effective enforcement benefits against the sophisticated individuals we are attempting to thwart.

The committee report quotes from the former U.S. attorney for the southern district of New York, Mr. Robert Morgenthau, that the provisions of title IV "would be extremely helpful to law enforcement agencies in the development of cases." The quote in the report is completely accurate, but in order that Mr. Morgenthau's statement before the committee be understood, it is necessary to add a sentence following the phrase quoted in the report in which Mr. Morgenthau continued:

> That must be weighed against whatever impact it may have on international trade, but as far as its usefulness is concerned, it would be a very useful provision.

Mr. Morgenthau claimed no expertise in the area which would allow him to weigh the benefits against the impact on international trade or on our relationship with other countries. Indeed, when questioned, he seemed willing to provide exemptions for corporate sellers of securities and stated in reference to the certification required by title IV:

> I think an offshore mutual fund would have difficulty in making that certification.

An attempt is made to minimize the substantial opposition to title IV by saying that:

> No factual evidence or studies were presented to the Committee that the disclosure provisions of title IV, as amended by the Committee, would weaken our balance of payments other than the unsupported allegations of those who made the argument.

Indeed, it would be difficult for those who opposed the title to have made studies as is claimed should have been made since title IV was the last issue to be considered by the committee in its final executive session on the bill. Contrary to the indication given that allegations opposing title IV were unsupported, I would like to refer to some of the substantial opposition. In the Federal Reserve Board's comments on title IV, Vice Chairman J. L. Robertson stated:

> This could result in an adverse effect on our balance of payments positions. In addition, the Board's experience under its margin regulations suggests that this feature of the bill might not be workable or effective.

Mr. Carl W. Desch, senior vice president of the First National City Bank of New York, representing the New York Clearing House, stated that:

> Based on past experience, we believe it is highly unlikely that foreign banks will be willing, or in some cases legally permitted to make the certification required by Title IV. If this title is enacted, it is almost certain that a substantial part of the funds now invested by foreign financial agencies would be withdrawn from U.S. securities markets and some shares now held abroad would be traded only on foreign exchanges, thus reducing the liquidity of the American market.

Mr. Robert W. Haack, president of the New York Stock Exchange, who has been quoted as giving "solid support" for provisions of title IV, stated:

> The adoption of this proposal will, in our opinion, inevitably lead to a decline in foreign transactions in U.S. domestic securities and encourage the development of markets abroad in U.S. domestic securities.

Mr. Haack did suggest some amendments which could lessen the ill effect of title IV, but I have been unable to find a statement to the effect that if such amendments were approved, the title would receive his "solid support"; nor is such a conclusion reached from our recent discussions with Mr. Donald Calvin, a vice president of the New York Stock Exchange. On the other hand, both Mr. Haack and Mr. Calvin discussed at length the development of European markets which trade in U.S. securities. Title IV would, according to their testimony, "serve as an incentive to accelerate this development in established markets in Europe in U.S. securities." Mr. Calvin continued:

> The fragmentation of the markets overall is not good and it is certainly not good in terms of our financial markets and our balance of payments in the United States. So if there is no strong enforcement reason why this type of requirement should be imposed, I think you are well advised from a business standpoint not to impose it.

Indeed, enforcement of the title would be impossible because it embodies requirements on foreign institutions over which our enforcement authorities have no jurisdiction. It has been suggested that the requirements in title IV, that the ultimate beneficiary be disclosed, is just an extension of the present "know your customer" rule to foreign accounts. New York Stock Exchange witnesses explained that the "know your customer" rule presently applies to foreign accounts as well as domestic accounts but that the Exchange is satisfied to know that the people handling the transactions are authorized to do so. He added:

> In other words, they don't attempt to delve into who is the beneficiary, ultimate beneficiary—the person having the beneficial interest.

I believe that title IV, requiring the determination of the ultimate beneficiaries of transactions, would place an impossible burden on foreign financial agencies.

Mr. Henry L. Froy, chairman of the Foreign Committee of the National Association of Securities Dealers, Inc., sent a telegram from Europe because he was unable to present his statement to the committee. That telegram in part said:

> Large institutions in Great Britain, France, Switzerland, Germany, and Italy whom I visited during the last 3 weeks decided to reduce their business in U.S. securities to an absolute minimum should S. 3678 be enacted in its present form and are already advising their clients accordingly.
>
> They do not wish to give any wrong information, but might be caught when receiving an order from a third party who may in turn, unknown to them, act for U.S. or partly U.S. interests.
>
> They adhere strictly to their domestic laws, but do not want to come under U.S. jurisdiction. It was uniformly stated to me that this proposed bill if enacted will be a permanent deterrent to foreign banks, institutions and broker-dealers for buying U.S. securities or suggesting such purchases to their clients.
>
> Countermeasures are already being discussed. These may affect or completely arrest the placing of U.S.-dollar bonds abroad or it may lead to conversion of the Eurodollar holdings at an early date. One or both of these actions would be disastrous for our balance of payments.

The NASD witness concluded:

> We seriously urge that your committee go no further than imposing the suggested recordkeeping requirements for banks, requiring reports on funds leaving or coming into this country and requiring reports by individuals affecting securities transactions with foreign financial institutions.

All of these recommended reporting requirements are authorized under other sections of the bill and would not be affected if title IV were deleted.

Most important, perhaps, of all of the objections to title IV are those received from the U.S. Treasury and the State Department which are the primary departments of the Federal Government responsible for our relationship with other countries and our balance of payments. On August 3, the Department of State sent a strong letter opposing title IV to Chairman SPARKMAN of our committee. The letter states in part:

> The requirements of Title IV would in our view seriously undermine the ability of the U.S. Government to contain efforts and measures by foreign governments to restrict the rapid growth of purchases of foreign (mainly U.S.) securities by their citizens and residents. The Department of State is presently working to stem restrictive legislation in Europe which, by often exceeding the legitimate requirements of investor protection, is prejudicial to U.S. mutual fund activities. We are also concerned with legislation under consideration in Germany and Canada which would increase the attractions of investing in domestic equities at the expense of foreign securities. We believe enactment of provisions of Title IV would strengthen greatly the hand of those abroad who are working to restrict portfolio investments in U.S. securities or who would welcome a pretext for undertaking administrative or legislative harassment of U.S.-owned financial institutions within their borders.
>
> In sum, Mr. Chairman, the Department's position on title IV of S. 3678 is that the economic and political costs to our foreign relations appear to outweigh substantially what appear to be its questionable informational and enforcement benefits.

The Treasury position is summed up in a letter which I received from Secretary of the Treasury David M. Ken-

nedy, dated August 13, in which he stated:

We strongly urge the deletion of title IV of S. 3678. The amendments approved by the Senate committee do not eliminate the aspects of this title detrimental to the U.S. balance of payments and the free international flow of securities and capital. Nor do they improve upon the reliability of information to be provided under this title. Title IV continues to pose the problem of threatening unwarranted invasions into the privacy that should attend day-to-day financial transactions. As a result, title IV, if enacted, would provide little of value, but would threaten vital interests of the United States.

Mr. President, I ask unanimous consent that the letter from the State Department and the one from Secretary Kennedy be included in the RECORD at the end of my remarks.

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

(See exhibits 1 and 2.)

Mr. BENNETT. Mr. President, these letters discuss major problems which would result from enactment of title IV and recommend strongly against enactment of the title. I do not consider statements from the Secretary of the Treasury, the State Department, the Federal Reserve Board, the New York Stock Exchange, the National Association of Securities Dealers, and the New York Clearing House to be unsupported allegations. I am convinced that the strong opposition to title IV is based on the best information available and careful consideration of the possible law enforcement value of the title and the economic and political costs which would result from its enactment.

I hope that the Senate will approve my amendment deleting the title from the bill.

EXHIBIT 1

DEPARTMENT OF STATE,
Washington, D.C., August 3, 1970.

Hon. JOHN SPARKMAN,
Chairman, Committee on Banking and Currency, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Department of State has been following the progress of H.R. 15073 with considerable interest because of the foreign policy implications, and has provided its views to the Chairman of the House Committee on Banking and Currency in letters, copies of which are attached for your information.

S. 3678, which generally is similar to H.R. 15073, contains added provisions in title IV which are of particular concern to the Department from a foreign relations viewpoint. Since we understand that hearings have now been completed on both of these proposed bills, I am taking the liberty of addressing this letter to you in order to bring to your attention and to other members of your committee our position on title IV.

As we expressed in our letter of February 3, 1970, to Chairman Patman, the Department of State supports the objectives of the proposed legislation of curtailing the criminal use by U.S. citizens and residents of secret foreign bank accounts, and other illegal practices involving international banking and financial facilities.

Our concerns with the provisions of title IV are that they will have limited informational or enforcement value which is not already provided in other sections of the legislation, while at the same time they involve high risks not only in terms of our foreign economic and political relationships but also in terms of important balance of payments benefits for the United States.

The Department of State claims no expertise in the information and enforcement fields. However, Treasury Department judgments in this area appear plausible to us. Assistant Secretary of the Treasury Eugene Rossides in his testimony before the Subcommittee on Financial Institutions on June 9 recommended deletion of title IV.

He argued that requirements elsewhere in the legislation for certain transactions data, when combined with those requirements Treasury recommends for taxpayer reporting of foreign bank accounts and rebuttable presumptions that certain international transactions involve untaxed income, would give access to sufficient information to make the provisions of title IV redundant.

It is our concern that the establishment of title IV certification would not deter anyone wishing to conceal purchases of U.S. securities. That person could either conduct such transactions by deception or with collaboration of willing foreign agencies. A major secondary market for U.S. securities exists abroad which can be augmented in complete legality by securities arbitragers transferring securities from the United States to exploit any premium on securities which might develop in that secondary market. Persons who wish to conceal could easily purchase U.S. securities in this secondary market. Without institution of virtually complete exchange controls on capital transactions, severely limiting convertibility of the dollar and jeopardizing its international value, there would not appear to be any practical way of closing this type of loophole. Nor, as the Treasury suggests, would it be necessary to do so because of other provisions providing it adequate information and enforcement capabilities.

The requirements of title IV attempt to deal with problems well beyond those involving bank secrecy and reach to foreign financial institutions wherever located. As such, the adverse effects which we envisage from their enactment would be much broader and more serious than in the case of the legislative provisions applying only to countries with banking secrecy laws.

The requirements of title IV involve certifications that appear administratively cumbersome and costly. Foreign banks and financial institutions frequently act as agents for mutual funds or for other agents, and could not without great difficulty identify the ultimate holder of beneficial interest. In the case of transactions for mutual funds, the agent would have to identify all shareholders or determine in some manner that no U.S. citizen or resident had any beneficial interest. In the case of bearer share funds, this could in turn prove virtually impossible. In effect this requirement would appear to present a major impediment to transactions in U.S. securities by most foreign financial institutions. At a time when interest in U.S. securities has already been adversely affected by the depressed conditions of the U.S. stock markets, when the Penn Central bankruptcy has left European institutions holding major amounts of unpaid obligations on its commercial paper, and the problems of the IOS have increased foreign investor concern, the impact of such an administrative impediment cannot be taken lightly. We fear that reputable foreign financial institutions would consider this legislation so onerous as to preclude much of their securities business with the United States, and would divert a substantial volume of business.

The requirements of title IV would in our view seriously undermine the ability of the U.S. Government to contain efforts and measures by foreign governments to restrict the rapid growth of purchases of foreign (mainly U.S.) securities by their citizens and residents. The Department of State is presently working to stem restrictive legislation in Europe which, by often exceeding the legitimate requirements of investor protection, is prejudicial to U.S. mutual fund activities. We are also concerned with legislation under consideration in Germany and Canada which would increase the attractions of investing in domestic equities at the expense of foreign securities. We believe enactment of provisions of title IV would strengthen greatly the hand of those abroad who are working to restrict portfolio investments in U.S. securities or who would welcome a pretext for undertaking administrative or legislative harassment of U.S. owned financial institutions within their borders.

We recognize that the proposed legislation provides for discretion by the Treasury Department to require only such information as it considers essential. The damage, however, is done, in our view, when legislation provides such broad authority for requirements such as those in title IV. If, as Treasury argues, the requirement is not needed, it is better to be avoided. It otherwise remains a threat which is in itself an impediment to transactions.

We also are concerned that title IV could give rise to conflict with foreign laws.

In sum, Mr. Chairman, the Department's position on title IV of S–3678 is that the economic and political costs to our foreign relations appear to outweigh substantially what appear to be its questionable informational and enforcement benefits.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

EXHIBIT 2

THE SECRETARY OF THE TREASURY,
Washington, D.C., August 13, 1970.

Hon. WALLACE F. BENNETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BENNETT: The amendments made by the Senate Banking and Currency Committee to S. 3678 have improved this legislation in several substantial respects to approach more closely the views of the Treasury Department. We believe that the bill, as amended, will provide more effective legislation without imposing undue burdens on the American public and international commerce. However, title IV of the legislation remains intact. This provision, if implemented, would significantly damage vital concerns of both the committee and of the Treasury Department.

TITLE IV

We strongly urge the deletion of title IV of S. 3678. The amendments approved by the Senate committee do not eliminate the aspects of this title detrimental to the U.S. balance of payments and the free international flow of securities and capital. Nor do they improve upon the reliability of information to be provided under this title. Title IV continues to pose the problem of threatening unwarranted invasions into the privacy that should attend day-to-day financial transactions. As a result, title IV, if enacted, would provide little of value, but would threaten vital interests of the United States.

TITLE IS SECTION 21(a)(2) AND SECTION 121(b)

The amendment of the purpose provisions of title I (sec. 21(a)(2) and sec. 121(b) to provide that records be maintained in the United States by financial institutions where the Secretary of the Treasury determines that such records may have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings makes clear the discretion of the Secretary with respect to financial recordkeeping requirements. The amendment vitiates the strength of the House Banking and Currency Committee report position that taking into account the findings and purpose provisions and section 21(d) of title I of H.R. 15073 (which were the

same as those of S. 3678 before the Senate committee amendment), the Secretary would have little choice but to require the microfilming of all checks drawn in the United States.

In introducing S. 3678 on April 6, 1970, Senator Proxmire explained the authority of the Secretary in title I with respect to recordkeeping requirements as follows: "Nonetheless, the expense involved might outweigh the potential benefit and for this reason, the Secretary of the Treasury is given full authority to exempt certain classes of checks from the photocopy requirement." In accordance with this view of Senator Proxmire and the subsequent clarifying amendment of the purpose provisions of title I, the legislative history of title I should be made clear in the Senate committee report on S. 3678 that the Secretary's authority with respect to title I is of a discretionary rather than of a mandatory nature as reflected in the House committee report.

TITLE II, CHAPTER 4

In striking all reference to reporting requirements in title II, chapter 4 (sections 241 and 242), the Senate Banking and Currency Committee effectively has eliminated unnecessary and unwarranted invasions of the right of privacy inherent in requiring reports of broad types of transactions with foreign financial agencies for law enforcement agencies to survey. While the recordkeeping requirements still found in title II, chapter 4, duplicate the recordkeeping by financial institutions provided for in section 101 of title I and would accomplish that which the Treasury can implement under existing statutory authority, the Treasury would not oppose the enactment of title II, chapter 4, in its present form.

TITLE II, CHAPTER 3

As amended by the Senate Banking and Currency Committee, title II, chapter 3 (secs. 231–235), requires any person participating in the transportation of currency or monetary instruments in an amount exceeding $10,000 on any one occasion or $20,000 in any calendar year to report such activity if it involves a place outside the United States. This chapter has also been amended to require a search warrant for enforcement by the Bureau of Customs, provided that this requirement shall not limit any existing Bureau of Customs legal authority. The Treasury Department supports the enactment of the reporting requirement under this chapter applicable to transporting amounts in excess of $10,000 on any one occasion, but, consistent with our earlier position expressed in the testimony of Assistant Secretary Rossides on June 9 before the Subcommittee on Financial Institutions, recommends the deletion of the $20,000 cumulative reporting requirement. This provision would be extremely difficult, if not impossible, to implement from an administrative standpoint. For example, if an individual failing to file a correct report were found to be transporting less than $10,000 worth of monetary instruments in his possession, it would be extremely difficult to ascertain whether he had transported an additional amount during the calendar year to reach a cumulative figure in excess of $20,000. Moreover, it would be extremely difficult for an institution to know whether it had to report a transfer it undertook on behalf of an individual of less than $20,000 because it would not be certain whether this particular transaction would be one which raised the amount of currency or monetary instruments transported for that individual over $20,000.

In closing, I would like to commend you on the fine work you have done in seeking the much-needed improvement of S. 3678.

Sincerely,

DAVID M. KENNEDY.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield myself 10 minutes.

Much of the opposition to title IV in the bill which the Senator has told us about and in the testimony quoted was before title IV was modified. Title IV was modified to accommodate those criticisms. Title IV, in the first place, is selective. I read the following words from among the first three and a half lines of title IV, page 30, lines 16 through 19 in the bill.

Whenever required in any particular case or class of transactions by such rules, regulations, or orders as the Commission may adopt as necessary or appropriate in the public interest, no person engaged in the business—

And so forth.

In other words, this is to give the Securities and Exchange Commission discretion to apply this provision to a particular stock, to a particular corporation, to a particular broker-dealer, to a particular individual, whenever the Commission has reason to believe that the security laws of our country are being violated. It would not provide that all foreign transactions be covered at all.

Of course, this was the main thrust of the argument by the Senator from Utah and by the witnesses that he quoted.

I might also point out that perhaps the strongest argument made—and it is a very important argument that we should listen to and consider carefully, because we are all interested in our balance of payments—is that this would have an adverse effect on our balance of payments. For that reason we specifically wrote into this title the following language:

No rule, regulation, or order shall be issued under this section if the Commission determines, after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, that it would unduly and adversely affect the balance of payments of the United States. Any rule, regulation, or order so issued shall be rescinded or amended if at any time the Commission determines, after consultation with said Secretary or Board, that it has had or is having such effect on such payments.

Of course, if we assume that members of the Securities and Exchange Commission are vindictive men, who have no regard for the interests of this country, that their consultation with the Treasury Department and Federal Reserve Board would not sway them, I suppose we should say that we should not give them this kind of selective authority and this kind of discretion; but the language of the bill is so clear and the record is so emphatic that if this is going to unduly and adversely affect the balance of payments, they shall not invoke it even on a selective basis.

As I have pointed out, if we are receiving from Switzerland, as we are, about $8 or $9 billion worth of orders for U.S. stocks in a year—that was about what we received last year—I would presume that the Securities and Exchange Commission would require only identification of the beneficiary of the stock in the event it had some reason to feel that there was some manipulation or some other violation going on.

It would seem to me that, under those circumstances, the effect on the balance of payments would be minimal, especially in view of the requirement for consultation.

In addition, we have made sure that the Banking and Currency Committees of the House and of the Senate would be fully informed 6 months before any of these regulations would go into effect. Of course, representations on the part of the Banking and Currency Committee would be heard and would influence, I presume, to a considerable extent, the position taken by the Securities and Exchange Commission.

Once again, I emphasize, as I have before, and as I do now, and as I am going to do again, that it is very easy for Members of the Senate, with our background and our associations, to take a firm position on law and order affecting crimes committed by the poor and ignorant, the drop-outs who become muggers and purse snatchers, and thieves and assaulters. And of course we should crack down on them and hard.

We do that. We passed anticrime bills this year, and will continue to do so. We certainly should. But when it comes to white collar crime, when it comes to millions of dollars and perhaps billions of dollars being used by people through secret bank accounts, we know this abuse occurs. We have testimony from the top law enforcement officials in this country, those who are most directly affected, whose experts tell us that these crimes are occurring. Why are we afraid to crack down here? We should be just as diligent with cracking down on that type of crime as we are on crimes that are not so-called white collar crimes.

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

Mr. PROXMIRE. I yield.

Mr. BENNETT. Is the Senator from Wisconsin implying that the Senator from Utah, by seeking to strike this amendment, is openly condoning white collar crime?

Mr. PROXMIRE. In the first place, let me say I have great respect and regard for the Senator from Utah. He is a man of absolute integrity. I have worked with him on a very fine basis almost ever since I came to this body, on the Banking and Currency Committee and elsewhere. I know of no one who is more concerned with ethical conduct than he is. Of course not; I would in no way say he condones it. I am saying, however, that the effect of his amendment, which would knock out title IV, which law enforcement agencies say would be useful, would have the effect of permitting some white collar criminals to get away with crimes presently being committed. I do not see how one could construe it in any other way if he believes the testimony we have heard.

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

Mr. PROXMIRE. I yield.

Mr. PERCY. I have a statement, which will take about 5 minutes to give on the time of the Senator from Utah. Would this be an appropriate time to give it?

Mr. PROXMIRE. I have not completed my reply to the Senator from Utah, but I am happy to yield and will reply to the Senator from Utah later.

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Illinois?

Mr. BENNETT. Mr. President, how much time does the Senator from Illinois want?

Mr. PERCY. Five minutes.

Mr. BENNETT. I yield 5 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I would certainly not consider the Senator from Utah soft on white-collar crime, from my contacts and discussions with him, and I am certain the Senator from Wisconsin would not feel that way, either. I have been, as the Senator from Wisconsin and the Senator from Utah have been, outraged at some of the abuses we have had. We are very anxious to plug up any possible loopholes in the area of taxation which makes crime very profitable in this country, and in being just as tough as we can be. I think, for that reason, S. 3678 is a worthy and very important bill.

Because of its provisions, we will be able to obtain much-needed information about U.S. citizens' and residents' use of secret foreign bank accounts for illegal purposes, and this will be of definite benefit in the battle against organized and white-collar crime.

No one can argue with these goals and the provisions of the bill that support them. It is essential that we take all necessary steps to prevent criminals from cleansing their money, or evading taxes. The legislation contained in S. 3678 is directed toward this end.

However, there are three very important considerations that must be taken into account when evaluating this legislation. We must be certain that any action we take enhances the enforcement effort, does not unnecessarily harass private citizens, and that it is not in any way injurious to the interests of the United States.

One provision of this bill does not fulfill these requirements. I am speaking of title IV of the bill, which deals with identification of principals in foreign investment in securities in the United States.

The committee added a major new title to H.R. 15073, which appears as title IV—Securities Transactions Involving Foreign Financial Agencies. Title IV provides that no person may effect any transaction in a domestic security within the United States if such transaction was initiated by a foreign financial agency, unless such person either: First, obtains from the foreign financial agency the identity of all persons having any beneficial interest in the transaction, or second, has in good faith accepted a certification frcm the foreign financial agency that no citizen or resident of the United States has any beneficial interest in the transaction. Further, any U.S. citizen or resident purchasing or selling through or to a foreign financial agency must both authorize that foreign financial agency to disclose his identity to persons required to ask for it, and file periodic reports with the SEC disclosing details of purchases and sales as may be required by the SEC.

The title would place a heavy burden on foreign dealers in American securities, forcing them to try to identify who is really supplying the money for a transaction, even if it turns out that the person is not a citizen or resident of the United States. This is an excessive administrative burden. Furthermore, it has little enforcement value, for the information gleaned by enactment of the provisions of this title will be available through other provisions of the bill.

The Treasury, which supports this legislation and has the main responsibility for carrying out its provisions, does not favor passage of this title. The Treasury men are experts in the enforcement area, and it is their opinion that Americans who wanted to avoid disclosure could do so by operating through trustees, corporations, or nominee accounts or through another financial institution. Under circumstances such as these the foreign dealer could not identify the principal with a great deal of confidence. So the title does not necessarily enhance the enforcement effort, while at the same time it will make the foreign securities dealer more cautious about investing in U.S. securities.

In this respect, it really reminds me of another instance we had in the Senate—where we are prone to think, sometimes, that a law or regulation can always solve a problem, and we salve our consciences by passing a law and saying, "Now we have dusted that one off and have solved it."

We did that, for example, when we passed an act requiring registration of shotgun ammunition. This, on the surface, looked like an unemotional and rational response to atrocities in this country. But it was well that we went back a year later to see how the law had worked.

What happened to all these millions of pieces of paper that had been filed, with people standing in line to fill them out? Where did they go? What happened to them?

We took a look. They were all down here in Washington, over at the Treasury Department, and not a person had ever looked at a single one of them.

So we offered legislation to repeal something which offered no support of any kind to the objective we were trying to serve, to stop murder by the wanton use of shotguns. In fact, if you did look at the pieces of paper you could not have traced the shells, anyway.

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

Mr. PERCY. This is a diversion, but it illustrates a matter of principle. We do not want to just build up paperwork, thinking we have solved the problem.

Mr. BENNETT. May I say that those pieces of paper never actually left the hands of the dealers who were forced to have them filled out in their stores.

Mr. PERCY. I thought they were sent down here. Is the Senator sure they were not sent down here?

Mr. BENNETT. No; they are still stuck in the hands of the dealers.

Mr. PERCY. Without even a copy sent to Washington?

Mr. BENNETT. That is correct.

Mr. PERCY. This is the only thing I ever heard of we did not send copies to Washington on.

Mr. PROXMIRE. Mr. President, may I say that I cosponsored the Bennett amendment on firearms, and I think it was wise.

Had the Senator from Illinois finished?

Mr. PERCY. No; I had not.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. I am glad to yield to the Senator; I have plenty of time.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. PERCY. I need 2 additional minutes.

Mr. PROXMIRE. Mr. President, I yield the Senator from Illinois 2 minutes.

Mr. PERCY. I thank my distinguished colleague.

I further oppose this entire title, because it could have a detrimental effect upon foreign investment in the United States.

This is a program we have all dealt with the Treasury on. Many of us have spoken before investment groups; we have worked hard to rectify our balance-of-payments problem by encouraging investors to come to this country. The State Department and others have encouraged them to come, look, see, and invest. Now, by this provision, we would take action which I think is quite detrimental to that effort.

The detrimental aspects stem from its potential adverse effect upon foreign investment in the United States which accounted for 15 percent of investment in all listed securities on all exchanges in the United States and the third markets in 1968 and 1969. Foreign investment in U.S. stocks and bonds totaled $4.2 billion in 1968 and $2.7 billion in 1969. This volume of international business contributes significantly to balancing international accounts. And I might say further that if we take that market away, every single stockholder in America and every single insurance policyholder will pay, through the detrimental effect of this seemingly innocuous sort of provision.

During 1968 foreign investment in U.S. common stocks totaled $19 billion and in U.S. bonds $10 billion. Congress has in the past recognized the advantages of foreign investment, particularly in the Foreign Investors Tax Act which made more attractive foreign investment in the United States.

The title would be injurious to the interests of the United States, since it will, in effect, deter foreign investment in U.S. securities. This foreign investment represents 15 percent of the securities business in the United States. The great majority of this business is legal. To add stringent administrative burdens to these legitimate transactions with no concomitant enforcement value will put an unnecessary damper on trading in U.S. securities by foreign dealers. This will have a negative effect on our balance of payments which we simply cannot afford.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PERCY. May I have 30 additional seconds?

Mr. PROXMIRE. I yield to the Senator an additional minute.

Mr. PERCY. The Secretaries of State and Treasury have warned that title IV would have a harmful effect. I believe that we should accept their counsel.

Let us pass this legislation. Let us take these steps against the blight of organized crime and white-collar crime. But let us not, in our urgency to legislate, harm our interests.

The senior Senator from Utah has eloquently stated what the action of this body must be with regard to S. 3678. He urged that title IV be deleted from this bill. I support him and join in his hope that the Senate will approve the amendment deleting title IV.

We support the Secretary of the Treasury, and we support the Secretary of State.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, before I go, I would like to say to the Senator from Illinois that——

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. PROXMIRE. I yield myself 5 minutes.

What the Senator seems to overlook is the fact that this is a selective operation on the part of the Securities and Exchange Commission. They would not say that all foreign banks had to identify the beneficiaries; they would select a particular stock, select a particular corporation where they thought that there was a violation of the law one way or the other, a violation of the law with respect to the markets or a violation of the law in some other respect. So we would not have this massive effect of $8 billion in Switzerland being knocked out, necessarily, or $23 billion of investment on the New York Stock Exchange being endangered in any way, because only that part which they had some reason to suspect represented a violation of the law would be under this requirement.

So I do not understand how the Senator could argue that this provision would have such a devastating effect on our balance of payments, especially when we further provide in the law that SEC shall not put this into effect if it does have an adverse effect on our balance of payments, and direct them to consult with the Secretary of the Treasury and the Federal Reserve Board to determine whether it would or not.

Mr. PERCY. My only reply must be that from a technical standpoint we put this question to the Treasury Department, which is most deeply concerned about its effect on investment in the United States.

It is their judgment that it would have a detrimental effect, that its significance would be such as to discourage investment in the United States. I would say it is an effort to swat a fly with a baseball bat, and we are not quite sure whether the fly is on a piece of pewter we want to save or on something we want to destroy.

Mr. PROXMIRE. We are using a flyswatter, and a small one. It is not a baseball bat. We are not using a bazooka to kill a fly; we are using a selective method.

Mr. PERCY. According to the Treasury, it would be a sledgehammer. I can only defer to their greater wisdom and judgment in this matter. It is their business to make certain we do not put unnecessary handicaps in the way of foreign investors, and it is their feeling that that would be true.

I have found, among those in the securities industry, a deep desire to find ways to prevent the evasion of taxes and to prevent white-collar crime. It is their judgment, as well, that this is not the proper step to take.

Mr. PROXMIRE. Mr. President, the Senator from Illinois says it is their business to determine this kind of thing; but it is our business to write the law. If Treasury comes up here and simply makes an assertion that there is an adverse effect—and that is what they have done here; there is no documentation, there is no study—they simply make an assertion that it could have an adverse effect on the balance of payments. We do everything we can to write the bill in such a way that any adverse effect would be minimal or nonexistent. But they say they still do not like it. What else can we do? It seems to me that, under the circumstances, it is up to us to write the law. If the Secretary of the Treasury wants to have a vote in the Senate, he ought to get elected. I should not say that, because he is from Chicago, and he might run against the distinguished Senator from Illinois, who is a very fine Senator. I hope that Mr. KENNEDY does not choose to do that.

Mr. PROXMIRE. Mr. President, the able Senator from Utah argues that title IV is unenforceable and will produce little information of value to law enforcement authorities. He argues that the disclosure requirements can be easily evaded by using a foreigner to cloak the identity of a U.S. citizen acting through a secret foreign bank account.

All the Senator from Utah has really said is that no legislation is 100-percent foolproof. There will always be ways to get around any criminal statute no matter how tightly it is written. If we accept the argument of the Senator from Utah, we should repeal all of the criminal laws already on the books on the grounds that they can be evaded by a smart crook.

There is no doubt that a resourceful criminal can find a way to evade the disclosure requirements established by title IV or any other provision we can write into law. However, many other would-be law violators would be deterred from using a secret foreign bank account if they knew that their identity could be made available to U.S. law enforcement authorities.

After all, the judgment we should take on this is that of the law enforcement authorities, and they have testified at the hearings that the disclosure requirements would be extremely helpful in policing our securities markets. When it comes to the law enforcement benefits, I believe the Congress should accept the judgment of the law enforcement officials who are the experts on such matters, rather than the views of Treasury Department officials who are primarily concerned about balance-of-payments effects.

The Senator from Utah also argues that a foreign financial agency would be unable to make the certifications required by title IV. Specifically, a foreign bank would be unable to certify that it was not acting for a U.S. resident or citizen because it would never be entirely sure that its foreign customer was not acting for a U.S. resident or citizen.

First of all, it should be emphasized that there is nothing in the proposed legislation which would penalize a foreign financial institution from making a false certification. Obviously, the United States cannot extend its laws to foreign countries or foreign financial institutions.

It is expected that such certifications would be to the best of a foreign bank's knowledge, and would be accepted in good faith by the U.S. broker-dealer involved in the securities transaction. If it developed that a foreign bank repeatedly made false certifications in cases where it reasonably could have been expected to know that it was in fact acting for a U.S. citizen, the foreign bank can be barred from participating in a U.S. securities market.

Mr. President, I hope that the Senate will reject the amendment of the distinguished Senator from Utah.

Mr. BENNETT. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. BENNETT. I certainly do not need all that.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. BENNETT. I yield myself 5 minutes.

Mr. President, the Senator from Wisconsin has made much of the fact that the bill was so written as to provide that it will only be enforced if the Securities and Exchange Commission decides it was a problem and that the Securities and Exchange Commission will decide against whom it will be enforced and under what circumstances it will be enforced.

Not only is this strange law, but also we should look at the tremendous burden that would be put on the Securities and Exchange Commission, day to day and week to week.

ORDER OF BUSINESS

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

Mr. BENNETT. I yield to the Senator, with the understanding that I will not lose my right to the floor and that the time consumed will not be deducted from my time.

Mr. PROXMIRE. I yield the Senator from Missouri whatever time he requires.

Mr. SYMINGTON. I thank the Senator.

Mr. President, the Prime Minister of Israel is coming to the Senate at 2 p.m.; and, if it meets with the approval of the distinguished Senator from Wisconsin,

the manager of the bill, and the distinguished Senator from Utah, I ask unanimous consent that there not be a vote between 2 p.m. and 2:30 p.m.

I did not see the majority leader in the Chamber, and I trust that this meets with his approval.

Mr. MANSFIELD. Mr. President, I would have to object to that. We will make every effort to comply with what the Senator has in mind.

Mr. SYMINGTON. I looked for the majority leader and I did not see him.

Mr. MANSFIELD. We will take care of it.

FOREIGN BANK SECRECY AND BANK RECORDKEEPING

The Senate continued with the consideration of the bill (S. 3678) to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in U.S. currency be reported to the Department of the Treasury, and for other purposes.

Mr. BENNETT. Mr. President, I think we have to make the kind of law that applies across the board; and then, if we wish to give an agency the right to make exceptions to it, perhaps that should be done. But to write this law and say that it will never come into effect unless and until the Securities and Exchange Commission writes a regulation and that regulation might actually affect only one individual or one transaction, as I say, the tremendous burden that would be put on the Securities and Exchange Commission is hard to measure.

A great deal has been made of the fact that the purpose of this bill is to control crime. If we were dealing with problems that originated and were completed inside the United States and within the jurisdiction of the Federal Government, we would have no problem. But we are asking agencies—Government agencies and private agencies—of foreign countries to supply us with information; and without that information, we are telling American citizens, "You cannot deal in American securities in an American market because your order was placed abroad."

We have absolutely no authority to require any foreign entity to give us any information. If we suspect that the information is false, we have no opportunity to verify it. It seems to me that, rather than making it more difficult for the so-called white-collar criminal to operate, we have set up a perfect screen. He merely gets over into Germany, say, or Switzerland, and he wants to buy or sell an American security which he has taken out of the country illegally, under the other parts of this bill and he finds a Swiss citizen or a German citizen who acts as his agent for the buying and selling of the securities. We have no way of forcing the German bank or the Swiss bank to go behind the men with whom they deal. We have set up a beautiful screen behind which the criminal can operate.

In many cases, I am sure, one of two other things would happen: The foreign bank might have to say to a legitimate customer's transaction, "I am sorry, but under the laws of my government, I cannot supply the information that the American Government wants." But the thing most likely to happen would be that the foreign bank would say, "Look, if you want to deal in General Motors, you don't have to go through all this red tape in order to deal on the New York Stock Exchange. We will act as your agent on the Zurich Stock Exchange or the London Stock Exchange, and you can buy and sell the same securities."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BENNETT. I yield myself 1 additional minute.

Therefore, Mr. President, I feel that, while the purpose of this title IV is praiseworthy it cannot be enforced. It easily can be evaded on the basis on which it is presented to us by the Senator from Wisconsin. It would put a tremendous burden of time and staff work on the SEC.

For those reasons, I hope the Senate will support my amendment.

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. BENNETT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Utah. 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. RANDOLPH (after having voted in the affirmative). On this vote I have a pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "nay." If I were at liberty to vote I would vote "yea." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Virginia (Mr. SPONG), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Washington (Mr. MAGNUSON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New Hampshire (Mr. COTTON), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER) the Senator from Hawaii (Mr. FONG), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Kansas (Mr. PEARSON), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Illinois (Mr. SMITH), 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 South Carolina (Mr. THURMOND) is absent on official business.

If present and voting, the Senator from Nebraska (Mr. HRUSKA), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Kansas (Mr. PEARSON), the Senator from Pennsylvania (Mr. SCOTT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 35, nays 28, as follows:

[No. 316 Leg.]

YEAS—35

Aiken	Ervin	Percy
Allott	Goodell	Prouty
Baker	Griffin	Russell
Bennett	Gurney	Saxbe
Boggs	Hansen	Schweiker
Brooke	Hatfield	Smith, Maine
Case	Holland	Sparkman
Cook	Jordan, N.C.	Stennis
Cooper	Jordan, Idaho	Talmadge
Curtis	Mathias	Williams, Del.
Dole	Miller	Young, N. Dak.
Dominick	Packwood	

NAYS—28

Allen	Harris	Pell
Anderson	Hollings	Proxmire
Bible	Hughes	Ribicoff
Burdick	Inouye	Stevens
Byrd, Va.	Javits	Symington
Byrd, W. Va.	Mansfield	Williams, N.J.
Church	McCarthy	Yarborough
Dodd	McIntyre	Young, Ohio
Ellender	Metcalf	
Gore	Pastore	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Randolph, for.

NOT VOTING—36

Bayh	Hart	Moss
Bellmon	Hartke	Mundt
Cannon	Hruska	Murphy
Cotton	Jackson	Muskie
Cranston	Kennedy	Nelson
Eagleton	Long	Pearson
Eastland	Magnuson	Scott
Fannin	McClellan	Smith, Ill.
Fong	McGee	Spong
Fulbright	McGovern	Thurmond
Goldwater	Mondale	Tower
Gravel	Montoya	Tydings

So Mr. BENNETT's amendment was agreed to.

Mr. BENNETT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE TRADE BILL

Mr. PROXMIRE. Mr. President, I yield 3 minutes on the bill to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 3 minutes.

Mr. PASTORE. Mr. President, I would hope that the news services will take note of what I have to say.

There came over the wires today the following—and this is an AP report:

In a move to force a Senate vote on a trade bill before expected mid-October adjournment, Sen. Ernest Hollings, D-S.C., said today the measure approved by the House Ways and Means Committee will be tacked on to some House-passed bill when it reaches the Senate floor.

He told a news conference that he and Sen. John Pastore, D-R.I., had asked that the Ways and Means Trade bill, known as the Mills bill, be printed as an amendment to both the House-passed family assistance plan and the social security bills.

I discussed this with the distinguished Senator from South Carolina yesterday. There is a slight misunderstanding. I am not opposed to that measure being tacked onto a bill that comes out of the Finance Committee. But I do not at this time support quotas on oil because of the exorbitant prices being leveled on the people of New England and particularly Rhode Island.

I have had my name removed as a consponsor. Because I want to reserve the right to say that the quota on oil should be stricken from that particular measure.

Mr. HOLLINGS. Mr. President, I apologize for the misunderstanding of my distinguished colleague, the Senator from Rhode Island. He and I discussed it a moment ago. It was a misunderstanding.

As I understand it, he supports the textile and shoe provisions but is in no position to cosponsor oil quotas.

Mr. PASTORE. The Senator is correct. There is a distinction between oil and textiles. Oil is in the ground. As long as we leave it there, it will be there for all posterity. Textiles are a manufactured commodity which we can produce to meet all the needs of our people.

FOREIGN BANK SECRECY AND BANK RECORDKEEPING

The Senate continued with the consideration of the bill (S. 3678), to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in U.S. currency be reported to the Department of the Treasury, and for other purposes.

Mr. MANSFIELD. Mr. President, it is my understanding that an agreement has been reached concerning the remaining amendments to the pending bill. Therefore, it should not take too long. However, the yeas and nays have been ordered on final passage, I believe.

Mr. BENNETT. Mr. President, as far as I am concerned, I would be glad to agree to a unanimous-consent agreement to rescind the yeas and nays on final passage, if that would save time.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I thank the Senator from Utah. That will save more time.

LEGISLATIVE PROGRAM

Mr. GRIFFIN. Mr. President, I take a moment to inquire of the majority leader, for the information of the Senate, what he expects will be the schedule of business during the remainder of the day and next week to the extent that he can advise us.

Mr. MANSFIELD. In response to the question raised by the distinguished acting minority leader, with my fingers crossed—and I mean that—I would hope that this afternoon, the Senate could take up the Treasury-Post Office conference report, and if possible follow that with S. 3318, a bill to amend the Library Services and Construction Act, and 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.

We hope to follow that with the two housing bills, S. 3938 and H.R. 17795, companion bills to amend title VII of the Housing and Urban Development Act of 1965.

We hope then to consider S. 3942, a bill to provide for thorough health and sanitation inspection of all livestock products imported into the United States, and for other purposes, and H.R. 13543, an act to establish a program of research and promotion for U.S. wheat, and follow that with other matters which might come along. Of course this program will undoubtedly go into next week.

I said I had my fingers crossed because I do not know how long we will be able to function this afternoon and there is a very important guest waiting to meet with the Senate. That is about it. I do not know how we will make out in the way of progress.

Mr. GRIFFIN. Does the distinguished majority leader wish to say anything about next week?

Mr. MANSFIELD. Hopefully we can finish all of these measures by Monday and take up the air pollution measure.

Mr. GRIFFIN. The Senator did not mention clean air and pollution.

Mr. MANSFIELD. Hopefully that could be laid before the Senate Monday evening and considered Tuesday, with an allowance for some flexibility concerning the program based upon consultation of the joint leadership.

Mr. GRIFFIN. I thank the Senator.

FOREIGN BANK SECRECY AND BANK RECORDKEEPING

The Senate continued with the consideration of the bill (S. 3678) to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in U.S. currency be reported to the Department of the Treasury, and for other purposes.

Mr. BENNETT. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 22, strike lines 10 through 13 and insert the following: "in an amount exceeding $5,000 on any one occasion shall file a report or reports in accordance with subsection (b) of this section."

Mr. BENNETT. Mr. President, having discussed this amendment with the manager of the bill, it is my understanding that he will be willing to recommend to the Senate that it be accepted.

Mr. PROXMIRE. As I understand this amendment, it would provide that whereas a U.S. citizen leaving this country would be allowed to take less than $5,000 out of the country without making a report, at any one time, the provision in the bill, which would require the keeping of a record, and to make sure he does not take out $20,000, in the calendar year would no longer be required. In other words, the requirement would be confined strictly to the $5,000 that he would take out at any time.

Mr. BENNETT. This amendment, which the Senate should approve, deals with section 231, which requires reports by all persons who transport or cause to be transported into or from the United States or who receive monetary instruments in an amount exceeding $10,000 on any one occasion or $20,000 in any calendar year. In the committee, we considered the invasion of privacy that would occur if this provision were to be enforced and amended the bill to require that a search warrant be secured before any search of persons or mail could take place.

An equally important problem with this section is that it would require records to be kept on all transfers of money in and out of the country so as to determine whether the total exceeds a stated amount in one year and thus must be reported. The section, as I mentioned earlier, requires reports on all amounts sent or received into the country in excess of $10,000 on any one occasion or $20,000 in any one year. Our committee raised the amount that could be transferred on any one occasion from $5,000 to $10,000 and in any one year from $10,000 to $20,000 in order to minimize the reporting requirements on tourists and American businessmen. The reporting requirements for transfers on any one occasion could be helpful to law-enforcement agents in their efforts against organized crime.

If reports are made on the outflow of monetary instruments, their source, purpose, and tax status can easily be determined. If reports are not filed and law-enforcement officials suspect a person of taking untaxed money or receipts from illegal activities from the country, and after obtaining legal permission for a search find the money or its equivalent on the person, he may be held for

not filing a report and thus officials may proceed against him and others who are involved as parties to the transfer. While it is inconvenient for all persons to file reports when they take money from the country in excess of $5,000, it is not an unreasonable requirement and additionally the Secretary has authority under section 206 to make exemptions to this requirement as he deems appropriate.

On the other hand, the burden on individuals to maintain records on all amounts which would result from the requirement to report all transfers if the annual total exceeds $20,000, I believe, far outweighs the marginal benefits that can be expected from the cumulative reporting requirement. This provision would be extremely difficult if not impossible to implement. If subject to a warrant, an individual were found to be transporting less than $10,000 worth of monetary instruments, it would be difficult to ascertain whether he had transported an additional amount during the calendar year and thus had exceeded the cumulative figure of $20,000. Since it can be assumed that organized crime will not report amounts of money taken from or brought into the country, the value of the cumulative provision depends on the ability to prove that such amounts were actually exported or imported over a 12-month period. The Justice Department has agreed that it would be difficult to demonstrate such transfers.

I ask unanimous consent to insert the full letter into the RECORD at this point.

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

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., September 15, 1970.

HON. WALLACE F. BENNETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This refers to your letter of September 9, 1970, concerning Section 231 of S. 3678, which was reported out on August 24 by the Senate Committee on Banking and Currency.

Section 231 would require that the transportation of money from the United States in an amount exceeding $10,000 on any one occasion or in an aggregate amount of $20,000 during a calendar year must be reported to the Secretary of the Treasury. You urge that the burdens on individuals and financial institutions in maintaining records to establish the $20,000 cumulative figure might well outweigh the benefits to law enforcement to be anticipated from retention of the provision. It is your view that the requirement that the transportation of $10,000 on any one occasion should be retained since the real value of Section 231 rests in "the ability under legal procedure to apprehend an individual with the money or other instrument in his possession."

In a letter dated July 23, 1970, to Senator Proxmire concerning various aspects of S. 3678, we commented on Section 231 which at that time required reporting of $5,000 on any one occasion or $10,000 during a calendar year. We noted that there might be difficulty in maintaining records which would demonstrate that a series of exports of currency, each in an amount of under $5,000, exceeded $10,000 in total over a twelve month period. However, we supported the cumulative provision from the point of view of criminal law enforcement.

Reconsideration of that position has now been made in the light of your letter and the testimony taken by the Subcommittee on Financial Institutions concerning Section 231. We are unable to predict with any accuracy the precise value to law enforcement to be gained by enactment of the cumulative provision. Obviously, there would be some. It, therefore, becomes a matter of legislative judgment between the contending views and we could not object should the Congressional decision be that Section 231 creates burdens not justified by the foreseeable advantage to criminal law enforcement. In his appearance before your Subcommittee and the House Committee on Banking and Currency, Assistant Attorney General Wilson has made it clear that the Department does not seek to create a mountain of red tape but rather to fashion an effective weapon against those who use foreign bank secrecy laws as a device to thwart American laws and security regulations.

However, should the Congress decide to eliminate the cumulative provision of Section 231, we would strongly recommend that the amount to be reported for any one transportation be reduced from the $10,000 now appearing in S. 3678 to the $5,000 figure which appeared in the bill as introduced by Senator Proxmire. We believe that the higher $10,000 figure would severely limit our ability to get information on the export of funds for illegal purposes. Realistically the amount of $5,000 would seem sufficiently high to warrant a courier of such funds in making an overseas trip.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

Mr. BENNETT. I believe that the difficulty of proof is such that the provision has little actual value. On the other hand, the provision would require all travelers going abroad to keep records of all amounts of monetary instruments they take with them and the amounts they bring back. All persons would be required to keep records on amounts they may send and amounts they may receive on every occasion regardless of the amount involved.

Moreover, institutions which act for individuals would be required to keep records on all foreign transactions and establish a retrieval system providing cumulative information on all individuals and principals involved in transactions in order to determine whether a particular export or import request resulted in a cumulative amount which had to be reported. This would present an unreasonable burden on many institutions, but it would be particularly difficult for such institutions as Western Union with its many offices. It would appear that information on all transactions at all offices involving exports and imports of monetary instruments, the sender, the recipient, and the principals involved would have to be available at all offices and that this information would have to be checked before any transfer of funds could take place in order to assure compliance with the provision. There is no doubt that the cost of establishing such procedures would be substantial.

Even with all of this in-house recordkeeping of every transaction and all of the parties in interest, it would be extremely difficult to know whether a transfer of less than $10,000 had to be reported because the institution would have no way of knowing whether that particular transfer, in combination with other transfers which may have taken place at the instigation of the individual himself or some other financial institution, would have equaled or exceeded the $20,000 allowable without reporting in any one year.

Considering the possible benefits and comparing them with the probable costs and inconveniences involved in the cumulative reporting requirements, the Treasury Department has strongly recommended against such requirements. In addition, many institutions which would be required to keep such records have suggested that the costs far outweigh the possible benefits. Individuals which would also be required to keep such records and make such reports have not yet been made aware of the provision and, therefore, have not had an opportunity to express their opposition. Because of its marginal usefulness and the burden of recordkeeping it would require, I strongly recommend that the provision be deleted from the bill.

Mr. PROXMIRE. The Senator from Utah has convinced me that this is a workable proposal. He is supported by the Department of Justice and the Department of the Treasury, although the Department of Justice earlier supported the initial proposal in the bill.

I am happy to accept the suggestion of the Senator from Utah.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PROXMIRE. I yield back the remainder of my time on this amendment.

Mr. BENNETT. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah (Mr. BENNETT).

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I send to the desk an amendment to S. 3678, which would add the language of S. 721, a bill previously passed by the Senate on February 9, 1970. The amendment is identical to the previously passed Senate bill.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. PROXMIRE. Mr. President, I yield myself 2 minutes for the purpose of explaining the amendment.

Mr. President, as I have stated this would add the language of S. 721, a bill to regulate credit cards previously passed by the Senate on February 9, 1970. The amendment is identical to the previously passed bill.

The amendment is offered in an effort to achieve congressional approval on the credit card legislation during the 91st Congress. S. 721 has been referred to the House Committee on Banking and Currency; however, hearings have not yet been scheduled and it is extremely doubtful that the House could act upon the legislation in the remaining time available.

Following action on S. 3678, it is my intention to ask for unanimous consent that the entire bill be substituted for H.R. 15073, a foreign bank secrecy bill already passed by the House of Representatives

on June 1, 1970. The Senate Committee on Banking and Currency would thus go to conference with the House Committee on Banking and Currency on H.R. 15073 which would include foreign bank secrecy legislation as well as credit card legislation.

Mr. President, if this procedure is acceptable it is also my intention to add the language of S. 823, the Fair Credit Reporting Act previously passed by the Senate and the language of the Urban Mass Transportation Act previously passed by the Senate on February 3, 1970—S. 3154.

Mr. BENNETT. Mr. President, we have come to that point in this session when we must take shortcuts occasionally to get consideration by the other body of legislation we have already passed.

As far as I am concerned I will be very happy to join the Senator from Wisconsin in adding to this bill, which becomes a vehicle, the three other bills which he has mentioned.

As far as the Senator from Utah is concerned, he would be willing to consider them en bloc.

Mr. PROXMIRE. Mr. President, to save the time of the Senate, in addition to S. 721, which I have sent to the desk as an amendment, I send to the desk, as amendments, the Fair Credit Reporting Act, which is S. 823, which passed the Senate by a vote of 69 to 1; and I also send to the desk the bill by the distinguished Senator from New Jersey (Mr. WILLIAMS), the Urban Mass Transportation Act, which was passed by the Senate on February 3, 1970, so they can be considered in the same category. These are offered for the same proposition. The Senator from Utah has explained the reason for this procedure well.

I ask unanimous consent that these measures be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. BENNETT. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments agreed to en bloc, are as follows:

On page 34, line 6, after the word "enactment" add the following new title:

TITLE III. PROVISIONS RELATING TO CREDIT CARDS

That section 103 of the Truth in Lending Act (82 Stat. 146) is amended by redesignating subsections (j), (k), and (l) as subsections (p), (q), and (r), respectively, and by adding after subsection (i) the following:

"(j) The term 'adequate notice', as used in section 133, means a printed notice to a cardholder which sets forth the pertinent facts clearly and conspicuously so that a person against whom it is to operate could reasonably be expected to have noticed it and understood its meaning. Such notice may be given to a cardholder by printing the notice on any credit card, or on each periodic statement of account, issued to the cardholder, or by any other means reasonably assuring the receipt thereof by the cardholder.

"(k) The term 'credit card' means any car, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

"(l) The term 'accepted credit card' means any credit card which the cardholder has requested and received or has signed or has used, or authorized another to use, for the purpose of obtaining money, property, labor, or services on credit.

"(m) The term 'cardholder' means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

"(n) The term 'card issuer' means any person who issues a credit card, or the agent of such person with respect to such card.

"(o) The term 'unauthorized use', as used in section 133, means a use of a credit card by a person other than the cardholder who does not have actual, implied, or apparent authority for such use and from which the cardholder receives no benefit."

SEC. 2. (a) The Truth in Lending Act (82 Stat. 146) is amended by adding after section 131 the following sections:

"§ 132. Issuance of holder credit cards

"No credit card shall be issued except in response to a request or application therefor. This prohibition does not apply to the issuance of a credit card in renewal of, or in substitution for, an accepted credit card.

"§ 133. Liability of holder of credit card

"(a) A cardholder shall be liable for the unauthorized use of a credit card only if the card is an accepted credit card, the liability is not in excess of fifty dollars, the card issuer gives adequate notice to the cardholder of the potential liability, the card issuer has provided the cardholder with a self-addressed, pre-stamped notification to be mailed by the cardholder in the event of the loss or theft of the credit card, and the unauthorized use occurs before the cardholder has notified the card issuer that an unauthorized use of the credit card has occurred or may occur as the result of loss, theft, or otherwise. Notwithstanding the foregoing, no cardholder shall be liable for the unauthorized use of any credit card which was issued on or after the effective date of this section, and, after the expiration of twelve months following such effective date, no cardholder shall be liable for the unauthorized use of any credit card regardless of the date of its issuance, unless (1) the conditions of liability specified in the preceding sentence are met, and (2) the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it. For the purposes of this section, a cardholder notifies a card issuer by taking such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.

"(b) In any action by a card issuer to enforce liability for the use of a credit card, the burden of proof is upon the card issuer to show that the use was authorized or, if the use was unauthorized, then the burden of proof is upon the card issuer to show that the conditions of liability for the unauthorized use of a credit card, as set forth in subsection (a), have been met.

"(c) Nothing in this section imposes liability upon a cardholder for the unauthorized use of a credit card in excess of his liability for such use under other applicable law or under any agreement with the card issuer.

"(d) Except as provided in this section, a cardholder incurs no liability from the unauthorized use of a credit card.

"§ 134. It shall be unlawful to use the credit card of another without authorization

"Whoever, in a transaction affecting commerce, uses a credit card without the authorization of the holder shall, upon conviction thereof, be punished by imprisonment for a term not to exceed one year or fined a sum not to exceed $1,000, or both."

(b) The table of contents of chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following:

"132. Issuance of credit cards.

"133. Liability of holder of credit card."

SEC. 3. The amendments to the Truth in Lending Act made by this Act become effective as follows:

(1) Section 132 of such Act takes effect upon the date of enactment of this Act.

(2) Section 133 of such Act takes effect upon the expiration of 90 days after such date of enactment.

On page 34, line 6, add the following new title:

TITLE IV. PROVISIONS RELATING TO CREDIT REPORTING AGENCIES

AMENDMENT OF CONSUMER CREDIT PROTECTION ACT

SECTION 1. The Consumer Credit Protection Act is amended by adding at the end thereof the following new title:

"TITLE VI—CONSUMER CREDIT REPORTING

"Sec.
"601. Short title.
"602. Findings and purpose.
"603. Definitions and rules of construction.
"604. Permissible purposes of reports.
"605. Obsolete information.
"606. Disclosure of investigative consumer reports.
"607. Compliance procedures.
"608. Disclosures to governmental agencies.
"609. Disclosures to consumers.
"610. Conditions of disclosure to consumers.
"611. Procedure in case of disputed accuracy.
"612. Charges for certain disclosures.
"613. Public record information for employment purposes.
"614. Restrictions on investigative consumer reports.
"615. Requirements on users of consumer reports.
"616. Civil liability for willful noncompliance.
"617. Civil liability for grossly negligent noncompliance.
"618. Jurisdiction of courts; limitation.
"619. Obtaining information under false pretenses.
"620. Administrative enforcement.
"621. Relation to State laws.

"§ 601. Short title

"This title may be cited as the Fair Credit Reporting Act.

"§ 602. Findings and purpose

"(a) The Congress makes the following findings:

"(1) The banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence which is essential to the continued functioning of the banking system.

"(2) An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character, and general reputation of consumers.

"(3) Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

"(4) There is a need to ensure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

"(b) It is the purpose of this title to require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in

a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this title.

"§ 603. Definitions and rules of construction

"(a) Definitions and rules of construction set forth in this section are applicable for the purposes of this title.

"(b) The term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

"(c) The term 'consumer' means an individual.

"(d) The term 'consumer report' means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under section 604. The term does not include (A) any report containing information solely as to transactions or experiences between the consumer and the person making the report; (B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or (C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under section 615.

"(e) The term 'investigative consumer report' means a consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

"(f) The term 'consumer reporting agency' means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

"(g) The term 'file', when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

"(h) The term 'employment purposes' when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee.

"§ 604. Permissible purposes of reports

"A consumer reporting agency may furnish a consumer report under the following circumstances and no other:

"(1) In response to the order of a court having jurisdiction to issue such an order.

"(2) In accordance with the written instructions of the consumer to whom it relates.

"(3) To a person which it has reason to believe—

"(A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

"(B) intends to use the information for employment purposes; or

"(C) intends to use the information in connection with the underwriting of insurance involving the consumer; or

"(D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

"(E) otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

"§ 605. Obsolete information

"(a) Except as authorized under subsection (b), no consumer reporting agency may make any consumer report containing any of the following items of information:

"(1) Bankruptcies which, from date of adjudication of the most recent bankruptcy, antedate the report by more than fourteen years.

"(2) Suits and judgments which, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

"(3) Paid tax liens which, from date of payment, antedate the report by more than seven years.

"(4) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

"(5) Records of arrest, indictment or conviction of crime which, from date of disposition, release or parole, antedate the report by more than seven years.

"(6) Any other adverse item of information which antedates the report by more than seven years.

"(b) The provisions of subsection (a) are not applicable in the case of any consumer credit report to be used in connection with—

"(1) a credit transaction involving, or which may reasonably be expected to involve, a principal amount of $50,000 or more;

"(2) the underwriting of life insurance involving, or which may reasonably be expected to involve, a principal amount of $25,000 or more; or

"(3) the employment of any individual at an annual salary which equals, or which may reasonably be expected to equal $20,000 or more.

"§ 606. Disclosure of investigative consumer reports

"(a) A person may not procure or cause to be prepared an investigative consumer report on any consumer unless—

"(1) it is clearly and accurately disclosed to the consumer that an investigative consumer report including information as to his character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made, and such disclosure (A) is made in a writing, or otherwise delivered to the consumer, not later than three days after the date on which the report was first requested, and (B) includes a statement informing the consumer of his right to request the additional disclosures provided for under subsection (b) of this section; or

"(2) the report is to be used for employment purposes for which the consumer has not specifically applied.

"(b) Any person who procures or causes to be prepared an investigative consumer report on any consumer shall, upon written request made by the consumer within a reasonable period of time after the receipt by him of the disclosure required by subsection (a)(1), shall make a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure shall be made in a writing mailed, or otherwise delivered, to the consumer not later than five days after the date on which the request for such disclosure was received from the consumer or such report was first requested, whichever is the later.

"(c) No person may be held liable for any violation of subsection (a) or (b) of this section if he shows by a preponderance of the evidence that at the time of the violation he maintained reasonable procedures to assure compliance with subsection (a) or (b).

"§ 607. Compliance procedures

"Every consumer reportng agency shall maintain reasonable procedures designed to avoid violations of section 605 and to limit the furnishing of consumer reports to the purposes listed under section 604. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No conumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in section 604.

"§ 608. Disclosures to governmental agencies

"Notwithstanding the provisions of section 604, a consumer reporting agency may furnish identifying information respecting any consumer, limited to his name, address, former addresses, places of employment, or former places of employment, to a governmental agency.

"§ 609. Disclosures to consumers

"Every consumer reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer:

"(1) The nature and substance of all information in its files on the consumer at the time of the request.

"(2) The source of the information except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed.

"(3) The recipients of any consumer report on the consumer which it has furnished—

"(A) for employment purposes within the two-year period preceding the request, and

"(B) for any other purpose within the six-month period preceding the request.

"§ 610. Conditions of disclosure to consumers

"(a) A consumer reporting agency shall make the disclosures required under section 609 during normal business hours and on reasonable notice.

"(b) The disclosures required under section 609 shall be made to the consumer—

"(1) in person if he appears in person and furnishes proper identification; or

"(2) by telephone if he has made a written request, with proper identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.

"(c) Any consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished to him pursuant to section 609.

"(d) The consumer shall be permitted to be accompanied by one other person of his

choosing, who shall furnish reasonable identification. A consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in such person's presence.

"(e) Except as provided in section 616 and 617, no consumer shall have any claim against or bring any action or proceeding in the nature of defamation, invasion of privacy, or negligence with respect to the reporting of information against any consumer reporting aegncy, any user of information, or any person who furnishes information to a consumer reporting agency, based on information disclosed pursuant to section 609, 610, or 615, except as to false information furnished with malice or willful intent to injure such consumer.

"§ 611. Procedure in case of disputed accuracy

"(a) If the completeness or accuracy of any item of information contained in his file is disputed by a consumer, and such dispute is directly conveyed to the consumer reporting agency by the consumer, the consumer reporting agency shall within a reasonable period of time reinvestigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant. If after such reinvestigation such information is found to be inaccurate or can no longer be verified, the consumer reporting agency shall promptly delete such information. The presence of contradictory information in the consumer's file does not in and of itself constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

"(b) If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit such statements to not more than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.

"(c) Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.

"(d) Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted or the statement, codification or summary pursuant to subsection (b) or (c) to any person specifically designated by the consumer who has within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information. The consumer reporting agency shall disclose to the consumer his rights to make such a request. Such disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.

"§ 612. Charges for certain disclosure

"A consumer reporting agency shall make all disclosures pursuant to section 609 and furnish all consumer reports pursuant to section 611(d) without charge to the consumer if, within thirty days after receipt by such consumer of a notification pursuant to section 615 or notification from a debt collection agency affiliated with such consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under sections 609 or 611(d). Otherwise, the consumer reporting agency may impose a reasonable charge on the consumer for making disclosure to such consumer pursuant to section 609, the charge for which shall be indicated to the consumer prior to making disclosure; and for furnishing notifications, statements, summaries, or codifications to persons designated by the consumer pursuant to section 611(d), the charge for which shall be indicated to the consumer prior to furnishing such information and shall not exceed the charge that the consumer reporting agency would impose on each designated recipient for a consumer report except that no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified.

"§ 613. Public record information for employment purposes

"A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall—

"(1) at the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or

"(2) maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this subparagraph, items of public record relating arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

"§ 614. Restrictions on investigative consumer reports

"Whenever a consumer reporting agency prepares an investigative consumer report, no adverse information in the consumer report (other than information which is a matter of public record) may be included in a subsequent consumer report unless such adverse information has been verified in the process of making such subsequent consumer report, or the adverse information was received within the three-month period preceding the date the subsequent report is furnished. Whenever a consumer reporting agency prepares an investigative consumer report, it shall follow reasonable procedures to assure maximum possible accuracy of the report.

"§ 615. Requirements on users of consumer reports

"(a) Whenever credit or insurance for personal, family, or household purposes, or employment involving a consumer is denied or the charge for such credit or insurance is increased either wholly or partly because of information contained in a consumer report from a consumer reporting agency, the user of the consumer report shall, within a reasonable period of time, upon the consumer's written request for the reason for such adverse action received within sixty days after learning of such adverse action, so advise the consumer against whom such adverse action has been taken and supply the name and address of the consumer reporting agency making the report. The user of the consumer report shall disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

"(b) Whenever credit for personal, family or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or partly because of information obtained from a person other than a consumer reporting agency bearing upon the consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall, within a reasonable period of time, upon the consumer's written request for the reasons for such adverse action received within sixty days after learning of such adverse action, disclose the nature of the information to the consumer. The use of such information shall disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

"(c) No person shall be held liable for any violation of this section if he shows by a preponderance of the evidence that at the time of the alleged violation he maintained reasonable procedures to assure compliance with the provisions of subsections (a) and (b).

"§ 616. Civil liability for willful noncompliance

"Any consumer reporting agency or user of information which willfully fails to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of—

"(1) any actual damages sustained by the consumer as a result of the failure;

"(2) such amount of punitive damages as the court may allow, which shall not be less than $100 nor greater than $1,000; and

"(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"§ 617. Civil liability for grossly negligent noncompliance

"Any consumer reporting agency or user of information which is grossly negligent in failing to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of—

"(1) any actual damages sustained by the consumer as a result of the failure;

"(2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"§ 618. Jurisdiction of courts; limitation

"Any action under section 616 or 617 may be brought in any appropriate United States district court, or in any other court of competent jurisdiction, within two years from the date of the occurrence of the violation.

"§ 619. Obtaining information under false pretenses

"Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"§ 620. Administrative enforcement

"(a) Compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission with respect to consumer reporting agencies and all other persons subject thereto, except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other government agency under subsection (b) hereof. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this title shall constitute an unfair or deceptive act or practice in commerce in volation of section 5(a) of the Federal Trade Commis-

sion Act and shall be subject to enforcement by the Federal Trade Commission under section 5(b) thereof with respect to any consumer reporting agency or person subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed under this title and to require the filing of reports, the production of documents, and the appearance of witnesses as though the applicable terms and conditions of the Federal Trade Commission Act were part of this title. Any person violating any of the provisions of this title shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions thereof were part of this title.

"(b) Compliance with the requirements imposed under this title with respect to consumer reporting agencies and persons who use consumer reports from such agencies shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of:

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Federal Reserve Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

"(2) section 5(d) of the Home Owners Loan Act of 1933, section 407 of the National Housing Act, and sections 6(1) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

"(3) the Federal Credit Union Act, by the Director of the Bureau of Federal Credit Unions with respect to any Federal credit union;

"(4) the Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts;

"(5) the Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act; and

"(6) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

"(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title any other authority conferred on it by law.

"§ 621. Relation to State laws

"This title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to the collection, distribution, or use of any information on consumers, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency."

EFFECTIVE DATE

SEC. 2. Section 504 of the Consumer Credit Protection Act is amended by adding at the end thereof the following new subsection:

"(d) Title VI takes effect upon the expiration of one hundred and eighty days following the date of its enactment. The requirements of section 609 respecting the disclosure of sources of information and the recipients of consumer reports do not apply to information received or consumer reports furnished prior to the effective date of title VI except to the extent that the information is contained in the files of the consumer reporting agency on that date."

On Page 34, line 6, after the word "enactment" add the following new title, Title V. Provisions relating to Urban Mass Transportation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that the rapid urbanization and the continued dispersal of population and activities within urban areas has made the ability of all citizens to move quickly and at a reasonable cost an urgent national problem; that new directions in the Federal assistance programs for urban mass transportation are imperative if efficient, safe, and convenient transportation compatible with soundly planned urban areas is to be achieved; and that success will require a Federal commitment for the expenditure of at least $10,000,000,000 over a twelve-year period to permit confident and continuing local planning, and greater flexibility in program administration. It is the purpose of this Act to create a partnership which permits the local community, through Federal financial assistance, to exercise the initiative necessary to satisfy its urban mass transportation requirements.

SEC. 2. Section 3 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602), is amended by—

(1) redesignating subsection (c) as subsection (e); and

(2) striking out subsections (a) and (b) and inserting in lieu thereof subsections (a), (b), (c), and (d), as follows:

"(a) The Secretary is authorized, in accordance with the provisions of this Act and on such terms and conditions as he may prescribe, to make grants or loans (directly, through the purchase of securities or equipment trust certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas and in coordinating such service with highway and other transportation in such areas. Eligible facilities and equipment may include land (but not public highways), buses and other rolling stock, and other real and personal property needed for an efficient and coordinated mass transportation system. No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have—

"(1) the legal, financial, and technical capacity to carry out the proposed project; and

"(2) satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and equipment.

The Secretary may make loans for real property acquisition pursuant to subsection (b) upon a determination, which shall be in lieu of the preceding determinations, that the real property is reasonably expected to be required in connection with a mass transportation system and that it will be used for that purpose within a reasonable period. No grant or loan funds shall be used for payment of ordinary governmental or nonproject operating expenses. An applicant for assistance under this section shall furnish a copy of its application to the Governor of each State affected concurrently with submission to the Secretary. If, within 30 days thereafter, the Governor submits comments to the Secretary, the Secretary must consider the comments before taking final action on the application.

"(b) The Secretary is authorized to make loans under this section to States or local public bodies and agencies thereof to finance the acquisition of real property and interests in real property for use as rights-of-way, station sites, and related purposes, on urban mass transportation systems, including the net cost of property management and relocation payments made pursuant to section 7. Each loan agreement under this subsection shall provide for actual construction of urban mass transportation facilities on acquired real property within a period not exceeding ten years following the fiscal year in which the agreement is made. Each agreement shall provide that in the event acquired real property or interests in real property are not to be used for the purposes for which acquired, an appraisal of current value will be made at the time of that determination, which shall not be later than ten years following the fiscal year in which the agreement is made. Two-thirds of the increase in value, if any, over the original cost of the real property shall be paid to the Secretary for credit to miscellaneous receipts of the Treasury. Repayment of amounts loaned shall be credited to miscellaneous receipts of the Treasury. A loan made under this subsection shall be repayable within ten years from the date of the loan agreement or on the date a grant agreement for actual construction of facilities on the acquired real property is made, whichever date is earlier. An applicant for assistance under this subsection shall furnish a copy of its application to the comprehensive planning agency of the community affected concurrently with submission to the Secretary. If within thirty days thereafter the comprehensive planning agency of the community affected submits comments to the Secretary, the Secretary must consider the comments before taking final action on the application.

"(c) No loan shall be made under this section for any project for which a grant is made under this section, except—

"(1) loans may be made for projects as to which grants are made for relocation payments; and

"(2) project grants may be made even though the real property involved in the project has been or will be acquired as a result of a loan under subsection (b).

Interest on loans made under this section shall be at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans adjusted to the nearest one-eighth of 1 per centum plus (ii) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs and probable losses under the program. No loans shall be made, including renewals or extensions thereof, and no securities or obligations shall be purchased which have maturity dates in excess of forty years.

"(d) Any State or local public body or agency thereof which makes applications for a grant or loan under this Act to finance the acquisition, construction, reconstruction, or improvement of facilities or equipment which will substantially affect a community or its mass transportation service shall certify to the Secretary that it has held public hearings, has afforded adequate notice of such hearings, has considered the economic and social effects of the project for which

application for financial assistance is made and its impact on the environment, and has found that the project is consistent with any plans for the comprehensive development of the urban area. The notice required by this subsection shall include a concise statement of the proposal for which the application is made and may be published in a newspaper of general circulation in the State or locality to be served, and shall be published in the Federal Register, and for the purpose of this sentence the Administrator of the General Services Administration shall accept and publish any such notice. Hearings need not be held if opportunity for such hearings is provided through adequate notice, and no one with a significant economic, social or environmental interest in the matter requests a hearing. If hearings have been held, a copy of the transcript of the hearings shall be submitted with the certification."

SEC. 3. (a) Subsection 4(a) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1603(a)), is amended by—

(1) striking out "section 3" in the first sentence and inserting in lieu thereof "subsection (a) of section 3"; and

(2) striking out the next to the last sentence and inserting in lieu thereof the following: "Such remainder may be provided in whole or in part from other than public sources and any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital."

(b) Section 4 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1603), is amended by adding at the end thereof the following new subsections:

"(c) To finance the programs and activities, including administrative costs, under this Act, the Secretary is authorized to incur obligations in the form of grant agreements or otherwise in amounts aggregating not to exceed $3,100,000,000. This amount shall become available for obligation upon the effective date of this subsection and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this subsection not to exceed $80,000,000 prior to July 1, 1971, which amount may be increased to not to exceed an aggregate of $310,000,000 prior to July 1, 1972, not to exceed an aggregate of $710,000,000 prior to July 1, 1973, not to exceed an aggregate of $1,260,000,000 prior to July 1, 1974, not to exceed an aggregate of $1,860,000,000 prior to July 1, 1975, and not to exceed an aggregate of $3,100,000,000 thereafter. Sums so appropriated shall remain available until expended.

"(d) The Secretary shall report annually to the Congress, after consultation with State and local public agencies, with respect to outstanding grants or other contractual agreements executed pursuant to subsection (c) of this section. To assure program continuity and orderly planning and project development, the Secretary shall submit to the Congress (1) authorization requests for fiscal years 1976 and 1977 not later than February 1, 1972, (2) authorization requests for fiscal years 1978 and 1979 not later than February 1, 1974, (3) authorization requests for fiscal years 1980 and 1981 not later than February 1, 1976, and (4) an authorization request for fiscal year 1982 not later than February 1, 1978. Such authorization requests shall be designed to meet the Federal commitment specified in the first section of the Urban Mass Transportation Assistance Act of 1969. Concurrently with these authorization requests, the Secretary shall also submit his recommendtions for any necessary adjustments in the schedule for liquidation of obligations."

SEC. 4. Section 5 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1604), is amended by striking out the next to the last sentence and inserting in lieu thereof the following sentence: "Such remainder may be provided in whole or in part from other than public sources and any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital."

SEC. 5. Section 14 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1610), is amended to read as follows:

"ENVIRONMENTAL PROTECTION

"SEC. 14. (a) It is hereby declared to be the national policy that urban mass transportation projects for which Federal finance assistance is provided pursuant to section 3 shall provide for the protection and enhancement of the natural resources and the quality of environment of the Nation. In implementing this policy the Secretary shall consult with the Secretaries of Health, Education, and Welfare, Housing and Urban Development, and Interior and with the National Environmental Quality Council with regard to each such project that may have a substantial impact on natural resources including, but not limited to water and air quality, peace and tranquility, and fish and wildlife, natural, scenic and recreational assets, and other factors affecting the environment.

"(b) The Secretary shall review each transcript of hearing submitted pursuant to section 3(d) to assure that an adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social or environmental interest and that the environmental considerations identified at the hearing have been adequately dealt with in the project application. The Secretary shall not grant financial assistance under section 3 for any project unless he is satisfied that fair consideration has been given to the preservation and enhancement of the environment and to the interest of the community in which the project is located.

"(c) If opposition to any application for assistance under section 3 is raised in the hearing before the State or local public agency, or in any communication to the Secretary, on the grounds that the environment would be adversely affected by the project to which the application relates, the Secretary shall not approve the application, unless he finds in writing after a full and complete review of the record of such hearing and of the application, that (1) no adverse environmental effect is likely to result from such project, or (2) there exists no feasible and prudent alternative to such effect and all reasonable steps have been taken to minimize such effect. In any case in which the Secretary determines that the record of the hearing before the State or local public agency is inadequate to permit him to make the findings required under the preceding sentence, he shall conduct a hearing, including adequate notice to interested persons, on the environmental issue raised by such application. Findings of the Secretary under this subsection shall be made a matter of public record."

SEC. 6. Section 15 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1611), is amended to read as follows:

"STATE LIMITATION

"SEC. 15. Grants made under section 3 (other than for relocation payments in accordance with section 7(b)) before July 1, 1970, for projects in any one State shall not exceed in the aggregate 12½ per centum of the aggregate amount of grant funds authorized to be appropriated pursuant to section 4(b); except that the Secretary may, without regard to such limitation, enter into contracts for grants under section 3 aggregating not to exceed $12,500,000 (subject to the total authorization provided in section 4(b)) with local public bodies and agencies in States where more than two-thirds of the maximum grants permitted in the respective State under this section has been obligated. Grants made on or after July 1, 1970, under section 3 for projects in any one State may not exceed in the aggregate 12½ per centum of the aggregate amount of funds authorized to be obligated under subsection 4(c), except that 1½ per centum of the aggregate amount of grant funds authorized to be obligated under subsection 4(c) may be used by the Secretary, without regard to this limitation, for grants in States where more than two-thirds of the maximum amounts permitted under this section has been obligated and except that an additional 6 per centum of the aggregate amount of grant funds authorized to be obligated under subsection 4(c) may be used by the Secretary for grants in States where more than two-thirds of the maximum amounts permitted under this section has been obligated, where the Secretary shall determine that the utilization of these funds in this manner shall better accomplish the purposes of this Act and shall not prejudice or delay pending projects of other States, but in no case shall any State receive more than 25 per centum of the additional grant funds made available under this exception. In computing State limitations under this section, grants for relocation payments shall be excluded. Any grant made under section 3 to a local public body or agency in a major metropolitan area which is used in whole or in part to provide or improve urban mass transportation service, pursuant to an interstate compact approved by the Congress, in a neighboring State having within its boundaries population centers within normal commuting distance from such major metropolitan area, shall, for purposes of computing State limitations under this section, be allocated on an equitable basis, in accordance with regulations prescribed by the Secretary, between the State in which such public body or agency is situated and such neighboring State."

SEC. 7. Nothing in this Act shall affect the authority of the Secretary of Housing and Urban Development to make grants, under the authority of sections 6(a), 9, and 11 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1605(a), 1607a, and 1607c), and Reorganization Plan Numbered 2 of 1968, for projects or activities primarily concerned with the relationship of urban transportation systems to the comprehensively planned development of urban areas, or the role of transportation planning in overall urban planning, out of funds appropriated to him for that purpose.

SEC. 8. This Act may be cited as the "Urban Mass Transportation Assistance Act of 1969".

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

The bill (S. 3678) was ordered to be engrossed for a third reading, and was read the third time.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Committee on Banking and Currency be discharged from further consideration of H.R. 15073, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was read by title as follows:

A bill (H.R. 15073) to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in U.S. currency be reported to the Department of the Treasury, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin (Mr. PROXMIRE)?

There being no objection, the committee was discharged and the Senate proceeded to consider the bill.

Mr. PROXMIRE. Mr. President, I move to strike all after the enacting clause of H.R. 15073 and insert in lieu thereof the language contained in S. 3678, as amended.

The motion was agreed to.

The amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment in the nature of a substitute and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 15073) was read the third and was passed.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to indefinitely postpone S. 3678.

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

Mr. PROXMIRE. Mr. President, I move that the Senate insist on its amendments to H.R. 15073 and request a conference with the House of Representatives on the disagreeing votes there, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. PACKWOOD) appointed Mr. PROXMIRE, Mr. WILLIAMS of New Jersey, Mr. MUSKIE, Mr. MCINTYRE, Mr. BENNETT, Mr. BROOKE, and Mr. PERCY conferees on the part of the Senate.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to the bill we passed a few minutes ago, the foreign bank accounts bill (H.R. 15073), and that the bill be printed as it passed the Senate.

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

Mr. MANSFIELD. Mr. President, it is with sincere appreciation that I express my thanks to the Senator from Wisconsin (Mr. PROXMIRE) for his skillful and expeditious handling of the bank secrecy measure—the Federal Deposit Insurance Act amendments. Senator PROXMIRE is untiring in his devotion in behalf of the American public to assure that Government agencies and organizations operate to the benefit of all Americans. Today we have observed once again the splendid success his sincere dedication to fairness and efficiency have obtained. The Senate is indebted to him for guiding this measure through the Senate. The high quality of debate and its swift acceptance by the Senate speak abundantly for Senator PROXMIRE'S effectiveness. The Senate is deeply grateful.

Of course, the chairman of the Senate Banking and Currency Committee, the distinguished and able senior Senator from Alabama (Mr. SPARKMAN) as always contributed immensely to our understanding of the importance and implications of the measure. Senator SPARKMAN is unexcelled when it comes to explaining and discussing the many complex issues which come under the jurisdiction of the committee he so ably chairs. The Senate is truly in his debt for the great contributions he has made in the field of banking and I wish especially to commend him for his unstinting efforts.

Once again our thanks go to the ranking minority member of the Senate Banking Committee, the distinguished Senator from Utah (Mr. BENNETT). He deserves our deepest appreciation for his contributions to the handling of this bill on the floor. With his cooperation the Senate was able to move to swift disposition of this measure.

TREASURY, POST OFFICE, AND EXECUTIVE OFFICE APPROPRIATION BILL, 1971—CONFERENCE REPORT

Mr. YARBOROUGH. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 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. I ask unanimous consent for the present consideration of the report.

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

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

(For conference report, see House proceedings of September 14, 1970, pp. 31477–31478, CONGRESSIONAL RECORD.)

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. YARBOROUGH. Mr. President, the conference figure of new budget—obligational—authority agreed to for the overall bill is $3,004,711,000. This sum is $13,368,000 under the Senate bill and $33,009,000 over the House bill; $41,982,000 under the revised budget estimates submitted to the Senate in the amount of $3,046,693,000 for all items in the bill. There is a difference of $1,938,000 between the budget estimates submitted to the House and those submitted to the Senate. This is the result of a revised budget estimate adding $288,000 to the Tax Court and a new item in the amount of $1,650,000 for protection of visiting foreign dignitaries, both of which were received by the Senate and not considered by the House.

The conference report, I believe, reflects compromise and the changes are explained therein.

The item for the U.S. Tax Court, Mr. President, was to permit taxpayers to make their small claims there.

The $1,650,000 item is for the protection of visiting foreign dignitaries attending the observance of the 25th anniversary of the United Nations. Scores of prime ministers, presidents, and other heads of states will need protection while they visit here. It was the estimate of the Secret Service that this amount is needed in order for the United States to give adequate protection to the visiting foreign heads of states and other high officials representing foreign nations in New York City. It is the responsibility of our Government to protect them. We accepted that recommendation for the full amount.

Those were the two new items added by the Senate to the House bill.

I shall be happy to answer any questions.

I there are no qustions, I want to pay my respects to the distinguished ranking minority member of the committee, the Senator from Delaware (Mr. BOGGS), who made a notable contribution to the bill and actively participated in the subcommittee, and in the full committee meetings. I think the hard work on both sides of the aisle is the reason why there are no objections to the conference report. I did not prevail in everything I advocated. The other side did not prevail in everything it advocated. This is the composite result of the ideas of each side in trying to reach a reasonable bill.

Mr. BOGGS. Mr. President, I thank the distinguished chairman of the subcommittee, manager of the bill, the Senator from Texas, for his kind and generous remarks. I am in agreement with his presentation of the conference report. I am hopeful the Senate will proceed to adopt it. But I want to say further, and more importantly, it seems to me the distinguished Senator from Texas, chairman of the subcommittee, has been meticulous, careful, and dedicated in the handling of this particular legislation. It has been a pleasure and honor to work with him. I am happy the bill is coming to this conclusion, in such an agreeable, fair, and proper manner.

I thank the Senator for his kindness.

Mr. YARBOROUGH. I thank the Senator for his remarks.

Mr. President, I think that is all it is necessary to say, but I do want to mention one or two items.

The Senate allowed substantially more for the Secret Service than the House did. We added susbtantially more than the House allowed for enforcement of the internal revenue laws. Although it was requested by the budget, the House did not allow all of the requests in full.

We allowed substantially more for the Bureau of Customs than the House allowed. We know that millions of people are coming through our airports and other ports of entry. My State has a 1,000-mile border along the Rio Grande. In the old days the chief duty of the customs office was to catch people trying to evade the paying of customs. Their main job now is to prevent the smuggling of illegal goods. Most of the smuggling is of something illegal, and most of that is narcotics. It is a tremendous job. With the vast millions of people coming through the international airports, it is a difficult job to inspect all the baggage,

and the Customs Bureau requested many additional employees to make more thorough and better inspections for customs.

There has been a change in the chief duty of merely trying to get a declaration of customs to the more serious duty of the enforcement of the law. That duty has become more dangerous as the burden has shifted from collection of taxes to enforcing laws against bringing in small packages containing fortunes in drugs. We provided the agency with more money than the House allowed to give the Bureau the means to do the job.

Likewise, we increased the allowance over the House for the Secret Service because, under the law passed 2 years ago, the Secret Service has the duty not only of guarding the President and Vice President, but, when there is a presidential election campaign, it has the duty to give protection to the leading candidates for President and Vice President. We have found from sad experience that such candidates undergo great dangers even before the nomination process. So we increased the House allowance in order that the law could be enforced.

We increased every item for law enforcement. The Bureau of the Budget asked the House to provide larger sums than the House did. In every single instance, the Senate appropriated more than the House did. I could name each item: the Federal Law Enforcement Training Center; the various divisions of the Internal Revenue Service dealing with tax collections, auditing, and compliance; the Bureau of Customs; and the U.S. Secret Service. There are a number of law enforcement matters involved in the conference report. It also applies to other agencies under the jurisdiction of the Treasury Department.

In each of these instances the allowances were up to or near the budget requests. There were some adjustments downward, but, on the whole, we prevailed on those provisions.

I think the bill is a much better one than the measure which came from the House. This country must do something about law enforcement. The Senate allowed items for that purpose in this bill up to the requests of the Bureau of the Budget. It was the subcommittee's idea that every penny requested by the budget for law enforcement should be provided.

Mr. INOUYE. Mr. President, as we move to approve H.R. 16900, the Treasury, Post Office, and Executive Office appropriation for fiscal 1971, it is, I believe, an appropriate time to call attention to the sharp contrast between White House statements and its conduct of its own financial affairs.

While the Republican National Committee distributes bumper strips which read "Stop: The Big Spending Democrats" we find the national leaders of that party, the President and Vice President, sharply increasing the spending for those activities most directly subject to their personal control by unprecedented amounts.

I suggest that if they are really interested in holding down taxes and in "doing their bit" to halt inflation they ought to start "at home."

I know the critics made much of President Johnson's turning off the White House lights—and while I would confess that that action was more symbolic than material in reducing the expenditures of Government, it did at least indicate in a very clear way that he was not calling on all the other departments of Government and on the country to reduce expenditures while increasing his own. He was instead telling each of us that sacrifice begins at home and that each of us must do his part.

Not so with this administration. The bill before us calls for $4,610,000 more for White House salaries and expenses than was appropriated last year. This is a 117-percent increase.

Now I know that this represents in part a change from the former practice of detailing people from the various agencies, to direct budgeting. We have no guarantee, however, that the agencies will actually strike those positions from their own roles or that detailing will totally cease. In any case this massive increase comes on top of a 22-percent increase for the salaries and expenses of the White House in fiscal 1970.

I think the American people may rightly wonder how much of this increase is represented by the additional cost of having not one, but two, White Houses outside Washington. They may rightly wonder how much is the result of deciding to throw fancy state dinners in San Clemente rather than in Washington, with the attendant travel and expenses for White House service personnel because those indigenous to California are apparently not adequate for such purpose.

New uniforms for the White House Police may be a small item. So was President Johnson's saving on the White House electric bill—but what a sharp contrast of purpose.

There are other examples to be sure. This appropriation bill calls for $700,000 in new money for a purpose not previously funded to enable the Vice President to provide assistance to the President with his assigned functions.

It adds an additional $180,000 to the appropriation for the Office of Intergovernmental Relations whose function it has been to advise and assist the Vice President in his role as liaison with State and local governments. This is an increase of 150 percent over last year. I am told this Office now houses former Gov. Niles Boe with a chauffeur driven limousine. Other than that I am not aware of any major improvements in that Office, or for that matter in the relationship between State and local governments and the Federal Government over what was achieved under former Vice President Humphrey without any appropriated budget. Perhaps this is due to the current Vice President's apparent disinterest. He did not even appear at the Governors' conference in Missouri this past summer.

But he is now out around the country trying to stir up the young in an effort to excite a live issue in this year's campaign.

And I think the American people have a right to question whether these added expenses for the Executive Office of the President and Vice President are not unnecessarily burdened by the salaries of highly paid presidential assistants, speechwriters, and research people—some drawing the same pay as Senators—men such as Harlow, Anderson, Buchanan, Safire, and Burgess, running around the country with the Vice President on the campaign trail after Democratic Senators' scalps.

This is not the first time a Vice President has hit the campaign trail on behalf of candidates for the Congress and I am not suggesting that he has no right to involve himself. I do think the cost is nevertheless a relevant consideration in assessing the budgetary needs of this administration and in determining its avowed dedication to fighting the battle of inflation. I, for one, can think of less expensive ways to fight the unemployment problem.

Mr. President, because I believe it is germane to this discussion I wish to have an article which appeared in last night's Star by Milton Viorst made a part of the RECORD at this point.

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

AGNEW RATED LOW IN OFFICIAL DUTIES

(By Milton Viorst)

Larry O'Brien, chairman of the Democratic National Committee, probably was being facetious when he suggested last week that Vice President Agnew be taken off the federal payroll and draw his salary from the Republican party.

Politicians, even vice presidents, have a right to engage in political campaigning as part of their professional duties. Getting the issues to public attention is essential to the functioning of the democratic process.

But this right is contingent upon the politician's satisfactory performance of his duties as a government official. In this area, Spiro Agnew has been scandalously deficient.

Constitutionally, the vice president is responsible for presiding over the business of the Senate. To be sure, the requirement has been interpreted rather loosely throughout history. No vice president, however, has denied it altogether.

But Agnew, during the first 950 hours of the current session, presided over the Senate for a total of 14 hours 50 minutes—less than 2 percent of the time. When he was there, it was invariably in case he had to cast a tie-breaking vote.

Republicans and Democrats alike concede that they have not within memory encountered such delinquency. Senators from both parties resent it, since it imposes on them an extra burden to take turns sitting in the chair.

As election day approaches, it becomes progressively more difficult to get senators to preside over sessions. Although the vice president may find it stimulating to go out on the trail, his campaigning forces some senators—often Republicans—to remain in Washington when they'd like to be out campaigning, too.

But Agnew's duties extend rather far beyond the Senate chair. Since the war, the vice presidential office has grown continually in stature, as presidents have bestowed upon it more and more responsibilities.

Spiro Agnew, however, has been so inattentive to these responsibilities that he threatens to reverse the trend decisively. Un-

der Agnew, the vice presidency has atrophied alarmingly as a serious federal office.

Agnew is, for example, chairman of the President's Council on Youth Opportunity. Youth unemployment probably is the greatest single problem in the current economic recession. Yet in his first 16 months in office, Agnew did not once convene a meeting of the council.

Finally, under severe pressure from the nation's mayors, who feared real trouble unless more summer jobs for teenagers were created, Agnew called together a second-level group of the council.

When the group met, the vice president was off addressing a Republican fund-raising luncheon in Huntington, W. Va.

Agnew also is chairman of the National Council on Marine Resources. When Hubert Humphrey was vice president, the council met 17 times in the 2½ years of its existence. It has met three times under Agnew.

In February 1969, President Nixon created a new Office of Intergovernmental Relations and assigned to Agnew the chief responsibility for improving federal relations with state and local governments.

But when the nation's governors met in Missouri this summer, the vice president was absent. No one was surprised, of course, since he had never assumed the functions of the job at all.

Similarly, the vice president received a great deal of publicity last spring when the President named him chairman of a cabinet committee for the desegregation of schools. Agnew, however, has managed to miss all of its last seven meetings.

By law or executive order, the vice president is chairman of the National Aeronautics and Space Council, the President's Council on Indian Opportunity and the President's Council on Physical Fitness. Agnew has practically ignored all three.

What Agnew has accomplished, of course, is the addition of a new dimension of diatribe to our political tradition.

The vice presidency, as an office, has come far since John Garner, in the early New Deal days, compared its powers to a bucket of warm spit. Most Americans approve of the change. Spiro Agnew, however, appears committed to taking it back.

Mr. YARBOROUGH. Mr. President, I move the adoption of the conference report.

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

The report was agreed to.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent to have printed in the RECORD a tabulation which reflects the amount of the 1970 appropriations, the budget estimates for fiscal 1971, the amounts of the House bill and the bill as passed by the Senate, and the final amounts agreed to by the two Houses in conference.

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

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1970 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL 1971

TREASURY, POST OFFICE, AND EXECUTIVE OFFICE APPROPRIATION BILL, 1971 (H.R. 16900)

[In thousands of dollars]

Agency and items	New budget (obligational) authority appropriated, fiscal year 1970 [1]	Budget estimates of new (obligational) authority, fiscal year 1971	Allowances			Conference allowance compared with—			
			House	Senate	Conference	New budget (obligational) authority appropriated, 1970	Budget estimate of new (obligational) authority, 1971	House allowance	Senate allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE I									
TREASURY DEPARTMENT									
Office of the Secretary	9,828	9,660	9,500	9,660	9,660	−168		+160	
Federal Law Enforcement Training Center:									
Salaries and expenses	58	1,113	1,000	1,113	1,080	+1,022	−$33	+80	−33
Construction	1,000	5,000	5,000	5,000	5,000	+4,000			
Total, Federal Law Enforcement Training Center	1,058	6,113	6,000	6,113	6,080	+5,022	−33	+80	−33
Bureau of Accounts	47,375	47,250	47,250	47,250	47,250	−125			
Government losses in shipment		400	400	400	400	+400			
Bureau of Customs	125,131	137,085	135,500	137,085	137,000	+11,869	−85	+1,500	−85
Bureau of the Mint	17,500	19,663	18,000	19,663	19,600	+2,100	−63	+1,600	−63
Construction of Mint facilities	1,770					−1,770			
Bureau of the Public Debt	65,414	66,792	66,792	66,792	66,792	+1,378			
Internal Revenue Service:									
Salaries and expenses	24,926	26,096	25,500	26,096	26,096	+1,170		+596	
Revenue accounting and processing	211,920	222,239	220,000	222,239	221,500	+9,580	−739	+1,500	−739
Compliance	623,006	664,473	645,000	660,000	655,000	+31,994	−9,473	+10,000	−5,000
Total, Internal Revenue Service	859,852	912,808	890,500	908,335	902,596	+42,744	−10,212	+12,096	−5,739
Office of the Treasurer	7,773	8,180	8,180	8,180	8,180	+407			
Check forgery insurance fund	100					−100			
U.S. Secret Service:									
Salaries and expenses	32,811	44,600	40,000	44,600	42,300	+9,489	−2,300	+2,300	−2,300
Construction of Secret Service training facilities	700					−700			
Total, U.S. Secret Service	33,511	44,600	40,000	44,600	42,300	+8,789	−2,300	+2,300	−2,300
Total, title I, Treasury Department, new budget (obligational) authority	1,169,312	1,252,551	1,222,122	1,248,078	1,239,858	+70,546	−12,693	+17,736	−8,220
TITLE II									
POST OFFICE DEPARTMENT									
Authorizations and limitations on use of the postal fund:									
Administration and regional operation	(143,784)	(163,670)	(161,000)	(163,670)	(162,335)	(+18,551)	(−1,335)	(+1,335)	(−1,335)
Research, development and engineering	(49,736)	(65,675)	(60,000)	(65,675)	(62,000)	(+12,264)	(−3,675)	(+2,000)	(−3,675)
Operations	(6,403,667)	(6,517,138)	(6,500,000)	(6,517,138)	(6,508,000)	(+104,333)	(−9,138)	(+8,000)	(−9,138)
Transportation	(640,060)	(661,000)	(655,000)	(659,000)	(657,000)	(+16,400)	(−4,000)	(+2,000)	(−2,000)
Building occupancy	(230,000)	(260,590)	(255,000)	(259,000)	(255,000)	(+25,000)	(−5,590)		(−4,000)
Supplies and services	(115,132)	(119,203)	(118,000)	(118,000)	(118,000)	(+2,868)	(−1,103)		
Plant and equipment	(210,000)	(221,158)	(217,000)	(219,000)	(217,000)	(+7,000)	(−4,158)		(−2,000)
Postal public buildings	(170,000)	(269,825)	(269,825)	(252,825)	(269,825)	(+99,825)			(+17,000)
Total authorizations and limitations on use of the postal fund	(7,962,919)	(8,278,259)	(8,235,825)	(8,254,308)	(8,249,160)	(+286,241)	(−29,099)	(+13,335)	(−5,148)
Less net revenues (estimated)	(−6,369,000)	(−6,521,000)	(−6,521,000)	(−6,521,000)	(−6,521,000)	(−152,000)			
Total, title II, Post Office Department new budget (obligational) authority (indefinite)	1,593,919	1,757,259	1,714,825	1,733,308	1,728,160	+134,241	−29,099	+13,335	−5,148

Footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1970 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL 1971—Continued

TREASURY, POST OFFICE, AND EXECUTIVE OFFICE APPROPRIATION BILL, 1971 (H.R. 16900)

[In thousands of dollars]

Agency and items	New budget (obligational) authority appropriated, fiscal year 1970 [1]	Budget estimates of new (obligational) authority, fiscal year 1971	Allowances			Conference allowance compared with—			
			House	Senate	Conference	New budget (obligational) authority appropriated, 1970	Budget estimate of new (obligational) authority, 1971	House allowance	Senate allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE III									
EXECUTIVE OFFICE OF THE PRESIDENT									
Compensation of the President	250	250	250	250	250				
Operating expenses, Executive Residence	966	1,100	1,100	1,100	1,100	+134			
The White House Office	3,940	8,500	8,550	8,500	8,550	+4,610			
Special Assistance to the President		700	700	700	700	+700			
President's Advisory Council on Executive Organization	1,000	500	500	500	500	−500			
Office of Intergovernmental Relations	120	300	300	300	300	+180			
Special projects	2,500	1,500	1,500	1,500	1,500	−1,000			
Expenses of management improvement	350	350	350	350	350				
Emergency fund for the President	1,000	1,000	1,000	1,000	1,000				
Bureau of the Budget	12,141	13,290	13,100	13,100	13,100	+959	−190		
Council of Economic Advisers	1,187	1,233	1,233	1,233	1,233	+46			
National Security Council	1,860	2,182	2,182	2,182	2,182	+322			
Total, title III, Executive Office of the President, new budget (obligational) authority	25,314	30,955	30,765	30,765	30,765	+5,451	−190		
TITLE IV									
INDEPENDENT AGENCIES									
Administrative Conference of the United States	250	380	380	380	380	+130			
Advisory Commission on Intergovernmental Relations	620	610	610	610	610	−10			
Commission in Obscenity and Pornography	1,100					−1,100			
United States Tax Court	3,022	[2] 3,288	3,000	3,288	3,288	+266		+288	
Total, title IV, Independent agencies, new budget (obligational) authority	4,992	4,278	3,990	4,278	4,278	−714		+288	
TITLE V									
FUNDS APPROPRIATED TO THE PRESIDENT									
Protection of visiting foreign dignitaries attending the observance of the 25th anniversary of the United Nations		[3] 1,650		1,650	1,650	+1,650		+1,650	
Grand total, titles I, II, III, IV, and V, new budget (obligational) authority	2,793,537	3,046,693	2,971,702	3,018,079	3,004,711	+211,174	−41,982	+33,009	−13,368
Consisting of—									
Appropriations (definite)	1,199,618	1,289,434	1,256,877	1,284,771	1,276,551	+76,933	−12,883	+19,674	−8,220
Appropriations (indefinite)	[4] 1,593,919	[4] 1,757,259	[4] 1,714,825	[4] 1,733,308	[4] 1,728,160	+134,241	−29,099	+13,335	−5,148
Memoranda—									
Grand total, titles I, III, IV, and V, new budget (obligational) and title II, authorizations out of the ostal Fund	(9,162,537)	(9,567,693)	(9,492,702)	(9,539,079)	(9,525,711)	(+363,174)	(−41,982)	(+33,009)	(−13,368)

[1] Includes supplemental amounts contained in Second Supplemental Appropriation Act, 1970, (Public Law 91-305) approved July 6, 1970. Figures are not adjusted for transfers.

[2] Original estimate of $3,000,000 increased by $288,000 (H. Doc. 91-305) Apr. 13, 1970. Not considered by House.

[3] Contained in Senate Document 91-100 Aug. 31, 1970 and not considered by House.

[4] Indefinite, because it represents the difference between specific authorizations on use of the postal amounts exclude effect of anticipated pay increase fund and estimated postal revenues as shown in the 1971 budget.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I am going to lay a bill before the Senate and make it the pending business, but I am not certain how far we can get on it this afternoon.

LIBRARY SERVICES AND CONSTRUCTION AMENDMENTS OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1179 (S. 3318). I do this so that it will become the pending business.

The PRESIDING OFFICER (Mr. PACKWOOD). The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 3318) to amend the Library Services and Construction Act, 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:

That this Act may be cited as the "Library Services and Construction Amendments of 1970".

PURPOSE: AMENDMENT TO THE LIBRARY SERVICES AND CONSTRUCTION ACT

SEC. 2. (a) It is the purpose of this Act to extend authorizations of appropriations for programs authorized by the Library Services and Construction Act for five years and to improve the administration, implementation, and purposes of such programs by lessening the administrative burden upon the States through a reduction in the number of State plans which must be submitted and approved annually under such Act and affording the States greater flexibility in the allocation of funds under such Act to meet specific State needs and, by providing for special programs to meet the needs of disadvantaged persons, in both urban and rural areas, for library services and for strengthening the capacity of State library administrative agencies for meeting the needs of all the people of the States.

(b) The Library Services and Construction Act is amended by striking out all that follows the first section and inserting in lieu thereof the following:

"DECLARATION OF POLICY

"SEC. 2. (a) It is the purpose of this Act to assist the States in the extension and improvement of public library services in areas of the States which are without such

services or in which such services are inadequate, and with public library construction, and in the improvement of such other State library services as library services for physically handicapped, institutionalized, and disadvantaged persons, in strengthening State library administrative agencies, and in promoting interlibrary cooperation.

"(b) Nothing in this Act shall be construed to interfere with State and local initiative and responsibility in the conduct of public library services. The administration of public libraries, the selection of personnel and library books and materials, and, insofar as consistent with the purposes of this Act, the determination of the best uses of the funds provided under this Act shall be reserved to the States and their local subdivisions.

"DEFINITIONS

"SEC. 3. The following definitions shall apply to this Act:

"(1) 'Commissioner' means the Commissioner of Education.

"(2) 'Construction' includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees and the cost of acquisition of land). For the purposes of this paragraph, the term 'equipment' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them; and such term includes all other items necessary for the functioning of a particular facility as a facility for the provision of library services.

"(3) 'Library service' means the performance of all activities of a library relating to the collection and organization of library materials and to making the materials and information of a library available to a clientele.

"(4) 'Library services for the physically handicapped, means the providing of library services, through public or other nonprofit libraries, agencies, or organizations, to physically handicapped persons (including the blind and other visually handicapped) certified by competent authority as unable to read or to use conventional printed materials as a result of physical limitations.

"(5) 'Public library' means a library that serves free of charge all residents of a community, district, or region, and receives its financial support in whole or in part from public funds.

"(6) 'Public library services' means library services furnished by a public library free of charge.

"(7) 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

"(8) 'State Advisory Council on Libraries' means an advisory council for the purposes of clause (3) of section 6(a) of this Act which shall—

"(A) be broadly representative of the public, school, academic, special, and institutional libraries, and libraries serving the handicapped, in the State and of persons using such libraries, including disadvantaged persons, within the State;

"(B) advise the State library administrative agency on the development of, and policy matters arising in the administration of, the State plan;

"(C) assist the State library administrative agency in the evaluation of activities assisted under this Act; and

"(D) submit, through the State library administrative agency, to the Commissioner a report of its activities and recommendations as may be appropriate at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation.

"(9) 'State institutional library services' means the providing of books and other library materials, and of library services, to (A) inmates, patients, or residents of penal institutions, reformatories, residential training schools, orphanages, or general or special institutions or hospitals operated or substantially supported by the State, or (B) students in residential schools for the physically handicapped (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired persons who by reason thereof require special education) operated or substantially supported by the State.

"(10) 'State library administrative agency' means the official agency of a State charged by law of that State with the extension and development of public library services throughout the State, which has adequate authority under law of the State to administer State plans in accordance with the provisions of this Act.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 4. (a) For the purpose of carrying out the provisions of this Act the following sums are authorized to be appropriated:

"(1) For the purpose of making grants to States for library services as provided in title I, there are authorized to be appropriated $112,000,000 for the fiscal year ending June 30, 1972, $117,600,000 for the fiscal year ending June 30, 1973, $123,500,000 for the fiscal year ending June 30, 1974, $129,675,000 for the fiscal year ending June 30, 1975, and $137,150,000 for the fiscal year ending June 30, 1976.

"(2) For the purpose of making grants to States for public library construction, as provided in title II, there are authorized to be appropriated $80,000,000 for the fiscal year ending June 30, 1972, $84,000,000 for the fiscal year ending June 30, 1973, $88,000,000 for the fiscal year ending June 30, 1974, $92,500,000 for the fiscal year ending June 30, 1975, and $97,000,000 for the fiscal year ending June 30, 1976.

"(3) For the purpose of making grants to States to enable them to carry out interlibrary cooperation programs authorized by title III, there are hereby authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1972, $15,750,000 for the fiscal year ending June 30, 1973, $16,500,000 for the fiscal year ending June 30, 1974, $17,300,000 for the fiscal year ending June 30, 1975, and $18,200,000 for the fiscal year ending June 30, 1976.

"(b) Notwithstanding any other provision of law, unless enacted in express limitation of the provisions of this subsection, any sums appropriated pursuant to subsection (a) shall (1), in the case of sums appropriated pursuant to paragraph (1) and (3) thereof, be available for obligation and expenditure for the period of time specified in the Act making such appropriation, and (2), in the case of sums appropriated pursuant to paragraph (2) thereof, subject to regulations of the Commissioner promulgated in carrying out the provisions of section 5(b), be available for obligation and expenditure until expended.

"ALLOTMENTS TO STATES

"SEC. 5. (a)(1) From the sums appropriated pursuant to paragraph (1), (2), or (3) of section 4(a) for any fiscal year, the Commissioner shall allot the minimum allotment, as determined under paragraph (3) of this subsection, to each State. Any sums remaining after minimum allotments have been made shall be allotted in the manner set forth in paragraph (2) of this subsection.

"(2) From the remainder of any sums appropriated pursuant to paragraph (1), (2), or (3) of section 4(a) for any fiscal year, the Commissioner shall allot to each State such part of such remainder as the population of the State bears to the population of all the States.

"(3) For the purposes of this subsection, the 'minimum allotment' shall be—

"(A) with respect to appropriations for the purposes of title I, $200,000 for each State, except that it shall be $40,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(B) with respect to appropriations for the purposes of title II, $100,000 for each State, except that it shall be $20,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands; and

"(C) with respect to appropriations for the purposes of title III, $40,000 for each State, except that it shall be $10,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

If the sums appropriated pursuant to paragraph (1), (2), or (3) of section 4(a) for any fiscal year are insufficient to fully satisfy the aggregate of the minimum allotments for that purpose, each of such minimum allotments shall be reduced ratably.

"(4) The population of each State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"(b) The amount of any State's allotment under subsection (a) for any fiscal year from any appropriation made pursuant to paragraph (1), (2), or (3) of section 4(a) which the Commissioner deems will not be required for the period and the purpose for which such allotment is available for carrying out the State plan as approved shall be available for reallocation or reallotment from time to time on such dates during such year as the Commissioner shall fix. Such amount shall first be available for reallocation to that State for other purposes authorized under this Act and then shall be available for reallotment to other States in proportion to the original allotments for such year to such States under subsection (a) but with such proportionate amount for any of such other State being reduced to the extent that it exceeds the amount which the Commissioner estimates the State needs and will be able to use for such period of time for which the original allotments were made and the total of such reductions shall be similarly reallotted among the States not suffering such a reduction. Any amount reallotted to a State under this subsection for any fiscal year shall be deemed to be a part of its allotment for such year pursuant to subsection (a). The Commissioner shall fix at least one date for determinations under the first sentence of this subsection during each fiscal year.

"STATE PLANS

"SEC. 6. (a) Any State desiring to receive its allotment for any purpose under this Act for any fiscal year shall (1) have in effect for such fiscal year a basic State plan meeting the requirements set forth in subsection (b), (2) submit an annual program plan for the purposes for which allotments are desired, meeting the appropriate requirements set forth in titles I, II, and III, which plan shall include (no later than July 1, 1972) a long-range program plan for carrying out the purposes of this Act as specified in subsection (d), and (3) if it so elects, establish a State Advisory Council on Libraries which meets the requirements of section 3(8).

"(b) A basic State plan under this Act shall—

"(1) provide for the administration, or supervision of the administration, of the programs authorized by this Act by the State library administrative agency;

"(2) provide that any funds paid to the State in accordance with a long-range program and an annual program plan shall be expended solely for the purposes for which funds have been authorized and appropriated and that such fiscal control and fund accounting procedures have been adopted as may be necessary to assure proper disbursement of, and account for, Federal funds paid to the State (including any such funds paid by the State to any other agency) under this Act;

"(3) provide satisfactory assurance that the State agency administering the plan (A) will make such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this Act and to determine the extent to which funds provided under this Act have been effective in carrying out its purposes, including reports of evaluations made under the State plans, and (B) will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports; and

"(4) set forth policies and procedures of accepting, reviewing, and approving applications for assistance under this Act which policies and procedures shall insure that final action with respect to the approval or disapproval of any application (or amendment thereof) shall not be taken without first (A) affording the agency or agencies submitting such application reasonable notice and opportunity for a hearing, and (B) affording interested persons an opportunity to present their views.

"(c) (1) The Commissioner shall not approve any basic or annual program plan pursuant to this Act for any fiscal year unless—

"(A) the plan fulfills the conditions specified in subsections (b) and (d) of this section and the appropriate title of this Act;

"(B) the plan has, prior to its submission, been made public by the State agency to administer it and a reasonable opportunity has been given by that agency for comment thereon by interested persons;

"(C) he has made specific findings as to the compliance of such plan with requirements of this Act and he is satisfied that adequate procedures are set forth therein to insure that any assurances and provisions of such plan will be carried out.

"(2) The State plan shall be made public as finally approved.

"(3) The Commissioner shall not finally disapprove any plan submitted pursuant to subsection (a), or any modification thereof, without first affording the State reasonable notice and opportunity for hearing.

"(d) The long-range program plan of any State for carrying out the purposes of this Act shall be developed in consultation with the Commissioner and shall—

"(1) set forth a program under which the funds received by the State under the programs authorized by this Act will be used to carry out a long-range plan of library services and construction covering a period of not less than three nor more than five years, and

"(2) be annually reviewed and revised in accordance with changing needs for assistance under this Act and the results of the evaluation and surveys of the State library administrative agency;

"(3) set forth policies and procedures (A) for the periodic evaluation of the effectiveness of programs and projects supported under this Act, and (B) for appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects;

"(4) set forth effective policies and procedures for the coordination of programs and projects supported under the State plan with library programs and projects operated by institutions of higher education or local elementary or secondary schools and with other public or private library services programs; and

"(5) set forth the criteria to be used in determining the adequacy of public library services in geographical areas and for groups of persons in the State, including criteria designed to assure that priority will be given to programs or projects which serve urban and rural areas with high concentrations of low-income families.

Prior to its adoption, such program plan shall be made public and a reasonable opportunity shall be afforded for comment thereon by interested persons. Such program plan shall be made public as it is finally adopted.

"(e) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering a State plan approved under this Act, finds—

"(1) that the State plan has been so changed that it no longer complies with the provisions of this Act, or

"(2) that in the administration of the plan there is a failure to comply substantially with any such provisions or with any assurance or other provision contained in such plan,

then, until he is satisfied that there is no longer any such failure to comply, after appropriate notice to such State agency, he shall make no further payments to the State under this Act or shall limit payments to programs or projects under, or parts of, the State plan not affected by the failure, or shall require that payments by such State agency under this Act shall be limited to local or other public library agencies not affected by the failure.

"(f) (1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of a plan submitted under this Act or with his final action under subsection (e) such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28; United States Code.

"(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon take new or modified findings of fact and may modify his previous action, and shall certify to the court the record of further proceedings.

"(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"PAYMENT TO STATES

"SEC. 7. (a) From the allotments available therefor under section 5 from appropriations pursuant to paragraph (1), (2), or (3) of section 4(a), the Commissioner shall pay to each State which has the appropriate State plans approved under section 6 and title I, II, or III an amount equal to the Federal share of the total sums expended by the State and its political subdivisions in carrying out such plan, except that no payments shall be made from appropriations pursuant to such paragraph (1) for the purposes of title I to any State (other than the Trust Territory of the Pacific Islands) for any fiscal year unless the Commissioner determines that—

"(1) there will be available for expenditure under the plan from State and local sources during the fiscal year for which the allotment is made—

"(A) sums sufficient to enable the State to receive for the purpose of carrying out the plan payments in an amount not less than the minimum allotment for that State for the purpose, and

"(B) not less than the total amount actually expended, in the areas covered by the plan for such year, for the purposes of such plan from such sources in the second preceding fiscal year; and

"(2) there will be available for expenditure for the purposes of the plan from State sources during the fiscal year for which the allotment is made not less than the total amount actually expended for such purposes from such sources in the second preceding fiscal year.

"(b) (1) For the purposes of this section, the 'Federal share' for any State shall be, except as is provided otherwise in title III, 100 per centum less the State percentage, and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of all the States (excluding Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), except that (A) the Federal share shall in no case be more than 66 per centum, or less than 50 per centum, and (B) the Federal share for Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 66 per centum, and (C) the Federal share for the Trust Territory of the Pacific Islands shall be 100 per centum.

"(2) The 'Federal share' for each State shall be promulgated by the Commissioner within sixty days after the beginning of the fiscal year ending June 30, 1971, and of every second fiscal year thereafter, on the basis of the average per capita incomes of each of the States and of all the States (excluding Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), for the three most recent consecutive years for which satisfactory data are available to him from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years beginning after the promulgation.

"TITLE I—LIBRARY SERVICES

"GRANTS FOR STATES FOR LIBRARY SERVICES

"SEC. 101. The Commissioner shall carry out a program of making grants from sums appropriated pursuant to section 4(a)(1) to States which have had approved basic State plans under section 6 and annual program plans under section 103 for the extension of public library services to areas without such services and the improvement of such services in areas in which such services are inadequate, for making library services more accessible to persons who, by reason of distance, residence, or physical handicap, or other disadvantage, are unable to receive the benefits of public library services regularly made available to the public, for adapting public library services to meet particular needs of persons within the States, and for

improving and strengthening library administrative agencies.

"USES OF FEDERAL FUNDS

"SEC. 102. (a) Funds appropriated pursuant to paragraph (1) of section 4(a) shall be available for grants to States from allotments under section 5(a) for the purpose of paying the Federal share of the cost of carrying out State plans submitted and approved under section 6 and section 103. Except as is provided in subsection (b), grants to States under this title may be used solely—

"(1) for planning for, and taking other steps leading to the development of, programs and projects designed to extend and improve library services, as provided in clause (2); and

"(2) for (A) extending public library services to geographical areas and groups of persons without such services and improving such services in such areas and for such groups as may have inadequate public library services; and (B) establishing, expanding, and operating programs and projects to provide (i) State institutional library services, (ii) library services to the physically handicapped, and (iii) library services for the disadvantaged in urban and rural areas; and (C) strengthening metropolitan public libraries which serve as national or regional resource centers.

"(b) Subject to such limitations and criteria as the Commissioner shall establish by regulation, grants to States under this title may be used (1) to pay the cost of administering the State plans submitted and approved under this Act (including obtaining the services of consultants), statewide planning for and evaluation of library services, dissemination of information concerning library services, and the activities of such advisory groups and panels as may be necessary to assist the State library administrative agency in carrying out its functions under this title, and (2) for strengthening the capacity of State library administrative agencies for meeting the needs of the people of the States.

"STATE ANNUAL PROGRAM PLANS FOR LIBRARY SERVICES

"SEC. 103. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 6, submit for approval for that fiscal year an annual program plan for library services. Such plan shall be submitted at such time, in such form, and contain such information as the Commissioner may require by regulation, and shall—

"(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (1) of section 4(a) for that year will be used, consistent with its long-range plan, solely for the purposes set forth in section 102;

"(2) set forth the criteria used in allocating such funds among such purposes, which criteria shall insure that the State will expend from Federal, State, and local sources an amount not less than the amount expended by the State from such sources for State institutional library services, and library services to the physically handicapped during the fiscal year ending June 30, 1971;

"(3) include such information, policies, and procedures as will assure that the activities to be carried out during that year are consistent with the long-range program plans; and

"(4) include an extension of the long-range plan, taking into consideration the results of evaluations.

"TITLE II—PUBLIC LIBRARY CONSTRUCTION

"GRANTS TO STATES FOR PUBLIC LIBRARY CONSTRUCTION

"SEC. 201. The Commissioner shall carry out a program of making grants to States which have had approved basic plans under section 6 and State annual program plans under section 202 for the construction of public libraries.

"STATE ANNUAL PROGRAM PLANS FOR THE CONSTRUCTION OF PUBLIC LIBRARIES

"SEC. 202 Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic and a long-range State plan under section 6, submit for approval for that fiscal year an annual program plan for the construction of public libraries. Such plan shall be submitted at such time and contain such information as the Commissioner may require by regulation, and shall—

"(1) provide that funds paid to the State from appropriations pursuant to paragraph (2) of section 4(a) for that year will be used, consistent with its long-range plan, solely for the construction of public libraries in areas of the State which are without the library facilities necessary to provide adequate library services;

"(2) set forth the criteria, policies, and procedures for the approval of applications for the construction of public library facilities under the program set forth in clause (1);

"(3) set forth policies and procedures which will insure that every local or other public agency whose application for funds under the plan with respect to a project for construction of public library facilities is denied will be given an opportunity for a hearing before the State library administrative agency;

"(4) include such information, policies, and procedures as will assure that the activities to be carried out during that year are consistent with the long-range program plan; and

"(5) include an extension of the long-range plan, taking into consideration the results of evaluations.

"TITLE III—INTERLIBRARY COOPERATION

"GRANTS TO STATES FOR INTERLIBRARY COOPERATION PROGRAMS

"SEC. 301. The Commissioner shall carry out a program of making grants to States which have approved basic State plans under section 6 and annual program plans under section 303 for interlibrary cooperation programs.

"USES OF FEDERAL FUNDS

"SEC. 302. (a) Funds appropriated pursuant to paragraph (3) of section 4(a) shall be available for grants to States from allotments under paragraphs (1) and (3) of section 5(a) for the purpose of carrying out the Federal share of the cost of carrying out State plans submitted and approved under section 303. Such grants shall be used (1) for planning for, and taking other steps leading to the development of, cooperative library networks; and (2) for establishing, expanding, and operating local, regional, and interstate cooperative networks of libraries, which provide for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers for improved supplementary services for the special clientele served by each type of library or center.

"(b) For the purposes of this title, the Federal share shall be 100 per centum of the cost of carrying out the State plan.

"STATE ANNUAL PROGRAM PLANS FOR INTERLIBRARY COOPERATION

"SEC. 303. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 6, submit for approval for that fiscal year an annual program plan for interlibrary cooperation. Such plan shall be submitted at such time, in such form, and contain such information as the Commissioner may require by regulation, and shall—

"(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (3) of section 4(a) will be used, consistent with its long-range plan, solely for the purposes set forth in section 302 and set forth specific procedures, policies, and objectives which will insure that funds available to the State under this title will be used to meet such purposes;

"(2) set forth the criteria which the State agency shall use in evaluating applications for funds under this title and in assigning priority to project proposals;

"(3) set forth such procedures and policies as will provide assurance that all appropriate libraries, agencies, and organizations eligible for participation in activities assisted under this title will be given an opportunity to participate to the extent of their eligibility;

"(4) include such information as will assure that the activities to be carried out during that year are consistent with the long-range program plans; and

"(5) include an extension of the long-range plan, taking into consideration the results of evaluations.".

(c)(1) The amendment made by subsection (b) shall be effective after June 30, 1971.

(2) In the case of funds appropriated to carry out title I of the Library Services and Construction Act for the fiscal year ending June 30, 1971, each State is authorized, in accordance with regulations of the Commissioner of Education, to use a portion of its allotment for the development of such plans as may be required by such Act, as amended by subsection (b).

Mr. YARBOROUGH. Mr. President, I supported S. 3318, the Library Services and Construction Amendments of 1970. This important bill extends for 5 years the Library Services and Construction Act which will expire on June 30, 1971. In addition to extending this act, S. 3318 also improves the administration of these library programs and increases Federal participation in them.

More specifically, S. 3318 consolidates the library services programs for handicapped persons under title I of the act which provides for the basic library services programs. It expands title I so as to provide special library services for disadvantaged persons, assistance to State library administrative agencies, and to strengthen metropolitan libraries. In addition, under S. 3318, the minimum Federal share of library programs is increased from 33 to 50 percent.

The purpose for increasing Federal participation in library programs is to expand library services to the disadvantaged persons in rural and urban areas that do not have access to a public library. To accomplish this purpose, S.

3318 authorizes the Federal Government to spend the following amounts on library programs:

	Million
1972	$112.0
1973	117.6
1974	123.5
1975	129.7
1976	137.1

The need for this expanded program is clear. At present, the libraries in the United States do not have the books they need to serve the people. The recognized standard for libraries is that there should be at least 3.5 books per person. Furthermore, the standard of income for a library is a minimum of $5 per person. At present, our library programs are $450 million below that goal. The time has come to meet this problem head on and attempt to solve it. The passage of S. 3318 would be a major step toward accomplishing that goal.

For many years I have felt that library services are one of the most vital elements in education. Without sufficient libraries, we cannot begin to combat the problems of ignorance that abound in this Nation. For these reasons, I have, as a member of the Education Subcommittee for 13 years, fought for library legislation. I have cosponsored nearly every major library law to be enacted in the last 13 years. These laws include:

First. The extension of the Rural Library Services Act in 1960.

Second. The 1964 amendments to the Rural Library Services Act which extended the library service programs to cities of all sizes.

Third. The 1966 extension of the basic act which provided for more State participation in library programs.

Fourth. The 1967 amendments to the act.

The impact of this Federal program has been quite dramatic. Since 1957, this program has provided 45 million library books and 650 additional bookmobiles. Furthermore, since 1965, this program of Federal and State aid has provided the funds for 1,500 library buildings which will serve 50 million people. We must continue this program of expansion if we are to keep up with the needs of our people.

It is the responsibility of Congress to give full support to our Nation's libraries. They are needed, not only to improve the intellectual capacities of our people, but also to calm the savage instincts that threaten our society. As President Kennedy once remarked:

Education need should not end upon graduation at any level. The public library is an important resource for continuing education.

Mr. President, I urge all my colleagues to support this important bill.

Mr. MANSFIELD. Mr. President, I shall have to discuss this matter with the acting minority leader before I proceed further.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, if the bill just laid before the Senate is not disposed of today, it will be pending business on Monday after whatever brief time there may be on the unfinished business (S.J. Res. 1).

It will be followed, though not necessarily in this order, by 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; possibly a bill to amend title VII of the Housing and Urban Development Act of 1965, either S. 3398 or H.R. 17795; and then some of the other bills which have just been placed on the Calendar, which I hope will be cleared by that time: S. 3942, a bill having to do with health and sanitation inspection of imported livestock products; H.R. 13978, to amend the Agricultural Adjustment Act of 1933; and H.R. 13543, an act to establish a program of research and promotion for U.S. wheat.

With those brief remarks, Mr. President, I suggest the absence of a quorum, so that I can clear this matter up.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess subject to the call of the Chair, with the understanding that the recess not extend beyond 3:15 p.m. today.

The motion was agreed to; and (at 2 o'clock and 50 minutes p.m.) the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 2:59 p.m. when called to order by the Acting President pro tempore (Mr. ALLEN).

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, is there an order to adjourn to 10 o'clock on Monday morning next?

The ACTING PRESIDENT pro tempore. The Senator is correct. There is such an order.

Mr. MANSFIELD. There is an order?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. MANSFIELD. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. Calendar No. 1179, S. 3318, has been laid before the Senate and is the pending business.

Mr. MANSFIELD. I thank the Chair.

ADJOURNMENT UNTIL MONDAY, SEPTEMBER 21, 1970, AT 10 A.M.

Mr. MANSFIELD. Mr. President, after discussing this matter with the distinguished acting minority leader, and because of the situation which has arisen over which we have little or no control, I move, in accordance with the previous order, that at this extremely early hour the Senate stand in adjournment until 10 a.m. on Monday next.

The motion was agreed to; and (at 3 o'clock p.m.) the Senate adjourned until Monday, September 21, 1970, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 18, 1970:

DEPARTMENT OF STATE

John N. Irwin II, of New York, to be Under Secretary of State.

AMBASSADOR

William B. Buffum, of New York, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

INTER-AMERICAN SOCIAL DEVELOPMENT INSTITUTE

The following-named persons to be members of the Board of Directors of the Inter-American Social Development Institute for the terms indicated:

For a term of 2 years:
John A. Hannah, of Michigan.
For a term of 4 years:
John Richardson, Jr., of Virginia.
For a term of 6 years:
Augustin S. Hart, Jr., of Illinois.
George Cabot Lodge, of Massachusetts.
Charles A. Meyer, of Pennsylvania.

NATIONAL SCIENCE FOUNDATION

Raymond L. Bisplinghoff, of Massachusetts, to be Deputy Director of the National Science Foundation.

NATIONAL LIBRARY OF MEDICINE

The following-named persons to be members of the Board of Regents, National Library of Medicine, Public Health Service, for terms of 4 years from August 3, 1970:

James Chipman Fletcher, of Utah.
John Phillip McGovern, of Texas.

OFFICE OF SCIENCE AND TECHNOLOGY

Edward E. David, Jr., of New Jersey, to be Director of the Office of Science and Technology.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Donald G. MacDonald, of Vermont, to be an Assistant Administrator of the Agency for International Development.

FOUR CORNERS REGIONAL COMMISSION

Stanley Womer, of Arizona, to be Federal Cochairman of the Four Corners Regional Commission.

NEW ENGLAND REGIONAL COMMISSION

Chester M. Wiggins, Jr., of New Hampshire, to be Federal Cochairman of the New England Regional Commission.

IAEA CONFERENCE REPRESENTATIVES

Glenn T. Seaborg, of California, to be the representative of the United States of America to the 14th session of the General Conference of the International Atomic Energy Agency.

The following-named persons to be alternate representatives of the United States of America to the 14th session of the General Conference of the International Atomic Energy Agency:

T. Keith Glennan, of Virginia.
Clarence E. Larson, of Tennessee.
Verne B. Lewis, of Maryland.
Dwight J. Porter, of Nebraska.