Department of Health, Education, and Welfare; to the Committee on Education and Labor.

By Mr. BRADEMAS (for himself, Mr. PERKINS, Mr. AYRES, Mr. THOMPSON of New Jersey, Mr. QUIE, Mr. DENT, Mr. REID of New York, Mr. DANIELS of New Jersey, Mr. ERLENBORN, Mr. O'HARA, Mr. SCHERLE, Mr. CAREY, Mr. DELLENBACK, Mr. HAWKINS, Mr. ESCH, Mr. WILLIAM D. FORD, Mr. STEIGER of Wisconsin, Mr. HATHAWAY, Mr. COLLINS, Mrs. MINK, Mr. LANDGREBE, Mr. SCHEUER, Mr. HANSEN of Idaho, Mr. BURTON of California, and Mr. MEEDS):

H.R. 19363. A bill to amend the Library Services and Construction Act, and for other purposes; to the Committee on Education and Labor.

By Mr. BRADEMAS (for himself, Mr. GAYDOS, Mr. RUTH, Mr. STOKES, Mr. CLAY, Mr. POWELL, Mr. FRELINGHUYSEN, Mr. DAVIS of Georgia, Mrs. MAY, Mr. FRASER, Mr. LEGGETT, Mr. MELCHER, Mr. MILLS, Mr. OLSEN, and Mr. SIKES):

H.R. 19364. A bill to amend the Library Services and Construction Act, and for other purposes; to the Committee on Education and Labor.

By Mr. CRANE:

H.R. 19365. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. FRASER:

H.R. 19366. A bill to authorize the establishment of an older worker community service program; to the Committee on Education and Labor.

By Mrs. MINK (for herself, Mr. BIAGGI, Mr. BROWN of California, Mrs. CHISHOLM, Mr. EDWARDS of California, Mr. FRIEDEL, Mr. FULTON of Pennsylvania, Mr. HELSTOSKI, Mr. HOGAN, Mr. LUJAN, Mr. MCKNEALLY, Mr. MATSUNAGA, Mr. MESKILL, Mr. OTTINGER, Mr. REES, Mr. PEPPER, Mr. PIKE, Mr. PODELL, Mr. POLLOCK, Mr. ROE, Mr. RYAN, Mr. SCHEUER, Mr. THOMPSON of New Jersey, and Mr. TUNNEY):

H.R. 19367. A bill to amend title II of the Social Security Act to provide in certain cases for an exchange of credits between the old age, survivors, and disability insurance system and the civil service retirement system so as to enable individuals who have some coverage under both systems to obtain maximum benefits based on their combined service; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. WILLIAM D. FORD, Mr. WOLFF, Mr. ROONEY of Pennsylvania, Mr. GUDE, Mr. ANDERSON of Tennessee, Mr. KOCH, Mr. FARBSTEIN, Mr. GALFIANAKIS, Mr. ECKHARDT, Mr. BRADEMAS, Mr. MCCARTHY, Mr. FRIEDEL, Mr. BRASCO, Mr. BURKE of Massachusetts, and Mr. FASCELL):

H.R. 19368. A bill to establish a Juvenile Research Institute and Training Center; to the Committee on the Judiciary.

By Mr. CONABLE:

H.R. 19369. A bill to amend section 165(g) of the Internal Revenue Code of 1954 which provides for treatment of losses on worthless securities; to the Committee on Ways and Means.

By Mr. FASCELL (for himself, Mrs. CHISHOLM, Mr. HORTON, and Mr. REES):

H.R. 19370. A bill to require the Department of Defense to determine disposal dates and methods for disposing of certain military material; to the Committee on Armed Services.

By Mr. FASCELL (for himself, Mrs. CHISHOLM, Mr. HORTON, Mr. PIKE, and Mr. REES):

H.R. 19371. A bill to prohibit the discharge into any of the navigable waters of the United States or into international waters of any military material without a certification by the Council on Environmental Quality approving such discharge; to the Committee on Merchant Marine and Fisheries.

H.R. 19372. A bill to require the Council on Environmental Quality to make a full and complete investigation and study of national policy with respect to the discharging of material into the oceans; to the Committee on Merchant Marine and Fisheries.

By Mr. PEPPER (for himself and Mr. WALDIE):

H.R. 19373. A bill to amend the Communications Act of 1934 in order to require licensees operating broadcasting stations under such act to broadcast information with respect to the dangers involved in the improper use of drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. DADDARIO:

H.J. Res. 1375. Joint resolution authorizing the President to declare 1 week each September as "national SS *Hope* Week"; to the Committee on the Judiciary.

By Mr. JACOBS:

H.J. Res. 1376. Joint resolution authorizing the President to proclaim the period October 25 through 31, 1970, as Law Officers Appreciation Week; to the Committee on the Judiciary.

By Mr. LANGEN:

H.J. Res. 1377. Joint resolution proposing an amendment to the Constitution of the United States with respect to the flag of the United States; to the Committee on the Judiciary.

By Mr. SCHMITZ:

H.J. Res. 1378. Joint resolution providing for a formal declaration of war against the Government of the Democratic Peoples Republic of Vietnam (North Vietnam) unless certain conditions are met, and for other purposes; to the Committee on Foreign Affairs.

By Mr. COLMER:

H. Con. Res. 740 Concurrent resolution authorizing the printing of additional copies of the hearings accompanying the Legislative Reorganization Act of 1970; to the Committee on House Administration.

By Mr. FASCELL (for himself, Mrs. CHISHOLM, Mr. HORTON, Mr. PIKE and Mr. REES):

H. Con. Res. 741. Concurrent resolution expressing the sense of the Congress with respect to the pollution of waters all over the world and the necessity for coordinated international action to prevent such pollution; to the Committee on Foreign Affairs.

By Mr. CRAMER (for himself and Mr. WILLIAMS):

H. Res. 1217. Resolution expressing the sense of the House with respect to an early resolution by the Supreme Court of the problems involved in desegregating the Nation's public schools; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. COLLIER:

H.R. 19374. A bill for the relief of Mrs. Rose Scanio; to the Committee on the Judiciary.

By Mr. WOLD:

H.R. 19375. A bill to provide for the conveyance of certain public lands in Wyoming to the occupants of the land; to the Commitee on Interior and Insular Affairs.

By Mr. WRIGHT:

H.R. 19376. A bill for the relief of Milivoy Jankovic; to the Committee on the Judiciary.

MEMORIALS

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

440. By the SPEAKER: A memorial of the Legislature of the State of California, relative to the disposal of environmentally harmful pesticides; to the Committee on Agriculture.

441. Also, a memorial of the Legislature of the State of California, relative to geothermal power source; to the Committee on Interior and Insular Affairs.

442. Also, a memorial of the Legislature of the State of California, relative to poison prevention; to the Committee on Interstate and Foreign Commerce.

PETITIONS, ETC.

Under clause 1 of rule XXII,

592. The SPEAKER presented a petition of Bernardas Brizgys, et al., Detroit, Mich., relative to the 50th anniversary of Lithuania's Constitutional Congress; to the Committee on Foreign Affairs.

SENATE—*Monday, September 21, 1970*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. RUSSELL).

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

Eternal and ever-gracious God, who has watched over us in the days of the past and brought us to this new week, make this a moment of vision when we hear Thy word above our words and see Thy light illuminating the path before us. Sensitize our minds and spirits with Thy mind and spirit. Instruct us by the wisdom of history. Keep us close to the youth of the land that we may have young hearts and understand their dreams. Inspire us to use every ability and resource with which Thou hast endowed us to create new patterns and new programs which advance the common welfare.

O Thou "who maketh wars to cease unto the ends of the earth," bring peace to our troubled world. Guide by Thy spirit all whose role is mediator and peacemaker until the peace of Thy righteous kingdom is established among all the nations.

In the name of the Prince of Peace. Amen.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting

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nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 18, 1970, be dispensed with.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

COMMITTEE MEETING DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet on social security legislation during the session of the Senate today.

The 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 Calendar Nos. 1207, 1209, 1212, 1217, 1221, 1222, and 1223.

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

AMENDMENT OF THE HOUSING AND URBAN DEVELOPMENT ACT

The bill (H.R. 17795) to amend title VII of the Housing and Urban Development Act of 1965 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. 91–1189), explaining the purposes of the measure.

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

WHAT THE BILL WOULD DO

The bill would (1) state congressional findings that many of the Nation's communities are unable to finance the construction of urgently needed public facilities and that there is an immediate need for such facilities to provide basic safeguards for the health and well-being of our citizens, to check widespread water pollution, and to provide an effective and practical method of combating rising unemployment; (2) reenact the balance of the authorization for basic water and sewer facilities provided for in title VII of the Housing and Urban Development Act of 1965 and provide for an additional authorization of $1 billion; and (3) extend for 1 year (until October 1, 1971) the time within which a community may qualify for a basic water and sewer facilities grant even though its program for an areawide system, though under preparation, has not been completed. Pending final congressional action on the fiscal year 1971 appropriation for the section 702 basic water and sewer facilities program, enactment of the committee bill would make a total authorization of $1,350 million available through fiscal year 1972.

BACKGROUND OF THE BILL

S. 3938—the Senate companion bill was introduced by Senator Sparkman on June 9, 1970, and was included as one of the subjects for consideration in the housing hearings which were held between July 13, and 30, 1970. The committee received testimony covering all phases of the water and sewer facility program during the hearings from officials of the Department of Housing and Urban Development, as well as from officials of the National Association of Counties, and National League of Cities, and representatives from many local community units. Following the hearings the committee ordered S. 3938 reported on September 16.

NEED FOR THE BILL

The provision of adequate water and sewer facilities remains one of the most pressing problems facing the Nation's communities. Local sources of revenue continue to be severely strained, and although many communities are making valiant efforts to raise needed funds, their problems are compounded by the imposition of additional tax burdens which often discourage new industry from moving into the area. At the same time, these communities cannot hope to attract new industry without providing adequate water and sewer facilities.

This circle is particularly distressing during periods of high interest rates and rising unemployment, such as the Nation is now experiencing. Tight money-high interest rate policies affect not only the homebuilding industry: They make it difficult, if not impossible, for many communities to obtain long-term financing for public facilities at reasonable rates of interest; and, with unemployment at 5 percent nationally, and nearly 12 percent in the construction trades, local officials are understandably reluctant to add to their communities' tax burdens.

The enormous need for additional basic water and sewer facilities is widely recognized. A 1966 study prepared by the Joint Economic Committee forecast a required expenditure of $3.5 billion annually through the 10-year period ending in 1975. This estimate of need is outdated; since 1966, construction costs have increased 25 percent, with approximately half that increase coming since 1968. New estimates were prepared in 1968 on the basis of projections of greatly expanded housing production needed to meet the national housing goal of 26 million additional standard housing units by 1978. This recent estimate indicates that a gross investment by all levels of government of $51.8 billion will be required to provide supporting water and sewer facilities over the 10-year period, or an average of $5.2 billion, and, of course, construction costs continue to rise.

During the first 4 years of the water and sewer facilities grant program (fiscal years 1966 through 1969), grants amounting to $514.6 million have been made for 1,151 projects. Forty-eight percent of grant funds have gone for water projects, 41 percent for sewer projects, and 11 percent for combined water-sewer projects. During fiscal year 1970, grant reservation totaled approximately $150 million, sufficient to finance 290 projects. The fiscal year 1971 budget request provides for continuation of the program at the $150 million grant level, sufficient to finance 280 projects.

The committee believes that both authorizations and appropriations for this vital program greatly understate the needs of local communities. Testimony received during the committee's hearings from the National Association of Counties indicates that since 1966 the Department of Housing and Urban Development has rejected approximately $2.5 billion in applications for water and sewer facilites grants, and that the Department's regional officials "have been strongly discouraging" further applications. Testimony clearly showed that if more Federal funds had been available, the dollar amount of applications for grants would have doubled.

This is so regardless of HUD statements to the effect that rejection of applications for lack of funds does not mean that all applications would have been approved or projects actually constructed. Demand for program funds is at a record level, increasing numbers of communities are willing to go forward with necessary local financing arrangements, and low levels of Federal commitment to these projects are, in fact, discouraging many communities which have the capacity to undertake soundly conceived, well-planned projects.

The following table submitted by the National Association of Counties indicates the number of grant applications for water and sewer facilities rejected by HUD because of a lack of funds, the dollar amount of the applications, and the total project cost represented by the rejected applications:

LOCAL GOVERNMENT GRANT APPLICATIONS FOR WATER AND SEWER ASSISTANCE NOT FUNDED BY DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

State	Number of grant applications	Grant applications amount (millions)	Total project cost (millions)
Alabama	51	$53.68	$33.66
Alaska	15	7.27	17.15
Arizona	31	11.85	26.30
Arkansas	52	20.97	45.57
California	271	158.17	356.25
Colorado	73	19.71	48.62
Connecticut	95	59.82	155.36
Delaware	8	3.30	6.99
Florida	135	69.12	164.03
Georgia	43	19.64	46.39
Hawaii	19	5.78	14.12
Idaho	3	.69	1.39
Illinois	191	89.58	201.96
Indiana	77	48.57	131.00
Iowa	67	20.58	44.89
Kansas	60	13.60	28.89
Kentucky	28	55.89	136.54
Lousiana	107	70.17	158.16
Maine	48	8.31	18.58
Maryland	47	22.44	51.12
Massachusetts	225	93.33	227.23
Michigan	308	331.20	722.95
Minnesota	63	42.49	68.76
Mississippi	29	10.88	28.48
Missouri	104	34.06	80.56
Montana	14	2.47	4.89
Nebraska	45	16.80	48.64
Nevada	16	4.30	11.27
New Hampshire	27	$11.84	$27.00
New Jersey	163	92.55	209.20
New Mexico	13	2.61	6.83
New York	426	441.50	887.13
North Carolina	48	19.12	51.30
North Dakota	7	2.01	3.51
Ohio	255	204.45	420.62
Oklahoma	51	15.31	36.68
Oregon	47	26.18	65.68
Pennsylvania	317	158.68	343.72
Rhode Island	26	16.93	39.08
South Carolina	44	16.93	48.40
South Dakota	17	3.76	8.07
Tennessee	47	16.33	38.91
Texas	224	55.39	130.52
Utah	60	14.01	33.41
Vermont	33	7.41	16.89
Virginia	55	47.10	101.47
Washington	63	17.06	40.51
West Virginia	36	25.13	35.54
Wisconsin	85	37.79	84.74
Wyoming	5	.37	.79
Puerto Rico	25	5.78	13.81
Virgin Islands	1	.14	.29
National total	4,308	2,496.75	5,538.22

In addition, the funds authorized by the bill would have a substantial impact on the Nation's deteriorating economy by providing immediate help to the depressed construction industry. During the past 6 months, the unemployed rate in the Nation has risen from 3.5 percent to 5 percent. Unemployment in the construction industry, however, which is adversely affected by both cutbacks in Federal spending as well as high interest rate-tight money policies, has reached a level of nearly 12 percent, more than twice the national average.

The U.S. Bureau of Labor Statistics estimates that each $1 million invested in public facilities creates approximately 100 jobs a year—about 40 jobs at the construction site and about 60 jobs in industries supplying building materials, equipment, and services. Consequently, the $1 billion authorized by the bill would result in the creation of 100,000 onsite construction and manufacturing and service jobs. In addition, the multiplier effect of a $1 billion investment in public facilities would create thousands of additional new jobs throughout the economy.

The committee believes the additional funds authorized by the bill will enable HUD to provide a meaningful level of assistance to communities to provide adequate water and sewer facilities which will assist in meeting State health requirements, provide essential facilities for expanded housing production, and spur employment in the depressed construction trades.

AVAILABILITY OF FUNDS FOR PROJECTS IN SMALL TOWNS

The committee wishes to make clear that section 702 of the Housing and Urban Development Act of 1965 makes grants available to local public bodies without regard to the size of the community being served. The HUD policy of referring to the Farmers Home Administration applications of communities of less than 5,500 is an administratively established policy designed to achieve better coordination of the various Federal programs which provide financial assistance for water and sewer projects or waste treatment facilities. The committee believes that section 702 grant funds should be available to communities of less than 5,500 population where the community's application has been rejected by the Farmers Home Administration because of a lack of funds under the FHA program.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 1206, Senate bill 3938, the companion bill to H.R. 17795, be indefinitely postponed.

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

ENVIRONMENTAL PROTECTION AGENCY PERSONNEL ACT

The bill (S. 4269) to provide for employment within the Environmental Protection Agency of commissioned officers of the Public Health Service, and for other purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 4269

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 "Environmental Protection Agency Personnel Act".

ELECTION OF PUBLIC HEALTH SERVICE COMMISSIONED OFFICERS TO TRANSFER TO THE ENVIRONMENTAL PROTECTION AGENCY

SEC. 2. (a) Subject to such requirements as the Civil Service Commission may prescribe, any commissioned officer of the Public Health Service (other than an officer who retires under section 211 of the Public Health Service Act after his election but prior to his transfer pursuant to this section) who, upon the day before the effective date of Reorganization Plan Number 3 of 1970 (hereinafter in this Act referred to as the "plan"), is serving as such officer—

(1) primarily in the performance of functions transferred by such plan to the Environmental Protection Agency or its Administrator (hereinafter in this Act referred to as the "Agency" and the "Administrator", respectively), may, if such officer so elects, acquire competitive status and be transferred to a competitive position in the Agency; or

(2) primarily in the performance of functions determined by the Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") to be materially related to the functions so transferred, may, if authorized by agreement between the Secretary and the Administrator, and if such officer so elects, acquire such status and be so transferred.

(b) An election pursuant to subsection (a) shall be effective only if made, in accordance with such procedures as may be prescribed by the Civil Service Commission—

(1) before the close of the twenty-fourth month after the effective date of the plan, or

(2) in the case of a commissioned officer who would be liable for training and service under the Military Selective Service Act of 1967 but for the operation of section 6(b)-(3) thereof (50 U.S.C. App. 546(b)(3)), before (if it occurs later than the close of such twenty-fourth month) the close of the ninetieth day after the day upon which he has completed his twenty-fourth month of service as such officer.

COMPENSATION OF TRANSPORTATION OFFICER

SEC. 3. (a) Except as provided in subsection (b), any commissioned officer of the Public Health Service who, pursuant to section 2 of this Act, elects to transfer to a position in the Environmental Protection Agency which is subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code (hereinafter in this Act referred to as the "transferring officer"), shall receive a pay rate of the General Schedule grade of such position which is not less than the sum of the following amounts computed as of the day preceding the date of such election:

(1) the basic pay, the special pay, the continuation pay, and the subsistence and quarters allowances, to which he is annually entitled as a commissioned officer of the Public Health Service pursuant to title 37, United States Code;

(2) the amount of Federal income tax, as determined by estimate of the Secretary, which the transferring officer, had he remained a commissioned officer, would have been required to pay on his subsistence and quarters allowances for the taxable year then current if they had not been tax free;

(3) an amount equal to the biweekly average cost of the coverage designated "high option, self and family" under the Government-wide Federal employee health benefits program plans, multiplied by 26; and

(4) an amount equal to 7 per centum of the sum of the amounts determined under clauses (1) through (3), inclusive.

(b) A transferring officer shall in no event receive, pursuant to subsection (a), a pay rate in excess of the maximum rate applicable under the General Schedule to the class of position, as established under chapter 51 of title 5, United States Code, to which such officer is transferred pursuant to section 2 of this Act.

LEAVE OF TRANSFERRING OFFICER

SEC. 4. (a) A transferring officer shall be credited, on the day of his transfer pursuant to his election under section 2, with one hour of sick leave for each week of active service, as defined by section 211(d) of the Public Health Service Act.

(b) The annual leave to the credit of a transferring officer on the day before the day of his transfer, shall, on such day of transfer, be transferred to his credit in the Environmental Protection Agency on an adjusted basis under regulations prescribed by the Civil Service Commission. The portion of such leave, if any, that is in excess of the sum of (1) two hundred and forty hours and (2) the number of hours that have accrued to the credit of the transferring officer during the calendar year then current and which remain unused, shall thereafter remain to his credit until used, and shall be reduced in the manner prescribed by subsection (c) of section 6304 of title 5, United States Code.

TRAVEL AND TRANSPORTATION EXPENSES INCIDENT TO TRANSFER

SEC. 5. A transferring officer who is required to change his official station as a result of his transfer under this Act shall be paid such travel, transportation, and related expenses and allowances, as would be provided pursuant to subchapter II of chapter 57 of title 5, United States Code, in the case of a civilian employee so transferred in the interest of the Government. Such officer shall not (either at the time of such transfer or upon a subsequent separation from the competitive service) be deemed to have separated from, or changed permanent station within, a uniformed service for purposes of section 404 of title 37, United States Code.

LIFE INSURANCE OF TRANSFERRING OFFICER

SEC. 6. Each transferring officer who prior to January 1, 1958, was insured pursuant to the Federal Employees' Group Life Insurance Act of 1954, and who subsequently waived such insurance, shall be entitled to become insured under chapter 87 of title 5, United States Code, upon his transfer to the Environmental Protection Agency regardless of age and insurability.

RETIREMENT CREDITS OF TRANSFERRING OFFICER; DEPOSIT IN CIVIL SERVICE RETIREMENT AND DISABILITY FUND

SEC. 7. (a)(1) Effective as of the date a transferring officer acquires competitive status as an employee of the Agency, there shall be considered as the civilian service of such officer for all purposes of chapter 83, title 5, United States Code, (A) his active service as defined by section 211(d) of the Public Health Service Act, and (B) any period for which he would have been entitled, upon his retirement as a commissioned officer of the Public Health Service, to receive retired pay pursuant to section 211(a)(4)(B) of such Act; however, no transferring officer may become entitled to benefits under both subchapter III of such chapter and title II of the Social Security Act based on service as such a commissioned officer performed after 1956, but the individual (or his survivors) may irrevocably elect to waive benefit credit for the service under one such law to secure credit under the other.

(2) A transferring officer on whose behalf a deposit is required to be made by subsection (b) and who, after transfer to a competitive position in the Agency under section 2, is separated from Federal service or transfers to a position not covered by subchapter III of chapter 83 of title 5, United States Code, shall not be entitled, nor shall his survivors be entitled, to a refund of any amount deposited on his behalf in accordance with this section. In the event he transfers, after transfer under section 2, to a position covered by another Government staff retirement system under which credit is allowable for service with respect to which a deposit is required under subsection (b), no credit shall be allowed under such subchapter III with respect to such service.

(b) (1) The Secretary shall deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, on behalf of and to the credit of

such transferring officer, an amount equal to that which such individual would be required to deposit in such fund to cover the years of service credited to him for purposes of his retirement under subsection (a)(1), had such service been service as an employee as defined in section 8331(1) of title 5, United States Code. The amount so required to be deposited with respect to any transferring officer shall be computed on the basis of the sum of each of the amounts described in section 3(a) which were received by, or accrued to the benefit of, such officer during the year so credited.

(2) The deposits which the Secretary is required to make under this subsection with respect to any transferring officer shall be made within two years after the date of his transfer as provided in section 2, and the amounts due under this subsection shall include interest computed from the period of service credited to the date of payment in accordance with section 8334(e) of title 5, United States Code.

ASSIGNMENT OF PUBLIC HEALTH SERVICE OFFICERS TO THE ENVIRONMENTAL PROTECTION AGENCY

SEC. 8. (a) A commissioned officer of the Public Health Service who, upon the day before the effective date of the plan, is on active service therewith primarily assigned to the performance of functions described in section 2(a)(1), shall, while he remains in active service, as defined by section 211(d) of the Public Health Service Act, be assigned to the performance of duties with the Agency, except as the Secretary and the Administrator may jointly otherwise provide.

(b) Paragraph (2) of section 6(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 456(a)(2)) is amended by inserting "the Environmental Protection Agency," after "Department of Justice,".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1190), explaining the purposes of the measure.

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

STATEMENT AND JUSTIFICATION

On July 9, 1970, President Nixon sent reorganization Plan No. 3 to the Congress for consideration. This plan establishes the Environmental Protection Agency. Transferred to this new executive agency were the functions of a number of Federal offices involved in antipollution activities. Among them are the Federal Water Quality Administration; the National Air Pollution Control Administration; the Environmental Control Administration with its Bureau of Solid Waste Management; the Bureau of Water Hygiene; and, the Bureau of Radiological Health.

When Reorganization Plan No. 3 goes into effect, the pollution control effort of the Federal Government will be centralized in the Environmental Protection Agency.

Approximately 600 commissioned officers of the Public Health Service are now performing functions which would be transferred from the Department of Health, Education, and Welfare to the new Environmental Protection Agency. Most of these PHS officers are technicians and are experienced in the fight against environmental pollution.

The administration sees the need for their continuing to work in the field of pollution control and urges that these Public Health Service officers be allowed to transfer to the new Environmental Protection Agency and encouraged to do so. However, under present law these officers cannot transfer directly to Federal civilian positions.

This legislation would authorize those Public Health Service commissioned officers performing functions being transferred under the reorganization plan, or materially related to functions being transferred, to elect to acquire a competitive status and be transferred to a competitive position in the Environmental Protection Agency.

AGENCY VIEWS

Following are reports from the Honorable Elliot L. Richardson, Secretary of the Department of Health, Education, and Welfare; the Honorable Robert E. Hampton, Chairman of the U.S. Civil Service Commission; and, Mr. Wilfred H. Rommel, Assistant Director for Legislative Reference, Office of Management and Budget, expressing the views of their respective agencies on the bill and recommending enactment of S. 4269.

IMPROPER USES OF THE METERED MAIL SYSTEM

The Senate proceeded to consider the bill (H.R. 14485) to amend sections 501 and 504 of title 18, United States Code, so as to strengthen the law relating to the counterfeiting of postage meter stamps or other improper uses of the metered mail system which had been reported from the Committee on Post Office and Civil Service with amendments on page 1, after line 5, strike out:

"SEC. 501. Postage stamps, postage meter stamps, and postal cards.

"§ 501. Postage stamps, postage meter stamps, and postal cards

On page 2, line 3, after the word "Whoever", strike out "forgest" and insert "forges"; in line 19, after the word "Office", strike out "Department," and insert "Department or by the Postal Service,"; in line 21, after the word "of", strike out "said department" and insert "The Department or Postal Service"; on page 3, line 3, after the word "Office", strike out "Department," and insert "Department or the Postal Service,"; and at the begining of line 7, strike out "(b) Section 6(j)(6) of the Postal Reorganization Act is repealed."

The amendments were agreed to.

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

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1193), explaining the purposes of the measure.

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

PURPOSE OF LEGISLATION

The purpose of H.R. 14485 is to strengthen the law relating to the counterfeiting of postage meter stamps or other improper uses of the metered mail system.

This proposal was recommended to the Congress in an executive communication from the Postmaster General. The need for this legislation arises from the fact that the current laws relating to the forging or counterfeiting of adhesive-type postage stamps generally do not apply to postage meter stamps.

Recent advancements in printing arts, as well as the rapid increase in the use of metered mail, give this proposal a special urgency. At present, there is no prohibition against magazines and other publications printing perfect reproductions of postage meter stamps as part of an advertisement or other illustration. As the Postmaster General has pointed out, these reproductions need only to be cut out in order to be used in lieu of genuine postage meter stamps.

Section 501 of title 18 prohibits various acts in connection with the forging or counterfeiting of postage stamps. The first section of the proposed bill would amend this section so as to include specific references to postage meter stamps.

Section 504 of title 18 authorizes printing of illustrations of postage stamps under specific conditions. Section 2 of the proposed bill would amend this section by adding a new paragraph at the end thereof. This paragraph would provide that, for the purpose of section 504, postage meter stamps be included in the term postage stamp.

In recommending this proposal, your committee notes that in fiscal year 1956 adhesive stamps and stamped paper accounted for $1.011 billion in postal revenue, while metered postage accounted for about $7 million less ($1.004 billion). In contrast, metered postage accounted for $2.612 billion in postal revenues during fiscal year 1968 (more than a 160-percent increase), while adhesive stamps and stamped paper accounted for only $1.799 billion (less than a 78-percent increase).

ALBERT G. FELLER AND FLORA FELLER

The bill (S. 2835) for the relief of Albert G. Feller and Flora Feller was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Albert G. Feller and Flora Feller, of Ketchikan, Alaska, the sum of $267.12, representing the cost to them of having the body of their deceased son transported from Anchorage, Alaska, to Ketchikan, Alaska, such son having drowned prior to returning from his United States Army preinduction physical examination in Anchorage.

SEC. 2. No part of the amount appropriated in this Act in excess of 20 percent shall be paid or delivered to or received by any agent or attorney on account of services renreded in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1200), 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 direct the payment of $267.12 to Albert G. and Flora Feller representing the cost to them of having the body of their deceased son transported from Anchorage, Alaska, to Ketchikan, Alaska, such son having downed prior to returning from his U.S. Army preinduction physical examination in Anchorage.

STATEMENT

In its favorable report on the bill, the Department of the Army set forth the facts of the case as follows:

"The Department of the Army has no records concerning Albert G. Feller, Jr., son of Albert G. and Flora Feller, of Ketchikan, Alaska, but the following information was secured from the claimants, the Veterans of Foreign Wars, Juneau, Alaska, and the Selective Service System. In May 1966, Albert G.

Feller, Jr., a selective service registrant, was given a transportation request by the Selective Service System to cover his necessary travel from Ketchikan to Anchorage, Alaska, for the purpose of being inducted into the Army. Mr. Feller reported to the induction center on May 24, 1966, but he did not meet existing standards for induction and was rejected. Mr. Feller was given another transportation request for the return travel to Ketchikan, and was scheduled to depart on May 26, 1966. On May 30, 1966, Mr. Feller drowned while swimming in Big Lake near Anchorage, Alaska. The transportation request was returned to the issuing agency, and Mr. Feller's body was shipped home at the expense of his parents.

"All administrative claims made by the parents for reimbursement of transportation expenses for their son's body were denied by the Department of the Army on the ground that Mr. Feller had never acquired military status and no authority existed for payment. The Selective Service System also rejected claims by Mr. and Mrs. Feller for reimbursement on the ground that it had no authority to make payment. The pertinent Army regulation (AR 606–270, para. 12) in force at the time of Mr. Feller's death states that: 'For registrants for induction, financial responsibility for transportation, meals, and lodging, while traveling to and from AFEES-Selective Service System [is responsible agency].' If Mr. Feller had lived, this provision would have covered his return transportation.

"Mr. Feller traveled to Anchorage to report for induction. The United States was obligated to provide him with transportation to his home in Ketchikan. His untimely death terminated this obligation. There is no statutory or regulatory authority permitting administrative settlement of this claim. It is the opinion of the Department of the Army that it would be equitable to reimburse the parents under the unusual circumstances of this case.

"The cost of the bill, if enacted, would be $267.12.

"The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee."

The committee, after a review of the foregoing, believes that the bill is meritorious and recommends favorable consideration of S. 2835, without amendment.

RENEWAL OF CERTAIN FOREST SERVICE CONTRACTS WITHOUT ADVERTISING

The bill (H.R. 11953) to amend section 205 of the Act of September 21, 1955 (58 Stat. 736) 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. 91–1202), explaining the purposes of the measure.

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

This bill would permit the Forest Service to renew certain annual contracts twice without additional advertising.

At present the Forest Service has such authority with respect to procurement of aerial facilities and services for the protection of the national forests. The bill would (1) extend this authority to similar contracts with respect to other lands administered by the Forest Service, and (2) make it clear that it covers contracts for the furnishing at the airbase of facilities, equipment, and materials and the preparation, mixing and loading into aircraft.

AGRICULTURAL MARKETING RESEARCH AND PROMOTION

The Senate proceeded to consider the bill (H.R. 13978) to amend the Agricultural Adjustment Act of 1933, as amended, and reenacted and amended by the Agricultural Marketing Act of 1937, as amended, to authorize marketing research and promotion projects including paid advertising for almonds which had been reported from the Committee on Agriculture and Forestry with amendments on page 2, line 1, after "(2)", strike out "striking the period at the end of the first proviso and inserting in lieu thereof"; and insert "inserting before the colon at the end of the first proviso the following"; and in line 8, after the word "the", strike out "order." and insert "order";".

The amendments were agreed to.

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

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1204), explaining the purposes of the measure.

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

This bill would amend the marketing order law to—

(1) authorize provision for paid advertising in marketing promotion activities under almond marketing orders;

(2) authorize any such almond order to permit all or any portion of a handler's direct marketing promotion expenditures to be credited against his assessment under the order; and

(3) provide that inclusion of marketing promotion provisions in a marketing order shall not preclude similar provisions in a State order.

At present paid advertising can be provided for by marketing orders covering cherries, citrus fruits, onions, tokay grapes, fresh pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans and avocados. The bill would add almonds to this list.

PROGRAM OF RESEARCH AND PROMOTION FOR WHEAT

The Senate proceeded to consider the bill (H.R. 13543) to establish a program of research and promotion for U.S. wheat.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1203), explaining the purposes of the measure.

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

NEED FOR THE LEGISLATION

Successful operation of wheat commissions in 10 of the commercial wheat States has spawned this legislation. These commissions, enabled by State legislation and financed by producer assessment, have an excellent record of achievement and have proven beyond a doubt that accumulated research and promotion funds can be put to constructive use. To date, however, the major contributions of these State commissions have been in the fields of production research and overseas market promotion. Those are vital areas to be sure, but there are others equally vital and equally in need of assistance in terms of research and promotion.

A short recap of U.S. flour consumption statistics over the past 20 years points up one of the most serious problems our industry faces.

136 pounds per capita consumption of wheat flour	1950
122 pounds per capita	1955
118 pounds per capita	1960
113 pounds per capita	1965
112 pounds per capita	1969

There is evidence that a great deal could be done to reverse this deplorable trend. Recent developments in enrichment processes, flour blends, and new wheat products indicate that there is expansion potential for wheat in the field of human nutrition.

There are also exciting prospects for wheat utilization in industrial channels. Preliminary experimentation has shown that various wheat properties lend themselves to usage as wet-and-dry-strength additives for paper and boxboard, as a substitute for carbon black in rubber manufacture, in the production of industrial alcohol—possible for use as a motor fuel additive, as a bonding agent in plywoods and other wood products and in the production of protein films. In many of the instances mentioned, both in nutritional and industrial usage, basic research is well along and an acceptable product is available. The assistance needed now is in market testing or promotion, or in some cases additional research on the marketing of byproducts is needed in order to make the wheat utilization economically feasible.

There are other areas where producer efforts to support a comprehensive program for the relief and benefit of his industry are stretched woefully thin. Marketing research, promotional efforts such as the "Day of Bread" and public relations efforts on behalf of all of agriculture. Certainly, these are central to the well-being of the wheat farmer and should be considered legitimate uses for such funding as this legislation would make available.

BACKGROUND

The Agricultural Adjustment Act of 1938, as amended, contains two basic provisions regarding export marketing certificates. The first is contained in section 379d(b) and requires that during any marketing year for which a wheat marketing allocation program is in effect, all persons exporting wheat shall, prior to such export, acquire export marketing certificates equivalent to the number of bushels so exported. The act provides that the cost of such certificates per bushel to the exporter shall be that amount determined by the Secretary on a daily basis which would make U.S. wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States.

The other provision is contained in section 379c(a) which, in pertinent part, states:

"The Secretary shall also provide for the issuance of export marketing certificates to eligible producers at the end of the marketing year on a pro rata basis. For such purposes, the value per bushel of export marketing certificates shall be an average of the total net proceeds from the sale of export marketing certificates during the marketing year after deducting the total amount of wheat export subsidies paid to exporters."

During the 1968–69 marketing year, which ended on June 30, 1969, the total value of wheat export certificates collected exceeded the total value of export subsidies paid by slightly over $4.2 million. The Secretary of Agriculture, under existing legislation, is re-

quired to distribute this wheat export certificate accumulation pro rata to farmers who participated in the 1968 wheat program. Based on the distribution of 1968 domestic wheat certificate payments, it is estimated that an export certificate accumulation of this magnitude would result in the following: Out of 832,000 potential payees a payment of less than $1 would be computed for about 229,000; 186,000 payees would receive payments of $5.80 or more; 54,000 payees would receive payments of $11.60 or more; and 4,900 payees would receive payments of $58 or more. The Department has indicated that it did not plan to issue checks for less than $1 except on request.

Mr. DOLE. Mr. President, during the 1968–69 wheat marketing year, the total value of wheat export certificates collected exceeded the total value of export certificates paid by over $4.2 million. This situation is not expected to recur due to trends in world wheat prices. According to law, these excess funds are to be distributed pro rata to the wheat producers.

The legislation we are considering today would offer producers an opportunity to redeem their share of the fund or allow it to be used in a program of market research and market development.

Specifically the bill provides that all producers be notified of the fund's existence and of the amount to which he is entitled. He is given the option to apply for his share of the funds—if over $1—or allow it to be used in the proposed program of market research and promotion. Of the $4.2 million, the Department of Agriculture estimates 50 percent would be redeemed and over $2 million would be available for research and promotion.

The fund would be administered by an organization or organizations of wheat producers under the direction of the Secretary of Agriculture. The funds would be used to research new market potential and then promote the fulfillment of these potentials.

The wheat producer has witnessed a decline in domestic consumption of wheat flour from 136 pounds per person in 1950 to 122 pounds per person in 1969. Recent developments in enrichment processes, flour blends and new wheat products indicate there is good expansion potential for wheat in the field of human need. There are also many new possibilities for industrial utilization of wheat: as adhesives in the manufacture of plywood; as a substitute for carbon-black in the manufacture of rubber and many other possibilities. This would be worthy utilization of these funds.

The bill provides the funds not be used for administration, but strictly for research and promotion.

Agriculture is still the largest single industry of this Nation. It is well that Congress provides this legislation to assist the wheat producers of today's agriculture regain their diminishing markets.

OREGON WHEAT GROUPS ENDORSE WHEAT RESEARCH AND PROMOTION PROGRAM

Mr. HATFIELD. Mr. President, when the distinguished majority leader informed the Senate as to the program for today, I was very pleased to see that he included in the bills for consideration H.R. 13543, an act to establish a program of research and promotion for U.S. wheat.

In my State, the wheat industry forms one of the cores of our agriculture industry. In addition to a growing domestic wheat production for use in this country, in 1969, Oregon shipped to Japan over $96 million in wheat.

Because I knew of their interest in this legislation, last Friday. I asked a member of my staff to contact Mr. Dick Skiles, president of the Oregon Wheat Growers League, and Mr. R. K. "John" Bauer, general manager of the North Pacific Grain Growers, Inc. These groups endorse H.R. 13543, and I ask unanimous consent that the telegrams from Mr. Bauer and Mr. John Welbes, executive vice president of the Oregon Wheat Growers League, appear in the RECORD.

Mr. President, in conclusion, I urge my colleagues to support this bill. It is of great interest to the wheat industry, and deserves the Senate's approval. I urge my colleagues here today to support this bill.

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

PORTLAND, OREG.,
September 19, 1970.

Hon. SENATOR HATFIELD,
Senate Office Building,
Washington, D.C.:

The Oregon Wheat Growers League urges your strong support for HR 13543 dealing with the inverse subsidy funds. These funds are vitally needed for research on improved wheat foods for human consumption as well as for market development work. It is our understanding that better than fifty percent of the checks to individual producers would be less than $1.00. The wheat industry is in need of money such as these funds for intensive research as market development work. Your support of this bill will be much appreciated.

JOHN WELBES,
Executive Vice President.

WASHINGTON, D.C.,
September 19, 1970.

Senator MARK HATFIELD,
Senate Office Building,
Washington, D.C.:

We urgently solicit your support of HR 13543 giving wheat growers voluntary discretion to commit moneys due them from the inverse subsidy pool to a research program for mutual benefit. Our board of directors representing 22,000 producers in the Pacific Northwest has unanimously indorsed this legislation feeling that the pooled resources can be meaningful while individual shares of the fund would be insignificant.

R. K. BAUER,
General Manager North Pacific, Grain Growers Inc., Portland, Oreg.

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

Mr. President, that completes the call of the Calendar.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order the Senator from Ohio (Mr. YOUNG) is now recognized for 20 minutes.

ANTIOCH COLLEGE

Mr. YOUNG of Ohio. Antioch College is one of the very great institutions of learning in the State of Ohio. Ohioans throughout the past 118 years have had every reason to be proud of Antioch College. It is a liberal arts college with a great history and a noble tradition. It was founded 118 years ago. Horace Mann was its first president. Its present president, Dr. James P. Dixon, is a nationally known, tremendously respected educator.

Many leading citizens in my State of Ohio are graduates of this fine institution of learning. Antioch College has a great tradition of social service.

Mr. President, I have been on the campus of this fine college on many occasions. I wish I were able to say that as a youth I attended this college. I would be very proud, indeed, were I an alumnus of Antioch. Over the years, Antioch students attend that fine college for 1 study year and then they work a year. The Antioch system of alternate study and work has attracted nationwide attention and most favorable comments by leading educators for many years. Antioch students in those alternate years have rendered needful service not only in communities in my State but in the District of Columbia and elsewhere throughout the Nation. Many have been employed by boards of education in cities throughout our Nation and have engaged in teaching. A large number are so employed in the District of Columbia school system at the present time. I personally know of many fine men and women who attended Antioch College and who have distinguished themselves in the service of our Nation in war and in peace.

The names of three of such distinguished alumni occur to me at this time. S. Burns Weston of Cleveland, a graduate of Antioch, is one of the most highly respected citizens of Cleveland. He is a renowned corporation lawyer.

His views are extremely conservative in political matters. There are differences between us in that respect, but I know him and respect him as a friend over the years before I became a U.S. Senator. When he and I opposed each other in civil damage suits which I brought in behalf of clients who had been injured, he represented the corporations in most cases.

I pay deference to and manifest my highest respect for him as a corporation lawyer. He is one of the foremost trial lawyers in Ohio employed by liability insurance companies and other corporations. Also I know that Leon Higginbotham, a distinguished judge of the U.S. district court in Pennsylvania is a graduate of Antioch College. Also, in the corporate field, I think of Edward Booher who is president of McGraw-Hill Co., of Dayton, Ohio. I know personally the president of Antioch College, Dr. Dixon. He is known throughout the Nation as one of our most respected educators.

Mr. President, I resent tremendously the effort of Congressman JOHN DOWDY of Texas in assailing this fine institution in my State. I shall have more to say about that in a moment. It is an extraordinary thing that any Member of Congress would assail any college in the country; but, of course, JOHN DOWDY is rather an extraordinary Congressman. As it happens, he is under indictment facing criminal charges.

Mr. President, the Washington Evening Star of September 18 published an editorial under the caption "A Dowdy Affair." I ask unanimous consent that this editorial be printed in the RECORD at this point.

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

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

A DOWDY AFFAIR

Representative John Dowdy, it is fair to say, will not be remembered as one of the more brilliant meteors to streak across the political firmament of this or any other time.

The Texas Democrat's 18 years in the House have left few footprints in the sands of jurisprudence. His major "contribution" to the Republic last year was his outrageous abuse, as a House subcommittee chairman, of this city's director of corrections, Kenneth L. Hardy.

The 58-year-old congressman's activities have been somewhat confined of late. Having failed in the Fourth U.S. Circuit Court of Appeals to obtain immunity against indictment on charges of accepting a $25,000 bribe, conspiracy and perjury, Dowdy has taken to his bed in a Jasper (Texas) hospital, where he is afflicted with what his physician describes as a flareup of a chronic back problem. It is said that he will be unable to face the charges, of which he says he is innocent, for some time.

Yet the spirit of the man lives on in the request made earlier this week by his subcommittee to Acting D.C. School Superintendent Benjamin Henley for the names "of all personnel in the D.C. school system . . . that (have) ever attended Antioch College, either in assembled classroom on campus, off campus studies, seminar, correspondence courses, undergraduate work, post-graduate work or by any other title, whether credited courses or not."

For those who may not know it, Antioch is a 118-year-old Ohio liberal arts college with a long tradition of social work. Horace Mann was its first president. It seems that some Antioch students, all of whom alternate study years with years of work in the community, have been employed in the D.C. school system. It also seems that some Viet Cong flags have been seen in classrooms and that there has been talk of Karl Marx.

So, presto! Instant witchhunt, with the subcommittee, headed by Dowdy (who attended for two years something called East Texas Baptist College before giving up the unequal struggle), earnestly hunting down those who may have attended Antioch, which looms as the most dangerous source of subversion since Moscow's Patrice Lumumba University. It would be funny where it not so pathetic.

Mr. YOUNG of Ohio. Mr. President, I do not personally know Representative JOHN DOWDY. Frankly, I do not want to know him. He assailed this great liberal arts college, and he made utterly false statements regarding it.

He is a witch hunter seeking to turn us back to those disgraceful days that we would like to forget. Those days are referred to as McCarthyism.

It has taken the Nation many years to recover somewhat from the witch hunts of the 1950's—from that era of pointless suspicion, fear, character assassination, and ruined careers. Much of the debris of that period has been cleaned up but this action of the subcommittee chaired by Representative JOHN DOWDY reveals that vestiges of Joe McCarthyism remain to pollute our society.

DOWDY is presently under indictment, charged with accepting a $25,000 bribe, conspiracy, perjury, and use of interstate facilities to promote bribery.

I know that every man accused of a crime is presumed to be innocent until and unless he is proven guilty by evidence sufficient to convince a jury beyond a reasonable doubt of his guilt.

I know from personal experience as a trial lawyer and chief criminal prosecuting attorney of my county that any man who feels he has been wrongfully accused invariably seeks a prompt trial by jury without any delay.

I know that Representative DOWDY made no such effort. Then he sought to have the Fourth U.S. Circuit Court of Appeals grant him immunity and this effort on the part of his lawyer was rejected by the court.

Since then, he sought and secured postponement of his trial from September 11 until October 5. He voluntarily entered a Jasper, Tex. hospital where his personal physician states he is suffering from a chronic back problem and should not be placed on trial because of this. Yet, this Congressman has acquired a reputation as a witch hunter, first as a member of the un-American Activities Committee and later when the name of that committee was changed to the Internal Security Committee of the House. It is astonishing to relate that Dowdy's Subcommittee of the House District of Columbia Committee, at his instigation, directed a letter to the acting school superintendent, Benjamin Henley of the District of Columbia public schools requiring that Superintendent Henley furnish him the names "of all personnel in the District of Columbia school system that have ever attended Antioch College." Superintendent Henley should and no doubt will reject it or ignore it.

This is an outrageous and an astonishing request.

It is astonishing that anyone could possibly regard as suspect, graduates of one of the most highly respected and best institutions of learning not only in my State of Ohio but also in the entire United States. It is an institution that set the example of affording boys and girls from rather poor families an education by establishing a system of having 1 year of school attendance followed by a compulsory year of work and then a return to the college campus for further study.

That system has been hailed throughout this Nation. It is not necessary for me to come to the defense of this great institution of learning, this liberal arts college of which we Ohioans have every reason to be proud. However, I feel so outraged that anyone, and particularly a man who is under indictment and who is seeking to evade trial, should make such an outlandish claim. DOWDY is a despicable fellow and I hold him in the utmost contempt. His conduct following his arrest on these serious criminal charges is definitely that of a guilty criminal undeserving of respect of law-abiding citizens.

Mr. President, I respect every Member of the House of Representatives except DOWDY. I am proud to have served in that body for 8 years. Should the voters of his district reelect him in November, and I cannot believe they will, I feel certain the House leadership would ask him to step aside instead of taking the oath of office.

OUR ARMY NEEDS REFORM

Mr. YOUNG of Ohio. Mr. President, the Army of the United States needs reform from the top down. Very likely, the entire present setup should be discarded. Certainly from the top brass down through the general officers and field grade officers the Army should be reconstructed in order to do away with the present topheavy multigeneraled Army we now have. This should be done without delay. In fact, it is urgent that our Army be streamlined.

Our goal should be to build an all-volunteer army. Except in a period of grave national emergency or when Congress has declared war, conscription of our young men into our Armed Forces should not be tolerated. Furthermore, if we must have a policy of conscription it should be for 18 months as the maximum period for active duty plus 3 years active Reserve duty.

The quality of our military leadership has been declining steadily and the deterioration of our Army at the top has been vividly revealed to every thoughtful American who has watched the developments in Southeast Asia and read the newspapers, listened to the radio, and watched television. The failure of our generals and the generals of our Joint Chiefs of Staff and of our generals in combat on down through field-grade officers, can probably be attributed to the fact that the U.S. Military Academy at West Point is an inferior engineering school with a poor curriculum and a less than competent faculty. The facts are that officers attending the U.S. Naval Academy and the U.S. Military Academy apparently receive very poor educations. Our service academies are really but engineering schools and very inferior ones at that. It is evident from the conduct of graduates who have commanded our GI's that they learned little or nothing about tactics. They are entirely ignorant of combat strategy in the Civil War or War Between the States as southerners term it. Any person studying the leadership, plans, operations, and combat tactics of generals commanding our Armed Forces in World War II has reason to believe they never had studied the campaigns of Napoleon Bonaparte nor ever even read of Hannibal and his classic victory at Cannae.

The combat classic victory of Generals Lee and Jackson over a superior force of Federal troops led by "Fighting Joe" Hooker is said to be taught in every service academy the world over but apparently not at West Point.

In the Civil War, General Burnside, invading Virginia, directed the Union Army, superior in numbers and artillery power, in a frontal assault against the Confederate forces of Generals Lee and

Jackson entrenched on Marye's Heights. His army was decimated in six frontal assaults after crossing the Rappahannock River and seeking to overrun Marye's Heights by sheer force of numbers. As the Union troops pressed forward, maintaining their steady step and closing their broken ranks, General Longstreet's defending troops behind the stone wall and entrenchments poured a storm of lead into their advancing ranks. They were swept from the field like chaff before a wind. He finally gave up the hopeless frontal assault and retreated. This general never even undertook to encircle the Confederate forces or to strike them at any angle. He was fired, not promoted as was General Westmoreland. Then President Lincoln named "Fighting Joe" Hooker to command the Army of the Potomac and the Union Army advanced toward Chancellorsville where the army of Generals Lee and Jackson confronted them. The Union Army greatly outnumbered the Confederate Army but unfortunately lacked proper leadership at the top. A very substantial part of the Confederate forces led by General Jackson turned, and in daylight they marched to the rear and then completely surrounded the soldiers confronting the Confederate Army commanded by General Lee. Lee's front line was so denuded of fighting men that each one in the front line was at least 7 feet from the soldier on either side of him. Lee had no reserves to help in event the Union forces attacked instead of simply standing.

The Union Army had observation balloons which plainly observed the dust from Jackson's brigades as they marched along the backroads and through the woods at the rear of Lee's forces, yet "Fighting Joe" Hooker was fightless. His army made no attempt to attack the soldiers vastly inferior in numbers confronting them. Then Jackson's troops having passed entirely behind Lee's forces marched forward through the woods. In the early evening the 11th Army Corps of well-trained Ohio soldiers with arms stacked, were eating their supper and the officers enjoying the officers' mess when suddenly Jackson's forces, preceded by hundreds of rabbits, came yelling and shooting, attacking the Union Army from the side and rear. The Union soldiers of the 11th Corps fled panic stricken running past their commanding general, "Fighting Joe" Hooker, who was knocked unconscious as the Union troops were fleeing in front of him. Lee's Army of Virginia won another battle. Abraham Lincoln fired another Union general.

It is evident that the West Point Military Academy is so inferior in its faculty that combat strategy of generals such as Lee and Jackson and of Napoleon Bonaparte has not been taught to the cadets. If so, our combat strategy in World War II and in Vietnam proves that such strategy has been forgotten. It was never practiced.

In World War II, many thousands of American soldiers lost their lives in combat due to the ill-advised strategy of our generals. An example is the Italian campaign led by Gen. Mark Clark. The allied forces had superiority on the ocean instead of landing the American 5th Army and the British 8th Army on opposite sides of the Italian peninsula, in an endeavor to cut Italy in half which would have been extremely important. All Italian railroads and all main thoroughfares in Italy run in a northerly and southerly direction. Nevertheless, our 5th Army landed at Salerno near the boot of Italy and then fought desperate battles for many months from one mountain top to another. The objective of the 5th Army should have been to destroy the German forces. But Gen. Mark Clark persisted in frontal attacks. For example, he sent the 36th Division, a magnificent division composed of Texas National Guard troops, to make a frontal assault over the Rapido River. Thousands of fine Americans were killed and wounded in this disastrous attack. Nazi generals at that time claimed "the Amis always attack in front." Gen. Mark Clark continued frontal attacks instead of pursuing his proper objective, the destruction of the German Army. Then finally, by sheer weight of numbers, the 5th Army entered Rome while the Germans retreated in good order.

In thousands of years, Rome had been captured by the entry of foreign soldiers many times. Never before, however, from the south. Always from the north through the Po Valley. This is an example of the failure of the military minds and the very evident inferiority of the U.S. military academies. Throughout World War II it will be remembered our assaults were invariably frontal attacks such as from England directly across to Normandy. No invasion was attempted by landings in Norway or Holland nor in southern France until late in the war.

Unfortunately in our Vietnam involvement, American forces have invariably made frontal attacks. In the Vietcong Tet offensive in February 1968 the Vietcong captured Hue, the old imperial capital, and held the Citadel in the center of that city for 30 days. Our valiant marines attacked the Citadel with frontal assaults day after day and night after night sustaining heavy losses in killed and wounded to the extent that marine brigades involved had suffered so severely it was necessary to withdraw them from combat and to allow time to train the large number of replacement marines. The Citadel was, of course, finally captured, but the surviving defenders slipped away in the nighttime. Our marine generals apparently disdained the idea of surrounding the Citadel and starving the defenders into surrender or destroying them by attacks from various sides and angles and from the rear.

Hamburger Hill was assaulted by our troops over many days. Ten different assaults were made on Hamburger Hill, all frontal assaults. Nine times our forces were hurled back with great loss of lives. Finally, on the 10th assault, Hamburger Hill was overrun. In the Civil War, General "Fighting Joe" Hooker made six successive frontal assaults on Marye's and lost his job. Did our commanding general lose his job as did Union General Burnside following his frontal assaults that failed?

Maj. Gen. Melvin Zias was the commander of the forces that attacked Hamburger Hill. Was he reprimanded? No. In fact, less than 3 months after the disaster of Hamburger Hill he was promoted to be lieutenant general. In addition to this promotion from a two-star to a three-star general, Lieutenant General Zias less than 2 months ago on August 1, 1970, was promoted to the position of Director of Operations of the Army Division of the Joint Chiefs of Staff, his current assignment. Hard to believe.

Mr. President, as a member of the Armed Services Committee of the Senate I must share the blame for this promotion. I am ashamed that I failed to attend that committee meeting, or if I were present I did not acquire complete information on each officer seeking promotion instead of relying on others approval of the list of officers being promoted. All I can say is that I feel all members of the Armed Services Committee should carefully scrutinize the long list of promotions which are sent to our committee from the Pentagon at too frequent intervals, I regret very much that we in the committee authorized this promotion.

It is unfortunate that the Pentagon has a policy that an officer must have at least a single combat assignment to justify promotion from colonel to brigadier general and that additional such assignments virtually guarantee promotions from brigadier general to major general and on up. Due to the always prevalent eagerness for promotion, combat command assignments in Vietnam have been rotated every 6 months. Of course, this results in more and quicker promotions of officers. It also means that combat in Vietnam, and it will be the same now that we unfortunately are engaged in combat in other areas of Southeast Asia, will be led by inexperienced officers in command of each area. A brigadier general, in the 4 or 6 months he is in command in a certain area, may acquire considerable knowledge of the characteristics and tactics of the VC in that area and of the climate and terrain but then he is sent on to another area and a new officer takes his place. This means more and quicker promotions for officers. Unfortunately it leads to more casualties suffered by the fighting men. The futility of the war we are waging and the personal setlf-interest of many commanding officers is evident to junior officers and GI's. Yet junior officers remain silent and the GI's continue to serve and toe an undeviating line sometimes out of fear of court martial and jail or because of their desire not to seem to let their buddies down. Junior officers also are prone to remain silent and seek promotions in the only way available. Naturally, they have to think of home mortgages to pay and children to educate and, of course, of the higher paid retirement to anticipate if they go along and are promoted.

It is most unfortunate that in Vietnam, of more than 400,000 officers and soldiers, fewer than 85,000 are combat soldiers. The enormity of support, clerical and noncombat soldiers and officers in our army in Vietnam is tremendous and in contrast with the armies of West Ger-

many, France, and Italy or any of our allies.

No other army in the world would require a force of 400,000 to produce 85,000 combat soldiers. There must be drastic reform in our Army along this line. Our service academies, now merely second- or third-rate engineering schools, must drastically be changed from the top down.

The Uniform Code of Military Justice must be amended in accord with accepted principles of justice. The rights of our soldiers whether draftees or volunteers must be protected.

Disgraceful brutalities such as that practiced at the Presidio of San Francisco must not be tolerated. Very definitely, promotions in our Army and Navy should be based solely upon demonstrated ability, merit, and experience. Discrimination in favor of officers who are graduates of West Point over those who earned commissions by attending officers' training school or in enrolling in the ROTC cannot be tolerated. This discrimination is now very evident. It must be discarded. That a man graduates from Annapolis or West Point or the Air Force Academy should not result in special favors nor should family background or race cut any figure whatever to the prejudice of any officer or enlisted man.

The military-industrial complex has a great deal for which to answer. There has been vast overspending on ill-fated defense systems such as the C–5A, F–111 and the Cheyenne helicopter to name just a few.

The coverup and attempted whitewash of the My Lai massacre is a blot on the escutcheon of our Armed Forces. Those generals involved in it should be exposed. The Green Beret accusations, bloody incidents such as Hamburger Hill, and many other occurrences which I have not taken the time to advert to, prove that there must be drastic reform in our top-heavy military complex.

For our new army, we should do away with the pre-magna charta system of military trials. The operation of all military trials—all court martials—should be drastically altered. We must have a system where all GI's accused of any offenses must be dealt with fairly and without prejudice. In the past, I have sat as a presiding judge in general court martial cases wherein the life and liberty of five young combat soldiers were at stake. I have been president of such courts. In numerous cases I was one of seven or nine officers composing various general military courts. I say that at least half of the members of a general military court trying noncommissioned officers or privates should be noncommissioned officers or privates. Give the GI an absolutely square deal. Trial for life or liberty of enlisted men—soldiers—by a court composed of officers only is not real democracy. Nor it is just.

Army stockades and psycho wards should be inspected regularly. Fascist brutality toward prisoners should no longer be tolerated. There has been too much of that in the past.

The pay differential in the Army should be examined. There is too great a spread between the pay of a private and that of a master sergeant or lieutenant.

When there are the same clubs for officers and men; when restaurants and hotels are not marked "Officers Only;" when a captain takes his turn in the PX line with the private; when the major and corporal eat in the same mess; when the colonel and sergeant enjoy the same recreational facilities; when officers and enlisted men wear the same quality and style uniforms, differentiated only by insignia of rank, and have the same sort of quarters; when these things are brought about, we shall have a democratic army of volunteers. In time of peace we shall have all the volunteers we need for a large Army. It will not be necessary to resort to conscription in peacetime. In fact, conscription must not ever again be permitted in our Nation except during a period when Congress has declared war or there is a grave national emergency.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

PROPOSED VISIT OF VICE PRESIDENT KY TO THE UNITED STATES

Mr. BYRD of West Virginia. Mr. President, I hope that Vice President Ky of South Vietnam will cancel his plans to appear at a so-called win-the-war rally in Washington.

I have no objection to Ky visiting the United States. But I fear that his participation in the demonstration that is proposed might undermine our peace negotiations in Paris.

His attempt to influence American public opinion could reinflame passions about the war that now seem to be cooling, and his appearance might stir up a great deal of unnecessary tension and bitterness that could lead to a possible outbreak of disorder. His own safety could be endangered.

I hope that the Vice President of South Vietnam will change his mind and stay at home for the present.

Mr. DOMINICK. Mr. President, I wish to associate myself with what the Senator from West Virginia has said concerning Vice President Ky. It seems to me this is a most appropriate statement to make at this time. I certainly hope he will listen to this and other statements which have previously been made along the same lines.

Mr. YOUNG of Ohio. Mr. President, I desire to compliment and to express my gratitude to the distinguished Senator from West Virginia (Mr. BYRD), who just denounced the forthcoming visit of Vice President Ky to the United States, and expressed the view that such a visit was extremely ill advised.

I agree with everything that the Senator from West Virginia had to say on this subject. Very definitely, I consider that Vice President Ky's stated intention to come to Washington, D.C., next October 5, for the mission he is coming on, is a very bad thing from all standpoints.

The Senator from West Virginia is to be praised for making the statement he did.

In October 1965, I interviewed then Air Marshal Ky for some 45 minutes. The very bad impression I received in that interview with him has lasted me to this time. In fact, it has been expanded.

I recall distinctly that when I admired the decoration he was wearing, this flamboyant air marshal, with great pride, said, "Oh, I got this award from the French Republic." He received that award, Mr. President, for being an air pilot in the French Air Force at a time when the French were seeking to reestablish their oppressive Indochinese empire and when the forces seeking national liberation for all of Vietnam were fighting desperately against the French.

This air marshal was on the side of the colonial oppressors against his own people. When he comes to this country on October 5 it would not surprise me one bit, Mr. President, if he sought sanctuary here as a fugitive from his country.

I say that because it is my firm belief that the Saigon militaristic regime of which he is a member lacks the support of the people of Vietnam, and it seems that there is a huge difference of opinion between Vice President Ky and President Thieu of Vietnam. In my opinion, President Thieu is an honest man, and on the basis of information I firmly believe that Ky is a dishonest man who has unlisted bank accounts in Hong Kong and in Switzerland.

I have a feeling that following his visit here, he is likely to seek sanctuary and will not return to Vietnam, but will rendezvous with his unlisted bank accounts in Hong Kong and Switzerland.

So I am happy to join with Senator BYRD in expressing my dislike for the fact that this fellow will be here in our Capital City.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator for his kind remarks.

The PRESIDING OFFICER. Is there further morning business?

HANOI'S "PEACE" INITIATIVES

Mr. DOMINICK. Mr. President, while we are talking about the Vietnamese situation, I think it is worthwhile bringing up the fact that the North Vietnamese have been using a very interesting but very difficult tactic during the Paris talks.

They periodically raise hopes for a settlement by hinting at some new offer; then dramatically reiterate their same shopworn proposals.

Hanoi's negotiators then piously denounce the United States as "intransigent."

Hanoi is stalling. They refuse to dis-

cuss seriously one of the subjects we consider most important: The return of American prisoners.

Some of these men have been held captive over 5 years. They pose no military threat to Hanoi. Why, then, are they still incarcerated?

The leaders of North Vietnam hope to use them as hostages. They hope the United States will negotiate from fear for the lives of our men.

This we cannot do.

Hanoi must be made aware we will not be blackmailed.

Only then will the other side quit posturing, and sit down for substantive talks.

PRISONERS OF WAR FAMILIES TO STAGE MASS MARCH ON CAPITOL

Mr. DOMINICK. Mr. President, on a similar subject, but in a different vein, the House and Senate will receive a mass visitation on Monday morning, October 5, from the wives and parents of almost 1,600 U.S. servicemen who are missing and held prisoner of war in Southeast Asia.

These families are prepared to call at the offices of all 535 Members of the Congress to urge them to sign individual statements pledging their all-out effort to obtain the protection of the Geneva Convention for these men.

The wives and parents will be holding their first annual meeting, held in the District of Columbia, of their recently incorporated organization—National League of Families of American Prisoners and Missing in Southeast Asia.

On October 5 they plan to congregate on the steps of the House Chamber at 10 a.m., hold a press conference and then disperse to carry individual pledge cards to all congressional offices. The pledge, which individual Members will be asked to sign reads as follows:

As a member of the United States House of Representatives, (United States Senate) I pledge that as long as I continue to hold my present position of trust and responsibility I shall do everything within my power to assure the protections of the Geneva Convention are provided for those men who are missing and held as Prisoners of War in Southeast Asia.

I understand that members of the League of Families throughout the country will, in addition, ask all candidates for the House and Senate to sign similar pledges.

Speaking personally, I shall be most happy to sign this pledge, and I would hope that those Members of Congress who are unable to be present in their offices on October 5 would authorize a member of their staff to sign for them in their absence.

For the benefit of all Members, I also call attention to the following news release which the League has issued outlining plans for their annual meeting. The statement concerning Col. Frank Borman was issued, of course, before the families had obtained consent for a joint meeting of the Congress which is to be held tomorrow, September 22, and at which Colonel Borman will give a report about his special Presidential mission.

I ask unanimous consent that the news release be printed in the RECORD at this point.

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

POW FAMILIES TO STAGE MASS MARCH ON CAPITOL

Wives and parents of the more than 1,500 Americans missing and held as prisoners-of-war in Southeast Asia will converge on Washington, D.C., October 2–5.

They will be joined by former prisoners-of-war who have been released by or escaped from North Vietnamese, Viet Cong or Pathet Lao prison camps.

The families are coming from every section of the country to participate in the first annual meeting of their new national organization, formed last Spring.

A major event of the four-day meeting will be a mass-march on the Congress on Monday, October 5. The families will gather on the steps of the U.S. Capitol for a press-conference, and then disperse to call at the offices of all 535 House and Senate members. They will carry "pledge" cards to be signed, individually, by each member of Congress, promising an all-out effort to obtain the protections of the Geneva Conventions for the missing and imprisoned men.

Members of the organization—the National League of Families of American Prisoners and Missing in Southeast Asia—also will elect a new board of directors and name new national officers to guide their activities over the next 12 months.

Two other highlights of the meeting will be a dinner on Saturday, October 3, at which the principal speaker will be H. Ross Perot; and a meeting Sunday evening, October 4, at which the families will receive a personal report from Colonel Frank Borman on his round-the-world Presidential mission. This will be Colonel Borman's first detailed public discussion of his POW talks with world leaders.

At other sessions of the League's meeting, the families will receive closed-door briefings specifically requested from the Department of Defense and other agencies, and will attend a number of workshops and seminars designed to help them cope with special problems.

The four-day conclave will be held at the Marriott Twin Bridges Motel.

Note to editors.—Representatives of out-of-town newspapers, magazines and radio/TV networks, who wish to arrange individual interviews, will be able to contact families from their respective areas through a news-room to be opened at the Marriott on October 2. Only two events scheduled for the meeting will be open to TV-coverage: the Borman report on October 4, and the Capitol press-conference on the morning of October 5.

VETERANS' LOANS TO FAMILIES OF PRISONERS OF WAR

Mr. DOMINICK. Mr. President, continuing this same subject for just a few seconds longer, I am happy to say that the Labor and Public Welfare Committee, of which I am a member, has reported favorably and unanimously, a bill which will give veterans' loans to wives of prisoners of war and those who are missing in action, and also provide for educational benefits for the families and children while those men are missing or held as prisoners.

It is my hope that we can take prompt action on the bill—I believe it is noncontroversial—and get it to the House and get it passed in this session, so that it can be of material assistance to the persons concerned.

AUTHORIZATION FOR SUBCOMMITTEE MEETING DURING SENATE SESSION

Mr. HUGHES. Mr. President, I ask unanimous consent that the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). Without objection, it is so ordered.

FULBRIGHT SCHOLARSHIPS IN THAILAND

Mr. HUGHES. Mr. President, I ask unanimous consent that there may be printed in the RECORD at the conclusion of these remarks an editorial from the Arkansas Gazette entitled "Fulbright and the Thais."

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

(See exhibit 1.)

Mr. HUGHES. Mr. President, the editorial comments on the report from Bangkok that the Thai have changed the name of the Fulbright Foundation to the Thailand-United States Educational Foundation. This action was apparently in retaliation for the Senator from Arkansas' objections to the subsidies which the Thai exacted from the United States as the price of their participation in the Vietnam war. But it says more about the Thai than about the Senator from Arkansas who, as the Gazette points out, "will not be angered, only saddened, by the Thai military leaders' spiteful action, which at least serves the symbolic purpose of reminding us of the far larger sadness and tragedy that has seen the adequate continued funding of the overseas scholarship program become yet another casualty of the war in Southeast Asia and of the financial, as well as emotional, drain it has made on us all."

EXHIBIT 1

FULBRIGHT AND THE THAIS

The latest word from Bangkok—other than that the Thais are not going to help out in Cambodia without a "consideration"—is that they're changing the name of the Fulbright Foundation to the Thailand-United States Educational Foundation.

The Foundation was first named for the Arkansas senator out of gratitude for the reciprocal overseas educational program he authored out of the fire and ruin of World War II in the hope, for one thing, of thereby helping to prevent World War III (though the cause of fostering education and international understanding is a "pure" cause in itself, something that needs no further pragmatic justification.) This educational aid program, which came to be referred to as the "Fulbright Scholarships", has been described in the oft-quoted words of Senator Fulbright's old tutor at Pembroke College as having been "responsible for the largest and most significant movement of scholars across the earth since the fall of Constantinople in 1453."

Fulbright, then, has had his honors, from the established academic community, and, more important, from the thousands of young scholars all across the world who have benefited from his vision. He thus will not be angered, only saddened, by the Thai military leaders' spiteful action, which at least serves the symbolic purpose of reminding us of the far larger sadness and tragedy that has seen the adequate continued funding of

the overseas scholarship program become yet another casualty of the war in Southeast Asia and of the financial, as well as emotional, drain it has made on us all.

This is not the first time that Mars has triumphed over the scholars in such fashion (such as in the burning of the Great Library at Alexandria.)

However, the present sadness is in no whit abated by those awareness that it has all happened before. Those persons who profess to be the most sensitive about their "Americanism" and about having other peoples be either "pro-American"—or else—ought to be especially saddened, but we fear won't be. It is our own belief that the Fulbright program has done more to correct the basic misconceptions of America foisted upon the world by Hollywood and the indigenous America-haters around the world than any of our official governmental "information agencies." People have learned not to put too much trust in foreign governments' propaganda agencies, which necessarily start with an "interest" that is not always fully declared.

SENATOR ALLEN'S RECORD AS PRESIDING OFFICER

Mr. BYRD of West Virginia. Mr. President, on last Friday, the majority leader called attention to the fact that the distinguished Senator from Alabama (Mr. ALLEN) had presided over the Senate, during this session, for more than 100 hours. The majority leader also called attention to the fact that on Monday a week ago, the Senate had spent 1,000 hours in session this year.

I think it is most remarkable that the Senator from Alabama, though he is only one of 100 Members of the Senate, has sat in the Presiding Officer's chair 10 percent of the time that the Senate has been in session during this year. And this marks the second time that the able Senator from Alabama has accomplished this feat.

I do not know of any other Senator who, in each of 2 successive years—or in 2 years, for that matter—has presided over the Senate for a period of 100 hours.

It has been said that a word fitly spoken is "like apples of gold in pictures of silver." Senator MANSFIELD spoke very fitly when he commended our colleague from Alabama on the splendid service that he has performed.

May I say also that the Senator from Alabama is one of our best Presiding Officers. Of course, he came to the Senate with extraordinary experience and well equipped in this line. We should be proud of our friend from Alabama, and I join with my able majority leader in expressing commendation and appreciation for the fine job that Senator ALLEN has done.

May I say, too, that there are others who have presided over the Senate far more than they ought to have had to preside. Among those, I believe, is the Senator from Iowa (Mr. HUGHES), who presently presides over the Senate. I understand he has already presided over the Senate for more than 50 hours during this year. In addition, there are the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), and the Senator from Oklahoma (Mr. BELLMON), and there may have been others who have exceeded the 50-hour mark during this session.

I personally wish to express my satisfaction at seeing these Senators, who have come to the Senate in recent years, put their hands to the plow and show, with due diligence, their interest in the work of the Senate and their willingness to contribute to the tedious but important work of presiding.

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

Mr. BYRD of West Virginia. I yield to the Senator from Michigan.

Mr. GRIFFIN. I wish to associate myself with the remarks made by the distinguished Senator from West Virginia, and to indicate that the joint leadership—indeed, the entire membership of the Senate on both sides of the aisle—appreciates the time devoted by the able Senator from Alabama. I concur also that he presides in an outstanding manner.

So I am glad to commend the majority leader as well as the able Senator from West Virginia, for calling the attention of the Senate to this impressive record of service.

Mr. BYRD of West Virginia. I thank the able Senator for his contribution. May I say that the Senators I have named, as I have watched them, from day to day, preside over the Senate, have been among our very best Presiding Officers.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD of West Virginia. I ask unanimous consent to proceed for 1 additional minute.

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

Mr. BYRD of West Virginia. Those of us who love the Senate—and I presume most of us love it—recognize the importance of order and decorum in the Senate, and it is incumbent upon the Presiding Officer to establish order on his own initiative, without waiting for a request from the floor.

I would say that the Senators whom I have named, particularly Senator ALLEN and Senator HUGHES—and there are others who have not presided as long during this session; the Senator from New Mexico (Mr. MONTOYA), the Senator from Georgia (Mr. TALMADGE), the Senator from Mississippi (Mr. STENNIS), the Senator from Montana (Mr. METCALF), to name a few of them—are great Presiding Officers, and they set a fine example of how a Presiding Officer should perform while he occupies the chair in conducting the business of the Senate.

Mr. YOUNG of Ohio. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. YOUNG of Ohio. Again, Mr. President, I wish to express my accord with every statement the distinguished Senator from West Virginia has made regarding the record of those who have presided over the Senate throughout all these months that we have been in session.

As one who has presided only approximately to the extent of 17 hours during that period, I wish to join in paying tribute to Senator JIM ALLEN of Alabama and all the others who have done such great work on behalf of the people of the United States in presiding over the Senate.

Mr. BYRD of West Virginia. I thank the Senator.

Mr. ALLEN. Mr. President, I am surprised and embarrassed at the fine comments by distinguished colleagues, all of whom I observed first from afar, before coming to the Senate, and admired for their records, and have grown to admire even more since being a Member of the U.S. Senate. So I am deeply grateful and appreciative for their overgenerous and overgracious remarks.

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

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

H.R. 1747. An act for the relief of Jose Luis Calleja-Perez;

H.R. 16900. An act 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;

H.R. 17613. An act to provide for the designation of the Veterans' Administration facility at Bonham, Texas; and

H.R. 17734. An act for the relief of Sherman Webb and others.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON APPROVAL OF LOAN TO M. & A. ELECTRIC POWER COOPERATIVE

A letter from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to Senate Report No. 497, on the approval of a loan to M. & A. Electric Power Cooperative, of Poplar Bluff, Mo., in the amount of $1,500,000, to finance the completion of previously loaned facilities (with an accompanying paper); to the Committee on Appropriations.

REPORT OF FINAL CONCLUSION OF PROCEEDINGS RELATING TO CERTAIN INDIAN CLAIMS

A letter from the Chairman, Indian Claims Commission, Washington, D.C., reporting, pursuant to law, that proceedings have been concluded with respect to claims on Docket Nos. 243, 244, and 245, the Winnebago Tribe and Nation of Indians, the Winnebago Tribe of Nebraska and Frank Beaver, Moses Whitebear, John Little Wolf, James Smoke, and Joshua Sanford, Ex Rel Winnebago Tribe and Nation and the Winnebago Indians of Wisconsin, Minnesota, Nebraska and the Winnebago Tribe of Nebraska, Plaintiffs, against The United States of America, defendant (with accompanying papers); to the Committee on Appropriations.

PROPOSED CONCESSION CONTRACT FOR CINNAMON BAY AND TRUNK BAY AREAS OF THE VIRGIN ISLANDS NATIONAL PARK

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed concession contract for Cinnamon Bay and Trunk Bay Areas of the Virgin Islands National Park (with accom-

panying papers); to the Committee on Interior and Insular Affairs.

REPORT ON CLAIMS SETTLED UNDER THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' ACT OF 1964

A letter from the Director, U.S. Information Agency, Washington, D.C., transmitting, pursuant to law, a report on claims settled under the Military Personnel and Civilian Employees' Claim Act of 1964, for the period September 1, 1969, through August 31, 1970 (with an accompanying report); to the Committee on the Judiciary.

AUDIT REPORT OF JEWISH WAR VETERANS, USA NATIONAL MEMORIAL

A letter from the President, Jewish War Veterans USA National Memorial, Inc., Washington, D.C., transmitting, pursuant to law, an audit report of that corporation, for the fiscal year ended March 31, 1970 (with an accompanying report); to the Committee on the Judiciary.

REPORTS CONCERNING VISA PETITION ACCORDING THIRD PREFERENCE AND SIXTH PREFERENCE TO CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports concerning visa petitions according third preference and sixth preference classifications to certain aliens (with accompanying papers); to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the President pro tempore:

A joint resolution of the Legislature of the State of California; to the Committee on Agriculture and Forestry:

"ASSEMBLY JOINT RESOLUTION NO. 35—RELATIVE TO THE DISPOSAL OF ENVIRONMENTALLY HARMFUL PESTICIDES

"Whereas, It has been shown that environmentally harmful pesticides have done immeasurable damage to the environment; and

"Whereas, The United States Department of Agriculture no longer considers certain environmentally harmful pesticides safe enough for home and garden use and has banned many uses of these pesticides; and

"Whereas, There are large stocks of environmentally harmful pesticides in the hands of home gardeners who have no satisfactory means of disposal; and

"Whereas, Some of these pesticides are nonbiodegradable and the usual methods of disposal will only increase the environmental damage; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President, Congress, and the United States Secretary of Agriculture to provide a federal program for the safe and efficient disposal of unwanted environmentally harmful pesticides; and be it further

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

Two joint resolutions of the Legislature of the State of California; to the Committee on Commerce:

"ASSEMBLY JOINT RESOLUTION NO. 31—RELATIVE TO FISH AND WILDLIFE

"Whereas, The preservation, protection, and enhancement of all fish and wildlife in the State of California is essential to the maintenance of a high-quality environment and ecological stability in the United States; and

"Whereas, The President and Congress of the United States and the Secretary of the Department of the Interior are engaged in fish and wildlife conservation programs having direct effect on fish and wildlife activities in the State of California; and

"Whereas, The cooperation and mutual assistance between state and federal officials would greatly enhance the State of California's efforts to protect, preserve, and enhance the fish and wildlife of the state, particularly rare and endangered species; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States and the Secretary of the Interior to assist the California Department of Fish and Game to compile a species inventory of the threatened fish and wildlife of the state, and also to assist the state in establishing a set of criteria for determining rare and endangered species; and be it further

"Resolved, That federal officials assist the California Departments of Agriculture and Public Health in preparing a study of predatory control programs in the state since January 1, 1960; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Speaker of the House of Representatives, to the Secretary of the Interior, to the House Committee on Merchant Marines and Fisheries, to the Senate Committee on Commerce, and to each Senator and Representative from California in the Congress of the United States."

"ASSEMBLY JOINT RESOLUTION NO. 44—RELATIVE TO POISON PREVENTION

"Whereas, There are about 1,000,000 people accidentally poisoned in the United States every year and their numbers are increasing at an alarming rate; and

"Whereas, It is estimated that of all accidental poisonings between 60 and 85 percent involve children from ages one through four; and

"Whereas, There are over 250,000 poisonous products in common household use including: patent and prescription drugs; kitchen products such as bleaches and cleansers; petroleum derivatives; cosmetics; beverages and many aerosols; and

"Whereas, This problem of the presence of toxic or poisonous substances in our households is expanding in direct proportion to improved technology, population growth and other changes in environmental conditions; for instance, we presently ingest about 40 tons of aspirin and aspirin-related products in this country every day and by 1973 this figure will double; also many new drugs such as those in the 'tranquilizer family' are developing widespread usage as they gain acceptance and the pressures of our society increase in intensity; and also most dangerous are many of the new 'miracle' cleansers which are often toxic, poisonous, or both toxic and poisonous; and every one of these bottles, jars, and cans is able to be opened, usually quite easily, by small children; and

"Whereas, The tragedy and grief felt by families who have had loved ones killed or crippled by accidental poisoning should be evidence enough that this problem has reached disaster proportions and that a national effort should be mobilized to make safety closures a legal requirement on all toxic or poisonous products; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact appropriate legislation requiring adequate safety closures on all household products which are toxic or poisonous, or both toxic and poisonous, that are sold in interstate commerce; and be it further

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

A joint resolution of the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION NO. 56—RELATIVE TO FEDERAL EARNED INCOME EXEMPTION FOR WELFARE FAMILIES

"Whereas, The program of Aid to Families with Dependent Children (AFDC) was initiated to assist the truly needy; and

"Whereas, In recent years changes in federal law and regulations have resulted in requiring states to grant aid under the AFDC program to persons and families who by ordinary standards cannot be fairly deemed needy; and

"Whereas, A significant cause of the granting of AFDC aid to the nonneedy is the federally mandated 'earned income exemption' which, although conceived for the purpose of stimulating recipients to work their way off welfare rolls has in many instances missed its goal by permitting continued subsidization of welfare recipients far past the point at which their earned incomes exceed ordinary welfare standards; and

"Whereas, Extreme examples of this situation such as that in which a California welfare recipient was found to be enjoying an income in excess of $1,000 per month, including welfare supplementations, have come to the attention of the Legislature; and

"Whereas, The President's proposed Family Assistance Plan does not offer in its present form a full resolution of the problem of inequities in public income supplementation of the 'working poor' as compared with supplementation of welfare recipients; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to reexamine with utmost care the issues raised in this resolution, and to consider further amendments to the Family Assistance Plan which will modify the principle of earned income exemptions for families otherwise qualifying for welfare supplementation so that such supplementation will not elevate the total gross income of such families beyond the income levels at which supplementation of working poor families is proposed to be discontinued; and be it further

"Resolved, That, in the event that the Family Assistance Plan is not enacted at this time, the President and the Congress of the United States enact legislation amending Section 402(a)(7)(A)(ii) of the Social Security Act to permit states to impose upper limits on the amount of earned income exemptions allowed working AFDC recipients; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Health, Education, and Welfare, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

Two joint resolutions of the Legislature of the State of California; to the Committee on Interior and Insular Affairs:

"ASSEMBLY JOINT RESOLUTION NO. 38—RELATIVE TO THE EFFECT OF CERTAIN FEDERAL PROGRAMS ON THE ENVIRONMENT

"Whereas, The maintenance of a quality environment is of concern to California's citizens and its leaders; and

"Whereas, Certain developments resulting from federal government activities have caused significant damage to California's environment; and

"Whereas, Such environmental degradation has resulted because of failure to sufficiently consider the long-term impact of public works projects on the environment; and

"Whereas, Many of these activities have caused irreversible losses to California's citizens; and

"Whereas, The Assembly Select Committee on Environmental Quality has recommended legislation to require the preparation of environmental impact reports by governmental agencies on their proposed programs which could have a significant effect on the environment; and

"Whereas, The National Environmental Policy Act of 1969 (Pub. L., 91–190) requires the preparation of environmental impact reports by federal agencies on proposed programs which could have a significant effect on the environment; and

"Whereas, The following federal programs have evoked widespread concern that they will cause significant environmental damage: federal oil leases in the Santa Barbara Channel by the United States Department of the Interior, channelization of the lower Colorado River by the United States Bureau of Reclamation, and the Dos Rios Project by the United States Corps of Engineers; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States to direct the responsible federal officials to make environmental impact reports on these programs, as required by the National Environmental Policy Act of 1969, and to submit these to the California Legislature; and be it further

"Resolved, That the Legislature respectfully memorializes the President of the United States to direct responsible federal officials to take no further action which could have a significant environmental effect prior to the submission of such impact reports; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Chairman of the Federal Council on Environmental Quality, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

"ASSEMBLY JOINT RESOLUTION NO. 53—RELATIVE TO THE CREATION OF A GOLDEN GATE NATIONAL RECREATION AREA

"WHEREAS, Much of the natural beauty and charm of the San Francisco Bay area is a result of the relatively undeveloped state of federal lands located on both sides of the Golden Gate and in Fort Baker, Fort Barry, Fort Cronkhite, Fort Mason, Fort Miley, Fort Scott, and the San Francisco Presidio; and

"WHEREAS, These federal lands provide significant open space areas within the otherwise congested urban San Francisco Bay area; and

"WHEREAS, There are numerous projects proposed or planned for these federal lands which individually may not significantly affect the open space character or future public use of such areas but taken together would be disastrous to the public interest in retaining open space lands in urban areas and would set precedents for future development of such lands; and

"WHEREAS, Due to expected increases in urban population within the San Francisco Bay area the public need for urban open space lands will significantly increase with the passage of time; and

"WHEREAS, It has been proposed that Fort Baker, Fort Barry, Fort Cronkhite, Fort Mason, Fort Miley, Fort Scott, and much of the San Francisco Presidio be included in a Golden Gate National Recreation Area which would retain the natural open-space character of such federal lands; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to establish a Golden Gate National Recreation Area, to include those portions of Fort Baker, Fort Barry, Fort Cronkhite, Fort Mason, Fort Miley, Fort Scott, and the Presidio not essential for the national defense; and be it further

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

A joint resolution of the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION NO. 57—RELATIVE TO CRIME

"WHEREAS, The Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90–351) provides for grants to states and units of local governments to strengthen and improve law enforcement; and

"WHEREAS, Applicants have encountered difficulty in securing grants under the program because of the unnecessarily complicated bureaucratic process involved in obtaining such grants; and

"WHEREAS, The matching fund requirements of the Omnibus Crime Control and Safe Streets Act of 1968 severely limit the ability of financially hard-pressed urban areas with high crime rates to take advantage of the money available under the program; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to (1) streamline the bureaucratic process for obtaining grants under the Omnibus Crime Control and Safe Streets Act of 1968, (2) lower the matching fund requirements for obtaining grants under the act, especially in areas with high crime rates, and (3) provide more funding for the act; and be it further

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

A joint resolution of the Legislature of the State of California; to the Committee on Labor and Public Welfare:

"ASSEMBLY JOINT RESOLUTION NO. 32—RELATIVE TO BILINGUAL EDUCATION PROGRAMS

"Whereas, Under the Bilingual Education Act (Public Law 89–10, Title VII of the Elementary and Secondary Education Act of 1965, as amended) grants of federal funds are made to local educational agencies to assist in the development and operation of programs for bilingual education of children who are from homes where English is not the native language; and

"Whereas, California is one of the leading states participating in this vitally important area of education and a number of its school districts propose to establish and conduct bilingual education programs which are in urgent need of federal assistance; and

"Whereas, Although twenty-five million dollars in federal funds have been appropriated by Congress for the fiscal year 1969–1970 for expenditure by the Department of Health, Education, and Welfare to assist approved state programs under the Bilingual Education Act, the President has been authorized by Congress to reduce that amount by up to 15 percent; now, therefore be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President to utilize the full amount appropriated by Congress for the fiscal year 1969–1970 for bilingual education program grants; and be it further

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

A joint resolution of the Legislature of the State of California; ordered to lie on the table:

"ASSEMBLY JOINT RESOLUTION NO. 68—RELATIVE TO GEOTHERMAL POWER SOURCE

"Whereas, Substantial geothermal power resources in the form of underground deposits of hot water and steam underlie much of the southwestern United States, especially parts of Riverside and Imperial Counties in California; and

"Whereas, Preliminary research indicates that development of these resources would have a major beneficial economic impact on the entire Southwest; and

"Whereas, The University of California has already expended substantial amounts of money, time, and effort in exploring the potential of these geothermal fields, and has developed highly encouraging data; and

"Whereas, The development of these geothermal fields would result in massive supplies of pollution-free power and water; and

"Whereas, Such development depends on intricate cooperation between federal, state, and private interests; and

"Whereas, The Mexican government, through intensive research and development in the past several years will begin supplying electric power from these same geothermal fields in 1971; now, therefore, be it

"Resolved by the Assembly and Senate of State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States immediately to facilitate research necessary to allow maximum public and private development of the geothermal power sources underlying Imperial and Riverside Counties in California and surrounding, related areas; and be it further

"Resolved, That the Legislature respectfully memorializes the President, Congress, and the various branches of the federal government to coordinate immediate financial assistance in the form of grants, or other appropriate methods, to assist public and private research projects, including demonstration drilling and power development programs where desirable on both public and private lands; and be it further.

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

A letter, in the nature of a petition, from St. Jude's Ranch for Children, Boulder City, Nev., relating to a visa for a nun, Sister Alice Lillian, of Bristol, England; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S.J. Res. 74. Joint resolution to provide for the designation of the first full calendar week in May of each year as "National Employ the Older Worker Week" (Rept. No. 91–1207);

S.J. Res. 110. Joint resolution to amend the joint resolution entitled "Joint resolution to establish the first week in October of each year as "National Employ the Physically Handicapped Week", approved August 11, 1945 (59 Stat. 530), so as to broaden the applicability of such resolution to all handicapped workers (Rept. No. 91–1208);

S.J. Res. 187. Joint resolution to authorize the President to designate the third Sunday in June of each year as Father's Day (Rept. No. 91–1209);

S.J. Res. 223. Joint resolution to authorize and request the President to issue annually a proclamation designating the month of January of each year as "National Blood Donor Month" (Rept. No. 91–1210); and

H.J. Res. 1255. Joint resolution to authorize and request the President to proclaim the period January 10, 1971, through January 16, 1971, as "National Retailing Week" (Rept. No. 91–1211).

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

S. 708. A bill for the relief of Lawrence J. Nunes (Rept. No. 91–1212).

By Mr. HRUSKA, from the Committee on the Judiciary, with an amendment.

S.J. Res. 226. Joint resolution to authorize the President to proclaim the period from May 9, 1971, Mother's Day, through June 21, 1971, Father's Day, as the "National Multiple Sclerosis Society Annual Hope Chest Appeal Weeks" (Rept. No. 91–1213).

By Mr. HRUSKA, from the Committee on the Judiciary, with amendments:

S. 3650. A bill to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes (Rept. No. 91–1215).

By Mr. ERVIN, from the Committee on the Judiciary, with amendments:

H.R. 12807. An act to amend the act of February 11, 1903, commonly known as the Expediting Act, and for other purposes (Rept. No. 91–1214).

By Mr. BURDICK, from the Committee on Post Office and Civil Service, with amendments:

S. 3220. A bill to protect a person's right of privacy by providing for the designation of obscene or offensive mail matter by the sender and for the return of such matter at the expense of the sender (Rept. No. 91–1217).

By Mr. MUSKIE, from the Committee on Banking and Currency, with amendments:

S. 2348. A bill to establish a Federal Broker-Dealer Insurance Corporation (Rept. No. 91–1218).

HOUSING AND URBAN DEVELOPMENT ACT OF 1970—REPORT OF A COMMITTEE (S. REPT. NO. 91–1216)—AUTHORITY FOR COMMITTEE TO FILE REPORT

Mr. SPARKMAN. Mr. President, from the Committee on Banking and Currency, I report favorably an original committee bill (S. 4368) the Housing and Urban Development Act of 1970, and I submit a report thereon.

I ask unanimous consent that the committee have until midnight to deliver the copies for printing purposes.

The PRESIDING OFFICER (Mr. GOLDWATER). The bill will be received and placed on the calendar; and, without objection, the request of the Senator from Alabama is agreed to.

A REPORT ENTITLED "CANADA-UNITED STATES INTERPARLIAMENTARY GROUP" (S. DOC. NO. 91–105)

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Idaho (Mr. CHURCH), I submit the report of the Senate delegation to the 13th meeting of the Canada-United States Interparliamentary Group, of which Senator CHURCH was chairman, held in Washington, Houston, and San Antonio last March. The report is under 50 pages and, at the request of Mr. CHURCH, I ask unanimous consent that it be printed as a Senate document.

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

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. BYRD of West Virginia (by request):

S. 4366. A bill for the relief of Lee Kuck Ting; to the Committee on the Judiciary.

By Mr. LONG:

S. 4367. A bill to amend section 7275 of the Internal Revenue Code of 1954, requiring airline tickets and advertising to show the total cost of taxable transportation by air; to the Committee on Finance.

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

By Mr. SPARKMAN:

S. 4368. A bill to extend and amend laws relating to housing and urban development, and for other purposes; placed on the calendar.

(See reference to the bill when reported by Mr. SPARKMAN, which appears earlier in the RECORD under the appropriate heading.)

By Mr. HRUSKA:

S. 4369. A bill for the relief of Andre Cheini Lorrain, his wife, Micheline Lorrain, and daughter, Chantal Lorrain; to the Committee on the Judiciary.

By Mr. MONDALE:

S. 4370. A bill to amend the Communications Act of 1934 in order to require licensees operating broadcasting stations under such act to broadcast information with respect to the dangers involved in the improper use of drugs; to the Committee on Commerce.

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

By Mr. ALLEN:

S.J. Res. 235. Joint resolution to designate the week of October 5 through October 11, 1970 as "Week of Prayer for the Supreme Court of the United States"; to the Committee on the Judiciary.

(The remarks of Mr. ALLEN when he introduced the joint resolution appear below under the appropriate heading.)

S. 4367—INTRODUCTION OF A BILL RELATING TO AMENDMENT OF SECTION 7275 OF THE INTERNAL REVENUE CODE OF 1954

Mr. LONG. Mr. President, this last spring, Congress passed and the President signed the Airport and Airway Revenue Act of 1970. One of the provisions concerned with the airline passenger ticket tax required the ticket and advertising to show only the total of the fare and the tax. The purpose of this single fare concept was twofold. First, the intent was to provide assurance that the airlines and travel agents would fully inform travelers as to the total cost of their transportation. Second, the intent was to speed up passenger service at the airports so that the amount of time required to wait in line at the ticket counter would be shortened.

These consumer oriented objectives were misunderstood and perhaps purposely misconstrued by some travel agents. The result was a rash of newspaper comments to the effect that the new law hides the tax from the consumer and, presumably on the basis of these newspaper comments, a number of Members of both Houses have introduced bills to repeal this provision

Approximately a month after this provision was enacted I discussed this matter on the floor of the Senate. At that time I pointed out that it is perfectly acceptable under the new statute for the ticket to contain a statement to the effect that the price includes an 8-percent Federal excise tax. In fact, I have encouraged the airlines to print that information on the front of the ticket. I also pointed out that it was perfectly satisfactory—and, in fact, I indicated that I would encourage it—for an airline or travel agent to advise an inquirer of the amount of tax involved in any ticket.

Despite my explanation, and the language of the act itself, a number of bills have been introduced to change these provisions, many of them eliminating completely the entire consumer protection and information objectives we sought in the act. The effect of these bills would be to revive the practices under which purchasers of tickets may be deliberately misinformed as to the cost of the airline tickets. I am sure, however, that this is not the intent of the authors of the amendments.

To bring some order to this situation, I am today introducing a bill to amend the provision of the Internal Revenue Code dealing with the requirements of disclosure on airline tickets and advertising. The purposes of these changes are to retain those features of the provision which are clearly designed to require what might be called truth in advertising and on airline tickets and to remove those provisions which anyone could by the furthest stretch of the imagination consider as being designed to hide from the consumer the amount of the tax. As I have already indicated, that was not the purpose of the provisions in the first place, and I now believe that it is desirable to eliminate these aspects of the provisions so there can be no misunderstanding in this regard.

The bill I am introducing deals with both what is to be shown on the airline ticket and what is to appear in the advertising.

As to what is shown on the ticket, the bill continues to require that the ticket show the total amount to be paid including the tax. However, the bill removes

the requirement in existing law which prohibits a breakdown of the total amount to be paid between the tax and the fare. As a result, it will be possible for the airline or travel agent to show this breakdown on the ticket if they so desire or if the ticket purchaser so desires. Actually, as I have said today and as I said on the floor of the Senate, within a month after the enactment of the act nothing in existing law would stop the airlines from showing on the ticket that the total price includes an 8-percent tax. Also nothing prohibits a traveler from learning from the travel agent or ticket agent the dollars and cents amount of the tax. However, because of the confusion created on this point the amendment permits the amount of the tax to be stated on the ticket at the option of the ticket agent and traveler. I would hope that, in the case of domestic transportation, however, the ticket agents would have pity upon the passengers waiting in line and not go through these unnecessary additional calculations where there is no reason to do so. Far more distressing to passengers generally is the time they must spend in line waiting to obtain their ticket.

In airlines advertising, the bill continues to require the advertising to show the total amount that the traveler must pay, including the tax. However, the bill would differ from present law in permitting the advertising to state separately the amount of the tax or the basic fare. Where this is done, however, the bill would require that the advertising state the total amount including the tax in the advertising at least as prominently as it states the basic fare alone, or the tax alone. This prevents the advertising from showing just the basic fare in large type and then in one corner in small type which the average person cannot read show the total amount including tax. The bill also requires in the case of advertising that if the taxes are shown separately, they must be described for what they really are; namely, user taxes to pay for airport construction and airway safety and operations. Actually, the tax is to be used to provide facilities which are essential to air traffic and, in view of this, it is entirely appropriate that these charges be borne by the users of the airlines.

By taking the steps I have outlined, I hope it will be possible to retain all of the essential consumer information objectives we tried to accomplish in the act. I hope that the airlines will also cooperate in the objective of saving time at the crowded ticket counters. In any event I do not see how, with the law amended as it would be by my bill, anyone can raise any objections to the provision as modified unless, of course, they are opposed to consumer protection.

The amendments made by my bill would take effect with respect to transportation beginning after June 30, 1970, the effective date of the Airport and Airway Revenue Act of 1970. I hope it will be possible to consider an amendment of the type outlined in my bill in the case of any action by the Senate on the administration proposal extending the automobile and communications excise taxes.

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

The bill (S. 4367) to amend section 7275 of the Internal Revenue Code of 1954, requiring airline tickets and advertising to show the total cost of taxable transportation by air, introduced by Mr. LONG, was received, read twice by its title, and referred to the Committee on Finance.

S. 4370—INTRODUCTION OF A BILL RELATING TO THE MEDIA'S NECESSARY CONTRIBUTION TO THE FIGHT AGAINST DRUG ABUSE

Mr. MONDALE. Mr. President, the Senate has heard much testimony on the growing tragedy of drug abuse. But none could be more telling—or more relevant—than the following letter from a son to his parents just before he committed suicide. The young man wrote:

> DEAR MOM AND DAD: My mind is no longer my friend. It won't leave me alone.
>
> This Christmas I had a very bad experience with a drug called mescaline. I have smoked a little pot before—as many others my age—but I tried mescaline only once. Since then I have not been in control of my mind. I have killed myself because I can no longer run my own affairs, and I can only be trouble and worry to those who love and care for me. . . .
>
> To those of my friends who might also think about learning about themselves with mind expanding drugs—don't. Learn about yourself as you live your life—don't try to know everything at once by swallowing a pill. It could be too much for your mind to handle at one time. It could blow out all the circuits as it did with me.
>
> I am too weak to fight—too proud to live forever on sympathy of others.
>
> Love,
>
> ANDY.

We have no real estimate, Mr. President, of how many young people in this Nation will go through, or are going through right now, Andy's terrible, mad torture. We do know that death is a frequent companion—whether in suicide or overdose—of that casual experiment which so many of our children may have with drugs.

The stark truth is that drug abuse has reached far beyond the proportion of a national epidemic in this country. The National Institute of Mental Health estimates that there are 20 million Americans who have used marihuana; 100,000 to 500,000 are addicted to heroin. Between a quarter and a half million have abused depressants, stimulants, and the whole spectrum of dangerous legal drugs.

Young people account for a large share of these numbers, although it is impossible to say exactly how much. FBI crime statistics for 1969 show that 55 percent of those arrested for narcotic drug law violations were under 21 and 63 percent of the marihuana arrests in 1969 were persons under 21.

The Bureau of Narcotics and Dangerous Drugs has just completed a comparative study of drug arrests throughout the country over the last decade. While adult arrests increased nearly 500 percent, the arrests of persons under 18 have shot up almost 2,500 percent.

We have never had, Mr. President, a more urgent or alarming call to action. And that action must include the full range of preventive, rehabilitative, and control measures.

I am proposing today one aspect of the preventive effort to stop dangerous experimentation before it starts. I have in mind, specifically, drug abuse education through the mass media of radio and television.

The tasks of drug education are fairly clear. We must strip narcotics of their illusive, murderous glamor. We must give our young people the ammunition of facts and commonsense to ward off the peer or pusher who might otherwise lure them to tragedy. Above all, we have to help our young think for themselves.

Surely, Mr. President, radio and television can carry these messages to most people in the least complicated manner. The mass media reach the rich and the poor, the educated and uneducated, the young and old in a manner all can understand.

For an example of the relative value of such a campaign, we can look at the antismoking commercials.

In 1967, the Federal Communications Commission applied its fairness doctrine to cigarette advertising, requiring broadcasters who carry cigarette advertising to carry also antismoking messages. And although we cannot draw a definite cause-and-effect impact, it was at this very moment that there began a marked decline in the consumption of cigarettes.

Before 1968, cigarette consumption had continued to increase in the United States despite warnings by the Surgeon General about the dangers of cigarette smoking and despite the enactment of legislation in 1965 requiring a health warning to be placed on all cigarette packages. But in 1968—the year after the antismoking messages started to appear with regularity and in increased number on television—there was a definite decline in cigarette consumption. In 1968, cigarette consumption fell by 3.6 billion. In 1969, Americans smoked some 16.6 billion fewer cigarettes than the year before. There can be no question that these warnings were extremely effective.

We have the potential for similar success in combating drugs. The National Institute of Mental Health promoted the first advertising campaign against drug abuse in 1968, which included short radio and television spots. Radio and TV messages featured famous stars presenting professional and, most important, balanced information on the consequences of drug abuse.

Recently, the advertising program has been expanded to include cooperation among the three Federal agencies most directly concerned with drug abuse—the National Institute of Mental Health, the Department of Justice, and the Defense Department, each of which contributed $50,000 annually to the drive. The Advertising Council is now directly affiliated with the drive and has been asked to make the antidrug campaign a priority in 1969.

Again, it is impossible to even guess how many potential drug abusers have been stopped from experimentation thus far by the warnings provided by the media. No doubt the number is far less than those who have been discouraged from smoking simply because antismoking commercials are much more preva-

lent. Obviously the more exposure a subject receives, the more people it will reach, and the more it will affect life and death decisions by young people.

By edict from the Federal Communications Commission, antismoking commercials must occupy a station's program time approximately in balance with cigarette commercials. This requirement falls under the fairness doctrine because the act of cigarette smoking has been shown to be detrimental to the public health, and its encouragement merits a balancing counterargument.

Antidrug abuse materials now fall under the category of public service announcements. Under FCC regulations, each station applying for a license is required to state the number of public service announcements he proposes to present during a typical week. The Commission does not prescribe a minimum number of public service announcements. Nor does the Commission require that the station declare on whose behalf these announcements are to be presented. As a result, there is now no requirement that a station carry an antidrug abuse commercial at all.

The magnitude of the problem we face, Mr. President, demands at least a minimum requirement.

I am introducing a bill today which would require the media to devote an equal amount of broadcast time to antidrug abuse commercials as they have been devoting to antismoking commercials.

This would be feasible, Mr. President, especially in light of the banning of cigarette commercials in January. At that time, the fairness doctrine will no longer apply to antismoking commercials, and the prospect is that they will be far less frequent or even dropped completely.

The time has come to see that the powerful and important voice of the media is enlisted in the national struggle against drug abuse.

We must carry to all Americans the poignant wisdom of the young man whose death I described at the outset of this address, "learn about yourself as you live your life—do not try to know everything at once by swallowing a pill."

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

The bill (S. 4370) to amend the Communications Act of 1934 in order to require licensees operating broadcasting stations under such act to broadcast information with respect to the dangers involved in the improper use of drugs, introduced by Mr. MONDALE, was received, read twice by its title, and referred to the Committee on Commerce.

SENATE JOINT RESOLUTION 235—INTRODUCTION OF A JOINT RESOLUTION TO DESIGNATE THE WEEK OF OCTOBER 5 TO OCTOBER 11 AS A NATIONAL WEEK OF PRAYER FOR THE SUPREME COURT

Mr. ALLEN. Mr. President, the new term of the Supreme Court of the United States starts on October 5. The Court has before it a number of cases involving the public school systems throughout the country, and will be called upon to decide a number of important constitutional questions regarding the duties, requirements, and obligations of citizens and school officials with respect to the desegregation of public schools.

Mr. President, the public schools in many areas of the United States—certainly in my own section of the country, in Alabama and the South—are in a deplorable state of crisis and uncertainty as a result of unsettled questions regarding the desegregation of such schools.

On March 9, 1970, the Chief Justice of the United States, Warren E. Burger, in the case of *Northcross* v. *Board of Education of Memphis*, 397 U.S. 232, suggested that the Supreme Court has failed to rule on the following questions: First, whether, as a constitutional matter, any particular racial balance must be achieved in the schools; second, to what extent school districts and zones may or must be altered as a constitutional matter; and, third, to what extent transportation may or must be provided to achieve the ends sought by prior holdings of the Court.

Mr. President, on the last legislative day, Friday, September 18, 1970, the Chaplain of the Senate, the Reverend Edward L. R. Elson, in delivering the opening prayer, the invocation, had this to say in praying to God:

> 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.

It occurs to the junior Senator from Alabama that divine guidance is needed by the Supreme Court of the United States; that it could enlighten the Supreme Court in reaching decisions consonant with the requirements of the Constitution, which would answer these questions and determine related matters in such a way as to alleviate the problems in our public schools.

Mr. President, it is a time-honored tradition of our Nation that our Presidents in their inaugural addresses and other great leaders on occasions of crisis in this country have called upon God for guidance. Solomon, the wisest man in history, in his great wisdom, in his inspiring prayer for Israel, called upon God for guidance.

Our people are accustomed to pray for divine guidance. They are accustomed to pray for our country and for the guidance of the Nation's leaders. When we go to athletic contests, go to football games—certainly, in my section of the country—the invocation invariably calls for divine guidance for the Nation's leaders. We pray for our leaders in our homes, in our churches, at every public gathering. We pray for our Nation's leaders in the Senate Chamber, in the House Chamber.

So it occurs to the junior Senator from Alabama that we should call for prayer for the Supreme Court as it enters upon the decision of these matters that will either polarize the people of this Nation or will have the effect of bringing them together.

I believe that President Eisenhower at one time said that the United States, the Nation, really had its birth at Valley Forge, because that is where the will of the Nation, the will of the people in the colonies in America, was tested to the extreme. The picture of General Washington kneeling in the snow, praying for divine guidance, is familiar to all of us.

So it certainly is not unusual, not out of line with American ideals and concepts, to pray for guidance.

Mr. President, at the conclusion of my remarks, I will introduce a Senate joint resolution calling for the designating of the week of October 5 through 11 as "Week of Prayer for the Supreme Court of the United States." The resolution urges citizens to pray for divine guidance for the Supreme Court of the United States in reaching decisions—not necessarily decisions that the junior Senator from Alabama says they should reach, not decisions that some person from another area of our country says they should reach, but in reaching decisions in accordance with the U.S. Constitution which would point the way to equitable solutions to the problems of the public school systems of the Nation regarding desegregation of schools, to the end that each schoolchild in America is given equal treatment under the law and an equal opportunity to obtain a good education.

Mr. President, I introduce a Senate joint resolution and ask that it be appropriately referred, and I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

The PRESIDING OFFICER (Mr. HUGHES). The joint resloution will be received and appropriately referred; and, without objection, the text of the joint resolution will be printed in the RECORD.

The joint resolution (S.J. Res. 235) to designate the week of October 5–11, 1970, as "Week of Prayer for the Supreme Court of the United States," introduced by Mr. ALLEN, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S.J. RES. 235

Whereas a new term of the Supreme Court of the United States commences on October 5, 1970, at which the Court will be called on to decide a number of important Constitutional questions concerning duties, requirements, and obligations of citizens and school officials with respect to the desegregation of public schools; and

Whereas the public schools in many areas of the United States are in a deplorable state of crisis and uncertainty as a result of unsettled questions regarding the desegregation of such schools; and

Whereas the Chief Justice of the United States, Warren E. Burger, in the case of *Northcross* v. *Board of Education of Memphis* (397 U.S. 233) decided March 9, 1970, suggested that the Supreme Court has failed to rule on the following questions:

(1) whether, as a constitutional matter, any particular racial balance must be achieved in the schools;

(2) to what extent school districts and zones may or must be altered as a constitutional matter; and

(3) and to what extent transportation may or must be provided to achieve the ends sought by prior holdings of the Court,

Whereas divine guidance could enlighten the Supreme Court in reaching decisions, consonant with the requirements of the Constitution, which would answer these questions and determine related matters in such

a way as to alleviate the problems in our public schools; and

Whereas it is in the honored trad tion of our Nation that our Presidents in their inaugural addresses and other great leaders on occasions of crisis have called upon God for guidance, as did Solomon in his great wisdom, in his inspiring Prayer for Israel; and our people are accustomed to pray for our Country and for the Divine guidance of its leaders:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, as follows:

(1) That the week of October 5–11, 1970, be designated as "Week of Prayer for the Supreme Court of the United States"; and

(2) That citizens are urged to pray for Divine guidance for the Supreme Court of the U.S. in reaching decisions, in accordance with the U.S. Constitution, which would point the way to equitable solutions to the problems of the public school systems of the Nation regarding desegregation of schools to the end that each schoolchild in America is given equal treatment under the law and an equal opportunity to obtain a good education.

ADDITIONAL COSPONSORS OF BILLS

S. 3220

At the request of the Senator from Virginia (Mr. SPONG), the Senator from Wyoming (Mr. MCGEE), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 3220, to protect a person's right of privacy by providing for the designation of obscene or offensive mail matter by the sender and for the return of such matter at the expense of the sender.

S. 4015

Mr. GRIFFIN. Mr. President, on June 23, the distinguished Senator from California (Mr. MURPHY) introduced a bill, S. 4015, which would institute a system of survivor's benefits available to military retirees, enabling them to provide for the financial security of their survivors after they themselves pass away.

On behalf of the Senator from California (Mr. MURPHY), I ask unanimous consent that at the next printing of S. 4015 the names of the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. CRANSTON), and the Senator from Vermont (Mr. PROUTY), be added as cosponsors.

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

S. 4165

At the request of the Senator from West Virginia (Mr. BYRD), the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 4165, to provide for the creation of the Indian Trust Counsel Authority.

S. 4208

Mr. GRIFFIN. Mr. President, on August 10, Senator GEORGE MURPHY introduced S. 4208, the Family Physician Scholarship and Fellowship Program Act, which I cosponsored. This proposal now has the support of at least 23 Senators, including the Senator from Oregon, (Mr. PACKWOOD), who has indicated his desire to be added as a cosponsor. Accordingly, on behalf of Senator MURPHY, I ask unanimous consent that the name of the Senator from Oregon be added as a cosponsor of the measure.

Mr. President, as evidence of growing national interest in S. 4208, it is interesting to note that the American Academy of General Practice, which has over 31,000 physician members, has officially endorsed the measure.

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

SENATE RESOLUTION 467—RESOLUTION REPORTED RELATING TO PRINTING OF ADDITIONAL COPIES OF SENATE HEARINGS ON NATIONAL SCIENCE FOUNDATION AUTHORIZATION, 1971

Mr. PELL (for Mr. KENNEDY), from the Committee on Labor and Public Welfare, reported the following original resolution (S. Res. 467); which was referred to the Committee on Rules and Administration:

S. RES. 467

Resolved, That there be printed for the use of the Committee on Labor and Public Welfare one thousand additional copies of its hearings of the current Congress on National Science Foundation Authorization, 1971 (S. 3412, S. 3700).

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 457

At the request of the Senator from Kentucky (Mr. COOPER), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Tennessee (Mr. GORE) were added as cosponsors of Senate Resolution 457, authorizing the Committee on Interior and Insular Affairs to conduct a study and investigation concerning the shortage of coal existing in the United States.

AMENDMENT OF CLEAN AIR ACT—AMENDMENT

AMENDMENT NO. 926

Mr. BAKER (for himself and Mr. COOPER) proposed an amendment to the bill (S. 4358) to amend the Clean Air Act, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 927

Mr. MANSFIELD (for Mr. MAGNUSON) submitted an amendment, intended to be proposed by Mr. MAGNUSON, to Senate bill 4358, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 928

Mr. DOLE submitted an amendment, intended to be proposed by him, to Senate bill 4358, supra, which was ordered to lie on the table and to be printed.

(The remarks of Mr. DOLE when he submitted the amendment appear later in the RECORD under the appropriate heading.)

AMENDMENT NO. 930

Mr. COOPER (for himself and Mr. BAKER) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 4358, supra, which was ordered to lie on the table and to be printed.

H.R. 17550—SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENT

AMENDMENT NO. 929

Mr. LONG. Mr. President, the Committee on Finance is now holding hearings on H.R. 17550, the Social Security Amendments of 1970.

That bill contains many provisions designed to moderate and control the skyrocketing costs of medicare and medicaid—costs which will total some $15 billion in this fiscal year.

I am confident that the committee will be able to improve upon the fine work already done by the House of Representatives in the medicare and medicaid areas. I will submit today another cost-saving amendment which, if enacted into law, will result in estimated savings of upwards of $80 million a year in medicare and medicaid drug costs.

This amendment is essentially the same as that adopted by the Senate in 1967. It would provide a commonsense professional and scientific means of assuring that the drugs we pay for under medicare and medicaid are appropriate and necessary to proper patient care and that we do not overpay for those drugs.

The amendment includes provisions which recognize and accommodate the substantive and legitimate needs of patients, doctors, pharmacists, and drug manufacturers. It is not punitive legislation—it is progressive legislation.

The social security legislation we enacted in 1967 contained in a provision requiring the Department of Health, Education, and Welfare to study and report to the Congress on the Long drugs amendment. That report, dated January 10, 1969, represented some 18 months of hard and comprehensive effort. In his letter transmitting that report, the then-Secretary of Health, Education, and Welfare, Wilbur J. Cohen, stated:

> I strongly recommend to the Congress that legislation be enacted to establish cost and charge ranges and limits of Federal participation in reimbursement for drugs supplied in programs funded under the Social Security Act.

That report of the Task Force on Drugs, printed as House Document 91–44, went on to strongly endorse the formulary and reasonable cost range provisions basic to my amendment and stated that many millions of taxpayer dollars would be saved thereby.

This proposal is not a generic drugs bill. It is a bill designed to promote the usage in the medicare and medicaid programs of lower-cost drug products of proper quality, however, they may be named. Certainly, the formulary, which would be established under the amendment, would include a substantial number of sole-source drugs—that is, those which are made by only one manufacturer. In those cases, the Government would be willing to pay the manufacturer's brand-name price.

We are not talking about generic or brand-name drug products. We are talking about using, wherever possible,

lower-cost drug products of proper quality under whatever label.

Mr. President, this amendment is not a pro forma expression of concern over the high cost of drugs. It represents a detailed solution to a good part of the problem—at least in medicare and medicaid. The amendment was drafted with extensive assistance and comments from concerned physicians, pharmacists and others including the American Pharmaceutical Association.

I shall ask unanimous consent that the text of the amendment be printed in the RECORD at the conclusion of my remarks.

In summary, the amendment provides:

First, appointment by the Secretary of Health, Education, and Welfare of a high-level and highly-qualified nine-member Formulary Committee—who would be charged with compiling a listing of drugs—to be known as the Formulary of the United States—eligible for reimbursement under the various social security health care programs. The membership of the Formulary Committee would consist of individuals of recognized standing and distinction in medicine, pharmacy, and pharmacology, with a majority of the members being physicians. Only two of the nine members may be employees of the Government; and I would anticipate that the Secretary would probably select the Commissioner of Food anl Drugs and the Surgeon-General as the governmental members.

Drugs are to be primarily listed in the Formulary under their established or official names—not under their trade names. However, a specific trade-name product could be listed in the Formulary under that name if the Formulary Committee found that the product had "distinct demonstrated therapeutic advantages" over other standard versions of the same drug. If the Formulary Committee has not included a particular product by trade name because of the lack of substantial evidence of any superiority to other products of the same drug, a manufacturer would be at liberty to develop and present what he believed to be such evidence to the Formulary Committee for its consideration. The burden of proof, and expense, would, of course, be upon the manufacturer in such cases.

According to the Food and Drug Administration and the top officials of the official drugs compendia—the U.S. Pharmacopoeia and the National Formulary—serious questions concerning the equivalence of different products of the same drug have been raised with respect to only a small minority of drugs. Where this has occurred, the situation has usually been corrected through changes in compendia standards and requirements of the Food and Drug Administration. It would be foolish to ignore the possibility of such situations occurring—and it is equally foolish to exaggerate the frequence of their occurrence. If and when serious questions arise in the case of a specific drug concerning the equivalence of different products of that drug, it is intended that the Formulary include all such products of that drug which may be lawfully sold until such time as those questions are resolved.

In connection with this matter of equivalency, it is noteworthy that the Task Force on Drugs stated in one of its reports:

> The Task Force has found, however, that lack of clinical equivalency among chemical equivalents meeting all official standards has been grossly exaggerated as a major hazard to the public health.

In quoting the above statement, Dr. Edward G. Feldmann, director of the National Formulary and editor of the Journal of Pharmaceutical Sciences said:

> This major conclusion emanated from one of the most thorough and exhaustive studies ever conducted, under the direct sponsorship of the highest levels of the Federal Government, in consultation with the most eminent medical and medically related authorities in the country.

Similarly, where a physician determines that his patient needs a particular drug or a particular drug product which is not included in the Formulary or for which reimbursement is otherwise limited, the Federal Government would reimburse in full for his prescription where it is properly prepared. Proper preparation of the prescription in such cases means that the drug is described in the doctor's handwriting by its official name and the name of its manufacturer. Thus, the physician is free to prescribe what he wants immediately in situations where he knows or suspects unusual patient reactions may occur.

The Formulary concept is not a new one. Many State and local governments, as well as most accredited hospitals, employ formularies in order to assure rational prescribing and avoid unnecessary expense. In recognition of the commonsense already being practiced by the majority of hospitals in prescribing and dispensing drugs, the amendment contains a provision exempting hospitals with proper formulary systems from its limitations.

Apart from cost savings, the Formulary should assist physicians who seek to prescribe rationally, but who are assaulted from all sides by what has been termed "Medicine Avenue Advertising." Our new generation of physicians certainly recognize the problem and call a spade a spade. A report on this year's convention of the Student American Medical Association appeared in the July 1970, issue of the magazine, Hospital Practice. Here is what our young doctors think about drug information and promotion today:

> In reference committee hearings and private conversations, students showed ingrained distrust of pharmaceutical advertising and detail men, yet they admitted they themselves were not sufficiently informed to judge manufacturers' claims.
>
> With a rap on the head to the source of one-sixth of SAMA's revenue, the House set new advertising standards for "The New Physician," demanding conspicuous display of the generic name of each drug and of its chief hazards. It required that all ads give the approximate cost to the patient, but on being reminded later that some state laws would forbid this, it directed the editors to insert a page listings suggested prices for all medications advertised in a given issue. The House also voted against "Madison Avenue" promotion at its meetings unless the officers should find "the participation to be of educational value and not for the promotion of pharmaceuticals."

Certainly, the Formulary of the United States, prepared on an objective basis by the most competent people, empowered with access to all information available to the Federal Government concerning drugs would be an invaluable reference tool for physicians in treating all of their patients—not just those on medicare and medicaid. As a matter of fact, I think part of the panic of the big drug companies over this amendment is that they fear this Formulary would encourage and assist doctors in more rational and less-costly prescribing for all Americans.

The Formulary Committee would be charged with selecting those drugs necessary for proper patient care—regardless of price. The committee would not concern itself with cost—its concern would relate solely to the professional and scientific aspects of drug selection.

The Secretary of Health, Education, and Welfare would, on the other hand, have responsibility, under the amendment, of establishing reasonable cost ranges for those drugs listed in the Formulary Committee. Contrary to the propaganda of the Pharmaceutical Manufacturers Association, this procedure does not involve "price fixing" of drugs. Prices are established by the manufacturers and the Secretary would look to those established prices and select from them in determining the reasonable range of prices charged by different manufacturers of the same drug. Under the amendment, the Secretary cannot tell any manufacturer what to charge for his drug product. That would still be a matter of the manufacturer's costs, competition, and conscience.

The Secretary's responsibility would be to exclude from the reasonable cost range overpriced products of a given drug where lower priced products of that same drug are generally available and of proper quality. He selects, just as any prudent buyer does, from the price tags placed on those drug products by each producer. He does not put the tags on the products.

For example, prednisone of proper quality might be generally available from 10 different manufacturers who sell it at prices ranging from $1 to $12 per 100. Five of those may sell their products at $2.50 per 100 or less. The Secretary might then decide that the maximum in the reasonable cost range for prednisone should be $2.50. Thus, the acquisition cost of prednisone reimbursable under the Federal programs could not be greater than $2.50 plus the reasonable cost, professional fee, or reasonable charge of the dispenser of the drug.

Now, if a State wanted to cover the higher priced prednisone under its medicaid plan, it would be privileged to do so, but Federal matching funds would be available only up to the first $2.50 of acquisition cost.

Again, the manufacturer of the $12 prednisone is at liberty to prove to the professional satisfaction of the Formulary Committee that his product is therapeutically superior to the other prednisones, and if he were successful, the $12 price would be fully matched with Fed-

eral funds. Or, if a doctor were persuaded that it was desirable for his patient to have the $12 product, he could write his medicare prescription out for prednisone and the name of the manufacturer of that particular product; and again, the whole $12 price would be fully matched with Federal funds.

Under the amendment, in establishing the reasonable cost ranges the Sectary would take into account differences in prices charged by manufacturers to different types and sizes of dispensers in different geographic areas. All of this goes to the cost of the drug to the dispenser. As far as the price to the patient is concerned, the amendment permits the pharmacy to adjust the acquisition cost upward through means of either a reasonable professional fee or a reasonable charge. The latter two methods prevail in pharmacies throughout the country. The acquisition cost plus professional fee or charge could not exceed the pharmacy's usual and customary charge to the general public for the same prescription.

The 1967 drugs amendment limited reimbursement to acquisition cost plus a professional fee. While I still believe that the professional fee approach—where the pharmacy received a fixed amount regardless of the cost of the product—is an excellent means of removing any incentive to dispense higher cost drugs, I recognize that the majority of pharmacies still employ the markup method. The principal change from the 1967 amendment, therefore, is expanding the method of reimbursing pharmacies to include reasonable charges or markups. I am confident that pharmacies which charge on a markup basis will dispense the appropriate drug product and not seek to maximize prescription cost at the expense of the Government. Officials of the National Association of Retail Druggists have assured me that retail pharmacy will function just as responsibly with a reasonable charge method of payment as they would with professional fees. This change is the principal difference between the 1967 amendment and the proposal I offer today. The amendment contains additional minor changes mainly of a clarifying and technical nature designed to make its intent unambiguous.

Drug manufacturers and processors are now required to register with the Food and Drug Administration. Under the amendment, those registered would be required to place their names and registration numbers on each package of their prescription drug products. Where a registered firm was found by the Food and Drug Administration to be producing or handling substandard drugs, it would be prohibited from placing its registration number and name on the package of the substandard product. No medicare or medicaid payments could be made for any drug product which did not bear the names and registration numbers of those concerned with its production and packaging. The pharmacist would have only to check the drug package for the names and registration numbers in order to determine that the product had been manufactured in accordance with official standards.

The registration approach has been repeatedly endorsed by the American Pharmaceutical Association as a vital aid to informed drugs purchasing and dispensing. Some of the advantages of this requirement of informed labeling were well stated in an editorial by Dr. George P. Provost in the American Journal of Hospital Pharmacy. That editorial said:

> We support the proposal that package labels of drug products show the actual manufacturer and his lot number . . . Besides the fact that the pharmacist should know exactly whose product he is dispensing, such a practice would truly be revealing. We would discover that many products marketed by some of the largest and best known pharmaceutical firms are actually manufactured by private-label houses. Some of these private label companies market products under their own label, and the quality of these products has often been questioned because of their source or their lack of a well-known trade name. The large firms, although they may have developed and tested the product, are thus acting as repackaging houses for the lesser-known firm's material.

Based upon past experience, we may anticipate rather aggressive attempts by the big drug companies to defeat this vitally important and needed amendment. Hopefully, this time the companies will confine themselves to the merits of my amendment. Previously, one of the largest drug companies affronted the integrity of the Senate by ordering investigators to look into the private affairs of a Finance Committee staff member who had been working on drug matters at my direction. After their stupidity was uncovered, the company tendered a complete letter of apology to the Senate employee. Additionally, they made a substantial financial settlement—$10,000—which the Finance Committee staff man directed his attorney to donate to District of Columbia Children's Hospital.

Hopefully, for the sake of the responsible drug companies, they will not attempt such irresponsible behavior again.

Mr. President, I ask unanimous consent that the text of the amendment, which I now submit to H.R. 17550, be printed in full at this point in the RECORD.

The PRESIDING OFFICER (Mr. EAGLETON). The amendment will be received and printed and will be appropriately referred and, without objection, the amendment will be printed in the RECORD, as requested by the Senator from Louisiana.

The amendment (No. 929) was referred to the Committee on Finance, as follows:

AMENDMENT NO. 929

On page 158 after line 19, insert the following new title:

TITLE IV.—QUALITY AND COST CONTROL STANDARDS FOR DRUGS

QUALITY AND COST CONTROL FOR DRUGS PAYABLE FROM FEDERAL FUNDS

SEC. 401. Title XI of the Social Security Act is amended by inserting immediately below the heading of such title the following part: "PART A—MISCELLANEOUS" and by adding at the end of such title the following new part:

"PART B—QUALITY AND COST CONTROL FOR DRUGS PAYABLE FROM FEDERAL FUNDS

"SEC. 1130. (a)(1) There is hereby established, within the Department of Health, Education, and Welfare, a Formulary Committee, a majority of whose members shall be physicians and which shall consist of two officials of such Department designated by the Secretary, and of seven individuals (not otherwise in the regular full-time employ of the Federal Government) who are of recognized professional standing and distinction in the fields of medicine, pharmacology, and pharmacy, to be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Chairman of the Committee shall be elected, from the appointed members thereof, by majority vote of the members of the Committee. The term of office of the Chairman shall be one year, but the same person may hold such office for any number of terms.

"(2) Each appointed member of the Formulary Committee shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, one at the end of the first year, one at the end of the second year, one at the end of the third year, one at the end of the fourth year, and one at the end of the fifth year, after the date of appointment. A member shall not be eligible to serve continuously for more than two terms.

"(b) Appointed members of the Formulary Committee, while attending meetings or conferences thereof or otherwise serving on business of the Committee, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c)(1) The Formulary Committee is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Formulary Committee such secretarial, clerical, and other assistance as the Formulary Committee may require to carry out its functions.

"(2) The Secretary shall furnish to the Formulary Committee such office space, materials, and equipment as may be necessary for the Formulary Committee to carry out its functions.

"FORMULARY OF THE UNITED STATES

"SEC. 1131. (a)(1) The Formulary Committee shall compile, publish, and make available a Formulary of the United States (hereinafter in this title referred to as the 'Formulary').

"(2) The Formulary Committee shall periodically revise the Formulary and the listing of drugs so as to maintain currency in the contents thereof.

"(b)(1) The Formulary shall contain an alphabetically arranged listing, by established name, of those drugs which the Formulary Committee finds are necessary for recipients of aid, assistance, benefits, or services under the several programs operated or supported by the Department of Health, Education, and Welfare and for which Federal funds are to be expended. The Formulary Committee shall exclude from the Formulary any drugs which the Formulary Committee determines are not necessary for proper patient care, taking into account other drugs that are available from the Formulary.

"(2) The Formulary Committee may also include in the Formulary, either as a separate part (or parts) thereof or as a supplement (or supplements) thereto, any or all of the following information:

"(A) A supplemental list or lists, arranged by diagnostic, prophylactic, therapeutic, or other classifications, of the drugs included in the listing referred to in paragraph (1).

"(B) The proprietary names under which a drug listed in the Formulary by established name is sold, and the names of each supplier (as manufacturer or distributor) of the final dosage form of such a listed drug who has been certified to the Committee by the Food and Drug Administration as producing or distributing such drug in conformity with the requirements of the Federal Food, Drug, and Cosmetic Act and (where applicable) the Public Health Service Act.

"(C) Prescribing information (including conditions of use required in the interest of rational drug therapy) which will promote the safe and effective use, under professional supervision, of the drugs referred to in paragraph (1).

"(D) The guide or guides as to reasonable cost ranges issued pursuant to section 1133.

"(E) A prominent statement that payment from Federal Funds is restricted to a reasonable acquisition cost range established by the Secretary pursuant to this part, for a drug listed in the Formulary to establishments dispensing drugs plus the reasonable fees, or costs, or charges of such establishments for dispensing such drug, unless the prescriber, in his order, has specifically designated a drug by its established name together with the name of the manufacturer of the final dosage form thereof.

"(F) Any other information which in the judgment of the Formulary Committee would be useful in carrying out the purposes of this part.

"(c) In considering whether (under the authority contained in subsection (b)) a particular drug shall be included in the Formulary, the Formulary Committee is authorized to obtain (upon request therefor) any record pertaining to the characteristics of such drug which is available to any other department, agency, or instrumentality of the Federal Government, and, as a condition of such inclusion, to require suppliers of drugs to make available to the Committee information (including information to be obtained through testing) relating to such drug. If any such record or information (or any information contained in such record) is of a confidential nature, the Formulary Committee shall exercise utmost care in preserving the confidentiality of such record or information and shall limit its usage thereof to the proper exercise of such authority.

"(d)(1) The Formulary Committee shall establish such procedures, as may be necessary to determine the propriety of the inclusion or exclusion, in the Formulary, of any drug, including such data and testing as it may require of a proponent of the listing of a drug in the Formulary.

"'(2) The Formulary Committee, prior to making a final determination to remove from listing in the Formulary any drug which would otherwise be included under subsection (b) of this section, shall afford a reasonable opportunity for a hearing on the matter to any person engaged in manufacturing, preparing, propagating, compounding, or processing such product who shows reasonable ground for such a hearing. Any person adversely affected by the final decision of the Formulary Committee may obtain judicial review in accordance with the procedures specified in section 505(h) of the Federal Food, Drug, and Cosmetic Act.

"(3) Any person engaged in the manufacture, preparation, propagation, compounding, or processing of any drug not included in the Formulary which such person believes to possess the requisites to entitle such drug to be included in the Formulary pursuant to subsection (b), may petition for inclusion of such drug and, if such petition is denied by the Formulary Committee, shall, upon request therefor, showing reasonable grounds for a hearing, be afforded a hearing on the matter. The final decision of the Formulary Committee shall, if adverse to such person, be subject to judicial review in accordance with the procedures specified in section 505 (h) of the Federal Food, Drug, and Cosmetic Act.

"QUALIFIED DRUG

"SEC. 1132. As used in this title, the term 'qualified drug' means a drug—

"(a) which (1) is listed in the Formulary, or (2) is furnished to a patient by a hospital which (A) is accredited by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association, and (B) utilizes a formulary system established by a pharmacy and therapeutics committee (or equivalent committee) in accordance with standards established by such commission or association, or (3) is a prescription legend drug prescribed in the handwriting of a lawful prescriber by its established name together with the name of the manufacturer of the final dosage form thereof, and

"(b) the label on the package or container from or in which such drug is dispensed in final dosage form bears, in accordance with regulations of the Secretary, the registration number (assigned under section 510(e) of the Federal Food, Drug, and Cosmetic Act) of the person or establishment which manufactured, prepared, propagated, compounded, or processed such drug in such form and, if different, also the registration number (so assigned) of the final packager of such drug.

"REASONABLE ACQUISITION COST RANGE

"SEC. 1133. (a)(1) The Secretary shall establish and publish (and periodically revise so as to keep current) a guide or guides showing the reasonable acquisition cost range (to establishments dispensing drugs) of each qualified drug listed in the Formulary and the names of the suppliers of the products upon which the cost range for a qualified drug is based. If the sources from which such a drug is available charge different prices therefor to different classes or types of dispensers, the Secretary may, in establishing the reasonable acquisition cost range for any drug, establish such a range for each class or type of dispenser of such drug.

"(2)(A) The reasonable acquisition cost range of any particular drug shall not exceed the amount or amounts at which such drug is generally available for sale (to establishments dispensing drugs) in a given strength or dosage form; and in any case in which a drug is so available and so sold by more than one supplier, the Secretary shall exclude, in determining such cost range, the amounts for such drugs of such suppliers as are sold at prices which vary significantly from the amounts for the lowest or lower cost drugs which have been determined to be of proper quality and which are generally available. If a particular drug in the Formulary is available from more than one supplier, and such drug as available from one supplier possesses distinct therapeutic advantages (as determined by the Formulary Committee on the basis of its scientific and professional appraisal of information available to it, including information and other evidence furnished to it by the supplier of such drug), then the reasonable acquisition cost of such supplier's drug shall be the price at which it is generally available to establishments dispensing drugs.

"(3) In considering (for purposes of establishing a reasonable acquisition cost range for any drug) the various sources from which the varying prices at which such drug is generally available, there shall not be taken into account the price of any drug which does not meet the conditions set forth in section 1132(b).

"REASONABLE CHARGE FOR DRUGS

"SEC. 1134. (a) For purposes of this part, the term 'reasonable charge' means the following:

"(1) When used with respect to a prescription legend drug, such term means the lesser of—

"(A)(i) those charges for a qualified drug which do not exceed the cost (which may be based upon the approximate or average cost of such drugs to comparable dispensers of comparable size and purchasing capacity in a given geographic area) to the dispenser of the drug dispensed and which, in the case of a drug described in section 1132 (a) (1) or (2), are within the reasonable acquisition cost range established pursuant to section 1133, plus (ii) the reasonable fee, or reasonable cost, or reasonable charge determined pursuant to this section, or

"(B) the usual or customary charge at which the dispenser sells or offers such drug to the public.

"(2) When used with respect to a prescribed non-legend drug, such term means those charges which do not exceed the usual or customary price at which the dispenser offers or sells the product to the general public, plus a reasonable billing allowance.

"(b) The Secretary shall, after appropriate consultation with private organizations representing those who render pharmaceutical services and governmental agencies affected, establish criteria for determining (1) the reasonable fees, or costs, or charges of the dispenser for dispensing such drug and (2) reasonable billing allowances for prescribed non-legend drugs dispensed.

"(c) Whenever the Secretary determines that, in a particular State or other geographic area, the price at which a particular drug is generally available to dispensers of such drug varies substantially from the price at which such drug is usually sold to dispensers in other areas, he may make appropriate adjustments in the reasonable acquisition cost range for such drug with respect to such area.

"(d) Nothing in this section shall be construed to prevent any supplier or dispenser of any drug from charging less than the reasonable acquisition cost or reasonable charge.

"DEFINITIONS

"SEC. 1135. For the purposes of this part—

"(1) The term 'drug' means a 'drug' as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (including those specified in section 351 of the Public Health Service Act).

"(2) The term 'established name' with respect to a drug means its 'established name' as defined in section 502(e) of such Act.

"(3) The term 'prescription legend drug' means a drug described in section 503(b)(1)(A), (B), or (C) of such Act.

"(4) The term 'prescribed nonlegend drug' means a drug which is not a prescription legend drug but is dispensed upon prescription of a practitioner licensed by law to prescribe or administer such drug.

"LIMITATIONS ON FEDERAL LIABILITY FOR CHARGES OF PROVIDERS OF SERVICES

"SEC. 1136. Any dispenser of drugs whose services (including the cost of the drug supplied) are reimbursable under any title of this Act on the basis of 'reasonable cost' shall not be entitled to a reasonable fee or reasonable charge or billing allowance as determined pursuant to this part; nor shall such fee, charge, or billing allowance be payable under any such title with respect to any drug that can (as determined in accordance with regulations) be self-administered, is furnished as an incident to a physician's professional service, and is of a kind commonly furnished in physicians' offices and commonly either rendered without charge or included in the physicians' bills."

LIMITATIONS ON FEDERAL FINANCIAL LIABILITY UNDER MEDICAL INSURANCE AND ASSISTANCE PROGRAMS

SEC. 452. (a) Effective wth respect to expenditures made after June 30, 1972, section 1903 of the Social Security Act, is further amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding the preceding provisions of this section, in determining (for purposes of subsection (a)) the amounts expended as medical assistance by a State under its State plan approved under this title, there shall not be counted (1) so much of the cost of any drug as exceeds the reasonable charge for such drug as determined under section 1134, or (2) any part of the cost of such drug if such drug is not a qualified drug as determined under section 1132."

(b) With respect to services furnished after June 30, 1972, section 1861(v) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding the preceding provisions of this subsection, if any services provided under this title include the furnishing of any drug or biological to an individual, there shall not be counted in determining the cost of such services—

"(A) so much of the cost of such drug or biological as exceeds the reasonable charge therefor as determined under section 1134, or

"(B) any part of the cost of such drug or biological if it is not a qualified drug as determined under section 1132."

ASSIGNMENT OF REGISTRATION NUMBERS TO DRUG PRODUCTS—USE OF SUCH NUMBER ON DRUG LABEL

Assignment of Registration Numbers

SEC. 403. (a) Section 510(e) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(e) The Secretary shall assign a registration number to every person or establishment, registered in accordance with this section, that manufactures, prepares, propagates, compounds, or processes a prescription legend drug or drugs in final dosage form, or that (if different) is the final packager (as defined by regulation) of such drug or drugs in such form, and he may assign a registration number to any other person or establishment so registered."

LABEL DISCLOSURE OF REGISTRATION NUMBER—WHEN REQUIRED OR PROHIBITED

(b) Such Act is further amended by inserting after section 510 and before section 511 the following new section:

"PLACEMENT OF REGISTRATION NUMBER ON DRUG LABEL—WHEN REQUIRED OR PROHIBITED

"SEC. 501A. (a) Except as otherwise provided in subsection (b)—

"(1) every person who owns or operates an establishment registered under section 510, in which is manufactured, prepared, propagated, compounded, or processed, in final dosage form, a drug or drugs intended for use by man, shall, in accordance with regulations, cause the registration number assigned to such person or establishment pursuant to subsection (e) of such section and the complete name of such person or establishment to be placed on the label of each package or container containing any such drug so manufactured, prepared, propagated, compounded, or processed, in such establishment, and

"(2) unless the establishment referred to in paragraph (1) is also the final packager (as defined by regulation) of such prescription legend drug or drugs in such form, the person who owns or operates the establishment which is such final packager shall cause to be placed on the label of each final package or container of such drug so packaged both the complete name and registration number (assigned pursuant to section 510(e)) of such person or final packaging establishment and the name and registration number referred to in paragraph (1).

"(b) Any other person owning or operating an establishment having a registration number assigned pursuant to section 510 may, except as otherwise provided in subsection (c) or by regulation, place such registration number on packages of drugs of which it is a manufacturer, packer, or distributor.

"Prohibition Against Placing of Registration Number on Packages of Drugs Made During Period of Law Violation

"(c)(1) If the Secretary has, by order, determined that a drug that is intended for use by man and that is being manufactured, prepared, propagated, compounded, or processed by a person to whom, or in an establishment to which, a registration number has been assigned pursuant to section 510(e), is not in conformity with applicable law, the registration number assigned to such person or to such establishment (as may be specified in such order) may not, after the Secretary has served notice of such order (or if the order specifies a later effective date, then such date) and while such order is in effect, be placed, by anyone having notice of such order, on the label of any package of such drug manufactured, prepared, propagated, compounded, or processed by such person or in such establishment. The Secretary's order shall set forth the respects in which he has determined that such drug is not in conformity with applicable law.

"(2) For the purposes of this subsection, a drug shall, with respect to any person or establishment referred to in an order pursuant to such paragraph, be deemed not to be in conformity with applicable law if such drug (A) is deemed to be adulterated or misbranded within the meaning of this Act, or (B) is a new drug with respect to which there is not in effect an approval of an application filed pursuant to section 505(b) of this Act or which is not in conformity with such approved application, or (C) is a drug with respect to which occurs an act or omission (attributable to such person or establishment or to any person in his employ or under his control) that is prohibited by section 301(e), (f), (l), (o), (q), or (s) of this Act, or (D) is a product referred to in section 351 of the Public Health Service Act and (i) fails to meet a standard relating thereto prescribed pursuant to that section, or (ii) with respect to which there is not in effect a required license issued by the Secretary, or (iii) with respect to which there is a violation of subsection (b) or (c) of that section.

"(3) Notice of the Secretary's order issued pursuant to paragraph (1) shall be served by telecommunication, or in the manner specified in section 505(g), upon the person registered under section 510 and referred to in such order, and thereupon such person and all other persons in such person's employ or under his control shall be deemed to have notice of such order for the purposes of this subsection.

"(4) The Secretary shall terminate an order issued in accordance with paragraph (1) with respect to a drug when he is satisfied that the conditions or practices giving rise to such drug's not being in conformity with applicable law no longer obtain.

"(5) Any person adversely affected by an order of the Secretary pursuant to paragraph (1) may, at any time while such order is in effect, file with the Secretary a petition to modify, revoke, or terminate such order. The Secretary, prior to making a final decision on such petition, shall afford to the petitioner, upon a showing of reasonable grounds therefor, a reasonable opportunity for a hearing on the matter. When in the judgment of the Secretary the public interest will not be jeopardized thereby he may stay the effectiveness of his order pending his final decision on such petition. The petitioner, if adversely affected by the final decision of the Secretary, may obtain judicial review thereof in accordance with the procedures specified in section 505(h).

"(6) The Secretary may cause such inspections to be made of the establishments of persons registered as producers of drugs under section 510, and such samples of drugs to be obtained from such persons and establishments and analyzed, and employ such other tests and procedures, as may be necessary to determine, on a current basis, whether any drug being manufactured, prepared, propagated, compounded, or processed by any such person or establishment for use by man is not in conformity with applicable law within the meaning of this subsection. In conducting such inspections (or any investigation or other proceeding related thereto) the Secretary may exercise any authority conferred upon him under this Act with respect to inspections and other procedures for the enforcement of section 510."

(c) Section 301 of such Act is amended by adding at the end thereof the following new paragraphs:

"(r) The placing, or permitting to be placed, on the label of any package containing any drug a registration number in violation of section 510A(c).

"(s)(1) The failure to place on the label of a drug package a registration number or other information required to be placed thereon by section 510A(a).

"(2) The labeling of any drug in such manner as to indicate or imply, contrary to fact, that the label of any package of such drugs conforms to paragraph (1) or (2) (or both) of section 510A(a) (when read without regard to the exception preceding such paragraphs)."

(d) Section 301 of such Act is further amended by inserting the following immediately before the period at the end of paragraph (i): "or by section 510A".

(e) Section 503(a) of such Act is amended by inserting the following after "labeling or packaging requirement of this Act": ", except any applicable requirement of section 510A(a),".

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

ADDITIONAL STATEMENTS OF SENATORS

THE ORIGINAL CONSTITUTION

Mr. BYRD of West Virginia. Mr. President, on Thursday, September 17, the Dominion-News of Morgantown, W. Va., published an excellent article on the original Constitution of the United States.

The well-researched article was written by Mr. Ray Martin, associate editor of the Dominion-News, and not only relates the history of the Constitution, but also tells of its great significance in molding our country.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

SIGNED 183 YEARS AGO TODAY AT PHILADELPHIA: ORIGINAL CONSTITUTION CAME AFTER MONTHS OF DEBATE

(By Ray Martin)

It was 183 years ago today that the original Constitution of the United States of America was signed by a majority of the men who fashioned the document after months of debate at Philadelphia.

How did this document come into existence?

On June 11, 1776, the Congress resolved that a committee should be appointed to draw up articles of confederation between the Colonies. A plan proposed by John Dickinson of Delaware formed the basis of the articles as proposed to Congress and, after some debate and a few changes, adopted Nov. 15, 1777. Representatives of the several states signed the Articles of Confederation during 1778 and 1779.

The Articles of Confederation, which took effect March 1, 1781, constituted the first effort of Americans to solve what has been termed the problem of imperial order.

A certain amount of dissatisfaction surrounded the document following its ratification. The inability of the government of the Confederation to conclude commercial treaties with foreign nations, the mounting financial and currency difficulties, and the apparent impossibility of amending the Articles of Confederation by ordinary processes, all led to a demand for a drastic revision of the Articles of Confederation.

The immediate impulse for action which eventually led to the Constitution came from a group of men who wished to open up navigation on the Potomac River.

In 1785 George Washington invited the commissioners of Virginia and Maryland to meet at Mount Vernon and discuss the problems of communication between the East and the West. These commissioners drew up resolutions asking the cooperation of Pennsylvania in the project.

Acting upon this suggestion, James Madison pushed through the Virginia legislature a resolution appointing a commission to meet with other commissioners to take into consideration the state of the union. Delegations representing New York, New Jersey, Pennsylvania, Delaware, and Virginia assembled at Annapolis, Md., the first Monday in September, 1786. Representatives of New Hampshire, Massachusetts, Rhode Island and North Carolina never attended the Annapolis meeting. Four States, Connecticut, Maryland, South Carolina and Georgia did not appoint delegates to the session.

At the conclusion of its deliberations on Sept. 14, 1786, the Annapolis Convention sent its recommendation to Congress, which on Feb. 21, 1787, adopted a resolution that "it is expedient that on the second Monday in May next a convention of delegates who shall have been appointed by the several states be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation."

A quorum, however, did not assemble at Philadelphia until May 25, when the convention proceeded to organize. It continued its work throughout the summer of 1787 and on Sept. 15 agreed to the Constitution as reported from the Committee on Style. On Sept. 17 the Constitution was signed and submitted to Congress.

By resolution of Sept. 28, Congress submitted the Constitution to the several states. By June 21, 1788, nine states had ratified the Constitution; Rhode Island, the last of the 13 states to ratify, acted on May 29, 1790.

Congress by resolution of Sept. 13, 1788, fixed the date for the election of a president and the organization of the new government under the Constitution.

And thus the document which begins with these familiar words began to guide the destiny of the United States of America and its people:

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Thanks to the notes kept by Maj. William Pierce of Georgia, a member of Congress and a delegate to the 1787 convention, it is possible to make observations in a personal sense about the men who framed the Constitution.

Rhode Island was the only state not represented at the Philadelphia convention in 1787.

Ten delegates appointed by their respective states never attended the sessions, including Patrick Henry of Virginia.

The completed Constitution was signed by 39 delegates and 16 who had participated in the deliberations did not sign the document before its transmittal to the Congress.

Delegations from three states—Pennsylvania, Delaware and South Carolina—had 100 per cent representation at the signing of the Constitution.

The membership of the Constitutional Convention of 1787 came from all walks of life. The absence of a so-called "generation gap" probably played an important role in drafting a document which has served persons of all ages well in that it is living document through its amendment provisions.

The youngest delegate at Philadelphia was 24-year-old Charles Pinckney of South Carolina. The senior delegate, from the standpoint of age, was Pennsylvania's Ben Franklin at 82, who was described as having the mental agility of a 25-year-old.

Other delegates ranged in age from 30 to 60. Eighteen of the representatives were between 36 and 40 years of age. Sixteen of them were in the 30 to 35 category. Eight were between 41 and 50 and a similar number in the 51 to 60 grouping.

The ages of two of the delegates attending the 1787 parley were not known to Major Pierce, when he compiled his personal vignettes of the various representatives at Philadelphia.

During the discussions prior to the adoption of the Constitution, there had been many differences, many debates, many divisions. But the one that struck deepest, and came closer than any other to defeating the convention and the Constitution, was the struggle between the small and the large states, the slave states and the free states over representation in Congress.

The Constitution, as adopted, gave each state two senators and one representative for every 30,000 people, as determined by a decennial census. In determining the number of people in each state all "free persons" were counted, plus "three fifths of all other persons," except Indians not taxed. Congress was granted the power to apportion "direct taxes" among the states on the same basis. And all bills "for raising revenue" had to originate in the House. This is what has become known in the annals of our history as "The Great Compromise."

The United States Senate was conceived as a curb on the House. George Washington suggested the analogy of drinking coffee: "We pour legislation into the senatorial saucer to cool it."

The slave states of the South got their slaves counted in the census, with the result that five free persons in Virginia, as an example, had as much power in choosing representatives in the House as seven persons in New York.

Equal representation of each state in the Senate reassured the small states and gave the North the balance of power in that chamber.

The power of the House to originate revenue bills put "the purse strings" in the hands of the people.

"The Great Compromise" was accepted by a vote of 5-to-4, with Massachusetts being divided. If it had failed, the Constitution in all likelihood would have failed, too.

Luther Martin, Maryland's first attorney general and a convention delegate, observed: "We were on the verge of dissolution, scarce held together by the strength of a hair."

Referring to slavery, John Rutledge of South Carolina said: "The people of the states will never be such fools as to give up so important an interest."

The occasion for Rutledge's pronouncement was a motion by the 34-year-old Martin to give Congress the power to tax or prohibit the importation of slaves.

As indicated earlier, the question of slavery had already entered the debates. The South had got its voting strength increased in the House by including three-fifths of the slaves in the census. That was a political issue. The Martin motion introduced a moral one.

The convention delegates did not line up on a sectional basis. George Mason of Virginia denounced "this infernal traffic" in slaves. Oliver Ellsworth of Connecticut thought the "morality or wisdom of slavery" was a question for the states.

The weight of the Constitutional Convention was on the side of avoiding the moral issue. Many of the delegates at Philadelphia knew that if Luther Martin's motion was pressed, some of the South would be permanently alienated.

Thus, another compromise was born. It was proposed that Congress could not prohibit the slave trade prior to 1808 but that it could place a tax, not exceeding $10 each on slaves imported. North and South united to adopt this provision, the four middle states (New Jersey, Pennsylvania, Delaware, and Virginia) voting no.

Virginia's George Mason later revealed what had happened. A few southern states made a bargain with New England: If New England avoided the slavery issue, the South would vote down the proposal to require a two-thirds vote of each house of Congress to make a regulation of commerce.

Although everyone knew the topic of discussion, it is interesting to note that the word "slaves" was sedulously avoided. It does not appear in the Constitution, for, as Luther Martin commented, its use might be "odious to the ears of Americans."

Before the vote was taken on the final or engrossed version of the Constitution at Philadelphia on Sept. 1878, the following words written by Ben Franklin were read to the delegates by James Wilson, a fellow representative from Pennsylvania:

"I confess that there are several parts of this Constitution which I do not at present approve, I am not sure I shall never approve them: For having lived long, I have experienced many instances of being obliged by better information, or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others.

"Most men indeed as well as most sects in religion, think themselves in possession of all truth, and that wherever others differ from them it is so far error. Steele, a Protestant in a dedication, tells the Pope, that the only difference between our churches

in their opinions of the certainty of their doctrines is, the Church of Rome is infallible and the Church of England is never in the wrong. But though many private persons think almost as highly of their own infallibility as of that of their sect, few express it so naturally as a certain French lady, who in a dispute with her sister, said, 'I don't know how it happens, Sister, but I meet with no body but myself, that's always in the right.'

"In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such; because I think a general government necessary for us, and there is no form of government but what may be a blessing to the people if well administered, and believe farther that this is likely to be well administered for a course of years, and can only end in despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic government, being incapable of any other. I doubt too whether any other convention we can obtain, may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does; and I think it will astonish our enemies, who are waiting with confidence to hear that our councils are confounded like those of the Builders of Babel; and that our states are on the point of separation, only to meet hereafter for the purpose of cutting one another's throats.

"Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure, that it is not the best. The opinions I have had of its errors, I sacrifice to the public good. I have never whispered a syllable of them abroad. Within these walls they were born, and here they shall die. If everyone of us in returning to our constituents were to report the objections he has had to it, and endeavor to gain partisans in support of them, we might prevent its being generally received, and thereby lose all the salutary effects and great advantages resulting naturally in our favor among foreign nations as well as among ourselves, from our real or apparent unanimity. Much of the strength and efficiency of any government in procuring and securing happiness to the people, depends, on opinion, on the general opinion of the goodness of the government, as well as of the wisdom and integrity of its governors.

"I hope therefore that for our own sakes as a part of the people, and for the sake of posterity, we shall act heartily and unanimously in recommending this Constitution (if approved by Congress and confirmed by the conventions) wherever our influence may extend, and turn our future thoughts and endeavors to the means of having it well administered.

"On the whole, Sir, I can not help expressing a wish that every member of the Convention who may still have objections to it, would with me, on this occasion doubt a little of his own infallibility, and to make manifest our unanimity, put his name to this instrument," said the Franklin address which was addressed to the presiding officer of the convention, George Washington.

When the Constitution was adopted and ratified it provided that the senators from each state would be elected by the legislatures of the several states. This was done within the framework of a compromise which expressed the belief that a sharp departure from the federal government representing states instead of people could bring about a defeat of the Constitution. Also, it was said that direct election on the entire Congress would be conferring too much freedom on the people at one time.

The practice of the selection of U.S. senators by the legislatures of the several states continued until the ratification of the 17th Amendment on May 31, 1913, which gave this power to the people themselves.

As the nation celebrates the 183d anniversary of the signing of the original Constitution, the Senate is debating an amendment which would abolish the Electoral College and provide for the direct election of the President by the voters.

As the debate got under way, a draft of a proposed new Constitution for the "United Republics of America," with six branches of government and a President limited to a single nine-year term was unveiled by Rexford Guy Tugwell, a member of the so-called "braintrust" in President Franklin D. Roosevelt's administration.

The Tugwell document, described as the 37th draft of a still unfinished project, appeared in the latest issue of the Center magazine, published in Santa Barbara, Calif., by the Center for the Study of Democratic Institutions.

The Tugwell proposal provides for popular election of the President, but it goes far beyond that in its redesign of the American government.

Among the changes recommended:

Abolition of existing states and substitution of no more than 20 "republics," each of which would have at least five per cent of the national population.

Create three additional branches of the national government—an electoral branch to administer elections and set regulations for political parties, a planning branch to develop long-term budgets and goals, and a regulatory branch, to coordinate the work of the administrative agencies.

Finance all political activity from a one per cent income tax surcharge and forbid personal expenditures by any candidate.

Give the President a single nine-year term, but provide for a new election if 60 per cent of the voters rejected his leadership after three years in office.

Create jobs for two vice presidents, elected on the same slate as the President, one to handle foreign, financial and military affairs and the other internal affairs. The President would assign the duties and determine which man would be his successor in the event of death.

Make the Senate an appointive body, with lifetime tenure, similar to the British House of Lords.

Elect members of the House for three-year terms, with 300 chosen from election districts and 100 elected by the nation-at-large.

Establish a National Watchkeeper, elected by the Senate, to oversee the "adequacy, competence and integrity of government agencies."

Have the Chief Justice (renamed the Principal Justice) nominated by other sitting judges, not the President, and give him an appointment for 12 years. During his term, he would appoint all lesser judges.

Require the high court, on a constitutional question, to "return to the House of Representatives statutes it cannot construe." Only if the House failed to resolve the question within 90 days could the court make its own judgment. The Senate could override decisions of the court.

Create a series of citizens' duties, paralleling the guarantees of individual rights carried over from the present Constitution. For example, the article guaranteeing freedom of expression, movement and communication says "the exercise of the rights may not diminish the rights of others or of the republic."

Abandon trial by jury.

The Tugwell plan fails to take into account one of the major problems prevalent in the nation—that is the strengthening of institutions of local government, which is closest to the people.

The Constitution which the Founding Fathers gave us reflected their fear of a powerful executive and their reliance on state government.

Since its adoption, the Constitution has been amended on several occasions. The very process of amendment makes it almost impossible to advance any proposal that is not part of the political consensus of the time.

This process of amendment stands in sharp contrast to the exercise in constitution-making brought forth by Tugwell and associates in California. The efforts can and will provide the basis for thought but the Tugwell constitution—born in the isolation of an academic laboratory—cannot begin to compare with the present Constitution as amended, which is the product of the cauldron of political contention.

CULEBRA

Mr. MANSFIELD. Mr. President, naval shelling of the small, inhabited island of Culebra, a municipality of the Commonwealth of Puerto Rico, presents this body with a grave responsibility. Many Senators have already concerned themselves with this problem.

The issue is simple. The Navy should cease conducting its training with live ordnance on or near this populated island. This is as much for the sake of the Navy as it is for the harassed residents of Culebra. I am advised that uninhabited sites are available which would permit superior, more realistic training. Furthermore, regardless of any safety records or precautions, the continued shelling of Culebra represents a risk of fatal accident to innocent civilians.

I am informed, moreover, that all Puerto Rico feels very strongly that the Navy should cease its firing on Culebra and its nearby keys. This fact alone is a very compelling argument, since our warm and special relations with the Commonwealth are involved. And, beyond this, our image in Latin America as a whole is also involved. Considerable damage could be suffered by this country and by the Navy if an accident should now occur after this issue has been thoroughly aired here and abroad.

The Senate has been stirred by the situation of the Culebrans, and it is time for the Navy to respond. I am aware that the Senator from Washington (Mr. JACKSON) is attempting to persuade the Navy to do so. I am hopeful that his efforts in committee will succeed. But, I wish to make it clear that if no satisfactory solution is reached before the Military Construction Authorization Act comes to a vote, I shall support the Goodell-Cranston amendment to cut off further funding for this continued shelling.

SCHOOL PRAYER AMENDMENT

Mr. SCOTT. Mr. President, I was delighted recently to announce that the constitutional amendment I introduced to permit voluntary prayer in public schools is now cosponsored by a total of 25 U.S. Senators. On the basis of this overwhelming ground swell of support evidenced by these cosponsorships, I have again asked the Senator from Indiana

(Mr. BAYH), chairman of the Judiciary Subcommittee on Constitutional Amendments, to conduct hearings this year on this most important legislation.

The people of my Commonwealth of Pennsylvania have been especially outspoken on this issue. They have petitioned the courts for years, and, despite setbacks there, have in some communities recently reinstituted voluntary prayer. In at least one school, the exercise centers on the daily prayer from the CONGRESSIONAL RECORD, a reminder of the fact that we, as national leaders in Congress, begin each daily session with the opportunity for prayer. It is this same opportunity for prayer which my resolution would make available to others, particularly to the Nation's schoolchildren, who otherwise are denied a privilege we in Congress take for granted.

I point with pride to two specific examples of the support that this legislation has. Over 400 residents of Butler County came forth to sign petitions in support of my amendment at the Butler County Fair. At the Westmoreland County Fair, over 700 persons came forward to evidence their support.

I believe in the separation of church and state. I do not believe in the separation of children from the opportunity for prayer or meditation. I believe that public hearings, including attention to the voluntary nature of this amendment, could do much finally to resolve this question, and I again urge hearings for this purpose.

SENATOR BENNETT ANSWERS AMERICAN HOSPITAL ASSOCIATION OBJECTIONS TO PROFESSIONAL STANDARDS REVIEW ORGANIZATION PROPOSAL

Mr. WILLIAMS of Delaware. Mr. President, the distinguished Senator from Utah (Mr. BENNETT) is necessarily absent from the Senate today because of a death in the family. In his absence, Senator BENNETT has asked me to place in the CONGRESSIONAL RECORD his statement responding to the American Hospital Association's objections to Senator BENNETT's proposal establishing a Professional Standards Review Organization which is currently undergoing hearings in the Senate Finance Committee.

I ask unanimous consent that Senator BENNETT's statement be printed in the RECORD.

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

STATEMENT BY SENATOR BENNETT

Mr. BENNETT. Mr. President, on August 20, I submitted an amendment to H.R. 17550, designed to establish professional mechanisms for the review of hospital, medical and other types of health care covered under the Medicare and Medicaid programs.

The amendment would establish Professional Standards Review Organizations of proper size (probably a minimum of 300 physicians) and competence to assure that Medicare and Medicaid pay only for medically-necessary services provided in accordance with professional standards and that physicians are encouraged to use, where appropriate, less costly alternative sites and modes of treatment.

I describe the amendment in detail in my remarks on August 20 when it was submitted, and included in the Record the text of the amendment, as well as a section-by-section summary of its provisions. I urge Senators to review the Record for that day and see the amendment from my perspective. It is an important amendment. It offers a means of controlling Medicare and Medicaid costs by placing physicians in command of substantially all utilization review functions.

This seems entirely appropriate to me, inasmuch as it is the physician who orders or provides virtually all health care services rendered to the ill and infirm. He is the one best able to review the health services ordered by other physicians, and he is the one most qualified to determine when services, such as hospital stays, are no longer needed, or which services can be provided equally as well on an out-patient basis at lower cost.

Utilization review today—as carried on largely by hospitals—is a dismal failure. Hearings before the Committee on Finance and its Subcommittee on Medicare and Medicaid attest to its failure. The report of the staff of the Committee on Finance on the Medicare and Medicaid program chronicles the failings of utilization review as it has developed in the hospitals. Let me quote from the staff report:

"The detailed information which the staff has collected and developed indicates clearly that the utilization review requirements have, generally speaking, been of a token nature and ineffective as a curb to unnecessary use of institutional care and services. Utilization review in medicare can be characterized as more form than substance. The present situation has ben aptly described by a State medical society in these words: 'Where hospital beds are in short supply, utilization review is fully effective. Where there is no pressure on the hospital beds, utilization review is less intense and often token.' "

At another point, the staff report notes a Health, Education and Welfare survey which shows that in 1968, ten percent of hospitals surveyed were not conducting a review of extended stay cases and that 47 percent were not reviewing any admissions. I ask unanimous consent that the full excerpt to which I refer be printed at this point in the record.

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

UTILIZATION REVIEW PLANS LARGELY IGNORED BY INSTITUTIONS

The requirement for a utilization review mechanism is one of several which a hospital or extended care facility must meet in order to be eligible to participate in the medicare program. Each institution must have a written utilization review plan and copies of that plan are required to be maintained by the State health agencies (which perform certification functions for the program) and by the intermediaries. But whether the terms of the plan are a-tually being carried out is quite another matter and that is the test the law requires to be met. In actual fact, many State health agencies (and intermediaries) know that utilization review plans are not being followed, but they take no action to remove certification or to require that the plan be properly implemented. Based on a sample of hospitals taken in the middle of 1968, the Social Security Administration found:

1. 10 percent of the hospitals not conducting a review of extended stay cases.

2. 47 percent of hospitals were not reviewing any admissions (a basic statutory requirement).

3. 42 percent of hospitals did not even maintain an abstract of the medical record or other summary form which could provide a basis for evaluating utilization by diagnosis or other common factor.

In one State, the health agency conducted a detailed program review in November 1968. Their findings were that half of the hospitals and all of the extended care facilities failed to perform any sample reviews of cases which were not in the long-stay category (a statutory requirement).

Only recently did the Social Security Administration conduct a nationwide sample study of utilization review plans in extended care facilities. The results are not yet complete, but indications are that failure to comply with the statutory utilization review requirements will be found on an even greater scale in ECF's than the demonstrated poor compliance in hospitals.

The long delay by the Social Security Administration in seeking to determine the extent of compliance and application of these vital provisions of the law may very well be a prime factor in the much-higher-than anticipated utilization of ever-more-costly institutional care and services.

The staff recommends that the Social Security Administration and State health agencies increase their educational and enforcement efforts to assure that hospitals and extended care facilities have operating and effective utilization review plans. Combined with a tightening of the regulations related to utilization review plans such activity should help reduce the case-load and lower the costs of the program, consistent with congressional objectives established in the original law.

Mr. BENNETT. Mr. President, utilization review is a statutory requirement for institutions participating in the medicare program, and the widespread laxity among institutions in setting up effective utilization review procedures has contributed mightily to the financial crisis facing Medicare today. The Committee on Finance was advised by the Department of Health, Education and Welfare that Medicare is confronted with a $216 billion actuarial deficit. Much of this deficit could have been avoided if utilization review had been vigorously pursued from the beginning. Unfortunately, it was not.

It is my belief that organized medicine can give Medicare more effective review than it has received up to now, enabling this major health program to more efficiently meet its commitment to the aged citizens of America. I think we owe our taxpayers—who, after all, must bear the bulk of Medicare costs—the responsibility of seeing that the program delivers the highest quality care we can provide, but that it does so in an atmosphere where excessive services—such as overlong hospital stays—and unneeded services are weeded out and not paid for by the program.

Against this background, I believe it is most unfortunate that the American Hospital Association has directed a letter-writing campaign to defeat my amendment. In a letter addressed to the chiefs of staff of member hospitals, the Association presents a distorted appraisal of my amendment.

But this is not the first time it has misinformed its members—although I am certain no misrepresentation was intended—about amendments in the Senate Finance Committee. I recall very well, and I am sure other Senators will also, the charge they led in 1967 to upset a health facility planning amendment in the Social Security bill of that year which the Committee had just agreed to. They misread the amendment, and therefore failed to note that we had so modified it that they no longer had real cause for alarm.

We retained that amendment in the Senate, despite their opposition, but we lost it in the conference because of their opposition. I recall this bit of history simply to note that the Social Security bill passed by the House this year contains the same sort of planning amendment the Senate passed in 1967—with one big difference: This year the Hospital Association indicated general support of the provision. I feel confident that the hospitals

would have supported the Senate version in 1967 if they had been fully—and fairly—informed about it.

Similarly, I believe if they were fully and fairly informed about my Professional Standards Review Organization amendment, they would find little cause for alarm. Patients who need hospitalization will get it under my amendemnt just as surely as they get it today. But hospitals no longer would be permitted to bill Medicare for patients who do not need hospitalization, or for patients who safely may be discharged from the hospital sooner than they leave today. That, along with assuring proper care, is the purpose of utilization review. Yet, today it functions only spasmodically and sporadically; and in some instances, appears to place the financial interests of medical care institutions above the interests of the taxpayers who support the program and the aged patients hospitalized under it by keeping their otherwise empty beds filled—at Medicare expense.

The American Hospital Association appears bent on defeating my amendment. In the following paragraphs, I shall explore the arguments they make against my amendment and show how they have misunderstood its provisions. But first, I want to comment on the last paragraph of their letter directed to their member hospitals. It reads:

"We hope we can defeat this legislation if you express your views to the Senate Finance Committee. But if we do, we must take this opportunity to make sure our own voluntary utilization review mechanisms work! Let's be sure we are giving our patients optimal quality care, neither over-utilizing nor under-utilizing our facilities, voluntarily keeping our pricing mechanisms under control, using less expensive out-patient, ambulatory, or home care programs whenever possible. In this way, we will be sure that we give our patients more for their health dollar!"

I applaud this expression of concern over the very problem with which my amendment is concerned. But it is four years too late, and the shortcomings of utilization review as we have it today, generally speaking, are too ingrained in the system to expect significant improvements without basic and comprehensive changes in the review structure. It reminds me of the title of that famous Broadway play: "Promises, Promises."

Now I turn to my analysis of the Hospital Association criticisms.

Argument: They agree with the concept of peer review and concede that only physicians can review medical services. However, they say that such review must take place in the hospital by the medical staff.

Answer: Review solely within the hospital is generally inadequate. This sort of review has largely been a failure in the past, as hospital utilization review committes appear reluctant either to antagonize fellow staff members (who often refer and consult with each other) or to reduce the hospital's bed census. Secondly, institutional utilization review committes are usually too small to make efficient use of computer profiles, and other aids to the review process. Thirdly, and perhaps most important, only one aspect of medical care is reviewed. Hospital utilization review committees, which may meet as infrequently as once a month, do not provide a logical nor comprehensive focus for the continuing review of total patient care—physicians' office services, skilled nursing home care, drugs, physical therapy, and so forth. The top operating official of the American Hospital Association, Dr. Edward L. Crosby, also recognized these problems. In the October, 1969, issue of *Hospital Progress* he states: "Personally, I don't think utilization review has ever worked."

The amendment provides for comprehensive locally-based review of all medical services provided under the Medicare and Medicaid programs, as opposed to current review activities which are fragmented and uncoordinated. The amendment would free reviewers from the institutional pressures which currently restrict their activities.

Argument: The amendment removes quality control and utilization review functions from the hospital staff.

Answer: The amendment most emphatically does not do this. Hospitals would continue to be able to establish quality or utilization control mechanisms which they believe lead to improved patient care (both Medicare and non-Medicare) within their institutions.

The amendment calls for the establishment of a comprehensive review system to review all of the health care services—not just hospital care—provided in a geographic area to assure that Medicare and Medicaid funds are properly expended.

The amendment simply and logically provides that in an area where a PSRO is functioning effectively, the Secretary may waive any present requirements in law or regulations imposed upon hospitals for utilization review as it relates to Medicare and Medicaid patients. It frees the hospitals to carry out their quality and other utilization review activities in whatever fashion is best suited to particular institutions without Medicare pushing and pressuring.

Argument: The amendment sets up a "control mechanism" which excludes the practicing physician and other providers from the control process.

Answer: This statement is difficult to understand, as the entire thrust of the amendment is to place review responsibilities in the hands of practicing physicians at the local level rather than leaving those responsibilities with intermediaries, carriers, and the government.

Argument: The amendment requires the maintenance of patient care profiles and ongoing review of physicians and institutions, and this would require a duplication of all physicians' and hospitals' medical records.

Answer: The profiles called for in the amendment can easily be constructed and have already been constructed in many areas of the country, using the claims data which the carriers and intermediaries must maintain and utilize in the present claims payment process.

Part B Intermediary letter number 70–5 issued by the Social Security Administration in February 1970 directed all carriers to establish charge and service profiles for each physician. No additional duplication of hospitals' or physicians' records would be necessary under the amendment.

Argument: The amendment requires approval, in advance, from the Professor Standards Review Organization before a doctor "can admit any patient to the hospital, except in an emergency."

Answer: The physician's privilege of admitting patients to a hospital is absolutely not affected by the amendment. His admission privileges will continue to be governed solely by the limitation presently imposed upon him by the organized medical staff of his hospital. The amendment simply provides that a proposed hospital admission, if disapproved by the Professional Standards Review Organization in advance will not be *payable* under Medicare or Medicaid. Thus, the doctor can still admit his patient—but he, the patient and the hospital would have to look beyond Medicaid for payment. This is similar to the present practice of Blue Cross-Blue Shield and private health insurance with one important improvement. Instead of care being provided and then having payment denied, under the Bennett Amendment, everyone will know where they stand in advance, rather than after the fact. If a Professional Standards Review Organization does not disapprove otherwise covered hospital care in advance, that care would be paid for until such time as the Professional Standards Review Organization acted.

Argument: The amendment gives physicians, through the Professional Standards Review Organizations authority to inspect hospital records and facilities.

Answer: Government already has and exercises the authority to inspect hospital records and facilities through conditions of participation and through State and local health departments.

Argument: The amendment is in effect government control of medical practice with the county medical society and other physician organizations acting as the government's agent.

Answer: The entire point of the amendment seems, again, to have been missed. The amendment was developed on the premise that the government cannot and should not control medical practice where there are effective local professional alternatives. The amendment clearly places responsibility for the review of medical practice in the hands of local practicing physicians wherever possible. The arguments of the Hospital Association seems to be against the ability and capacity of the local physicians to review medical practice. The amendment is an expression of faith that properly qualified and motivated physicians can and will do what is so desperately required in the Medicare and Medicaid programs. Where that is not the case, the amendment provides for alternative review mechanisms to be established.

Argument: The amendment will cost more than any potential savings.

Answer: This argument bears little relationship to reality. Authoritative estimates of overutilization of hospital care alone in this country range from 15 percent to 35 percent. That is to say that 15 percent to 35 percent of hospital days represent hospital care which is avoidable or not medically necessary.

These estimates have been given in testimony by medical organizations such as the Sacramento and San Joaquin Medical Foundations, and by individual physicians such as Dr. Amos Johnson, past President of the American Academy of General Practice. Dr. Angelo Angelides of the Association for Hospital Medical Education stated that "30 percent to 35 percent of the patients in acute short-term general hospitals do not need to be in this type of costly facility."

Mr. Walter McNerney, President of the Blue Cross Association, and a member of the Medicare Advisory Council, agreed at a meeting of that Council that where bed space is available, patients are admitted to hospitals for rest rather than medical care.

With payments for hospital care amounting to about one-half of the government's $15 billion Medicare and Medicaid costs, potential savings from proper professional control of hospital overutilization are readily apparent.

Argument: The amendment ". . . affronts the integrity of the practicing physician" by creating a review process.

Answer: On the contrary the amendment is based upon a firm respect for the integrity of the practicing physicians. The thrust of the amendment is that physicians as members of a profession can and should be responsible for the care they order and render. The amendment represents a forthright move away from using outside agencies such as insurance companies to review physicians' practice in favor of using practicing physicians who have hospital staff privileges to review care in other hospitals.

Argument: The amendment is "regressive" as it assumes perpetuation of "episodic" treatment rather than encouraging "preventive" treatment.

Answer: The amendment most assuredly does not emphasize episodic treatment over preventive care.

The amendment calls for physicians to review care on the basis of whether the care is "medically necessary" and whether the quality of the care meets professionally recognized standards.

Appropriate preventive care and treatment is not only medically necessary, but such care is an integral part of high quality care. Under the amendment it would be provided without question just as it is today.

"Medically unnecessary" care refers *not* to preventive care, but to unnecessary care such as unneeded surgery and needless extensions of hospital stays—the payment for which should not be a charge to Medicare—or for hospital care where services could and should have been provided on an outpatient basis. Under the amendment this outpatient care, much of which is presently covered by Medicare, would be provided and its cost would remain reimbursable.

In an upcoming article on the Bennett Amendment in the October issue of *Hospital Practice,* this conclusion is reached: "The Bennett proposal represents a gamble, or a series of political, economic, and professional gambles. The Senator says he is open to suggestions for improving his proposal. His invitation to scoffers in the midst of the Medicare-Medicaid costs crisis is direct: Put up or shut up."

SHOES—TEXTILES—NOT OIL

Mr. McINTYRE. Mr. President, last Friday afternoon the distinguished Senator from South Carolina (Mr. HOLLINGS) submitted amendments to both the family assistance bill and the social security bill. The content of each amendment was the proposed Foreign Trade Act of 1970, in the form in which that bill was reported by the House Ways and Means Committee.

I commend the Senator from South Carolina for this step, which is directed at assuring the Senate of the opportunity to vote in this session of Congress on this bill which is of such great importance to the workers of the shoe and textile industry.

However, I would like to make clear at the outset my opposition to one section of this amendment. I refer to the section which would forbid the President of the United States from carrying out, if he chose to do so, the recommendations of the Cabinet Task Force on Oil Import Control.

This one provision of the trade bill will lock into place the present system of controlling the flow of oil to homeowners and businesses in the United States of fuel to heat their homes and run their businesses. It directly affects every single one of my constituents.

I intend to support that part of the amendment of the Senator from South Carolina that would help the shoe and textile workers and their families and the communities in which they work. I do, however, want the record to be clear and unequivocal that I plan to continue my opposition to the provision which freezes the present unsatisfactory oil import program into its existing form.

THE LEAGUE OF WOMEN VOTERS, THE CHAMBER OF COMMERCE, THE ABA, AND THE AFL-CIO—DO THEY PRACTICE WHAT THEY PREACH?

Mr. ERVIN. Mr. President, the League of Women Voters has been one of the outspoken supporters of Senate Joint Resolution 1, the direct election of the President amendment. Thus, it was no surprise when I read in the New York Times of Friday, September 18, that the president of the League of Women Voters, Mrs. Lucy Wilson Benson, had described herself as "dismayed" by the Senators' refusal to shut off debate. Mrs. Benson continued:

> A small group of Senators has effectively blocked a measure that reaffirms the power and the value of each individual's vote.

Frankly, I am dismayed by any efforts to gag the Senate after only a week and a half of debate on a proposed constitutional amendment which could have the most far-reaching consequences for our system of Government. Numerous constitutional experts have testified that the results of Senate Joint Resolution 1 on our political stability cannot be predicted, and most reasonable people, even many of those who support Senate Joint Resolution 1 feel that it should be thoroughly debated.

Beyond the obvious inequities in gagging intelligent discussion of a far-reaching constitutional amendment, I think we should look at the League of Women Voters as an organization to see how they have decided to elect their president. In article IX of the League of Women bylaws, it states very clearly that "the convention shall elect officers and directors." Article IX states further that the convention shall be made up of delegates from the local league chapters with each delegate representing 100 voting members. Article VII defines one of the officers as being that of the president.

Mr. President, I ask unanimous consent that articles IX and VII of the bylaws of the League of Women Voters be printed at this point in the RECORD.

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

BYLAWS OF LEAGUE OF WOMEN VOTERS

ARTICLE VII: OFFICERS

Sec. 1. Enumeration and Election of Officers. The officers of the League of Women Voters of the United States shall be a President, a first Vice-President, a second Vice-President, a Secretary, and a Treasurer. These officers shall be elected by the Convention and shall hold office until the close of the next regular biennial Convention or until their successors have been elected and qualified.

Sec. 2. The President. The President shall preside at all meetings of the organization and of the Board of Directors unless she shall designate some one to preside in her stead. She may, in the absence or disability of the Treasurer, sign or endorse checks, drafts and notes. She shall be, ex officio, a member of all committees except the nominating committee. She shall have such usual powers of supervision and management as may pertain to the office of the President and perform such other duties as may be designated by the Board.

Sec. 3. The Vice-Presidents. The two Vice-Presidents, in the order of their rank, shall, in the event of absence, disability, resignation, or death of the President, possess all the powers and perform all the duties of that office. In the event that neither Vice-President is able to serve in this capacity the Board of Directors shall elect one of its elected members to fill the vacancy. The Vice-Presidents shall perform such other duties as the President and Board may designate.

ARTICLE IX: CONVENTION

Sec. 1. Place, Date, and Call. A Convention of the League of Women Voters of the United States shall be held biennially at a time and place determined by the Board of Directors. The President shall send a first call for the Convention to the presidents of local and state Leagues at least eight months prior to the opening date of the Convention fixed in such call. Thereafter the Board of Directors may advance or postpone the opening date of the Convention by not more than two weeks. A final call for the Convention shall be sent by the President to the presidents of local and state Leagues.

Sec. 2. Composition. The Convention shall consist of: (a) the delegates chosen by the members through the local Leagues in the number provided in Section 4 of this Article; (b) three delegates chosen by the board of each state League; and (c) the members of the Board of Directors of the League of Women Voters of the United States.

Sec. 3. Qualifications of Delegates; Voting Procedures. Each delegate shall be a voting member of the League of Women Voters of the United States. Each delegate shall be entitled to one vote only at the Convention even though the delegate may be attending in two or more capacities. Absentee or proxy voting shall not be permitted. The Convention shall be the sole judge of whether a delegate is qualified to vote.

Sec. 4. Representation. The members of the League of Women Voters of the United States who are organized into local Leagues shall be entitled to voting representation in the Convention as follows: The members in each local League shall be entitled to one delegate who shall be chosen by the members through the local League; the members in each local League having more than 100 voting members shall be entitled to one additional delegate for each additional 100 voting members or major fraction (50 or more) thereof. The records in the national office of paid voting members on January 1 of the year in which the Convention is held shall determine the official membership count for this purpose.

Sec. 5. Powers. The Convention shall consider and authorize for action a Program, shall elect officers and directors, shall adopt a budget for the ensuing year, and shall transact such other business as may be presented.

Sec. 6. Quorum. One hundred voting delegates, other than the Board of Directors, shall constitute a quorum for the transaction of business at the Convention, provided that the delegates are enrolled in local Leagues from at least ten states.

Mr. ERVIN. Mr. President, I certainly have no quarrel with the way the League of Women Voters elect their president. As a matter of fact, I feel that they have decided on the most effective way to run a large organization. I believe that their method of electing delegates at the local level, which is in effect a unit rule vote, is the most effective way to govern fine large organizations such as the League of Women Voters.

However, I see a glimmer of an inconsistency in the position of the league's president when she thoroughly chastises the Senate for blocking measures which "reaffirm the power and value of each individual's vote," and yet, she is not willing to have the presidency of her own organization subjected to the harsh, unwieldy realities of one-man, one-vote. In short, Mrs. Benson was elected by a type of electoral college with a unit rule in effect.

While I am on this subject, Mr. President, a Washington Post editorial of Friday, September 18, has stated that so

many fine organizations support direct elections that the Senate should stop debate and pass the measure. The distinguished Senator from Indiana (Mr. BAYH) has stated time and time again that many fine organizations support direct election. Let us take a look at those organizations.

The Senator from Indiana has made a great deal of the support of direct election by the U.S. Chamber of Commerce. That outstanding organization, which certainly provides a great service to the country, elects its president in a way which I feel surely serves the best interest of a large organization. The procedure goes like this: The president of the chamber of commerce is elected under article VIII of its bylaws by a majority vote of the board of directors of the chamber of commerce. Under article X, section 3 only 20 members of the board constitute a quorum. Under article XI of the bylaws of the chamber of commerce, it appears under section 1 that "each year 25 directors shall be selected by the board of directors for terms of 2 years." Thus, it appears that in the chamber of commerce the board of directors which elects itself elects its president. I ask unanimous consent that article VIII and article XI of the bylaws of the chamber of commerce be printed at this point in the RECORD.

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

BYLAWS OF THE CHAMBER OF COMMERCE

ARTICLE VIII: OFFICERS

Section 1. The elective officers of this Chamber shall be a President, a Chairman of the Board of Directors, a Chairman of the Executive Committee, one Vice President to represent each Division of the Chamber, and a Treasurer. These officers shall be elected annually by the Board of Directors at a regular meeting held not less than 30 days prior to the annual meeting. Election shall be by ballot and a majority of the votes cast shall elect.

Each elective officer shall take office at the last session of the Board held during the annual meeting following his election and shall serve for a term of one year, and until his successor is duly elected and qualified. If the annual meeting should be postponed or cancelled the Board shall specify the date, not later than 60 days following the date of election, upon which newly elected officers shall take office.

No President, Chairman of the Board of Directors, or Chairman of the Executive Committee shall serve for more than one term of office; and no Vice President shall serve for more than three consecutive terms of office. No officer who has served the maximum terms allowed above shall serve more than 90 days additional while awaiting the election of his successor. For the purposes of this section, a portion of a term shall be considered a full term.

ARTICLE XI: ELECTION OF DIRECTORS

Section 1. Each year twenty-five Directors shall be elected by the Board of Directors, for terms of two years.

Of the Directors elected each year; one shall be elected from each election district.

Section 2. Directors shall be elected at a regular meeting of the Board held not less than 30 days prior to the annual meeting, unless the Board shall otherwise provide.

Section 3. To be eligible for service as a Director a person must be a Business or Professional Member of the Chamber in good standing, or an officer or employee of a Business or Professional Member in good standing.

Section 4. No person shall serve as a Director for more than three consecutive terms of office and in this connection a portion of a term shall be considered a full term.

Section 5. The election districts, the number and boundaries of which shall be changed only by a two-thirds vote of the Board of Directors, shall be as follows:

District I. Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Puerto Rico, Virgin Islands.

District II. New York, New Jersey, Pennsylvania, Delaware.

District III. Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina.

District IV. Georgia, Florida, Alabama, Mississippi, Tennessee.

District V. Kentucky, Ohio, Indiana, Michigan.

District VI. Illinois, Wisconsin, Iowa.

District VII. Missouri, Kansas, Arkansas, Oklahoma, Texas, Louisiana.

District VIII. Minnesota, North Dakota, South Dakota, Nebraska.

District IX. Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada.

District X. Washington, Oregon, California, Alaska, Hawaii, Guam.

Mr. ERVIN. I submit, Mr. President, that the chamber of commerce is such a finely run organization that this method of electing a president must be serving its purpose well. Contrary to what the Senator from Indiana says, I believe that we should look to the practices of the shrewd businessmen who make up the governing body of the chamber of commerce rather than to what they say. I think their practices rather than their preachings tell us that the direct election of the president of their organization would cause so much fractionalism and splintering that it would not be a governable and viable organization. Actually, the chamber's method for electing a president is far more oblivious to the wishes of the majority of its members than the unit rule method of our present electoral college method.

No one need ask where the American Bar Association stands on this issue. A recent editorial in the American Bar Association Journal stated that the passage of the direct-election amendment should have its organization's No. 1 priority. Now I have been a member of the American Bar Association for many years, but no one ever asked me how I felt on this matter. There was certainly no direct election by the members of the bar association to find out if we supported direct election. In March of this year, an American Bar Association editorial stated that direct election was "the first and most immediate and demanding objective of our association's efforts."

Turning now to the constitution and bylaws of the American Bar Association, under article VIII, section 1, the president "shall be elected by the house of delegates at each annual meeting by a majority vote of those present." Under section 3 of article VI of the constitution of the ABA, it shows that the house of delegates is composed primarily of State delegates. Of course, there are other members also. Under section 5 of article VI, it provides that State delegates shall be elected by the members of the American Bar Association within each State. It is obvious, Mr. President, that it is almost as close as we can come to an election setup analogous to our electoral college. At this point, I ask unanimous consent that article VIII, section 1; article VI, sections 3, 4, 5, and 6 be printed in the RECORD.

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

CONSTITUTION AND BYLAWS OF AMERICAN BAR ASSOCIATION

ARTICLE VIII: OFFICERS OF THE ASSOCIATION

SECTION 1. *President, President-Elect, Secretary and Treasurer.* The following officers shall be elected by the House of Delegates at each annual meeting by a majority vote of those present and voting, and shall serve for the year beginning with the adjournment of the annual meeting at which they are elected and ending with the adjournment of the next annual meeting:

A President-Elect who shall become President of the Association upon the adjournment of the next succeeding annual meeting; and shall not thereafter be eligible for the office of President; A Secretary; and A Treasurer.

CONSTITUTION ART. VI, SEC. 1—ARTICLE VI: THE HOUSE OF DELEGATES

SECTION 3. *Membership of House of Delegates.* The House of Delegates shall be composed of the following:

The State Delegates, one from each State, chosen as hereinafter provided;

The State Bar Association Delegates, chosen as hereinafter provided;

Such Local Bar Association Delegates as may be chosen by and from Local Bar Associations as hereinafter provided;

Fifteen Delegates chosen by the Assembly;

The Delegates of such membership organizations of the legal profession as may be admitted to affiliation pursuant to Section 8 of this Article;

The President of the National Conference of Commissioners on Uniform State Laws;

The Chairman of the National Conference of Judicial Councils;

The President of the Association of American Law Schools;

The Attorney-General of the United States;

The Deputy Attorney-General of the United States;

The Director of the Administrative Office of the United States Courts;

The Solicitor-General of the United States;

The President of the National Association of Attorneys-General;

The Delegates representing the respective Sections of the Association;

Two delegates representing the Law Student Division of the American Bar Association;

The Chairman of the Conference of Chief Justices;

The members of the Board of Governors;

Former elected members of the Board of Governors for the two years immediately following the completion by each of the term for which elected.

Former Presidents of the American Bar Association, former Chairmen of the House of Delegates, and also former Secretaries and Treasurers of the Association with four years or more of service in such capacity, who have registered in attendance at a meeting of the Association or House of Delegates, the membership of such former officers becoming effective upon registration and continuing until the opening of the next meeting of the House of Delegates. No person, except delegates from the Law Student Division of the Association, shall be eligible to be a member of the House of Delegates in any capacity, who is not a member of the American Bar Association in good standing.

SECTION 4. *State Delegates.* There shall be one State Delegate in each State. Each State

Delegate shall be the Chairman of the delegate group from his State in the House of Delegates.

SECTION 5. *Nomination and Election of State Delegates.* Not less than one hundred and fifty days before the opening of the annual meeting in each year, twenty-five or more members of the Association in good standing and accredited to a State from which a State Delegate is to be elected in that year, may file with the Board of Elections, constituted as hereinafter provided, a signed petition (which may be in parts), nominating a candidate for the office of State Delegate for and from such State. The Board of Elections shall thereupon cause the name of each nominee, and the names of the signers of his nominating petition, not exceeding a total of twenty-five such names, to be published in the next issue of the AMERICAN BAR ASSOCIATION JOURNAL. Not less than one hundred and twenty days before the opening of the annual meeting in such year the Board of Elections shall cause appropriate ballots to be prepared for the election of such State Delegates, bearing the names of the nominees, if any, for the office of State Delegate from a State and a space for personal choice; and shall cause a ballot to be mailed to each member of the Association in good standing in such State, with a request that such ballot, duly marked, punched or otherwise completed in accordance with the rules and regulations of the Board of Elections, be mailed or delivered to the Board of Elections not later than a date to be fixed by the Board of Elections. Said date shall be not later than sixty days before the opening of the annual meeting in such year, on which date the Board of Elections shall declare the polls for the election of such State Delegate duly closed, and shall supervise the counting and tabulation of the ballots and determine, announce and publish the results of such election, and shall certify the same to the House of Delegates.

The term of each State Delegate shall begin with the adjournment of the annual meeting following his election and shall end with the adjournment of the third annual meeting thereafter.

If a State Delegate shall fail to register at any meeting of the House of Delegates by 5 o'clock P.M. on the opening day thereof the office of such State Delegate shall be deemed to be vacant during that particular meeting, and the State Bar Association delegate from that state with the greatest length of continuous service in the House of Delegates of the American Bar Association (or if there be two or more present with equal length of service, one of them selected by lot by the Chairman of the House of Delegates) shall serve as interim successor for that particular meeting; but if such state Delegate shall fail to register by 5 o'clock P.M. on the opening day of the next session of the House of Delegates then his office shall be declared to be vacant. In case there shall exist any vacancy in the office of State Delegate, other than an interim vacancy for one particular meeting, the State Bar Association Delegate from that state with the greatest length of continuous service in the House of Delegates of the American Bar Association (or if there be two or more present with equal length of service, one of them selected by lot by the Chairman of the House of Delegates) shall serve as State Delegate from that state for the unexpired term, if one year or less, or, if for more than one year, until the vacancy shall be filled by nomination and election as hereinabove provided; and the said Chairman, immediately upon learning of any such vacancy, shall be charged with the duty of carrying this provision into effect. In any case, when a vacancy shall have been filled by nomination and election as hereinabove provided, the nominated and elected successor shall serve for the unexpired term. In all elections a plurality of the votes cast shall elect. In case of a tie vote, the Board of Elections shall determine the choice by lot. One year, as used in this section, shall mean from the opening of one annual meeting until the adjournment of the next succeeding annual meeting. Whenever the State Bar Association Delegate with the greatest length of continous service in the House of Delegates (or, if there be two or more present with equal length of service, one of them selected by lot by the Chairman of the House of Delegates) shall, as provided herein, serve for any interim term as State Delegate, said Bar Delegate shall not lose his status as Bar Delegate but shall revert to any unexpired term as State Bar Delegate or to any new term for which he has been designated whenever the interim service terminates as hereinbefore provided; however, the State Bar Association may, for the period during which the Bar Delegate is serving as State Delegate, certify an interim State Bar Delegate to serve during such period with all the privileges of any other State Bar Delegate, except that the period of service of such interim State Bar Delegate shall not be considered in computing the length of continuous service in the House of Delegates.

SECTION 6. *Selection of State Bar and Local Bar Association Delegates.* Each State Bar Association shall be entitled to at least one delegate in the House of Delegates. State Bar Associations in States which have in excess of two thousand lawyers shall be entitled to one additional delegate for each additional twelve hundred and fifty lawyers above such two thousand; *provided, however,* that no State Bar Association shall be entitled to more than five delegates. Any local association having one thousand or more members in good standing, thirty percent or not less than 2,000 of whom are members of the American Bar Association, whichever is less, shall be entitled to one delegate; provided that the activities of such local association are not limited or related principally, to social or library activities or to a specialized field of law, and that such association is comprised predominantly of members of the Bar who reside or have an office within a single city, county, or other political subdivision within a State. When a State Bar Association is entitled to additional delegates, the number of such additional State Bar Association delegates shall be reduced by the number of delegates elected by local bar associations within such State; *provided, however,* that such reduction shall not reduce the number of delegates to less than two State Bar Association delegates, where the State Bar Association is entitled to five delegates. Each state and local bar association delegate shall be chosen in such manner as such association shall determine. The terms of such delegates shall be for two years ending at the adjournment of the annual meeting in even numbered years. Any local association represented in the House of Delegates prior to the 1957 annual meeting which continues to have thirty percent of its members who are members of the American Bar Association shall continue to be entitled to a delegate. In the event of the resignation, disqualification or death of any such delegate, the association which he represents may select and certify a successor to serve for the balance of his unexpired term. Each state and local bar association shall certify to the House of Delegates the names and addresses of the delegate or delegates elected for that Association. The number of members in good standing of the local bar association and of the American Bar Association shall be taken as of the thirty-first day of December next preceding the selection of such Delegates. The term "State Bar Association" shall be deemed to include the Bar organization of a State, whether its Bar be integrated or voluntary; *provided* that if, as to any State, the question shall arise as to which State Bar Association may select Delegates, the question shall be determined by the House of Delegates.

Mr. ERVIN. Mr. President, it is very obvious that the American Bar Association feels that the best way to run its organization is to have delegates from each State select a representative to represent its thousands of members at the national level. In fact, each State is entitled to one delegate for every 2,000 lawyers within the State plus an additional delegate for every additional 1,250 lawyers within the State. But no State association is entitled to more than five delegates.

Thus, we see once again how a large organization has attempted to keep its compromises and its fights and its fractionalisms to a minimum by having them fought out at a local level. This is exactly what our electoral college does. It has been an instrument of stability in this Nation because compromises are worked out at the local level before our President is voted on. If the American Bar Association elected its president directly, it would be split by a host of splinter candidates and extremists demanding equal time for their views. This is the same thing that would happen if the United States adopts direct election of the President. I can only ask this question: Why will not the American Bar Association support the same sound practices for the election of our President and the maintenance of our governmental stability that it supports for the election of its president and the maintenance of its organizational stability?

Senator BAYH also has cited time and time again that the AFL–CIO's support of direct election is a reason for prompt passage of this measure. It is very interesting to notice how that fine, well-run organization elects the leader to represent the thousands and thousands of its members. Section 3 of article V of the AFL–CIO constitution states that the president shall be elected by the convention, by written ballot, with each affiliate having the number of votes to which it is entitled on a rollcall vote, as provided in article IV. Article IV, section IV, of the AFL–CIO constitution establishes the following scale to determine the number of delegates to which each union is entitled. Generally, each union is entitled to one delegate for each 4,000 members.

Mr. President, I ask unanimous consent that sections 1, 2, and 3 of article V and sections 1, 2, 3, and 4 of article IV of the AFL–CIO constitution be printed at this point in the RECORD.

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

BYLAWS OF AFL–CIO CONSTITUTION

ARTICLE V: OFFICERS

Section 1. The officers shall consist of a President and a Secretary-Treasurer, who shall be the Executive Officers, and 33 Vice Presidents.

Sec. 2. Each officer shall be a member of an affiliated organization.

Sec. 3. The officers shall be elected by the convention, by written ballot, with each affiliate having the number of votes to which it is entitled on a roll call vote, as provided in Article IV. Nominations shall take place on the third and election on the fourth day

of the convention. The Executive Officers shall be elected by majority vote. In the event that more than two candidates are nominated for President or Secretary-Treasurer, and no one candidate receives a majority of the votes cast, all except the two candidates receiving the highest votes shall be eliminated from the list of candidates and a second vote taken. The Vice Presidents shall be elected by plurality vote, and the 33 candidates receiving the highest number of votes shall be elected. In the event of a tie vote, a second vote will be taken only among the candidates whose tie prevented the election of 33 Vice Presidents. The candidates for Vice President shall be listed on the ballot in the order in which nominated. Each ballot must, to be valid, be voted for 33 candidates for Vice President and must cast the full voting strength of the delegate or affiliate voting. The ballot shall be signed by the delegate voting, and shall show the affiliation and the voting strength of the delegate. If an affiliate votes by bloc, the ballot shall be signed by the chairman of the delegation and shall show the affiliate and its voting strength. Each candidate may designate an observer who may be present during the tabulation of the signed ballots. The results of the election, including each delegate's vote or, in case of a bloc vote, each affiliate's vote shall become an official part of the Convention record.

Sec. 4. Each officer elected at the convention shall take office immediately upon his election and shall serve until his successor is elected at the next regular convention.

ARTICLE IV: CONVENTION

Section 1. The convention shall be the supreme governing body of the Federation and, except as otherwise provided in this Constitution, its decisions shall be by a majority vote.

Sec. 2. The regular conventions of the Federation shall be held every two years, beginning in 1955, at a time during the last four months of the year. The time and the place for holding the regular conventions shall be designated by the Executive Council which shall give at least 90 days' notice of the time and place designated.

Sec. 3. (a) Special conventions may be called by direction of a regular convention, by order of the Executive Council, or on request of national and international unions representing a majority of the total membership of the Federation, as evidenced by the records of the Secretary-Treasurer to the last convention.

(b) In the event a special convention has been called all affiliated organizations shall be given at least 30 days' notice, together with a statement of the particular subject or subjects to be considered at such convention.

(c) Representation to special conventions shall be on the same basis and subject to like qualifications and procedure governing regular conventions.

(d) A special convention shall be clothed with like authority and power conferred upon regular conventions, its decisions shall be equally binding and it shall be governed by the same procedure applicable to regular conventions; however, such special conventions shall be limited solely to the subject or subjects specifically and definitely indicated in the call for such special convention.

Sec. 4. Each national or international union and organizing committee shall be entitled to the number of delegates indicated in the following scale:

	Delegates
Less than 4,000 members	1
Over 4,000 members	2
Over 8,000 members	3
Over 12,000 members	4
Over 25,000 members	5
Over 50,000 members	6
Over 75,000 members	7
Over 125,000 members	8
Over 175,000 members	9

Plus one additional delegate for each 75,000 members over 175,000.

Each directly affiliated local union and each national trade and industrial department shall be entitled to one delegate. Each industrial union council and each state or local central body shall be entitled to one delegate. Directly affiliated local unions, with the approval of the President, may combine with other such unions within a reasonable distance to elect a single delegate to represent such unions.

Mr. ERVIN. It would seem to me, Mr. President, that if the AFL–CIO recommended method of directly electing the President is such a wonderful way for all people to participate in electing the President that they would change their own rules to reflect this feeling. In other words, the unions of the AFL–CIO elect delegates to their convention and these delegates in turn elect the president. This is certainly equivalent to the unit rule, for the possibility exists that a president could be elected by the AFL–CIO who had not received a majority of the votes of its membership.

The National Federation of Independent Businessmen has also been cited time and time again by the Senator from Indiana as being one of the outstanding organizations in support of direct election. Without further comment I will just state that their president is selected by the majority of a nine-member board of directors. The board of directors in turn is selected by the member business organizations with each organization having only one vote for the directors.

Mr. President, my remarks are not intended to embarrass the fine organizations I have discussed. I mean only to point out that the statements of the numerous Senators and newspapermen who have cited the support of these organizations for direct election as a reason for passing it should not be unanswered. I think we should look beyond the statements of these organizations and consider their practices because they all operate on the theory that direct election is not the best way to elect the head of their organizations. Actions speak louder than words. I hope the Senate will examine the practices of these organizations and think of the reasons for these practices before they vote for direct election. These organizations contain intelligent men of outstanding organizational ability and they have decided that direct election is not for them.

BACKER OF BILLIE SOL ESTES STILL HOLDS $36,000 JOB IN AGRICULTURE DEPARTMENT

Mr. WILLIAMS of Delaware. Mr. President, yesterday in a syndicated column entitled "Watch on Washington," Mr. Clark Mollenhoff calls attention to the fact that the man who approved the appointment of convicted promoter Billie Sol Estes to the National Cotton Advisory Committee continues to hold his $36,000 job with the Agriculture Department.

I ask unanimous consent that the article be printed in the RECORD.

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

WATCH ON WASHINGTON

(By Clark Mollenhoff)

WASHINGTON, D.C.—The man who approved the appointment of convicted promoter Billie Sol Estes to the National Cotton Advisory Committee continues to rule the personnel roost at the Department of Agriculture in the Nixon administration.

To the amazement of many and the disgust of a few in the White House and Congress, Joseph Robertson holds the $36,000-a-year post as assistant secretary of agriculture for administration. Robertson's job controls budget, legal and press functions.

President Nixon is aware of the key role Robertson had in the appointment of Billie Sol, who has since been convicted of fraud charges and is serving a federal prison term. The President has indicated he wants something done about removal of Robertson, but this is a big government in which the will of the President isn't always given first consideration.

If Hubert H. Humphrey had been elected president in 1968 it could be understood why Robertson's role in the Billie Sol appointment might be overlooked. Robertson, a liberal Democrat from Minnesota, was appointed by Agriculture Secretary Orville Freeman in 1961. Robertson did a fine political job for the Freeman organization at the Agriculture Department as many Republicans will testify.

It was in the Billie Sol Estes case that Robertson went beyond the call of normal political duties. To understand the full measure of his unusual service, it is important to know that Robertson overruled the recommendations of his security chief when he appointed Billie Sol to the National Cotton Advisory Committee.

John Francis, the security chief, had placed on Robertson's desk two reports regarding evidence which eventually led to conviction of Estes. One was a 109-page Agriculture Department report with evidence that Estes used illegal "schemes and devices" to purchase cotton allotments. The other was an FBI report dealing with the liquid fertilizer tank frauds.

A busy subcabinet officer might contend his other duties precluded his understanding the significance of reports on possible criminal acts. However, in this case, a hand written note by Robertson disposed of the security chief's warning that there was "sufficiently derogatory" information to make an adverse report on Estes.

With two reports of possible crime on his desk and with the adverse recommendation, Robertson wrote on Dec. 22, 1961: "Mr. Francis, after reviewing this entire matter carefully with the general counsel's office and after a thorough study of the matter, I think Mr. Estes should be appointed to this committee."

This was above and beyond the call of normal political duty and far above the normal bureaucratic negligence.

When the roof caved in on the Estes case a few months later, the important political question was not how much Billie Sol had stolen from the government and others. It was simply this: How did Billie Sol get appointed to an important advisory committee with the many warnings of his wheeling and dealing? The answer: Joe Robertson gave his approval.

Understandably, congressional investigators encountered difficulty obtaining evidence pinning the responsibility for a whole range of favorable actions for Billie Sol. It was important for the department to discourage cooperation with outside investigators. In this, Robertson's personal role was vital.

While Robertson has remained in power, the personnel office under his jurisdiction

has continued to pursue those who testified on the departmental "favoritism" accorded Estes. N. Battle Hales, a key witness in identifying those responsible for the "favoritism," is a case in point.

Hales was harassed by Robertson's subordinates and prodded to resign. A department doctor was asked to make a finding of mental instability on the basis of a press conference transcript in which Hales elaborated on the "favoritism."

Hales was forced to use leave time to attend hearings to protect himself, and when the hearings were concluded he was transferred out of Washington to what was described as an "important" job in Louisiana that required his special talents. Hales recognized the transfer for what it was, but after routine protests accepted it.

He had hardly settled in the so-called "important" job when it was abolished. To save his government career, Hales asserted seniority and veterans preference rights to take a job in Kansas City. He knew the harassment could continue but he resolved to give Robertson's men no reason to fire him.

A secretary to Hales fared even worse. She tried to protect the records in Hales' office safe from Freeman's investigators. She was seized by a doctor, police were called and, with no notice to her family or Hales, she was taken to a mental hospital.

Stripped and placed in a padded cell, she was held incommunicado for days until the protestations of Senator John J. Williams of Delaware and the press resulted in a hearing. Only then was she released after an unspeakable 12-day ordeal.

Though proved sane, she was so shaken by the experience that she declined to go back to the Agriculture Department and took a disability retirement.

This took place under Joe Robertson's jurisdiction and he admits knowledge of the facts. He says he only followed orders from Charles S. Murphy, the under secretary of agriculture, when he approved appointment of Estes. He says he did not initiate action to put Hales' secretary in a mental institution without a hearing, but only saw that the law was complied with.

Robertson says he did not initiate the action to transfer Hales or to abolish his job. He did approve the transfers, but conducted no investigation of complaints that Hales was being harassed. "I saw that the law was complied with," Robertson states.

The secret to Joe Robertson's success is the career status of his job and his continued administrative control of the department. Agriculture Secretary Clifford Hardin says he cannot see that he has "cause" to remove Robertson and relies heavily upon him in running the department. Hardin is convinced Robertson is more loyal to him than he ever was to Freeman.

Although there is Republican grumbling about Robertson's continued role in the Agriculture Department, it seems likely that most Republicans will muffle their displeasure rather than openly criticize the Nixon administration. The man who approved Billie Sol appears to be firmly in command.

AL DEL GRECO: DEAN OF NEW JERSEY SPORTSWRITING

Mr. WILLIAMS of New Jersey. Mr. President, we in this Nation owe much to our sports columnists and sports reporters. They write of disciplined aspiration, of conflict by the rules. In so doing, they tell much about the human spirit and the human capacity to try harder the next time.

One of the best of these writers is now lost to New Jersey and to the Nation. He was Al Del Greco, columnist for the Record, in Hackensack, N.J., for more than 40 years. He died last week of a heart ailment at age 64.

It was my good fortune to know Mr. Del Greco and to enjoy him, not only as a writer, but as the toastmaster of an annual gathering of the descendants of Italians who immigrated to the United States. His sense of humor—one of the mainstays in the 20,000 or so columns he wrote for the Record—was the major ingredient of those gatherings, as it was one of the deeply human assets which made Mr. Greco loved by his readers and by those who knew him as a friend.

The Record, in its columns last week, offered many tributes to Mr. Del Greco. One came from Jim Sutphen, senior managing editor. He said:

Al and I started on The Record more than 40 years ago. We have shared a great many laughs, a lot of excitement, and a few tears. I have never known a man with a more devastating contempt for the phonies in the many worlds in which he moved, or a man with greater appreciation of the good and decent things in sports, his associates, and his profession.

Another tribute was an editorial written by associate editor William C. Caldwell, who was writing sports when Mr. Del Greco joined the newspaper in 1928. Mr. President, I ask unanimous consent that this editorial be printed in the RECORD as a memorial to a man who gave the world a generous measure of compassion, good humor, and understanding of his fellow man.

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

AL DEL GRECO

Al Del Greco was a public institution, established and famous. He knew it, and took pains to say or do nothing that would be inconsistent with his reputation. He was, then, tough, sardonic, cynical, earthy and worldly both, candid to the edge of cruelty in his judgments on his fellowmen whether they were the athletic heroes of the season or United States Senators or bookmakers. This was his reputation, and he was faithful to it and to the countless tens of thousands who knew him and expected of him the kind of integrity they never required of their legislators and archbishops. Al was himself. Let that first be said.

And then let it be said, as it could not be said as long as he might wander into the newsroom with that hobgoblin grin and repudiate the libel in a gravelly baritone that could be heard in the next block—let it be said that Del Greco was an incurable idealist, a hopeless romantic, was the starry-eyed small boy who never grew up and didn't want to.

He was a sports writer—when the subject interested him one of the best in that mysterious field of literature. He admired that which was admirable in the athletes he knew through four decades and more; their strength, skill, intelligence, courage. He had no use for the man he suspected of doing less than his best; and for the muscular egotist who gave himself pompous airs off the field or outside the ring. Al had nothing but curt contempt. His ethical standards were high, and he tested every man he knew in politics and public life against them, and the hilarious acidity of his comment on the world around him was not a sneer but a cry of despair. Let it be said, then, that he was an idealist. Perhaps the only man who never disillusioned him was the late Vince Lombardi. They were much like each other. They had things in common and still do.

He loved the contact sports, played them, was trained to teach them. He loved the look and crash and smell of the physical games, and although he played the gentlemanly sports and wrote about them competently they did not engage him and he declined to accept an excitement over golf or tennis or track and field, not to say yachting, which he did not feel. But when the game had been honest and the men brave, when it mattered to him who won and how, then when the shadows slanted down the field, he would hurry back to his desk, and, hunched over his typewriter, take up the tale of arms and the man in a transport of joy not much unlike old Vergil's.

Al would never have stood for this, but he was a poet, a young and ageless poet, and it is heartbreaking to know that we shall not see him again. To his wife and family is extended the deepest sympathy of us who were privileged to be his friends and companions.

HEARINGS ON INTEREST RATES

Mr. HARRIS. Mr. President, in a continuing effort to bring the Federal Government home to the people, to listen and to give people a better chance to have their say and to let their views be known, I held hearings in Oklahoma City on July 20, 1970, on economic conditions in the State, and particularly on the impact of high interest rates.

On that occasion, a great number of highly knowledgeable people appeared to give their views and recommendations. Their testimony was thoughtful and well-prepared.

I was struck again by the unfairness of the tight money, high interest rate policy which has been in effect too long. The burden of that policy falls unevenly on people and on various segments of our economy. Such a policy does not serve the proper social goals of this country. A notable example, which emerged clearly at the Oklahoma City hearings, is housing. While on one hand the Federal Government is promoting home ownership, through various programs and agencies, on the other hand it has instituted a high interest rate policy which makes home ownership totally impossible for millions of Americans.

The Oklahoma City hearing also pointed out the same kind of paradoxical effect in regard to small business.

While Federal programs seek to promote the growth and health of small business, the high interest rate policy has been very damaging to many of them and has kept a great many other small businesses from growing. This unfair effect was particularly pointed out in regard to minority enterprises, which this administration and others have indicated they wanted to see flourish.

Mr. President, I believe that other Senators can benefit from the views expressed in the Oklahoma City hearings which I held. Accordingly, I ask unanimous consent that the full transcript of that hearing be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HARRIS. I intend to deliver copies of this printed transcript to the chairmen of the Senate Finance Committee, the House Ways and Means Committee, the Banking and Currency Com-

mittees in both the House and Senate, the Joint Economic Committee, and the Senate Select Committee on Small Business in the hope that the views expressed by these knowledgeable Oklahomans may be taken to heart and used in making policy in the highest councils of our Government.

EXHIBIT 1

PUBLIC HEARING ON CREDIT AND ECONOMIC CONDITIONS—OKLAHOMA CITY, OKLA., JULY 20, 1970

OPENING STATEMENT BY SENATOR FRED R. HARRIS

This is a public hearing here in Oklahoma City on the impact of high interest rates and other economic problems in Oklahoma. It is a continuation of a series of hearings I have undertaken in an effort to bring the federal government home to the people, to listen and to give the people of the state an opportunity to speak out on issues that have impact and effect on their own lives.

A young married couple today faces probably the greatest credit needs they will have anytime in their lives. They need a house, a car, and furniture—most of which they have to buy on credit, yet they have not had time to accumulate any assets or much of a credit rating. Thus, a young married couple today in Oklahoma have the greatest need of credit at a time when they have the least opportunity to get it. The credit problems of young married couples are typical of what so many average wage earners face, and the problems are much more serious now because of the high interest rate policy and the general national economic situation.

As you know, I am a member of the Finance Committee which has certain jurisdiction in this subject matter. This hearing today on interest rates will help me develop information for use in passage of legislation which I and others have introduced and supported in the Congress to return stability to the national economy and bring interest rates down.

We have a very lengthy and impressive list of witnesses today on the various aspects of the financial problems we are experiencing here in Oklahoma. Mr. Bob Lewallen.

We will transcribe these hearings and the written record then will be taken back by me to the Senate Finance Committee and the other relevant committees of the House and Senate, and to the members of the Senate itself to aid me and others as additional ammunition for bringing about the kind of action we should have. I appreciate everyone who is here, both participants and spectators. We will appreciate hearing first from Mr. Bob Lewallen, manager of Penn Square.

TESTIMONY OF MR. BOB LEWALLEN, MANAGER OF PENN SQUARE IN OKLAHOMA CITY

The information that I have is on the national level at first, and then Oklahoma and our own problem locally. The information comes from the International Council of Shopping Centers. In the first part of this year, they conducted a survey of several hundred shopping center owners across the United States, asking if they had applied for loans for reconstruction of present shopping centers they owned or new construction. From this survey of approximately 30 to 35 states came this information from approximately 200 shopping center owners. 22 per cent of the respondents indicated that they had delayed expansion of existing shopping centers. 30 per cent of the respondents indicated that they had delayed development of new centers and this is an average of what they had across the United States. 63 new projects totalling 15,965,000 square feet of leaseable area were delayed because of the high interest rates. Then the information that they also received was on the interest rates themselves, what they were having to pay as "kickers" to get the construction money. The examples—they list each one of them and how they range—are on construction loans rather than permanent buildings. On the construction loans the interest rates ran from 8½ per cent to 13 per cent with a median of 9½ per cent, plus kickers. Now these kickers they had to give were anywhere from 1 point to 2 points. One loan at 9½ per cent was 2 points plus 1 million in CDs as a kicker to get the loan. These range up to 10 per cent with 2½ points paid, 9½ per cent with 3 points being paid. This is for their construction loans. Then the information goes into the permanent loans which included the same people, of course, who were in the construction loan information. This interest rate ran from 7¾ per cent up to 10 per cent. Again the median was 9½ per cent plus kickers. An example of one loan at 9¾, 20 per cent of any percentage rents plus 3 points. Horrible! One of the loans made at 10 per cent for permanent construction was $200,000 in life insurance policies. So the kickers vary, but they are most definitely there. It went into the savings and loan companies at 10½ per cent, 2 per cent of gross annual rents, 100,000 CDs held without interest for two years. Now these are the people who got the loan. It did not go into construction—what they had to turn down. This is what information that they have received for the latter part of 1969—the last three or four months of '69. They are just now compiling the information we sent in for the first part of 1970 and we should receive the 1970 information soon. We did receive a bulletin from the Council of Shopping Centers and all indications are that it has not changed from the latter part of 1969. Oklahoma was included in this survey; however, they did not state what part of the state this information came back from.

As fars we are concerned locally at Penn Square, we have several projects that we would like to kick off. Expansions of present stores, the possibility of enclosing the mall, etc., projects that would mean several million in expenses. We cannot afford or we cannot get loans at an interest rate that is economical for us. Now, I guess most good business people know that with a structure of $12 to $15,000,000 that soon after you get $7 or $8 million or $3 or $4 million into a structure it is somewhat smart to get that money out, if the interest rate is reasonable and refinance, putting your money into a new shopping center or a new business. With the big difference on what we have on our present loans and what they are asking now, we cannot afford to refinance. It is just bad business; the merchants will not pay for it. We have considered another shopping center in Oklahoma City, and are presently working on it. We know, however, that unless the interest rates change, unless we can receive something more feasible we do not care if the interest rate is 20 percent if the merchant will pay that kind of rent, but the merchants will not do it. This is what has happened in our expansion. The merchants say, "No, we will not pay that kind of rent for what it is going to cost us to build." So we have just stopped, and until the money market becomes more attractive we are not going to refinance the loan we have to expand.

Senator HARRIS. Bob, I thank you very much. Yours is very useful testimony.

Our next witness is Mr. Jack Clark of Clark Motor Company. Jack, we appreciate very much your being here and we will be pleased to hear from you at this time.

TESTIMONY OF MR. JACK CLARK, PRESIDENT OF CLARK MOTOR COMPANY, OKLAHOMA CITY, AND LEGISLATIVE CHAIRMAN OF THE STATE AUTOMOBILE DEALERS ASSOCIATION

Thank you. Senator, my remarks will be brief, in the interest of time. I speak as the President of Clark Motor Company and also as the Legislative Chairman of the State Automobile Dealers Association. The current high interest costs have had four main effects on the retail automobile business. I think it goes without saying that everybody is familiar with the fact that the automobile business is somewhat depressed at this time, probably largely as a result of high money costs. The four effects are as follows: Reduced sales—the consumers are unable to afford these high financing charges. Second, there is, of course, increased dealership expenses; the cost of floor-planning an adequate inventory of new vehicles is almost prohibative now. The third important factor is the inability to expand service facilities; capital loans are just not available to increase the size of the service departments and increase the parts inventories that these multitudes of models make necessary. And fourth, an area that hasn't been discussed much, is reduced competition. The smaller dealers, because of high money costs, are being forced out of business, and at the same time in the metropolitan markets you are seeing those dealerships being taken over by factory-owned stores. So that you are eliminating the private capital, small entrepreneur type of retail establishment.

To elaborate on this just a little bit: on reduced sales the interest rates, as you have mentioned, have gone up most for the people who are least able to pay; those are the same people who need private transportation the most to get to and from work. High interest costs have curtailed new and used vehicle sales because many people are unable or unwilling to make these higher monthly payments. The auto industry has suffered a decline, and, as a result, the entire economy of the country has suffered to some extent. In the matter of increased dealership expenses, which is a matter that those of us in the business are vitally interested in, practically all dealers "floor-plan" their new car inventory; they borrow money on their inventory. With the present multitude of models and options, dealers now must stock tremendous numbers of different cars to meet the consumer demand. A million dollar inventory, which is not uncommon in Oklahoma City, now costs $7,300 per month in floor-plan interest charges. This cost, obviously, must ultimately be passed on to the consumer. In the matter of inability to expand service facilities, as you know, the vehicle population is constantly going up. We are producing more cars than we are scrapping; so, there are more cars on the road. It, therefore, becomes necessary to constantly enlarge service departments and parts inventories to assure customer satisfaction with their vehicles. Tight money makes it a very difficult thing to do. It is hard to finance additional service facilities and parts inventories. Therefore, the vehicle owner faces delays and frustrations. The service departments are crowded, the parts are not always on hand at the moment that they are needed. In the area of reduced competition, we have seen some seven or eight small town dealers in the State Automobile Dealers Association go out of business in the last six months. It is hard to pin the blame exactly on tight money, but there has been no question in our minds that tight money has had some direct influence on that. In many cases where the small town dealers do go out of business, the factory is unable to provide a replacement dealer. Money is tight, and the return on an automobile dealership is not great enough to cause a lot of venture capital. So, in some cases, you see a situation where, in a way, the owners of those makes of car have become "orphans"; they no longer have a place to get their cars repaired. As I mentioned, when a dealer goes out in the metro market, venture capital replacement is not easily available, so that the manufacturer moves in and runs the dealership himself as a factory store. Those of us who compete against fac-

tory stores think that there are certain evils attached thereto.

Senator HARRIS. What percentage of the dealerships in Oklahoma are factory stores?

Mr. CLARK. Senator, it is a rather small percentage; they are concentrated in Oklahoma City and Tulsa. The manufacturers have a policy of not going into the smaller markets at all.

Senator HARRIS. What would it be around the country? Has it amounted to very much yet?

Mr. CLARK. No, sir. This is just a guess, but I would say maybe five percent. Again take a situation like Dallas, speaking of Chrysler Corporation dealerships; it is my understanding that there is only one private capital Chrysler Corporation dealership in Dallas. There are about eleven factory stores. In a smaller market you do not see any factory stores at all.

In summary, the high interest situation has had a distinctly detrimental effect on the retail automobile business. Our customers, the general public, have been adversely affected and, of course, the auto industry and the economy of the country as a result have been depressed.

Senator HARRIS. Thank you very much, Jack. Our next witness is Jim Bradshaw, Vice President of the Oklahoma City Retailers Association.

TESTIMONY OF MR. JIM BRADSHAW, VICE PRESIDENT OF THE OKLAHOMA CITY RETAILERS ASSOCIATION

Senator Harris, my name is J. V. Bradshaw, Executive Vice President of the Oklahoma City Retailers Association, and the Credit Bureau of Oklahoma City.

You ask that we discuss the tight money market, however, I believe the various businessmen of our Association will cover this subject in depth.

I would like to have you, as our able Representative of the people of Oklahoma, consumer and business, to consider the various pieces of legislation passed and pending. Much of this legislation is of a consumer protection nature and some of it very good.

However, we need to take a much more in-depth look at this type of legislation if our legislators are actually interested in the small business man. Much of the consumer legislation has a tremendous impact on the smaller business man and in many instances hurts the consumer more than helping him.

A prime example is the "Truth In Lending" law—the consumer, for the most part does not understand it, and is only irritated by the delay caused by additional forms and figures. He blames the businessman and the lending institution because he can no longer just walk in and out in a few minutes when he wishes to purchase goods or services.

At present, we are considering setting up yet another larger Consumers Affairs Bureau that could serve no purpose other than harrassment to business.

Also, please consider the impact of the proposed "Class Action Bill" and the House version of the Invasion of Privacy Bill.

What I am saying is simply that you gentlemen who represent us in Washington and also in our local State Government should do an in-depth study of the already passed legislation such as "Truth In Lending" to see if we have served any useful service to the average citizen before we pass more of the same type of Protective Legislation that may very well protect no one and inconvenience many.

We realize there are many merchants who prey on the poor; however, laws will never correct this condition unless we permit ourselves to forget the American Free Enterprise system and become a total socialized nation.

Thank you very much, Senator, for your time, and if I can ever be of help, please let me know.

Senator HARRIS. Mr. Bradshaw, do you have anything to add on the economic situation or on interest rates?

Mr. BRADSHAW. No, I left that to the people who are in business.

Senator HARRIS. Mr. Frank Russell, of Russell Wholesale Beauty Supply here in Oklahoma City, is our next witness. Mr. Russell, we would be very pleased to hear from you at this time.

TESTIMONY OF MR. FRANK RUSSELL OF RUSSELL WHOLESALE BEAUTY SUPPLY IN OKLAHOMA CITY

Thank you, Senator Harris. At this time I thank you very much for the opportunity to come by and relate some of the experiences we have had with money. This more or less is a personal one, but it covers a lot of other people too. Now I do not have anything written down here, but I have sixty years of experience with it so we will tell you what we have here. I happen to be in the beauty supply business and I am on the Board of the Southwest Dealers, fifty-nine of us in business in Southwest Estates and we have similar problems as far as money. We have stock—many of us have plenty of stock inventory—but we do not have necessary money to build warehousing so that we can increase our business.

Last year, we lost about $40,000—or we sold $40,000 that we did not deliver because we did not have the stuff in the warehouses. We have small warehouses and you cannot keep this product in it. If we had the money—and I have tried several times to borrow the money from SBA and many other people, but their interest is quite high and then they are never going to lend it to you anyway. So, it puts a handicap on our production. We could produce more, make more profit, and have more people working, if we could borrow money. I think every businessman at some time in his life needs to borrow money for certain things. We have stock, we have plenty of it, but we need these things; we need extra money for improvements. I want to say that our type businesses are all in the same situation. Some of them do not have the chance to buy franchises from people who are now offering them. We need to do these things so that we can employ our people. We have about 10 people working for us, and we could have 25 to 30 people, if we had necessary warehouses and all this kind of thing to help get our business out. Cafes and other things that often authorize people for franchises, we do not have the money to buy them.

I would not want to borrow money if I were not qualified to pay it back. We hope and trust that somebody in the Senate, or somewhere along there, can get some of this done; somebody will. We need the same opportunities as anybody else in borrowing money, the same interest.

I have three young fellows who I just hired, crackerjack guys out of the University. We have a problem leasing cars for them. They have got to go on their routes and do their jobs, but they have a problem leasing cars. I have to go and lease a car, which is all right, but they have a problem, too, in the insurance. We cannot get insurance. We cannot get the credit people to approve the insurance.

Now, this is a little off the subject, but I might use it since I am talking to you. The projects we have from the Federal Government. We let people have money; it trickles down to the fellows who need it; they get about 25 to 30 percent of it, but it does not help. We have got to start in the neighborhood with these people who are qualified and who will get up and do this work in order to quit this ghetto business. When people do not have something, they lose faith in themselves because they do not have any encouragement. Now, I am not talking about everybody, but some people are never going to do any thing if you help them. Now, I am talking about the majority of people. They need some concrete ideas from the people in their neighborhood on how to quit their ghetto.

Now, these places over here on this side of town, where they are broken down and torn down—it is not that way on the other side, because people can borrow money. If any person can borrow money to fix their house up and take care of it on the right kind of interest, they would do it. But when they go down and they are hurt on the interest, they do not care. Take this car I bought out here. I went up there and they said GMAC is charging 8 percent now. Well, I said I can't pay any 8 percent, any $600 or $700 added to what the car costs. I have to make out a check for it because I was not going to pay any $600 or $700 interest. It takes money out of my business which I use to operate on. So, I want to say, please see if you can get somebody down here to talk to these people so that we can get this business going, this loan business. We hope and trust this hearing will bring out that we can do better on these loans and high interest rates that we have been burdened with. When a guy does not pay his bills, he does not ask for any money at all. When a fellow pays his bills, he should get the same interest rate that anybody else gets. I want to thank you very much.

Senator HARRIS. Thank you very much, Mr. Russell.

Jack Copeland is an equipment dealer at Walters, and he also heads an Operation Mainstream Program there. Jack, we are glad you are here and will appreciate anything you have to say about interest rates and economic conditions.

TESTIMONY OF MR. JACK COPELAND OF COPELAND EQUIPMENT IN WALTERS

I think that my talk will be a repetition of a lot of what Mr. Clark had to tell us because the machinery business is a whole lot like the automotive business. We all know that this so called tight money has had its effect to a great extent on machinery sales. Farm machinery sales are way off and the whole industrial sales are off 25 per cent from what they were last year.

Now, in Cotton County we have been particularly fortunate in the last bumper wheat crop. A little farther west they have not made that bumper wheat crop. The inflationary prices on machinery have gotten so high that a lot of them cannot buy it. A lot of them cannot get the money to buy it even if they wanted to. Now, I have lost, in my particular business, four big machinery sales because of low wheat prices and high interest rates. If you fellows are not familiar with farming operations, they got about a $1 to $1.22 a bushel for wheat this year. The subsidy is around 47 cents a bushel, but that is on a base which varies from one place to another. Personally, I do not think a farmer can raise wheat for $1.20 a bushel. I don't think he can buy my machinery and pay for it at $1.20 a bushel.

Now, for instance there are two finance companies—I imagine Mr. Clark knows who I am talking about—who have discontinued floor-planning all together. One of them will, as of the first of August, discontinue floor-planning farm equipment, and the other has already quit. They are not even soliciting the retail paper. They will buy it if it is bona fide, but it has got to be 100 per cent. They will still continue to buy a little, but they are not pressing for the business. They just do not have the money to buy the paper. Most of our banks are limited on what they can loan, and again, that high interest rate is stopping a lot of them from buying there. Our retail parts sales have increased this year from what they were last year. I think the reason for that is due to their not being able to buy the new stuff and their having to repair the old machinery.

I know right now several young farmers that are going to have problems this coming year getting enough money to carry on in the cattle business and in the farming operations. A lot of it is due to the fact that they did not make enough wheat to pay out, and, of course, your banks have a limit and a lot of those banks are very small.

Fred, I might tell you I brought Mr. Eschler with me this morning. Dan is a farmer down in Cotton County and is one of the ASC Committeemen. If there are any questions you would like to ask him about the cheap wheat prices and high interest rates, maybe Dan could answer some of them.

Senator HARRIS. Jack, I want to thank you very much for your testimony, and I think it will be very useful to us.

Dan, do you have anything to add? I really appreciate your coming all the way up here.

TESTIMONY OF MR. DAN ESCHLER, FARMER FROM WALTERS AND AGRICULTURAL STABILIZATION CONSERVATION SERVICE COMMITTEE MEMBER

Fred, I do not believe that I can add anything. I work a farm and have been working with it for, I guess, a dozen years. I farm myself and I can tell you that every year it gets a little rougher. With cheaper wheat, about the only thing keeping us going is our cattle prices. Then, our farm program—you know more about it than I do—if we drop out of that thing, we are in trouble, serious trouble. That is about all.

Senator HARRIS. Thank you very much, I appreciate your being here.

Bill O'Connell of Norman is Legislative Chairman of the State Home Builders Association. Bill, I appreciate your being here and would be pleased to hear from you.

TESTIMONY OF MR. BILL O'CONNELL, LEGISLATIVE CHAIRMAN OF THE STATE HOME BUILDERS ASSOCIATION

I do not know anything I can add concerning high interest rates other than I hope they come down. When we go back to the time, the period that most of the people that you and I know started, we had at least a savings and our homes. These savings have dwindled to nothing because most of us have moved out of our moderate, our low income homes, into one that is larger and we ran into, of course, the high interest on refinancing and so forth. As the moderate incomes shift, and that is one thing I want to hit on, when your savings dwindle to when you do not have anything, you immediately have to go to credit. Of course, being a businessman and wearing two-hats—in the home building business and in the material business, we were just lucky that I happened to be in that area because one of them you cannot make a living in, and in the other one, you are just barely getting by. Whenever interest rates increase, number one, it increases the overhead because the money you have to borrow to invest in a business increases the overhead. Number two, you have got to look at that overhead and do some cutting to take care of that interest rate. I think that you will find in the past, speaking on the lumberman's side of it, we have had more lumber companies go out of business in this past year than we have ever had before. In one of our very fine cities in Central Oklahoma ten years ago, there were eleven lumber companies. Now there are three and there will be two in a very short time. What does this have to say to us? It says that the lumber business is not making any money, so if the lumber business is not making any money then we are all concerned about the economic base of this state and this community. When people are not making money they cannot afford things and, likewise, when interest rates go up again it is just another nail driven in to something that is not stable, because here again is a higher overhead, a higher cost.

On materials, we keep hearing a lot about inflation. Well, on materials we are in a critical situation, not on supply; there is a lot of supply right now, but there are a lot of backed-up inventories too. We now find materials more than they have been in many areas, mostly because of unemployment.

Whatever happens to the building industry affects about 11 major industries, including plumbing, electrical, carpentry, painting, etc. When you get into that field you are talking about one of the largest industries in this nation, and it is crippled. Now what happens to these men when they drop out of one segment? In our Home Builders Association in my local community, we have had several have to pull out of the home building industry because there is just nothing to build They have gone into other fields. We have lost these key men. We can look back in the fifties, when we built over two million houses in one year, with hand tools, not very much power, and here we are talking about gearing up to turn out houses at the rate of thirty a day. Well, we had the manpower then; I think we have the technical knowledge now to pull these men back into the industry, let alone all of the college men that would be willing to go into the segments of home building and supply in the near future. When you hear that there is a 77,000 surplus of teachers on the market nationally today, these people are going to be the ones that are going to move into the field. We are going to be highly competitive; we are going to produce a home for all segments of this community or this state on a level they can afford as long as we can maintain a balance of payments.

Truly getting down to where it hurts—how much are you paying for housing today? Housing is, of course, one of the greatest necessities that we have in our community today. Are we going to allow stacking up of people or do we want to get them out and on their own so that they can enjoy the environmental properties of that community? I believe that any time we crowd people together, we are going to enhance the possibility of those things that are causing all of the trouble today.

I believe, too that, when we are talking about the economy we find that the large corporations today are mingling and merging their corporate borrowing powers to get into large fields of community building. Now, there is nothing wrong with that except that it knocks out jobs. I am talking on the level of private businessmen, the small businessman today that is being hurt. Every home builder is a business of its own, a single business. A lumber business is a business of its own and must stand on its merit. Whenever you have large corporations coming in to put money into a field that seems to be lucrative, you are going to find that there are going to be less jobs. You can say, well, that is good because now you can hire the guy you want to hire—they are knocking on our doors—and we have a choice, but that will not last too long.

Right now the government—I am talking about the FHA—is lending money at a rate much higher than they ever have before, but, likewise, because of the tight money we have had to turn to the programs of the government, the FHA, the VA, 235, and 236 for about 60 per cent of our housing. Now, that is an increase of 28 per cent over what it was a year ago and yet the House of Representatives in considering HUD's budget cut FHA's budget by 13½ million dollars. I do not understand this when we are depending upon this segment. That is not the only reason they cut it; they wanted to cut the budget, and, of course, the interest rate went up. I think the more realistic picture that you and I know about would be that our goal and our aim that this nation should be housed as we would want it to be, being, we believe, the number one nation. That every family has the right to decent housing. Now we are dedicated to producing that housing at the lowest dollar volume, the lowest dollar value that puts them into the house. We need volume for us to keep this up.

The segment of unemployment today is high in the home building field and we are losing these key people. I think here again, if we can balance that high interest, if we can get it in reality somehow, but I do not know what it is going to take to do it. I do think, however, that $250 million appropriation for moderate income people is a great step toward that direction.

If we are looking at food, housing and clothing, those three segments and those are not the only three that we are looking at because there are some others that are of necessity to the family, but again we are looking at something that has increased. The monthly payment on that living unit has increased as much as fifty per cent over the past ten years. This is what we are concerned about. So this is my story, my testimony. I hope that we can do something about this unemployment. To get this ball rolling again, and make 1971 a better year to be in the home building business.

Senator HARRIS. Bill, I appreciate that very much. I notice that on the national level that there is the greatest demand for housing since World War II, and that housing starts are off so much we have what some have called the greatest housing crisis since World War II. You say vacancies are very low throughout the country. How do those statements nationally compare with the situation in Oklahoma?

Mr. O'CONNELL. Housing is critical in Oklahoma. To back-track just a minute: one firm in Central Oklahoma last year built one home. Prior to that it was one of the larger home building segments in Central Oklahoma. He had to move out into the industrial field, into building filling stations for oil companies. Then the oil industry got into trouble; so, there again, his crews have been stalemated. He feels he cannot get back into the home building business until something is straightened out, because the investment is too great to tie up that kind of money at high interest rates. Now, it was not too bad to speculate. But would you speculate on a market that is depressed? That is the question.

Senator HARRIS. All right Bill. Thank you very much.

Mr. Earle Cole of Cole Finance Company in Shawnee is here. Mr. Cole, we appreciate very much your coming over here, and we would be pleased to hear from you at this time.

TESTIMONY OF MR. EARL COLE, COLE FINANCE CO., SHAWNEE

Well, I can speak strongly for my company only. We have an office in Shawnee and one in Enid. We have quotings at just under a million dollars and get most of our capital from the public. Now, we have been able to sell investments to the public over the last several years, enough to take care of all the financial needs that we have had. In fact, we have increased our investments faster than we have increased our loan balance. I think we are getting all the savings we need because people are more conscious of saving today than they were a few years ago. Now, speaking for the industry wide, I think the state association and our membership, that is the older, more established finance companies, such as myself—and I have been in business since 1954—are not having too much trouble with getting money. It is costing us more and our profits are being curtailed because the rates we can charge are set by law. We cannot pass this additional cost on to the borrower, and I am sure the borrower thinks it is too high

already. The older and better established companies, and I know of six different companies in smaller communities throughout the state who get their money the same way I do, have had sufficient capital all along. Now some of the smaller, newer companies are having difficulties, particularly, under this new law. Now, whether this is because of tight money or whether it is because they are being better regulated in the State of Oklahoma than they have ever been before, since the Uniform Consumer Code was passed, I cannot say. The smaller companies and the newer companies are having difficulty getting enough money to operate on.

Senator HARRIS. Mr. Cole, you are very good to have come here, and I appreciate your testimony very much.

I want to call our next witness, Mr. Earl Austin, President of the Oklahoma City Home Builders. Earl, we are glad you are here, and we will be glad to hear from you.

TESTIMONY OF MR. EARL AUSTIN, PRESIDENT OF OKLAHOMA CITY HOME BUILDERS

Thank you very much. To reiterate what you said a minute ago, we are in a great housing crisis in this country. It is mainly because our industry has been singled out as the one industry that can do more to stop inflation. In other words, you people in Congress or in the Federal Government can grab a hold of us real quick and squeeze us down by simply making the cost of money so high that we cannot operate.

Senator HARRIS. May I say, as I think you know Earl, I do not agree with that policy as the way to go about it. I think that causing exceptionally high interest rates as a matter of government policy is the wrong way to go about controlling inflation. Just as illustrated by your own industry, such policy falls unevenly on various kinds of industries and, in my judgment, it does not promote the right kind of social goals. That is why I am opposed to high interest rates as a way of bringing down inflation. I think credit—on a voluntary basis hopefully.

Mr. AUSTIN. That is right Senator. We have been singled out; granted we are fully employed working through HUD and so forth to come up with new housing systems and new innovations to provide housing in the future. Right now if all the money became available at a rate that we could live with, we could suddenly build 2,500,000 units a year, which we must build to meet our housing goals. We would have a real tough time doing that normally, but our industry has stayed ahead of the pack and we are prepared to come in with new innovations, component housing, modules, and so forth to meet this crisis. We are convinced that the mobile home aspect is not the ultimate answer to housing. People want something a little more permanent. That is our feeling But, anyway, to get into this high interest and what it is doing to us. It has curtailed to a dangerous point the building of single family homes. The recent programs have been very instrumental in providing housing starts in the lower income group. Of course, what we say is low income now, is not necessarily too low. The 235 program, whereby the Federal Government would subsidize a family making $5,000 or less, will subsidize interest on their house down to where they pay as little as one per cent. This means that this family can move into a house where the payment would normally be $180 a month and the payment is $90 a month. This puts them into a real nice home, a good home, that they can be proud of. This type of program costs the Federal Government about $900 a year per family. That is not very much money considering the benefits we are getting back from it. But what I am saying is, these are answers to the high interest rate because they are nothing but federal subsidies. Well, of course, home building is a highly free enterprise system and we are always afraid of federal subsidies, but we have to live with what we can do.

The ultimate answer and the answer in the future to our industry is a steady supply of funds at a reasonable rate of interest with which we can operate. We are not like the automobile industry or any other industry; we cannot gear up at the start of a year and project what we are going to do that year. We would like to, but, come, say, January 1st, we say we are going to build 80 houses that year, but come July 1st and there is no money available, we could not build one single house. So, we do not build any houses. Our industry must have its flow of funds at a reasonable rate in order to provide the housing that we are going to have to have in this country. Granted that you people are doing something about it; there are some features of the 1971 Housing Bill which both the Senate and the House have approved and which is now in committee being worked out to go to the President. Senator, if this thing, if the $250 million to the Federal Home Loan Bank which would let those people lower the rate which they charge the Building and Loan Associations for their rates so that the Building and Loan Asociations could consequently maintain a level rate for us, could be worked out it would be very instrumental. I do not mind telling you that an 8½ or 9 per cent interest rate being charged to the home owner scares them. No matter how much education we do, telling them we are always going to have high interest rates in the future, it is still hard for them to move out of the 4¾ GI home that they now own into a 9 per cent outlay on a new house.

So, we have got to have a steady flow of funds at a reasonable rate. You are aware that to do this, there have got to be new sources of money for housing, sources we have not had in the past. We look around and where are those sources? The most obvious are the pension funds, these funds are getting astronomically large in this country. The different federal employees funds, labor funds, just about any industry has a large pension fund. These funds enjoy tremendous tax advantages. They enjoy it to the extent that they pay very little tax money that they invest on funds that go back into larger funds. The wealth of these funds could be put into residential mortgages and over an amortized period of time would probably yield as much, if not more, to the pension funds as a lot of these speculating situations that they get into now with common stocks and bonds, mutual funds and so forth. Fred, that is just one thing where we need your help. We are going to have to have a steady flow; I hate to keep reiterating this but it is important. In order to house this country properly we are going to have to have a steady flow of funds at a reasonable rate of interest. We are not ready to advocate that the Federal Government take over our housing industry completely and say, OK, you provide the housing and we will work for you. We want to work together, and we are doing it. I think the 1971 Housing Bill has the immediate answer to our problems, but it does not have the long range answer And that is what we need.

Senator HARRIS. All right Earl, I certainly thank you for your testimony. It will be very helpful to us, and I appreciate very much your being here to present it.

I want to call next on Professor James Baker, Professor of Banking at the University of Oklahoma, and who is here, I understand, representing the Oklahoma Bankers Association. We are glad you are here.

TESTIMONY OF PROFESSOR JAMES BAKER, PROFESSOR OF BANKING AT THE UNIVERSITY OF OKLAHOMA

I would like to speak for myself, not for the Oklahoma Bankers Association.

I think that all of the gentlemen that have spoken so far have pointed out the fact that each and every one of them needs money. They have to have the money so that they can expand, so that they can get additional franchises and so that they can supply the necessary wherewithal for the citizenry of Oklahoma. I agree with that. I can relate directly with the home builders because I am building a home now and I am having to pay the interest rate also. I think that what we are all saying is that we need the money, and why are the interest rates high? I would say that inflation and high interest rates go hand in hand. I think if you will look back over time you will find that the real rate of interest, if we can measure such a thing, has not changed greatly.

I think also that perhaps we are stressing interest rates too much and not availability as much. I would agree with the gentleman right there, Mr. Russell. He mentioned that it is a combination of both. It is a combination of high interest rates and the problem of getting the money. The last gentleman, Mr. Austin, also pointed out this problem of the sources of funds, what is happening to the sources of funds. I think that we can relate the inflation, the interest rates, the sources of funds, and the economic conditions together. As I have mentioned I think inflation and interest rates go together. I think that the economic conditions bear significantly on what we are going through at the present time. We have had four recessions since the end of World War II and during each of those recessions we have still seen a rise in the price level.

I, as well as the rest of you, have a tremendous amount of impatience, being a young married person; I have a tremendous desire for different material things. I need and want a nice home. I need and want a nice car. I need and want other material things. I think that we as a group are very impatient. We want them now; we do not want to wait. And I think the more we are made aware of the fact that we have inflation, the more we want the things now, because if we wait the price is going to go up. The point is that we are all aware of the rising prices; we all want these things now because we have impatience; and, as a result, the demand for funds is tremendous. I would disagree with what Mr. Cole said. Mr. Cole mentioned that he has plenty of money. I do not think this is typical of the institutions throughout the United States at the present time. I think the banking industry, the finance industry, the savings and loan industry, the mutual savings bank industry, and all other financial intermediaries have a shortage of funds. They cannot supply all of the legitimate credit needs in the United States, nor in their communities.

Now, the point is, how are we going to get these funds to the people who need them? One of them has to be through our financial intermediaries, of which banking is one. I think one of the problems that has cropped up in recent years has been the problem of the sources of funds changing. Mr. Austin pointed out that pension funds appear to be a natural for obtaining money for the building industry. I agree; I think pension funds are in the ball games for the long pull; they are in the long term lending portion of the market. So are insurance companies. But what has inflation done to the long term lender? Sure, I will loan you money for thirty years because I know how many people are going to die off; I know how many people are going to retire. They are looking to me for a little more performance. The only possibility for me is to take a piece of the action; otherwise, I am going to be burned on this inflation bit.

Now, I do not want to accent this thing, but I think we as a generation have been cheated. I think that we have been cheated from the inflation standpoint. We did not have enough of it somewhere, and the reason I say that is that in Germany the peo-

ple fear inflation. Why do they fear inflation? Following the war and for a period of one year in Germany, the prices rose by ten billion times. It got so bad that they had to pay the workers in Germany on the hour, every hour, so that they could run out and spend the money. I think that, if we had had such an experience in our generation, maybe we would fear inflation. Maybe we would be willing to increase our savings. Maybe we as individuals would start saving more money, and, if we save more money, then maybe we can get at the needs where the demand for funds exist. I think, somehow, we have to look toward this increase in savings.

One of the problems that we come up with is that we are all in the market for funds. Now, as I mentioned, the financial intermediaries are trying to raise money; also the Federal Government. This becomes a great problem as far as the Federal Government competing for the use of funds is concerned, Senator Harris. Now, as we are aware, in 1967 we had the sharp deficit and the Federal Government had to go in the market heavily. Well, there was a crunch on money and home building was really hit then. But why? There was a new borrower in that market and that borrower was a tremendous borrower during that particular year. This is another problem I think we face, I am not concerned with the burden of the federal debt or anything like this. What I am concerned with is that this is a source of funds. There are funds there, and there is an additional demand placed on them. What I am concerned with is the shortening maturity on that debt. I think at the present time $120 billion in the Federal Government debt comes due this year, has to be rolled over, and on the Finance Committee you are well aware of this. Now, I think that this is one of the things that definitely ought to be changed. I am sorry that President Eisenhower made that statement in this press conference when somebody asked him, "Do you think the government ought to pay more than 4¼ per cent interest on its bonds." And he said, Well, that sounds kind of illegal to me," or something like that. I think that Second Liberty Bond Amendment from 1917, when they set it up at 4¼, if that were raised and the government were able to sell those long term bonds . . .

(Tape change no record of interim statement)

During World War II from 1941 to 1945 prices rose on an annual average of 6.4 percent. And at that time they did not take the consumer price index to the implicit price deflator by going around to the black market operators. This was a salable commodity. When they took those wage and price controls off in 1946, prices rose by 11.7 per cent and in 1947 prices rose by 11.8 per cent. What I am saying is, I think wage and price controls create structural difficulties in our pricing system, such that, when they are relieved certain areas are hurt and demand builds up in certain areas, people cannot get products. And I also believe that when they are taken off we have stress; so I am a little concerned about that.

I am looking for a falling rate; I think we have seen a softening of the interest rates already. I know that in my particular area there seems to be some mortgage money available at a price. They are building a large number of homes in northern Oklahoma, and I just returned from traveling in New York, New Jersey, and Florida and a few other places and found that out here I am getting a heck of a house at a price which I could not touch in another area. I think, in part, this is a result of having a very efficient home building industry here in Oklahoma. I also feel that our State Legislators were wise in passing the Uniform Consumer Credit Code which enabled us to go through this tight money period and still have some money available to the people. If it had not been for that, we might have ended up with something like we have in Arkansas, where there is just no money available for the people. So, essentially, that is what I have to say. Do you have any questions? I would be happy to answer them.

Senator HARRIS. I wonder if you agree with Secretary of the Treasury David Kennedy, who lately said that he thought that things were such that the Federal Reserve Board ought to loosen up more on the supply of money nationally now.

Professor BAKER. I would agree with that and I think they have done so.

Senator HARRIS. I think Secretary Kennedy was talking about more loosening up than has now occurred. Do you think enough has occurred or do you agree?

Professor BAKER. I think that statement is a couple of months old.

Senator HARRIS. No, he just made it two or three days ago.

Professor BAKER. I do not know. I have not looked at the recent figures. I would say, I think that Kennedy mentioned earlier that he felt that the Federal Reserve Board had tightened up too much in 1969. They really tightened up on that money supply, and I think that we are now paying the price for that tightening. I think that the recent change in the tenor of the Federal Reserve where Arthur Burns in his January Policy Directive said that from now on we are going to start watching the growth in the money supply, rather than the interest rates. I think that is a change in the right direction. I think that is a very important point and is badly needed. The problem had been, prior to that January change in the Directive, that they were watching interest rates or trying to establish interest rate policy when they were doing it exactly backwards. They thought that interest rates were going up, so that when interest rates rose, they pumped much more money into the economy and then when they did that interest rates softened, but ultimately all that money they piped in found its way into our hands, and, as we spent it, prices went up, and the interest rate kept going up. This is one of the basic fallacies in their reasoning. I think if they had stayed to a little steadier policy on that and had followed the growth in the money supply and credit or some other aggregate we would not have a lot of the difficulties we have today.

Senator HARRIS. Most people in this country are concerned about a liquidity crisis. I think we've seen some effects of that, and we may see more, I am afraid. Many companies find it increasingly difficult to secure the kind of capital requirement that they have. What is happening in regard to Oklahoma banks changing from national banks to state banks? Is that the result of the reserves that have to be put up, or what is causing it? Is it good or bad, and what can we expect in the future?

Professor BAKER. Well if you look at our total banking industry in Oklahoma, if you add up the total assets of all our banks, we have $5 billion in assets. That makes our banking industry ¼ the size of Chase Manhattan, ¼ the size of First National City and 1 per cent of the total bank assets in the United States. Now, as far as, if all of our banks in the United States—and that is a crazy scheme—but if all of our banks converted to state non-member banks, the Federal Reserve would have no difficulty implementing monetary policy.

Senator HARRIS. What causes this switch? Is it good or bad? What should we expect in the future, or perhaps you do not feel able to comment?

Professor BAKER. I think it is probably good for Oklahoma, and the reason is the reserve requirement on state banks that are not members of the Federal Reserve System are less, the reserve requirements are lower. As a result of the lower reserve requirement the banks are able to loan more money to the people. Essentially, the conversion represents an attempt by those banks to gain more money to loan to people.

Senator HARRIS. Is that common only to Oklahoma?

Professor BAKER. Look at Illinois; Illinois has very few national banks or state banks that are members of the Federal Reserve. In Illinois they have no reserve requirement for their banks. See, our reserve requirement for the banks in Oklahoma is the same as the reserve requirement for the banks established by the Federal Reserve Board. There is one difference; the banks in Oklahoma are allowed to count the balances that they hold in another bank as a part of their reserve, whereas, with the Federal Reserve banks they can only count what they have in the vault and what they have at the FED.

Senator HARRIS. Does that represent any greater risk for the banking public?

Professor BAKER. No, the risk to the banking public is completely out now as a result of the Federal Deposit Insurance Corporation. I think that we have done away with the problem of people losing their fortunes as a result of bank failures. We do not have to worry about that.

Senator HARRIS. Thank you very much. I would like to say, what you have said in regard to the deficit in the Federal budget and the requirement that the government had to borrow money in the market as a competitor is very well taken. Last year, the Congress cut President Nixon's requested budget by $5.6 billion; we reduced his budget request $5.6 billion under what he asked us to spend. This year, President Nixon's budget is a deficit budget. I am afraid that it is going to be more of a deficit than he now admits. The budget had a kind of a one-shot fiscal windfall in it, through the sale of strategic reserves, which got us some cash, and it assumed that we would raise postage rates quickly, that we would pass the gasoline tax increase quickly and that we would delay certain salary increases. Those things aside, the budget is going to have a bigger deficit than the President at first admitted because there is way too high an estimate on corporate revenue. Corporate revenue is way down from what had been anticipated. This budget was never a surplus budget; it was always a deficit budget. I am afraid that it is going to be a far greater deficit than the President is yet willing to admit. That is why I think it is imperative that we try to cut down on non-essential expenditures, to reduce the amount of the deficit.

As we know, the amount of the deficit has to be borrowed; we have to go into the market. And, as Professor Baker indicated, it means borrowing money. Therefore, I think it imperative that the Congress decide that we are going to forego, for example, such things as supersonic transports. The question of how fast we can get to London by 1978 is not as important right now, in my judgment, as some of these other things, such as bringing interest rates down and building houses right here at home. The same is true of the space shuttle. I think that this might be an attractive thing if we had plenty of money, but, if we do not have plenty of money, then to build a space shuttle now means billions of dollars in extra expense. That might be an attractive thing if we had plenty of money, but we do not have plenty of money, and there are things such as that which we ought to cut out or delay until we can take care of more of these problems at home.

I, next, want to call on Mr. Henry Likes, President of the State AFL–CIO. He has been very helpful in earlier hearings we have had on health care delivery costs. Henry, we are glad you are here in regard to economic conditions and high interest rates. We would be pleased to hear from you at this time in behalf of the working people of the state.

TESTIMONY OF MR. HENRY LIKES, PRESIDENT OF STATE AFL–CIO, OKLAHOMA CITY

I appreciate the opportunity to appear here this morning, and I apologize for not being on time but having just concluded our convention last week, I have not caught up. I have a prepared statement, but in order to conserve time I want to extemporaneously talk about high interest rates and what effect they have on the wage earner of this state and nation. What effect they have on the home building industry, the purchase of furniture, the home essentials. I am looking in the area of young people as I am particularly interested in that. We as Oklahomans and we as citizens of this great United States, where we live in a type of an economy that we like to brag about, are not really fair to the young people. When I say this I refer to the young married people who are the future citizens of this state and nation. The prospects for these young people in buying homes is very dim and it will be for quite some time. To furnish that home with furniture at the high interest rates that are now being asked, we are not being fair to our young people.

We say to our people in Oklahoma, look we do not have any time for these people who are always protesting, but you as young married people, in the progress of raising a family, we think you are fine. But yet on the other hand Senator, we want to charge them and gouge them till there is no prospect for these young people to want to settle down in the community and purchase a home.

When you talk about 10 per cent and 12 per cent interest rates on new homes in Oklahoma and I am talking in the range of $20,000; you can hardly purchase a three bedroom home for less than $20,000. You figure up a 10 percent or 12 per cent interest and how much money that young person will plow into that home in the course of a twenty or twenty-five year loan. He will more than pay double for that home and when he gets through paying for it, if he ever pays for it, in twenty, twenty-five or thirty years, he will have put into that home more than $40,000. And once he contracts for this kind of a loan, there is no one that will let him off the hook. He will be stuck with that for the rest of his life. You can talk about 18 per cent interest on revolving charge accounts as far as usury is concerned. This is a going rate we made possible by law in this state when we passed the Consumer Credit Code. We are pricing ourselves out of business as far as high interest rates.

We are not fair to the wage earner. It is high time—and I congratulate the Senator for having these hearings—I think it is time this nation takes a real good look at it and see if we are really fair. You and I enjoy better times; more than half of the people in this room enjoy better times than this because we bought our homes or went into the process of buying our homes, at either 4 or 4½, but not over 5 per cent interest.

We made this possible after World War II was over. Now we have gotten in this mess. We contribute to the economy of this nation, but I ask the question: are we being fair to those who want to purchase these homes today or start raising a family. I brought some information here today about what is happening in Ohio with this escalator clause. They found out in Ohio that those who had secured a home four or five years in the past had an escalator clause. Now, I have not had time to check into this in Oklahoma, but I think we ought to check into it and find out if some of these contracts are in existence in Oklahoma. The President of the United States agreed with this escalator clause in order for them to continue with their loans. They either had to pay them off or recall them. They had to add one per cent on to them. The Wall Street Journal and the Ohio AFL–CIO went into this in depth and they found that 45 per cent of the people who had purchased these homes were contacted and told, if you will add one more per cent on to your loan we will let you pay your loan out now. But if you do not we are going to foreclose on your home and you should pay it out. This is the escalator clause. Now I do not know whether this exists in Oklahoma or not, but, Senator, if it does, we ought to get after it and get after it real quick because it is really unfair. I brought this along for a matter of the record.

I hope that we can put our builders back in business building homes in the state of Oklahoma; I hope that we can. All along, I hear people advocate wage and price controls, but very rarely do I hear people say anything about controlling profits. I am against wage and price controls; but I am also against profit controls. If we have to have wage and price controls, then let's have it all the way and put controls on profits. We will then know where we are. I know that when this year is over, as far as 1970 is concerned, the record will show the bankers and savings and loan companies will make the highest profits in a hundred years. This is an indicator that 1969 held. I am all for making a profit, but I am not for them making a profit at whatever price we have to pay for it.

The prospects for lower interest rates look very dim at this point in 1970; however, if the national Congress will act by 1971 we should have some relief.

I want to speak in the area of new home loans. When you look at the young people, particularly young wage earners assuming the role of raising a family and faced with the prospects of rates from 10% to 12% interest on home loans and 10% to 18% on furniture, all of which goes into making a home and raising a family, it is alarming. We can only conclude that President Nixon is not particularly concerned about helping the people who are most seriously hurt by inflation—working men and women. Despite wage increases workers have won in recent months, the average worker's buying power is today less than it was when Nixon took office. At the same time, Nixon's tight money policy has made it impossible for thousands of Americans to own their own homes. While the President sat by interest rates climbed to the highest levels in 100 years. In the past year, mortgage interest costs have gone up nearly 24%. Associated Press has written a startling series of articles telling of severe financial problems people across America are having finding a house they can afford to buy. In the first installment, AP cited a recent Congressional study which pointed out "half of all Americans cannot afford payments on a $20,000 mortgage. Yet the average cost of homes being built equals that $20,000 plus a few more." Virtually all moderate income families have been priced out of the housing market. Bankers say that they must be allowed to charge the high interest rates so money for home loans will be available.

We know of no single factor which more drastically affects the economic welfare of working men and women that do the increases in the cost of borrowing money. These increases which are shared by business and consumers alike are reflected in higher prices on the one hand and scarcity of money on the other.

What credit costs and what we can do about it legally are vast mysteries to most of us. Families are being gouged every day by zooming interest rates. Stores, credit card companies finance companies and other institutions dealing in money can easily find ways to run rates almost out of sight. One of the most frequently used, of course, is the monthly interest rate, which when stretched out over a year, imposes a figure that would shock anyone who thinks there should be laws against excessive interest. It is the monthly interest rate that hits you the hardest and is the one area where we can defend ourselves. Assume you purchase $200 of goods on credit. You are told your interest rate is 1½ percent per month. Assume you pay $100 of your debt shortly after receiving the goods, you continue to pay an annual rate of 18% on the remaining balance.

We must continue to demonstrate our interest in the national and state economic policies which have caused these problems to the working man and women and to exert whatever influence we can with members of Congress and our Legislature to work for economic policies which will correct these unfortunate situations and bring protection and relief as well as to the wage earners.

Senator HARRIS. We thank you very much.

We have asked Mr. Bob Wagner of Vern-Wagner Supply Company in Enid to be one of our witnesses in regard to interest rates today.

TESTIMONY OF MR. BOB WAGNER, VERN-WAGNER SUPPLY COMPANY, ENID

I do not have a prepared statement. I do not have a lot of figures. I do run a small business, a wholesale plumbing and heating business. It is my understanding that you want information in regard to what tight money has done to business. Principally, I have more business this year than I had last year. This is more or less a false type economy. In the first place over the last year the price that I have to pay for materials has gone up about 22 percent so this means that my inventory is worth more than 22 percent or worth less than 22 percent.

If we take a look at inventory and accounting for the period of 1969, we should have had an 11 percent increase in our inventory before we change one figure, one bath tub, one water heater. We grew 11 percent. We have to take this thing into consideration. It cost 11 or maybe even 15 percent more to replace this item. The people with whom we did business two years ago, the ones that are financially sound now cannot make this larger profit which they could make two years ago, so they are waiting for the better type house, better type commercial building to come along so that they can return to the same profits. The people who are on the border line of being successful in business or not successful, they are forbidden these jobs, they do not end up with a margin of profit necessary to pay all their accounts, their labor, and so forth. So, consequently, they do not pay me. So, the people you do want to do business and not the ones that are doing the majority of the business now. You have to take more accounts that are on the border line and are harder to collect from. This comes about because there is not enough money available to operate this type of business. In our particular business, I would not say that profit control is necessary, I think that competition probably takes care of it very well. Is there anything else I can help you with?

Senator HARRIS. I do not know of anything further, Mr. Wagner. I think that is just the testimony we need, what the businessman in this state feels in the present economic condition.

Mr. WAGNER. In the city of Enid in 1969, we had 50 per cent less housing built than 1968. In 1968, we had 50 percent less built than in 1957. So that in 1970 we are looking at about 25 per cent of the housing market that we looked at in 1957. Now this is a drastic reduction and it may not be true in Oklahoma City or Tulsa, because their housing rate has grown because of apartment houses and heavy commercial construction. In the outlying communities—we also have a branch at Woodward—this is the same situation in Woodward.

Senator HARRIS. I appreciate your coming here today.

Next, I want to call on Mr. James Wasson representing the Oklahoma Bankers Asso-

ciation. Mr. Wasson, we are glad you are here, and we would appreciate hearing from you.

TESTIMONY OF MR. JAMES WASSON, STAFF VICE PRESIDENT OF THE OKLAHOMA BANKERS ASSOCIATION

It is a real pleasure to be here and I also want to commend you for holding these types of hearings. I was especially pleased to see you make the statement about the necessary reordering of priorities as far as the federal budget goes. The real problem we are in right now has been caused by the deficit spending and the impact on the money market. That had a definite impact here in Oklahoma. We looked at the availability of funds. We have to look at consumer financing, commercial type money, housing, agricultural financing and all other types of related financing to build in our financial structure.

As Professor Baker pointed cut to you, banks are intermediaries. People put money into banks; people borrow money from banks. Banks operate on the margin of what they pay for the money and what they loan money for. The situation here is that we have seen in the past two years, what is referred to as disintermediaries. The funds are not coming into the banks at the rate loan demands are trying to take the funds out of the bank. Where is the money going? Well first of all, sophisticated investors recognize the fact that the Federal Government is paying a higher rate than the laws will allow the bank to pay. Therefore, they are taking their money out of the bank and putting it directly into the Federal Government approved bonds and other types of government securities. The Professor mentioned to you the short term, the roll over, of present bills and the debt. This tremendous pressure placed upon the federal debt then causes the short term interest rate to remain at that high level. It cannot come down. So, either we are going to have to get into long term debt financing, coupled with sound fiscal policy or a monetary policy that increases our money supply along a constant level, rather than having 38 billion dollars plugged into it in a three year period. Our economy is so complex that it cannot stand these strains without giving one way or the other.

I think when we start talking about rates of interest, we need to really look at what we are talking about and who the villain is. What is the real rate of interest? If you will go back into history and start tracing the real rate of interest, if you will trace the inflation rate and subtract it from the market rate of interest, you will actually calculate the real rate of interest. So, if the inflation rate is running at 6 per cent and you add 2½ per cent to that, which is actually what will come out to be the real rate of interest, you have the interest rate you have today. If we could see this drop down to a period, as if we had a controlled economy of about 2 to 3 per cent, we would see the rates back down to where they were a couple of years ago.

Now, I think that in Oklahoma we have seen a softening of late; I think we have seen more competition. I think that the competitiveness among lenders is there. I think that the shortage of housing funds is still a critical problem. The banking industry is making every attempt to get more and more dollars into the housing market. We are in a very bad situation as far as being able to get in long term type investments due to the extreme regulations that are placed upon us. The security of the depositor's money is paramount in every banker's thoughts when he gets into long term financing, and there is fear; nobody really knows what is happening in the future. So, 20 to 25 years from now, what is going to be the situation? Are we willing to lock in today for that long period of time? So, I think the sources of money for housing is really an area where there needs to be a long hard look. There is a Housing Bill that is in Congress right now. I think that this will ease the problem. It will make more funds available, and will take some sources that have been nonexistent in the past and put them into our money market for housing. That will be of assistance. I was pleased to read just the other day that on a particular automobile purchase a bank was advertising on a consumer purchase an annual percentage of 8.43 per cent and this was for the purchase of a new automobile. This is very competitive and I think it could almost challenge any state in the Union to come up with a competitive rate with the market rate as high as it is.

The main thing that I think we really ought to do is to be concerned about young people. Be really concerned about them in the area of economic education. I think that it is foolish if we stand here and talk about what the problems are today. The problems were not caused by anybody in this room today. The problems are problems that have been built up because of years of prosperity, because of the years and the benefits we have gained from technology. Everyone of us is living better today tnan we were ten years ago. And, granted, there is real wealth and poverty, but everyone in the whole society of America has made improvements over this ten year period. The real problem comes because we are not educating our people to economic principles. To use an old Oklahoma phrase, if you are going to dance all night, you have got to pay the fiddler. This is what we have got to do to teach economic responsibility. An individual can enter into the school system today, go completely through and obtain a doctorate degree and never have one course, never be required to have one course in personal money management. If we teach basic economic principles to our entire school system, Congress will become more economically responsible, and so, too, will more of our leaders become more economically responsible. Therefore, we eliminate these problems that we have with people going out and making purchases, instead of tightening up their belts just a little bit and being able to make a decision as to whether this should be in their budget or not. Now, it is impossible for any one person to draft a budget that fits everybody because we, as a family institution, have to make that decision. I want a nice house for my family; somebody else may want a big automobile. Well, fine, as long as it fits within the budget. But when we get into deficit financing, then, we seem to be in trouble. As more and more demands for funds come along, we are going to have the law of supply and demand. The rates are going to stay up. So, with the Federal Government's impact on the money market, with the loan demands, with more and more people coming along, we are seeing more and more demand for loans. We cannot fulfill these.

Now, in the area of bank profits, Mr. Likes mentioned that the banks were profiteers. Well, I would like to say this, that if we are profiteers, I would like for him to look around the state of Oklahoma and see some of our banks that are returning on their investment dollar a yield of less than 5 percent.

Senator HARRIS. Nationally, last year, I believe, bank profits were the largest in history, according to reports. For the first quarter of this year, bank profits were above last year. How does that apply to the little bankers? Also, are those figures generally true in Oklahoma?

Mr. WASSON. Oh, I would say that bank profits are generally up, and I think there are several reasons for this. Bankers are becoming more sophisticated investors; they are making better use of their funds. I do not think high rates have really caused this. I think it has been an increase of technology just like in everything else. But when you are talking about a return on investments that yields you less than what the money market is, you are better off not to be in the bank and to have it in government securities. The average return on all investments of the banks in Norman Oklahoma, where we have the data, is 6.1 percent of the invested dollar. That is all the stockholders and everybody in the bank had a deal with 6.1 percent, but if they had taken that dollar and bought government securities, they would have had a better investment in today's time. Also the cost of money has gone up. We have seen a trend from less demand money to more time money. Regulation Q rates have gone up now to where they are paying from 4½ to 7½ percent for funds. Well, when you are paying 7½ percent for funds and you have to operate so you have operational costs and so on, it is impossible to loan the money for anything less than it.

Senator HARRIS. Would you say that Oklahoma does not have the same situation as exists in other states?

Mr. WASSON. I do not think that it is indicative to say that we are reaping excess profits.

Senator HARRIS. I did not say anything about excess profits.

Mr. WASSON. Bank profits are up, yes, because of several factors. One of which is the better technology and the sophistication of the banker in the use of those funds. I think also the trend that you mentioned a while ago with the change from national charter banks to state charter banks. I think that one other factor involved in this thing is that the State of Oklahoma through its Banking Department has upgraded its laws to where the state bank can be on a competitive basis, as far as flexibility, with a national bank. They are working very hard to upgrade their department to give good sound examinations and so on. So, there is no longer any fear of having a state banking department that would create a bad system. This is one of the factors that should be brought out in this conversion period. It does give them availability of more funds for loans, which is good because it pumps more money into the state of Oklahoma. In other words, the national banks of the Federal Reserve keep their reserves in a Federal Reserve Bank and it is gone from the state, whereas, in Oklahoma, the state non-member bank can keep their reserves in the state of Oklahoma and that way there is more money available. I think that this trend is good. I would hate to see the elimination of the dual banking system. When a bank feels it is better off and can provide its public better service by being a national bank, it has the privilege of converting to a national bank. I think that this is good for the system.

Senator HARRIS. Well, I certainly thank you, Mr. Wasson, for being here and for your testimony.

Our next witness this morning is the President of the Oklahoma Bankers Association, Mr. Gene Rainbolt of Shawnee.

TESTIMONY OF MR. GENE RAINBOLT, PRESIDENT OF THE OKLAHOMA BANKERS ASSOCIATION

Senator, I am not prepared to make any major speeches as Mr. Wasson has done. Rather, I would like to make two or three points and then perhaps you might have a question.

As far as the availability of funds in Oklahoma, I think that the statistics will show that the country banks, that is the banks outside the metropolitan area, have had sufficient funds to meet the needs of their customers. I think you will find that the loan-deposit ratio is something like 50 per cent. We have not seen the outflow of funds in the country that we have seen in the city. Certainly, our major city banks, the four or five large banks in Oklahoma which compete in the national money market, have had the same problems that the money market

banks have had and, indeed, because of their inability because of regulations to compete for funds with rates, have seen a real outflow of funds and have had difficulty in providing all their commercial customers with the credit that was needed. Certainly, I am sure that we would all agree that even in the country, because we are all affected with insurance companies being out of the long term housing market, we have had a shortage of funds for housing. There is no question about that.

I just want to make one comment on return of bank profits which I think we lose sight of. Certainly, bank profits are up; there is no question about that. But in terms of return on investment, of 59 industrial categories, banks rank 50th. So from an investor's point of view, it is one of the least profitable industries in which he can invest. So, perhaps what we should address ourselves to is how to make business more profitable and attract more funds into the banking industry, which is a little different concept than we sometimes have. The problems in Oklahoma that have arisen because of this short money and the lack of credit, it seems to me, would certainly include housing as one of the major areas. The municipalities, because they have to sell their bonds basically in a national market and because banks have become the principal holder of municipal securities and since the need of municipal services is so great, have been unable to issue the number of bonds which they need and would like to do. As far as possible suggestions as to legislation that would help the situation, the one-bank holding company and the Senate approach to it should give us more flexibility to attract funds, to compete for funds, which in turn would enable us to provide the necessary finances. Something that is very important to the banking industry and probably the key to long term survival is the ability to compete for funds. If we are restricted in our competition, and Regulation Q does restrict what we can pay, then we are going to be unable to provide the finances that the country is going to demand. So, through both one-bank holding company legislation, through a long term look at a change in Regulation Q, giving the banks more leeway, though I realize at this time that the country cannot make that change, we would be more able to compete.

Now, there are two ideas that the Senate advanced that have not particularly gained any momentum, which would also allow the banking industry to be more active in the housing market and another area of problems, student loans. If we could develop a secondary market for conventional loans, I think that the bank would be able to enter into the financing of housing. Now, this is particularly important in the smaller towns, many of which do not have savings and loans, and which the insurance companies do look on with any favor. So, if we had the viable active secondary market for long term conventional housing loans, I think that we could enter into solving the problem. For student loans, if we could have a secondary market for student loans, the banking industry could provide virtually all the funds for those loans. I think this, too, because they tend to be long term in nature and would allow us an even more active job in providing student financing. I think that would basically state my position.

Senator HARRIS. That is an excellent summation of the presentations we have had in regard to banking in general, and I appreciate very much your coming here.

Mr. RAINBOLT. Are there any questions that you would like to ask?

Senator HARRIS. I do not know of any. We had some discussion before you came in with Professor Baker, James Wasson and others. I do not have anything further to ask you. I thank you.

Now, to wind up our morning session, Dr. A. G. Homan, Director of the University of Oklahoma Bureau of Business and Economic Research, is here and we would be glad to hear what you have to say.

TESTIMONY OF DR. A. G. HOMAN, DIRECTOR, UNIVERSITY OF OKLAHOMA BUREAU OF BUSINESS AND ECONOMIC RESEARCH

I understand that the purpose of these hearings is to document the best we can how the current slow down in the national economy is affecting the State of Oklahoma. Is that correct?

Senator HARRIS. Yes sir. And to develop any new ideas or support for legislation or support for it.

Dr. HOMAN. Naturally, of course, the primary reason why we have a slow down in the national economy, as you well know and as all of you know, is the result of the tightening of the monetary and fiscal policy in the country, which is not just affecting Oklahoma, but almost every state in the Union. The tightness of the money and capital is perhaps caused primarily by the Federal Establishment slowing down the growth of the national economy, to work off the inflationary pressure that had been building up for a number of years in the country. The primary cause, of course, of the rising wages and prices has to stem from the conflict in Vietnam and the expenditures that go with it, which at the present time, I understand, according to the latest estimates, is still running about $25 billion annual rate.

Now, the choice that the Federal Establishment took in bringing the economy to a slow down has, in general, been quite effective. The slow growth in the money supply, which as you all know is effected by the Federal Reserve System, a slow down in expenditures by the Federal Government, including cut backs in military expenditures and for space programs, have brought about an overall cooling of the economy, which, overall, has been very beneficial to slowing down the price trends in the economy. As you will have noticed, the cut back in the defense and space programs has been particularly hurting those states that have these large complexes. Oklahoma has had a share in the cut backs in these programs, especially in Tulsa, where we have some major aero-space defense companies and it has also effected some cut backs in military defense payrolls in military installations in Oklahoma. Now, the impact of these federal policies on the Oklahoma economy has been, as it has been on the United States, the effect of a slowing down of Oklahoma's rate of economic growth. The indicators which I will bring out in a moment will document that our state has also been effected by it.

The first major indicator that could show you a slow down in Oklahoma's economy, including Oklahoma City SMSA and Tulsa SMSA in particular, is the slow down in retail sales. Retail sales is probably one of the primary indicators of economic wellbeing to the business community especially. As you look at the data, you can see that from January 1969 to April of this year the retail sales have grown only a few percentage points, which, if you take into account the enormous growth in inflation we have had in the last year and a half, overall probably 8 or 9 per cent, suggests that the actual number of items sold at the retail level had definitely decreased. This is quite readily shown in terms of the number of items purchased, as you can get this information from the department stores and other retail stores. Automobiles, household appliances, building materials, and furniture have been especially seriously affected and I have some charts that I will be glad to leave with you that show that the Oklahoma economy has very definitely been affected by this.

Nondurable goods, groceries, and other soft goods have not been much affected by the slowdown. I might add, as you go through these other indicators and find the same general trends, that perhaps as much as monetary and fiscal policy has had an impact of the economy that the consumers, households, people have been reluctant to even spend as much as they normally do because of frustration and unhappiness, you might call it, about the national political, economic picture. Doubts in the country about some of the aspects of our stewardship in Washington, the war in Asia, the potential dangers in the Middle East, vacillation in some of the government programs, the uncertainty on the part of government officials to come out forthright to indicate that we are in a planned, contrived recession to work off the inflationary pressures in the economy, the contradictory statements made by government officials as to whether or not the recession was deliberate or not, or whether or not we would have one, the rising level of unemployment which has distressed an awfully lot of people who are at the margin of being employed or not employed, have made, in general, households very very cautious in their expenditures. Family expenditures for goods and services, as you well know, is still the single most important or biggest block of expenditures in the national economy. Households spend the single biggest item in total out of the national economy, and when consumers become more cautious in the things they buy, buying a car or a new refrigerator or a new appliance, added up together they make a very significant impact on the economy. I think that this is to be taken into account and we really cannot quite tell for sure as to whether the slow down in the Oklahoma economy is primarily caused by the consumer sentiment, frustration, uncertainty or whether it is caused by specific economic policies. Probably a combination of the two, but you really cannot quite tell as to what the primary factor is.

Of course, the fear of unemployment has let a lot of families decide not to spend their money for some major ticket items they would have bought otherwise. I think this is part of our national economic picture as well as it is in Oklahoma. The employment situation in Oklahoma in general looks pretty good. The level of employment in Oklahoma has reached about a million total people employed and since January of this year it has been climbing again slowly but surely. The biggest single industry factor that has shown distressing rate of growth in unemployment has been in manufacturing. Now, as you well know, the manufacturing sector of Oklahoma is very different in the various segments of the State. Tulsa, the metropolitan area, has 25 per cent of the total employment in manufacturing. Oklahoma City SMSA does not have as much. So, the impact on the Oklahoma City SMSA has not been quite as severe as it has been in Tulsa and some of the other parts of the State. The manufacturing unemployment in Oklahoma started to rise in October and November of last year and the rate of unemployment is still rising. The number of people that are actually employed now is somewhere about 7,000 or 8,000 people less than there were last year. Lay offs in manufacturing have been very definitely part of the picture in Oklahoma and more so in Tulsa, than in Oklahoma City.

Senator HARRIS. What about the rate of unemployment in the rural areas? In such areas as Atoka County or Cotton County? How often is that checked into? Also, where a person would know pretty well what jobs were available, if he had not been out looking for a job for the last couple of weeks, he would not show up as unemployed, although he really was. Is that so? What about the gathering of statistics in a rural area such as that?

Dr. HOMAN. If people do not register with the local employment office and notify the

office that they are looking for a job and cannot find one.

Senator HARRIS. Is there necessarily an unemployment office?

Dr. HOMAN. No, a lot of areas do not have an unemployment office. Generally, the Employment Securities Commission covers the whole State so there will be a regional office in every sector of the State, but many communities do not have one. For example, Norman does not even have an employment office. For as big a town as it is, it does not have an employment office, which is really quite amazing. Unless people register and say that they are unemployed and cannot find a job, they will not be registered. That is one point.

Now we do get, that is, the Employment Securities Office do get these numbers in every week from the regional offices and they are compiled. So, what we have got is the State average and this, of course, hides an awfully lot of basic information about what is going on in the rural areas. In general, we have not had any serious unemployment in the rural areas of Oklahoma, except perhaps in some of the eastern counties. Generally, our unemployment rate has not been too bad. Now, an awfully lot of people, of course, do not have full time jobs.

Senator HARRIS. I would disagree with you, but maybe you are about to answer part of it, underemployment, seasonal employment.

Dr. HOMAN. Now, that is very serious in the state and especially in Eastern Oklahoma and always has been—has been for decades and is still bad. Perhaps the best way of illustrating how people, household incomes, have been affected by the rise in inflation is to take the average wage of households in Oklahoma, plot them on a piece of paper that shows the average wage of households in Oklahoma, plot them on a piece of paper that shows that since January of last year, when the average wage in manufacturing, for example, was around $500 a month, it has gone up in that period in the last year and a half to about $540, as of May of this year. However, if you take out the rise in prices, you find that actually the real wages, that is the purchasing power of his income, has declined significantly in the last year and a half. I think that all of the national data that you can see on that confirm that this is not just our situation, but that is true pretty much throughout the country. Some cities and states are worse than others. Here in Oklahoma we have had a very significant effect in that the workers in manufacturing have not had the power to get the increases along with the rising cost of living that they have had in many other parts of the country. This is something that every retailer in Oklahoma can tell you; people have not been as willing to expend their income on consumer items as they were some years back.

As part of the economic picture of our state it probably epitomizes better than almost anything else except for unemployment and the decline in purchasing power of income—is the financial situation of the state with respect to financial institutions. I have not had time to look at all of them, but if you take, for example, looking at the time deposits in commercial banks, insured commercial banks, members of the FED, they have had an enormous decline in time deposits. Starting last year in March and going all the way through March of this year, there has been a decline in total time deposits of millions of dollars. In fact, the decline has been between $150 and $170 million of loss of deposits on the part of commercial banks. You all know that this is largely because people who held money in time deposits in commercial banks have chosen to invest these funds into the money market where they got a higher rate of return than in commercial banks. The federal regulations as to what commercial banks could pay, the so called Regulation Q, has put banks at a very serious disadvantage to compete for funds and hold them. Now, this is all, of course, part of the contrived deliberate plan by the Federal Establishment to slow down lending. In that respect, it really worked. Distressingly so, you might say, but it really was quite effective. It really was not until April of this year that time deposits again started to climb. So, they are on the way up again. Now, the chances are, in my judgment, that time deposits will continue to rise in Oklahoma. The interesting difference is that the big block of funds that was withdrawn out of commercial banks came largely out of the big city banks, rather than the country banks, so that the country banks have not really been very much affected by loss of time deposits in the state as a whole.

As to construction, there is a very mixed picture there. Both in Tulsa and Oklahoma City, commercial and industrial construction have actually kept up very well, remarkably well. New business coming in, new manufacturing establishments coming in and the dollar volume has continued to rise quite well. Residential construction on the other hand throughout the state has been very severely affected, which is quite clear in the numbers you can bring out in terms of dollar value or in terms of numbers of units. The only part of the residential construction business that has held up pretty well, in fact, has done quite well, has been the apartment unit construction that we have seen throughout Oklahoma City. We have seen all kinds of new apartments go up, which is kind of a substitute for residential construction. The people who build apartment houses can more readily get funds from the big insurance companies, which have been quite liquid in the last few years, while individual home owners have difficulties getting money, getting mortgage funds, from commercial banks and savings and loan associations, or they are unwilling to pay the high price. Increases in the down payments that people have to make, in points and all these other charges have made a lot of people, households, very leery of home construction or buying a new home. As a result of this, residential construction started to go down in the early part of last year and has not really recovered much. It has increased again a little bit in the last few months, but no one knows whether this is a continued upward trend or whether it is just going to keep on at a sluggish pace.

One of the interesting indicators about the growth and the strength of Oklahoma's manufacturing industry is the amount of power sales, electric power sales, which is gathered every year by our Bureau and it shows a very definite slackening off in the fall of last year and it is not really doing much at all right now—no real growth or up trend in there at all. The only way that you can actually test where all of this is going to go is some information that we do not have right now. We usually collect it once a year. The recession we are in right now in Oklahoma, even though it may be a mini-recession, is a recession, no matter how you look at it. I understand the academic community has not quite decided whether to call this a recession or not; neither has the National Bureau of Economic Research, which is all very interesting and academic, but we are definitely in an economic slow down. We have had for two quarters of the year a decline in the Gross National Product in real terms and by that definition we are in a recession.

It is not as severe as any of the others we have had except the one in 1967, but it is here. The distressing thing about these recessions is that it is not really brought out how many companies, stores, or families have really been hurt significantly. For example, the number of bankruptcies in retail establishments has been very significant in the last half year and the documentation on that is not good. We need much better numbers on this. The Small Business Administration and the Department of Commerce can do a much better job getting the numbers on this.

They are in a much better position to do this than Universities are or any other agency that I know of. The rising level of unemployment has caused people needs for funds to tide them over; the running out of unemployment benefits has created tremendous hardships on a great number of people. We have in Oklahoma at the present time, out of the million people that we have now employed, a little bit over four per cent of 40,000 unemployed people actively seeking for work that cannot find jobs, and that is pretty high. It has not been that high since 1967, and it is very distressing. I guess, if we could ever find any better documentation on this we could indicate that, for one thing, that the Federal Establishment in its goals and in its plans, as justified as they might be and I think they are, in bringing the economy to a slow down so that we can achieve a more orderly rate of growth some years hence so no one quarrels with that general concept—I think that this was really in order both from the standpoint of having a more decent and orderly growth in the economy and also from the international standpoint in our balance of payments—this country has got to bring prices under control or we are going to run the chance that we might someday see the dollar devalued. The once mighty surplus that we had in our trade balance in this country has really dropped just fantastically. It is down to less than a billion dollars annual rate now; it used to be about five.

The painful aspect of a contrived recession is the people at the lower rung of the ladder in our society, the people who are just barely able to hang on to jobs, are the ones that get hurt the most—and first. I think that this is distressing, and I do not think that this is necessary. Secondly, I feel that this has been talked about a great deal and there is a lot of documentation to support this, the construction industry, especialiy residential construction, has been hurt by this recession very severely. I do not think that there is any real need for that. The price we have to pay to bring the economy back into some kind of orderly balance I do not think has to be paid by the most disadvantaged people, in terms of their income and the security of their jobs, the people who have the lowest degree of competitive power to get their wages to go up with the cost of living. I do not think that this is really necessary. I think that there are always ways and means in which the Federal Establishment—I am using that word because I want to include the Federal Reserve Board, which as you know, is not an agency of government but, an independent financial central bank—can devise better ways and means to slow an economy down, rather than doing it across the board, making the banks, the construction people, and the disadvantaged people the goat of this kind of an economic plan.

Now, that is not to say that anyone can have any great hopes that we are going to do things altogether differently the next time around. I presume and I judge that we will probably have another go around in an economic squeeze, because, as we recall what happened in the 1950's, we had one recession after the other. Now, it has been my judgement that once the fall elections are over the economy will probably be brought back to a reasonable speedy degree of expansion and, then, two years from now, we will have another economic squeeze.

I might simply say that national economic policy which is geared to bringing an econ-

omy into a recession and in a very deliberate fashion, I think, should concentrate more on human values, rather than on economic success. I think both are important. I think for the long range future of our country and our economy, we have to have a sound economy, but I do not feel that there is any need for recession to be brought on deliberately that picks out the people at the lower rung of the ladder of society to make them principally pay the price in terms of unemployment. We have yet to see the worst of unemployment, because I feel pretty sure that the rate of unemployment will probably go to at least 6 per cent in the country, and in Oklahoma it will go at least to 5 per cent. So, we are not out of the woods yet. The economy nationally is close to bottoming out. We expect a very sluggish economy for the balance of this year and maybe early next year, but we will come out of this thing. The only question was the price of human value that we pay to do it all. Is it really worth it? I sincerely doubt that it is. I think that there are better ways in managing our financial affairs; we do not really need this kind of a distressing situation.

I have written a number of articles on this for the Oklahoma Business Bulletin. One of our suggestions is that the Congress of the United States, which holds the purse strings, establish a Financial Stabilization Board with a Council of Economic Forecasters. And, they should allocate annually no more funds than what is consistent with the overall flow of funds in the national economy. The Congress should actually, in co-operation with the Treasury and the FED, become the initiating body in the Federal Establishment. It would say at the beginning of each calendar, or Congressional year, that we would have no more funds appropriated than what the economy can absorb, consistent with our plans and programs for orderly growth. I think that the responsibility in this area is not with the FED, as I see it, and, as you know, the FED is responsible to the Congress for its activities, but, as you know, this is a very fuzzy relationship. The Treasury is part of the Administration and its main concern is unemployment, rather than anything else. I feel that the Congress should take it upon itself to be informed and not just through the Joint Economic Committee and a few staff people, but to have an independent board of business, financial and economic experts that will make the necessary forecasts on the growth in our economy in the next two years. If Congress will, accordingly, appropriate funds consistent with orderly growth, if we have this kind of a program, we will not find ourselves again in the next two years in another predicament like we are in right now, where we leave it up to the Administration or we leave it up to the Board of Governors, somehow working things out to bring the economy down and then get it going again. The Congress has a primary responsibility in this matter, if anybody does, and I see no justification for letting the Presidency, the Administration, and the Board of Governors sort of work things out and see what comes out. I think that the Congress and its principal leaders should be principal parties in the determination of economic policy, and they have not. They have been more concerned about their regional and their pet project interests and I think that this is a responsibility that should come out. I have written on the subject. I believe that Congress should establish a Financial Stabilization Board with independent posture and to recommend to Congress as to what they should do to keep the economy growing and to keep it stabilized.

Senator HARRIS. I appreciate very much, Dr. Homan, what you have had to say. I agree with you that it is not fair nor necessary for the average wage earner or the home building industry to bear a disproportionate share of burden of efforts to cool off the economy. I do not think that we can justify that. I appreciate that being brought out. President Johnson said in 1965 that it is not necessary that we have business cycles, a recession followed by prosperity, followed by another recession, as we used to think. That was a rather new kind of philosphy. As you know, government bulletins used to come out on business cycles, and we studied business cycles in the schools. This main thing you needed to know to understand or manage the economy was to know in which part of the cycle you found the economy. Now we do not think that those cycle are necessarily immutable and I think that is a great step forward in economic theory and economic policy. I think we need to go one step further now and admit that the unjust and uneven slowing down of segments of the economy and causing, on purpose, unemployment as the basic means of slowing down the economy is unfair. I think we must go now past that economic policy and philosophy as well. It is long overdue that we should do so. You have been very helpful to us, giving us the facts about what the situation is here in Oklahoma, and I appreciate it very much.

Now, to wind up the hearings this morning, I want to call Gene Rainbolt back to make an additional brief statement in regard to domestic priorities. Gene is an old friend of mine who has been very helpful to me personally over the years, and I appreciate his assistance in getting this hearing together and his appearance here today.

Mr. RAINBOLT. Well, I am happy to appear here, Senator. First of all, I do not think that I gave a proper conveyance of what the circumstances of the people in the country might be in terms of interest rates. I know of many country banks, including the southwest part of the state, where the ranchers and farmers are still paying less in interest rates than the national corporations. Certainly, the interest rate in the country is far less than it is in the city. I want to recognize that contribution on the part of the country banks. I think also that we need to recognize that he would be able to do a more complete job were he not having to compete with the federal agencies for his funds and this is particularly true. I am sure that you are aware of the problem of the Farm Home Administration where the local bank is having to compete directly with them. It is an impossible situation. The houses that have been built, and very appropriately so, the majority of them have been low cost houses basically, with some supplement and our bankers have been quite active in providing the interim funds necessary to build them.

As for the problem in terms of inflation, in the first five years in this upswing in the economy, we had 1 to 1½ per cent a year inflation and it was basically when we made the decision that we could have both guns and butter that we commenced this inflationary spiral. Following Dr. Homan's statement I certainly subscribe and I think the bankers will too, that we do not want these low income recipients, the least skilled, to have to carry the brunt, but by the same token neither do we want to see fiscal policy as the only tool which puts us in the role of the scapegoats to some degree. We would much prefer a policy which seems to me would be one of establishing national priorities, the things that we most need and can best afford. Certainly, the banking industry point of view, we would plead and agree these are the national priorities. The things we most need and can best afford to pay for. Thank you.

Senator HARRIS. Thank you, Gene. I think that is a good addition to our record.

There is no question that the Federal Government is like the Oklahoma house wife in that we are not unlimited in resources; we are limited. We are not going to have the kind of economic stability we want until we get out of that war in Indo China. It costs enormous amounts of money. In the meantime, there are things we can and must do. We have gone into some of those here this morning, but even after the war in Indo China is over, as I hope someday it will be, we are still going to have limited resources. We are still going to have to decide what things are more important than others. Is education more important than an SST? Is housing more important than ABM? These are the the types of decisions we are going to have to make, and, so, I think what you have said is very useful. We will break now for lunch and meet back here at one o'clock.

AFTERNOON SESSION

Senator HARRIS. I want to welcome you back here for the afternoon session of these hearings. This hearing on the economic situation in Oklahoma and the impact of high interest rates is a part of the continuing effort on my part to bring the Federal Government home to the people and to give the people the opportunity to have their say and to have it heard at the decision-making level of the Federal Government.

This morning we heard from Earl Austin, President of the Oklahoma City Home Builders and Joe O'Connell of Norman, Legislative Chairman of the State Home Builders Association. We would like to continue with the testimony of home builders by calling as our first witness this afternoon, Mr. Raymond King of Tulsa, an old friend of mine, former President of the Oklahoma State Home Builders Association. I appreciate very much your coming, and we would be glad to hear you.

TESTIMONY OF MR. RAYMOND KING, FORMER PRESIDENT OF THE OKLAHOMA STATE HOME BUILDING ASSOCIATION

It is a pleasure being here.

Senator HARRIS. We would like to hear anything you have to say about the situation in Oklahoma.

Mr. KING. Well, I thought maybe you might have some specific questions; however, I can touch on the situation in Tulsa, which I think is pretty much indicative of the State of Oklahoma and especially in the larger areas. I am not too familiar with the smaller areas except in the area of the Farmers Home, trying to do some financing that way. The situation in Tulsa at the present time is that money seems to be loosening just a wee bit. Interest rates at the present time on an 80 per cent loan for a permanent basis is 8¾ per cent and two points. If a person wants a 90 per cent loan, that is at 9 per cent and three points. Construction money in Tulsa is anywhere from about 9 per cent and points vary as to the amount of money in use, anywhere from one to the better borrowers to the maximum of four with a 1 point refund if they place the permanent loan with whoever the buyer happens to be with the particular savings and loan that might be doing the financing. Needless to say, the rates are higher than we would like to see them and I think higher than they should be. It is very difficult to pass on; well, actually, the consumer is the one who gets the final out-and-out price increases and interest rates, because money is just like bricks and stones and everything else that is a commodity and it is something that you rent for a period of time as a cost of the house. This is passed on to the buying public in addition to his permanent financing costs that he has to make. Most of the Tulsa banks are loaned up to anywhere from 70 to 75 per cent, which is reaching their maximum with a federal reserve bank and also with a state bank. Consequently, it is making it very difficult for the small businessman, including the builder, to acquire financing when the money is up for grabs or up for bid. One of the things a smaller builder does not have is the security that a larger company or a person that is in greater needs for financing has.

Senator HARRIS. What about vacancies generally in Tulsa? What is the situation generally there?

Mr. KING. The vacancy ratio in a recent survey is showing about 4½ per cent vacancy in top flight rental property. This has primarily to do with apartments. Six months ago, a survey was taken along about January and the vacancy ratio was a little over 10. The reason for that is not that the economy is bad or anything, but a large number of finished apartment units came on the market at one time; consequently, it took a while before the absorption was acquired. In your better units, for example, duplexes, I have about forty which you might call semi-luxury duplexes and they stay 100 per cent full. They have been full 100 per cent for the last 120 days. Prior to that, most of the vacancies that we had were based on the fact that we were putting so many new ones on the market at one time that it was difficult to keep them rented up. It only took about 30 days after we put our last, I believe it was 10 units on the market, to get them rented up. So the rental situation is very tight and getting tighter. The availability of rental housing, the single family house is almost non-existent. For one thing, a late model house that a builder would take in trade, you have got so much invested in them, he is not in a position to do much other than turn around and sell it, because his working capital is in great demand. There is a tightening of the market very definitely and it is coming to creating a housing shortage in the $30,000 and under price range. Of course, the difficulty of trying to build anything under say $17,000 or $18,000 today is, well, it is almost impossible to build it. This is where the HUD programs help pick up in the 235s and 236s, and on lower down, of course, is the public housing and some of the other things. There is a tightening of the market. Those of us who have had inventory are finding it being cleaned up little by little. You have a house every now and then that will stick on you and those are being cleaned up pretty well too.

Senator HARRIS. You have answered my questions. I appreciate very much what you have had to say in addition to what Earl Austin and Bill O'Connell have said about the housing situation here in the state. Have you got anything else you want to add?

Mr. KING. Well, just basically a philosophy and that is there is just no way that a working man, who has to pay taxes on his income and then pay his rent with after-tax dollars can compete in the market, both as far as security and as far as percentage points. There is no way that he can compete with the business people because the businessman pays his interest with before-tax dollars. Something is going to have to be done. As both you and I know, it looks like some of it is going to be done with either a subsidized interest rate or subsidies from the Federal Home Loan Bank Board to their local operations and to their local banks. Basically that is it. We do need to have a standardized interest rate and a standardized flow of funds. Our industry is not one that you can shut off and turn on like you do a water faucet. From the time that a builder would consider buying a piece of ground and putting the utilities in it, going through the planning commission, and here again today more and more red tape is involved as it is in everything to get anything accomplished. Consequently, until the time that he can get a buyer in that house, you are talking about a period from the very beginning to a time around six months later. He is not going to go out and buy a large piece of ground if it does not look like adequate financing is going to be there. Consequently, one of the other problems I would like to add, Senator, which has to do with our building industry, is the on-again off-again availability of funds. We are quickly losing our tradesmen in the industry to other phases of business because they have families to feed, they cannot wait till the money becomes available.

They have gone to other industries, the defense industry and space industry, places where they can acquire a job, two weeks off, and get a pay check every two weeks and not worry about being laid off for six months at a time because we, as builders, are unable to provide work for them because the available funds are not there. Consequently, when the start up comes again, then you wind up with fewer of them coming back to the industry and then we, who are builders, are competing for their labor. Prices go up and it tends to be inflationary—not tends to be, it is inflationary. This another problem along with higher real estate taxes and higher interest rates that we have to pay.

Senator HARRIS. I want to call now on Mr. Lawrence Heiliger, President of the Oklahoma City Board of Realtors. Mr. Heiliger, I suppose that the thing to do is for you to say whatever you have to say and if you want introduce the others who are with your group, they can add something if they wish. We will start in that way.

TESTIMONY OF MR. LAWRENCE HEILIGER, PRESIDENT OF THE OKLAHOMA CITY BOARD OF REALTORS

Senator, I was hoping that you would ask some questions, instead of me talking very much. We have with us today Mr. Theatus Greeson from our Executive Office and Jackie Stanley, President of the Capitol Hill Division, who is on the schedule. The Board of Directors of the Capitol Hill Division are also here. I see some people who are from Midwest City back there also. We are quite well represented in the real estate profession.

Actually, I guess what you want to know is how the interest rates are affecting the real estate market in general. I am primarily involved in the commercial, industrial business. However, I am connected with enough of the business to know something about the residential business. I think that the interest rates are affecting the working man and the people who are living in the smaller homes, you might say, more than anyone else. Whenever you determine your budget, your personal budget on how much you can afford to pay for rent and groceries etc., if there is a large difference in the interest rates of say, 3 per cent over what it was just a few years ago, this is a big item. Consequently, these people will hesitate to buy a home which we consider to be a very good investment and it is certainly wise for our country to encourage home ownership.

So, if these people do not buy homes, they are going to rent a house or an apartment some place. As you know, the apartment business, at least in this area, is booming. We have a lot of new apartment developments, primarily because of financing. In other words, an apartment developer will buy a piece of property; he will get new financing from a mortgage company supplied by an insurance company. The insurance company will demand participation in the profits that apartment house develops. Consequently, they can derive a high interest rate from their money, plus a higher percentage of the profits of the apartment house. This is the kind of loan that they want. Well, the cost is then added to the rent schedule and the tenant pays the additional rental. Actually, it is helping the insurance companies, but it is hurting the small man again. It is difficult for the small man to pay this additional cost. It is difficult for him to purchase a new home for this reason. I do not know exactly what we can do to stabilize this situation, but it seems that if we are concerned with the low income people in the country, and this is one area that we certainly should be concerned with, we should try to alleviate this. *Senator Harris:* That is a very good point. Is there anything else you want to add?

Mr. HEILIGER. Yes, there is one other problem we would like to discuss a little bit, if it is all right with you. The 235 program which was established for low income families is presently set up with a 90/10 split, I believe. 90 for new construction, 10 per cent for existing homes or existing residences. We know that there are many more existing residences in this area than there are new homes available for these people. As I understand it, the Senate intended or at least discussed the fact, that this should be a 70/30 split. In other words 30 per cent of the money should be spent for existing homes and 70 per cent for financing new construction. We would like to ask you to do whatever you can to see that this is more evenly distributed. We think that this will help not only the real estate business here, it will also help the taxpayer because we feel that a lot of times an existing home will give these people a better choice. It will give them an opportunity to possibly get more square footage because they are primarily people that have large families and they need this additional square footage. So, this, consequently, will help the situation of the people that own homes. If we have it on a 90/10 basis they are competing with new construction; consequently, they do not have as good a chance to sell their existing homes. This is something which you might say the government is providing that will give them unfair competition in disposing of their existing houses. Of course, these people need to dispose of these houses because they get transferred out of town for various reasons.

Senator HARRIS. Would the effect on the expansion of the number of housing units in the country be the same under 70/30 as it has been under 90/10?

Mr. HEILIGER. Yes, I think so. That is my feeling. I do not know, but I think we should have a little bit more of that money available and as I understand it, there is $165 million for the year 1971 that will be available for the 235 programs. If we could have it a little closer, like say 70/30 or 30 per cent for existing financing, I do not feel that the 20 per cent difference is going to affect the new housing starts that much. I feel you are going to have a lot of new house starts anyway. I think that this is good that we do have new house starts. I feel that is one way to stimulate that particular portion of the business, but I feel also that we should not penalize the people who now own their homes.

Senator HARRIS. All right, I appreciate very much what you have had to say, and I will take that back with me to Washington. Anything else?

Mr. HEILIGER. I understand that this subcommittee is meeting today.

Senator HARRIS. In the Senate?

Mr. HEILIGER. Yes. They are discussing this problem of this split. If there is something you can do to more evenly appropriate the money?

Senator HARRIS. That is in Banking and Currency?

Mr. HEILIGER. Yes, I think it is.

Senator HARRIS. Well, thank you very much. Jackie Stanley, as Mr. Heiliger said, is President of the Capitol Hill Board of Realtors. We are very pleased you are here. We'll be glad to hear from you at this time.

TESTIMONY OF JACKIE STANLEY, PRESIDENT OF THE CAPITOL HILL DIVISION OF THE BOARD OF REALTORS

Thank you Senator Harris. It is a privilege to be asked to come before your committee today and give our views, particularly in the southwest Oklahoma City area. The high interest rate has practically been a disaster in our area, due to a lot of 235 homes being built in this area. Generally, our properties

are less expensive than in the northwest part of town and it has probably cut the sale of existing properties in half. This does not, of course, include the new homes, but it is very difficult to sell an existing home when there is 235 money available. There are so many people that have already made application for these that they back up down at the mortgage company and wait until new money is appropriated for it. We certainly feel the high interest rate has really hurt the economy, especially people wanting to buy homes. Primarily our sales are between $12,000 and $15,000 and we are most concerned with the FHA and the VA loans. We do not have a lot of conventional loans in this part of town. We also have about 100 FHA-acquired properties or repossessed properties that FHA has repossessed in our part of town, the southwest part of the City, Del City, and Midwest City. This is a great concern with the high interest rates. People cannot even afford to buy a $15,000 home if they are living in a $12,000 home, because they are not getting a house that is very much larger. The payments are so high they are staying where they are. It certainly is hurting the real estate business and people who wish to buy homes. It is going to hurt the Vietnam veterans when they come home. They cannot afford to buy a house that is decent to live in. There are not enough 235 homes being built. There is not any being built in the $12,000 bracket to my knowledge at all.

Senator HARRIS. I am particularly worried about our Oklahoma veterans who are coming back here now.

Mrs. STANLEY. Well I am too, and not many of those veterans can even qualify for a $12,000 loan. They will be coming out and going to school and they are taking very few students on this 235 program. I understand that there are about 20,000, who could actually be qualified under the 235 requirement. They are not going to be allowed to buy homes. There are 20,000 of them. Where are they going to buy? Where are they going to live? It is not a concern particularly from the standpoint of making money; it is just a great national concern that all the realtors throughout the United States are well aware of. This major concern is to give some consideration to these boys coming home where they are going to live.

We would certainly like to see the interest rate lowered and stabilized. We also want the FHA local office to try to stabilize its discount to meet with what the mortgage bankers are asking on our discount. We have had this problem for the past year and a half. They have not been meeting the requirements that mortgage bankers of Oklahoma City need the points to even sell these homes and we have about 100 new ones each month on the market. This is really a serious concern for the broker in our area.

Senator HARRIS. What you said about the veterans is a point that we have not had up to this time in these hearings. Are there others here from the Board of Realtors that have anything to add? If not, I appreciate every one of you being here, and I think that your testimony is highly worthwhile.

Mr. Clyde Worthington is President of the Oklahoma Mortgage Bankers Association. Mr. Worthington, we would be very pleased to hear from you at this time.

TESTIMONY OF MR. CLYDE WORTHINGTON, PRESIDENT OF THE OKLAHOMA MORTGAGE BANKERS ASSOCIATION

I come here not so much as a spokesman of the Oklahoma Mortgage Bankers Association, but just as an individual mortgage banker and I have a prepared statement as just a private citizen.

Senator, on behalf of the Oklahoma Mortgage Bankers Association I wish to thank you for coming here today to get our views as well as those of others who share our concern in this problem of making adequate and decent housing available to the citizens of this community and the state of Oklahoma. I think Oklahoma has fared about the same as other parts of the country during this period of rising inflation and tight money market. We have seen an increase in land costs and construction costs. We have had increases in our ad valorem tax rates and insurance rates. We know that maintenance and repair costs on homes have increased to the point where some families have let their homes be foreclosed rather than try and maintain them. And we have also seen an increase in interest rates and discounts that have been a burden to both the buyer and the seller. All these things have combined to slow starts on new single family housing and have hindered and sometimes made impossible the sale of existing homes.

It is my view that Congress has been well aware of these problems and is now moving on several fronts to seek a solution. It will be my purpose to comment on some of the existing and proposed legislation and to advance an idea or two for whatever it might be worth.

I would first like to say that in some ways I think the current 8½ per cent interest rate on FHA and VA loans is something of a bargain in today's money market. When this rate is compared to current bank prime rates, yields obtainable on high grade corporate bonds, and returns of over 10 per cent investors are getting currently on loans made on other types of real estate investments—it is apparent that this is a favorable rate at this time. But this rate is now being subsidized by the home builder or by the seller of an existing property by the discounts investors require in order to make these loans produce a comparable yield. And, granted, it is a favorable rate for today's borrower, it is still a deterrent to his buying a home because of it producing such a high monthly payment for a long period of time.

I would also like to add that during all this period of tight money there has been money available for FHA and VA loans from most of our savings and loan associations and from all mortgage banking firms that do business with the Federal National Mortgage Association. This agency, which we affectionately call Fanny Mae, has been the salvation of the mortgage banking industry and just about the sole support of the residential loan market outside the savings and loan associations. In this connection we note that legislation is being proposed to permit Fanny Mae to purchase conventional residential loans. We support this move and feel that it will add considerably to the supply of money. We also feel that any interest subsidy programs made available to the Federal Home Loan Bank for middle income borrowers should also be made available to Fanny Mae. One of the major problems in our industry is the lack of interest by investors, such as life insurance companies and pension funds, in buying any type of loan on a single family residence. These investors have found more lucrative deals for their investment dollars in multi-family projects where interest rates of 10 per cent and more can be obtained in addition to provisions that permit the investor to participate in a percentage of the income. We are hopeful that these investors will recognize the need for placing at least a small percentage of their funds in single family loans and if not the Congress will study the problem. Since subsidies now seem to be the answer for the home buyer, it might be that subsidies or tax incentives might be the answer to getting these investment funds back into the housing industry.

On this matter of subsidies . . . we currently are experiencing a renewing of activity on the part of home builders to participate in the FHA Section 235 interest subsidy program. This program is designed to assist low income families to acquire a home, with the government paying a portion of the interest on the loan based on the applicants income. In some instances the buyer is required to pay only one per cent of the total interest cost. As worthwhile and well intentioned as this program may be, from our experience with it to this time, I feel it can be improved to more accurately and fully accomplish the purpose that I think Congress intended. I think the guidelines of this program and other programs that Congress now has under consideration should be drawn to assist low as well as middle income families to acquire a home at today's inflated prices. This aid should be only a small portion of the total interest cost and should be extended for a given period of time—say five years or terminated sooner if the buyer's income should reach a point where he was able to make the full payment. After 3 to 5 years the home buyer has had a chance to recover from his initial move-in expense, has probably made some improvement to the property and has acquired equity and stability in his employment to the extent he should be able to make the payment without taxpayer assistance. One of the problems I see in the current Section 235 program is basing the buyer's qualifications on income only. Why should a man making $6,500 per year with a wife and two children be qualified for government assistance on an $18,000 home, when a man making $6,750 with the same size family not be qualified because he is making too much money. What happens if the first man gets a $25 a month raise and is no longer eligible for government assistance? Will he be able to make the total payment? The second man making $6,750 will not likely qualify for the maximum FHA loan on an $18,000 home, even if he is willing to make the entire payment on the loan from his own income.

According to FHA underwriting procedures which I have no quarrel with, his income in relation to the monthly payment for principal, interest, taxes, insurance and proper maintenance and repair is not sufficient to make the payment and maintain his family, particularly if he is making monthly payments on his car or furniture. I suggest that Congress consider limiting the assistance on these programs to no more than one-half the current FHA interest rate. With the current rate at 8½ per cent, it would seem that any family with any desire and true motivation at all in wanting to own a home could pay a 4¾ per cent interest rate and let the government assist on the balance subject to the ability of the buyer to pay more, based on his income. This would help reduce the government's cost, expand and make the program available to more families and would assist families with a real desire to own a home that they could afford to pay for. This whole matter of subsidizing families in the ownership of single family homes should be carefully considered to determine first the family's actual need and that government assistance is the only manner by which the family can secure decent housing. And, second, the effect that this type program will have on existing properties and the extent of what these programs will be costing the taxpayers in years to come, as more and more families become dependent on it.

In this connection, I depart momentarily from my prepared remarks to add what I think might be some improvement in the administrative procedures of this Section 235 Program. Our office and every mortgage banker that I know of is literally swamped with applications for 235 loans. I could not say exactly what percentage are turned down, but it is a very large percentage and even those that are approved we have to process 2, 3 and 4 times to get all the information that the mortgage examiner at the FHA wants. I suggest that applicants for 235 go to a local FHA office, or if needed we

would handle it through our office, in order to receive a certificate of need. Their application would have been reviewed in the FHA office not by just one loan examiner but by a committee, and if they are certified as being in need of housing with government assistance, let them be issued a certificate that says that they can buy up to x number of dollars and the government will assist the payment to a certain per cent. It would seem to me that it would help a great deal in determining who can qualify on these programs.

On the matter of credit I would like to take this opportunity to state that the Mortgage Banking Industry feels that disclosure statements required by the Truth in Lending Regulations on FHA and VA loans are unnecessary. They are frankly misleading as to the borrower's actual cost and may in many instances be impeding FHA and VA sales. As you know, FHA and VA loans are made in strict accordance with regulations prescribed by these Federal Agencies. Interest rates, term of the loan, and ratio of the loan to value are controlled by these agencies. Therefore, we have a situation of where one Federal agency is requiring the people who are carrying out the requirements of another Federal Agency to prepare and explain a statement to the borrower that in itself is misleading as to what has actually been charged to the borrower.

In conclusion, Senator, I again express my appreciation and the appreciation of the Oklahoma Mortgage Bankers for your concern with our housing problems. Our government has made a commitment to see to it that every American family has a chance at owning or occupying decent housing. The task of eliminating ghettos and substandard housing will be monumental both in time, money and the ability of those who must do this job to find the ways and means of accomplishing it. We know that at the heart of our problem today is inflation and the involvement of our national resources in many equally vital and grave concerns of national interest. It is my hope that other members of Congress will show the same concern that you are and will come to the people who deal with these matters daily for their ideas and considered opinions on how we can solve our problems and legislation that will be in the best interest of all the people. Thank you.

Senator HARRIS. That was a very well thought out and a highly useful statement. Thank you very much.

Dr. Frank Cox is here. Dr. Cox is a dentist here in Oklahoma City and we asked him to come and be with us because of his wide knowledge of conditions in the City. He is interested in a broad range of social concerns.

TESTIMONY OF FRANK COX, D.D.S., OKLAHOMA CITY

Thank you, Senator Harris. I am very concerned about the high interest rates as they affect the new and the black entrepreneur. Currently, you know, there has been some rhetoric and discussion about getting the black man into the mainstream of American life and there have been programs devised for this purpose. I think that perhaps the most notable one is the MEP that has been devised by the SBA. Primarily, it is to help the black and other minorities get into the business of creating new businesses, provided that the amount of money that is lent is less than $25,000. Now, my concern is that in today's market for money, the interest rates are so high that anyone who gets a loan of $25,000, and has, therefore, a bank participating type of loan is really borrowing money at the highest rate of interest in the history of this country, with perhaps the exception of during the Civil War. Now, it means this: the lowest people on the economic front, the most unprepared people on the economic front, people who have the least amount of experience, are being placed into a money market where even those who know what they are doing are afraid to venture into. If there is any change whatsoever that takes the market down, the new black entrepreneur is going to find himself in a position that is completely untenable. The result of that, of course, will be predictable failure. Now, I have taken a look at the SBA program and I am certainly not an expert on money lending or money borrowing, but it is true that the program is devised in such a way that only the most qualified people are getting these loans. If my assumption is correct that any change in the economic picture results the failure of these people, in the future it will mean that as far as the black people are concerned that its most qualified, its most eager, its most ambitious people will be faced with financial problems for a long time to come, and they will be good examples of the inability of the black man to succeed in the world of economics. Now, I think they are in a poor position. I think that they need protections, because if they fail, I think the whole thing is going to crumble.

I suggested in the past, and am suggesting again because I cannot see any reason why it cannot be, that a special commission should be devised to be set up by the Federal Government. I think that this commission should have as its purpose the development of black entrepreneurship in this country. This country is, I believe, sort of existing on a half promise to itself, a promise that all the people have free access to its resources and the pursuit of happiness as the right of all Americans. But, as a matter of fact, the pursuit of happiness is being denied a large percentage of Americans. To those Americans that happen to be black, it is denied many times more. Therefore, when you come to this business of economic development, I think that this new black man, this awakening black American, should be protected. He should be protected because, if he fails, it will just mean that another failure is against our country. I do not think that this country can afford continued failure. Therefore, high interest rates to me are a very dangerous thing to the poor, to the black and to the new black American entrepreneur. If the special agency is set up, then it could have built into it those types of protections that any new fledgling member of our society needs. I believe that it would be beneficial to this country and certainly to black Americans.

That is really my biggest thing that I wanted to talk about while I am here, but I would just like to put another thought in your mind about the advantages of developing black Americans. Right now, 22 or 25 million blacks that are in this country are becoming polarized to a great extent socially, economically, and politically. I do not think there is very much you or I can do about it right now and this is sort of what is going on. But as they become polarized, they become more like one person. Like any other people who, because of some conflict, become more together as in time of war. Of course, as you know President Johnson was impressed with this idea, so much so that he named the work he attempted for the poor people as a War on Poverty. War has a way of bringing people together. The blacks are, in my estimation, in a war. There is a certain advantage it seems, however, in warring with the United States. It seems that the nations our country has participated in a war with, when it is over, they usually end up on top. A notable example, of course, is Germany. You know what is happening in Germany; the mark is now probably one of the most valuable pieces of currency in Europe. I understand we defeated the Japanese, but it would not look like it when you take a look at their economic development, especially if you compare it with the black American's development. It would seem the story written about "The Mouse That Roared" is quite true. If you really want to get ahead, you start a war. I am not so sure that Black Nationalists and the extremists do not have something like that in the backs of their minds.

At any rate, we are talking about 22, 25 or 30 million Americans, who are the exact counterparts of the people who form the majority and accept their plight. They have gone through the schools; we learned the economic and political system from the bottom up. We are part of it. We are Democrats, Republicans or whatever. We are part of this American system. We are more American than apple pie. If we think about the black Americans as a nation, I would think that this nation would want to deal with a nation as much like itself as it possibly can. The more like itself, the more likely it is to be compatible in the world to come. Now, the black Americans are very much like the white Americans. They need and want all the things that white Americans do. All they need is economic help. It is my plea that we think in terms of the black American as a nation, because we are. We are polarized into a nation. Think in terms as these, that when economic development is put into the black ghettos of America it is just as if you do the same thing with Germany or Japan or some other place. Except one thing which I think is very important—whatever dollars are developed in black America will not be going out of this country. They will be staying here and I think that is pretty important to the country. Those are the thoughts that I want to leave with you.

Senator HARRIS. Very eloquent thoughts, indeed, Dr. Cox. Our record would certainly be deficient without them. I appreciate your trouble in being here. Thanks a lot.

Mr. Richard C. East is President of the Oklahoma City Federal Savings and Loan Association. Mr. East, we are awfully glad you are here. We would be pleased to hear from you at this time.

TESTIMONY OF MR. RICHARD C. EAST, PRESIDENT, OKLAHOMA CITY FEDERAL SAVINGS AND LOAN ASSOCIATION

Thank you Senator.

Senator HARRIS. Mr. East you might introduce others who are with you from the Savings and Loan Industry and if they would like to be heard, we will be happy to do so.

Mr. EAST. Yes sir. Jim Calgan with State Federal Savings and Loan in Tulsa, and Mr. Charles Jones, Executive Officer of the Oklahoma State Savings League.

Senator HARRIS. We will be glad to hear anything you have to say about the economic conditions in the state, interest rates and how they may affect the Savings and Loan Industry and the economy generally.

Mr. EAST. Senator I can speak most directly, of course, about what happens in Oklahoma City and where we stand. I think that this will be fairly representative of the Oklahoma City area, as we are all about in the same boat everywhere. The industry at this point is just beginning to recover from a loss of funds that occurred to us late last year and the early part of this year in which government issues of bills were our principal competitor. The rates reached a point where the rate that could be paid on savings accounts was not competitive for our profit. In my own association in the early part of January we lost about 3 per cent of our total savings. Since that time, because of two or three things that have happened—a basic rate for one and a restriction on the denomination of treasury bills that could be issued—a substantial part of this money has begun to return to the savings and loan associations. In our case, where we lost somewhere in the neighborhood of 3½ million dollars in December and January, since about the first of February,

we had a net increase in savings of a little over 6 million dollars. We are pointed in the right direction to do something about the housing market and to again begin to rebuild our loan program. I think that, along with the fact we are improving our money supply directly, is the fact that some of the recent legislation in the area of secondary mortgages is going to be a big help to us. The program under which the Federal Home Bank System will provide a secondary market for FHA and GI loans, looks like it will provide a great deal of flexibility to the savings and loan associations never available to them before.

In our case, we have set out to do something about this area of the 203 programs, that is the regular FHA housing program, the GI programs and also at this time some apartment houses, and mobile home park loans under consideration that we could not have handled before, simply because we were not in a position to commit ourselves in advance to deliver three or four months in advance such large sums of money. Now, we can do it because we have this secondary market available to us as a relief valve type thing, if we need it. Our loan picture might be best described by some figures that I was working with earlier showing our place at a net increase loan volume. In spite of the fact that we actually made about 4½ or 5 million dollars in loans this first six months, the net figure was only something less than $50,000. This month so far we have increased this to, through the last weekend, $985,000 in loans and we are building or rebuilding this program so that just between now and the end of the year we will probably be able to close somewhere in the neighborhood of $2 million a month. Most of which will be in housing in one form or another. That is about where we stand as far as housing is concerned.

Senator HARRIS. That report will be very useful to us, and I appreciate it very much. I wonder whether Mr. Calgan would like to add anything to it. Mr. Calgan, we would be glad to hear from you. You are Vice-President of the State Federal Savings and Loan Association in Tulsa?

TESTIMONY OF MR. JAMES CALGAN, VICE PRESIDENT OF STATE FEDERAL SAVINGS AND LOAN ASSOCIATION IN TULSA

Yes, that is correct. I think Mr. East has outlined well the situation that we have suffered in the past and continue to suffer as far as our ability for our savings to compete with government obligations and the problems this has created with the availability of money for making home loans. I do not feel it necessary to go into that. We, in Tulsa, have become active in the lending program in the FHA and VA program, which involves the 235 loans as well, which does take into consideration, of course, the interest rate and the income of the families that are involved under those programs. We felt like for our association, that this was important because this lets some of the people qualify and obtain housing and loans that they might not be able to otherwise, because in addition to this providing relief as far as monthly payments and interest is concerned, it does help as far as some of the underwriting and qualifying criteria are concerned. We did notice in our area a great demand for the 235 housing and our appropriation in Tulsa ran short, as you probably know, before the fiscal year was ended and we had to get supplemental appropriations. We found that the demand has been good, the need has been there for 235 programs and it has been well received by the community overall. So we have in that regard attempted to become totally involved in the total housing needs of our community. We have done this through the 235 programs, the traditional FHA and VA programs and also through the Turn Key Programs which are provided through the Tulsa Public Housing Authority. The funding of HUD and their insurance release programs has, I think, helped during this tight money time, as it has been a great help in providing housing for the lower income families. I think that this is basically group work which you might like to add from Tulsa in addition to what Mr. East reported.

Senator HARRIS. Good. Well, I appreciate you coming all the way over here.

Mr. CALGAN. Thank you.

Senator HARRIS. That winds up our list of scheduled witnesses for the day. I wonder if anybody else would like to offer something at this time.

TESTIMONY FROM THE FLOOR OF MR. HAMPTON LAWTER

Senator Harris I am an educator here in the City and this is a very enlightening experience to be with you here today to listen to all the speakers. I would like to say that there are two things you mentioned this morning that I am interested in. Number one is the student loans. I would hope that this is extended and I hope this becomes easier to obtain because it is difficult sometimes. I have two sons and I hope the upper limit would be raised. It is a little bit too low now. I would hope, also, that the public could become aware of what I became aware of last year. In regard to buying a car, I did not realize that you could shop around and find different rates. I found out this year that you can, at a variation of interest rates of 1½ to 2 per cent. On a new car this amounts to quite a little bit of money over a one year period. I just wish the public could know about this. I think that maybe there needs to be a balance or something and also between finance companies and the banks. This is also the credit buying that is not mentioned until the last minute. I found this in two or three places and finally I got in the habit of asking exactly how much do you charge on $100. I could figure this out quickly.

Senator HARRIS. I thank you very much.

May I just wind up by saying that I appreciate very much every one who is here today. This has been a highly useful hearing. All of you who have left your names and addresses on our sheet will receive a copy of the testimony once we have it printed. I will take it back to the Senate Finance Committee, of which I am a member, and the other related committees. I think it will be very useful to me and others in working to stabilize the economy of our country, to loosen up on the supply of money and to bring interest rates down. The testimony we have taken here has been very worthwhile. I appreciate especially all those who have participated in the hearing and all those who have been spectators here this morning and this afternoon. Thank you all very much.

ELECTORAL REFORM

Mr. CURTIS. Mr. President, no Senator has given more study over a greater number of years on the subject of the election of a President than the distinguished senior Senator from South Dakota (Mr. MUNDT). Unfortunately, Senator MUNDT's health will not permit him to be here for this discussion. I do believe that because of the years of study that he has devoted to this matter, his opinion merits our attention.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter written to the junior Senator from Alabama, the Honorable JAMES B. ALLEN, by Senator MUNDT, dated October 14, 1969.

I also ask unanimous consent to have printed in the RECORD a table entitled, "Electoral College Strength of the States in 1968."

I further ask unanimous consent to have printed in the RECORD an article entitled, "The Constitutional Case for a State, District System of Presidential Electoral Reform," written by Senator KARL E. MUNDT, of South Dakota, and published on November 17, 1969, in the National Association of Manufacturers Report.

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

U.S. SENATE,
Washington, D.C., October 14, 1969.

Hon. JAMES B. ALLEN,
U.S. Senator,
Washington, D.C.

DEAR JIM: The House of Representatives has laid down a mortal challenge to the federal foundation of the Senate—the federal Union of States of the Constitution. This deadly challenge to federalism is inherent in the proposal of the House to abolish the States from Presidential elections. It reopens the political settlement of 1787 between the larger and smaller States.

As we know, that political settlement established the two Houses of Congress on dissimilar principles of representation: the federal principle of equal representation of States in the Senate; and the national principle of equal representation of people in the House. The people of each State are represented by two Senators and their voters choose both of them—one man, two votes. Each of the "People of America" (Madison's phrase) is represented by one Representative chosen by the voters of his Congressional District—one man, one vote. Thus, the Constitution's allotment is one man, three votes in electing members of the Houses of Congress.

These same principles of representation are combined exactly in the foundation of the Presidency. Each State is assigned one federal Presidential Elector with each of its two Senators, and one national Presidential Elector is apportioned with each of the 435 Representatives in Congress. Dual citizenship underlies the Presidency in the same way it underlies Congress. The House proposal would take away two votes from every citizen of every State.

To remove the federal pillar from the temple of the Presidency, as the House proposes through its approval of the direct popular vote Electoral Amendment is to distort the foundation and the structural balance of the Constitution. Unwittingly, it is a step toward the elimination of the Senate itself.

The elimination of the Senate as a coordinate House of Congress is not a new idea. The ways it mght be done were listed in a textbook on government more than 25 years ago. It was put this way in *The National Government of the United States,* by William Anderson, Professor of Political Science, University of Minnesota (1946, Henry Holt and Company, New York):

"Some day the question may arise, however, and the demand for a change may be great. Could it then be accomplished, or is this one point on which the Constitution cannot legally be altered?

"It has been suggested that it can be done legally by two successive amendments. The first would simply repeal the proviso that now prohibits an amendment depriving the States of equal suffrage in the Senate. The second would be an amendment to specify the number of Senators from each State, or the ratio in which they would be apportioned. Other measures that would achieve the same substantial results would be (a) a series of amendments taking from the Senate practically all its important pow-

ers, but leaving the Senate in existence as an almost functionless organ like the human appendix, or (b) an amendment abolishing the Senate—for equality in the Senate can have no meaning if there is no Senate."

Of course, the time for such is not yet. What about the long-term future?

Is this challenge to federalism in the proposal of the House a first step toward abandonment of the federal-national foundations of the Constitution, our unique and original contribution to the art of Politics? I am sure most of its proponents have no such intention. I am equally sure, however, that among the supporters of breaking down the authority of the United States Senate as presently constructed. Is such a radical restructuring of the Constitution necessary to a proper reform of the manner of electing a President? Certainly not.

The simple structure of the Constitution prescribes the reform needed. That prescription is the election of National Electors in Districts to represent people, just as Representatives and Senators are elected to represent people and areas. The present statewide election of these Electors is the disease to be cured. The remedy will remove the dishonest distortion created by their election statewide as a group, a distortion that is a travesty on our system of Representative Government.

As a member of the federal House of Congress, I am anxious to maintain the federal component of the Presidency. If the States have no part in a President's election, what political obligation has he to protect them?

The ultimate hurdle to be taken by the Constitutional Amendment proposed by the House is ratification by 38 State legislatures. The question certain to be raised in most of them is: Shall this Legislature tell our people that their vote is to be diminished? That they must conform to the "one man, one vote" slogan of the big cities by giving up their two votes as Citizens of this State?

Any thirteen States can defeat the proposal.

The five smallest States will lose two-thirds of their present Constitutional force in Presidential elections if the direct election should carry. Another ten States will lose half of theirs, two more, two-fifths, and another three, one-third. Among these twenty States, only Arkansas is in the South, a region believed to oppose the direct election proposal.

The attached tabulation shows the electoral strength of each State in national and federal Electors and the federal percentage of the total that would be wiped out in a direct popular election. Arranged in the ascending order of national Electors, the ratification problem is clear. In fact, so clear as to suggest that the direct election movement is not intended to succeed but to postpone for many years any reform of the Electoral College.

Unfortunately, commingling of the federal and national electoral votes has obscured their separate and distinct origins. My Senate Joint Resolution 12, for which I have seventeen co-sponsors, Democrat and Republican, would write these distinctions into the Constitution so all could see them.

If passed by Congress, S.J. Res. 12 would be quickly ratified by the State Legislatures and be effective in 1972. It would be ratified because it stands four-square with the structure of the Constitution and corrects the existing inequities, inequalities, and uncertainties of our present winner-take-all Electoral procedures. And—S.J. Res. 12 does this without creating any new inequities and uncertainties in the election of our Presidents.

I strongly and respectfully urge you to avoid making a hasty and ill-considered commitment to support the House proposal for electing our Presidents by a plurality of only 40% of the people voting in a direct vote for President in the United States before "all the evidence is in" and before the far-flung ramifications of such a substantial change in our Federal System are most carefully considered.

Increasingly, columnists, editorial writers, and students of Government from all aspects of our political spectrum are raising serious doubts and expressing skeptical reservations about either the desirability or the necessity of so sharply and suddenly altering the basic Constitutional concepts which have served this country so well for so long. Among them are such observers as Max Lerner, David Lawrence, Richard N. Goodwin, Jack Knight, Ted White ("The Making of a President"), and Gould Lincoln. Others will be speaking out before long.

In addition to its destructive impact upon the Tenth Amendment and our entire Federal structure, the direct-vote for President creates other new problems, inequities, and uncertainties which we must fully understand before permanently "breaking with history" in our Presidential elections which over nearly two centuries have provided us with leaders and sustained principles of Government which have enabled America to succeed where others have failed and to enjoy a longevity and stability which others have lacked.

Among these new problems are such as: Under the direct-vote approach, how can we prevent widespread corruption in one State, or city, or area from determining the National Presidential outcome? (At present, at worst, they affect ONLY the electoral votes of the State in which corruption occurs.)

How can we retain our cherished and productive two-party system when the National votes of every candidate running for President (with or without support of a 3rd, 4th, 5th, or 6th party organization) are blazoned across the Nation on election night, thus encouraging more and more off-beat or minor-party candidates to run for President? (The proponents of the direct-vote proposal realize this without admitting it when they suggest the departure from "majority rule" and openly propose declaring as winner any candidate receiving as much as only 40% of the vote.)

How about those National Presidential run-offs when the proliferation of parties and the splinterization of votes results in no Presidential candidate getting even 40% of the vote? Figure this out for yourself: November 6th or 7th is about the average date of a Presidential election; so nobody gets 40% and a run-off becomes necessary. Allow a minimum of 2 or 3 weeks for the candidates in the run-off to rest up, to get refinanced, to re-establish their campaign organizations, and certainly a minimum of an additional three weeks will be required for the campaign itself if candidates are to make a national appeal instead of concentrating on 20 or 30 cities with vast groups of voters. The result? The run-off Presidential election will come in December, uncomfortably close to Christmas, and in many States among the storms and blizzards of dead winter.

Should top-heavy majorities in a few cities, or States, really be entitled to invalidate and nullify the smaller but frequently much more numerous majorities rolled up for one candidate or another in traditionally two-party States? Should we really place such an important premium on the ability of pressure groups, ethnic blocs, geographical areas, sectional interests, or political machines to roll up overwhelming majorities of 80 to 90% of those participating so that they can virtually obliterate the more reasonable majorities procured by a Presidential candidate in States and areas where voters make a more deliberate and objective choice?

Other pertinent objections will be raised when this historically significant issue reaches the Senate floor.

For the present, I sincerely hope that you and your staff will consider the far-flung ramifications of this proposed departure from our highly successful American history both objectively and thoroughly before becoming committed to a proposal which sounds very good when you say it fast but which has some frightening potentialities when you consider it carefully. As one who for more than 20 years has been trying to improve our Electoral College system without destroying it, I have taken the liberty of sharing with you some of the problems I envision in the House Electoral Reform proposal.

Thank you for permitting me to bring these matters to your personal attention, and I shall deeply appreciate any comments you might desire to make in reply.

With every good wish, I am

Cordially yours,

KARL E. MUNDT,
U.S. Senator.

ELECTORAL COLLEGE STRENGTH OF THE STATES IN 196 WITH FEDERAL AND NATIONAL ELECTORAL VOTES SEPARATED BY STATES[1]

[Average strength is 10.7 votes]

State	Number of votes			
	Total	National	Federal	Percent
STATES BELOW AVERAGE—33				
Alaska	3	1	2	66.7
Delaware	3	1	2	66.7
Nevada	3	1	2	66.7
Vermont	3	1	2	66.7
Wyoming	3	1	2	66.7
Hawaii	4	2	2	50.0
Idaho	4	2	2	50.0
Maine	4	2	2	50.0
Montana	4	2	2	50.0
New Hampshire	4	2	2	50.0
New Mexico	4	2	2	50.0
North Dakota	4	2	2	50.0
South Dakota	4	2	2	50.0
Utah	4	2	2	50.0
Arizona	5	3	2	40.0
Nebraska	5	3	2	40.0
Arkansas	6	4	2	33.3
Colorado	6	4	2	33.3
Oregon	6	4	2	33.3
Kansas	7	5	2	28.57
Mississippi	7	5	2	28.57
West Virginia	7	5	2	28.57
Connecticut	8	6	2	25.0
Oklahoma	8	6	2	25.0
South Carolina	8	6	2	25.0
Iowa	9	7	2	22.2
Kentucky	9	7	2	22.2
Washington	9	7	2	22.2
Alabama	10	8	2	20.0
Louisiana	10	8	2	20.0
Maryland	10	8	2	20.0
Minnesota	10	8	2	20.0
STATES ABOVE AVERAGE—17				
Tennessee	11	9	2	18.18
Georgia	12	10	2	16.67
Missouri	12	10	2	16.67
Virginia	12	10	2	16.67
Wisconsin	12	10	2	16.67
Indiana	13	11	2	15.38
North Carolina	13	11	2	15.38
Florida	14	12	2	14.29
Massachusetts	14	12	2	14.29
New Jersey	17	15	2	11.76
Michigan	21	19	2	9.52
Texas	25	23	2	8.7
Illinois	26	24	2	7.66
Ohio	26	24	2	7.66
Pennsylvania	29	27	2	6.9
California	40	38	2	5.0
New York	43	41	2	4.65

[1] Measurable loss of constitutional weight in presidential elections by popular vote is the Federal component, the 2 votes each State is assigned with its Senators. The national votes apportioned with Representatives would be replaced with popular votes; and the relative strength of a State would depend on the turnout of voters.

THE CONSTITUTIONAL CASE FOR A STATE, DISTRICT SYSTEM OF PRESIDENTIAL ELECTORAL REFORM

(By KARL MUNDT, Republican Senator from South Dakota)

The Constitution of the United States was 182 years old on Sept. 17, 1969. On Sept. 18

of this year the House of Representatives, seeking to remove inequities from Presidential elections, proposed that a President be elected by 40 percent of the nationwide popular vote, with a runoff if necessary. Unwittingly, the House has laid down a mortal challenge to the Federal structure of the Constitution and to the foundation of the Senate. This challenge goes to the heart of the political settlement of 1787 between the large and small states which is the bedrock of the Constitution.

The Constitutional Amendment passed by the House—the so-called "popular vote" system—would completely restructure the bases of the Constitution. Its certain consequences are more than minimal. It would, among other things:

Undermine state authority in Presidential elections, thereby taking two votes from every citizen of every state.

Subvert the doctrine of separation of powers by giving Congress power over Presidential election.

Substitute minority rule for majority rule, undermining the two-party system which depends ultimately on majority rule.

Fragment the two major parties and further dissolve the links connecting their Presidential campaigns with their campaigns for seats in the House and Senate.

Almost double the cost of Presidential campaigns whenever the runoff is used.

These are some of the side effects of the direct election plan. The Constitution's structure is allergic to it.

In the Senate, conversely, the Subcommittee on Constitutional Amendments has reported an Amendment to the Judiciary Committee that is wholly in keeping with the structural plan of the Constitution. It has the limited purpose:

Of requiring the State Legislatures to conform the manner of election of Presidential electors, in their respective states, to the structure of the Constitution, and abandon the long-time practice of statewide election of all of each state's electors (in the vernacular "winner take all").

Of moving the contingent election (when no one has an electoral majority) from the House of Representatives, voting by states, each state having one vote, to a joint session of the House and Senate with each member having one vote.

Of binding the electors to vote for their party candidates.

Affecting no other part of the Constitution, this amendment could have no Constitutional side-effects.

Given a clear understanding of the structure of our Constitution, I believe most Senators and Representatives would reject out of hand any scheme to restructure it and the political society it shapes. Given that same understanding, I believe businessmen will support their Senators and Representatives in preserving our Federal Republic.

It is not to excuse ourselves that we may blame the incredible momentum of the direct election movement on government intervention in business affairs. It is true that government intervention has had many side-effects on businessmen and on members of Congress for 35 years. The saddest of these side-effects, I think, has been the extraordinary demands on our time, by so many particular things, that little or no time has been left for study and reflective thought about the few general questions that basically shape every aspect of public affairs and too much of our private lives. But, a host of important particulars do overwhelm the conduct of our businesses and our work in Congress.

The prospect for lessening this government intervention will not brighten until the political conditions that brought it on and nourished it are changed. The most important change would be to make the Presidency representative of the people of the United States, just as the two houses of Congress are representative of them. That is the structural plan of the Constitution. However, there can be no improvement so long as the Executive Branch of the national government is dominated by the bloc voters of the big cities of our larger states. Ever since the big cities came to power in 1936 their political traditions—out of European social democracy—have colored the view from the White House, no matter whether the Administration was Democratic or Republican.

If we back up far enough we can often get a better view of the road we have traveled and of the road ahead. Basic questions about the Constitution require this. In just looking backwards we tend to see things in reverse. We have to back up and then look ahead.

"Your sentiments, that our affairs are drawing rapidly to a crisis, accord with my own . . . what then is to be done? . . . Would to God that wise measures may be taken in time to avert the consequences we have too much reason to apprehend."

"The United States enjoys a scene of prosperity and tranquility under the new government, that hardly could have been hoped for."

These are observations of George Washington, about five years apart. The first was in 1786, a year before the Constitution, and the second in 1791, two years after he became the first President. Much happened in those five years. Rather, much was brought about.

Five years before the Constitution, during the chaos that followed the War for Independence, Alexander Hamilton posed the alternatives that forever will be before us:

"Happy America! If those to whom thou has intrusted the guardianship of thy infancy know how to provide for thy future repose; but miserable and undone, if their negligence or ignorance permits the spirit of discord to erect her banners on the ruins of their tranquility."

We Americans are widely renowned for our "know how" in manufacturing, more so than in any other field of endeavor. But the "know how" Hamilton had in mind was in politics and statecraft. "It was he, more than any other man," said New York's Chief Justice Ambrose Spencer (1819–23), who had known him well, "who thought out the Constitution of the United States and the details of the government of the union. . . . He . . . did the thinking of the time." Yet, it was the towering figure of George Washington who supported him at every turn. Also the business leaders of the day. Without this support it is doubtful that so much could have been brought about so quickly.

The framing and ratifying of the Constitution is a more than fascinating story. It is enough for us here to point out what they did in forming "a more perfect union," structurally.

Our part of the story begins in 1774 with the Continental Congress. It was the Federal legislature of the 13 English colonies in North America, changed in 1776 to the 13 United States of America in the Declaration of Independence, and carried forward as the United States of America in the Articles of Confederation in 1781 and the Constitution in 1787. Being strictly a Federal body, each sovereign state was considered a co-equal political society, equally represented in Congress by its one vote. This sovereignty was ceded to each of them, by name, by His Britannic Majesty in the treaty which ended the war.

The Constitutional Convention also was a Federal body in which the voting was by states with one vote each. There a Congress of two houses, a House of Representatives and a Senate, was readily agreed upon. Also readily agreed to was that the House was to be representative of people. The crucial question was that of representation in the Senate.

Deputies from the larger states wanted representation in proportion to population (more senators), and deputies from the smaller states wanted the equal representation that they enjoyed in the existing Congress and in the convention in which they were sitting—for their own protection in the union. This intense struggle almost wrecked the convention. Finally it was agreed that each state should have two senators with one vote each—equal representation of the states in the Senate became a fact.

This was the political settlement between the larger and the smaller states on which the Constitution is founded. Without it there would have been no Constitution. Some call this political settlement "the Great Compromise." But, with a friend who suggested it, I prefer to call it "the Great Discovery." The convention, under the force of necessity, had discovered how to bring separately organized political societies under one great national roof. Neither the Greeks nor the Romans nor the British had been able to conceive of dual sovereignty and dual citizenship, of many states and one nation. This political settlement, this "Great Discovery," is our own original contribution to the knowledge of statecraft. It makes us unique in all the annals of mankind.

In the light of this development it is not strange that today Delaware has one representative and two senators, and that New York has 41 representatives and only two senators. Nor is it strange that the nine largest states have 223 representatives, a majority, and 18 senators, while the 26 smaller states have 52 senators, a majority, and only 76 representatives. Without this background knowledge—the reasons for the things done—the whole idea appears ridiculous.

Once the business of representation in the houses of Congress was settled the proposal that each state have one elector of President for each senator and one for each representative was quickly accepted by the convention. The whole plan of representation in Congress, and in the executive and judicial branches was well summarized in 1788 by John Dickinson, who had been a deputy from Delaware:

"In the Senate the sovereignties of the several states will be equally represented; in the House of Representatives the people of the whole union will be equally represented; and in the President and the Federal independent judges, so much concerned in the execution of the laws and in the determination of their constitutionality, the sovereignties of the several states and the people of the whole union may be considered as conjointly represented."

In demonstrating that the proposed new government was strictly republican, James Madison had this to say about its sources of power, in The Federalist No. 39:

"Each state, in ratifying the Constitution, is considered as a sovereign body. . . . In this relation, then, the new Constitution will, if established, be a Federal, and not a national constitution . . .

"The House of Representatives will derive its powers from the people of America; and the people will be represented in the same proportion, and on the same principle, as they are in the legislature of a particular state. So far the government is national, not federal. The Senate, on the other hand, will derive its powers from the states, as political and co-equal societies; and these will be represented on the principle of equality in the Senate, as they now are in the existing Congress. So far the government is Federal not national. The executive power will be derived from a very compound source. The immediate election of the President is to be made by the states in their political characters. The votes allotted to them are in a compound ratio, which considers them partly as distinct and co-equal societies; partly as unequal members of the same society."

As Dickinson and Madison make clear, the United States of America was to be a union of States and people. The Constitution had continued the union of states as the Senate, and added the union of the people of America by establishing the House of Representatives. These two unions—double representation—are joined in every Act of Congress. All this is done in Article I of the Constitution.

In order to establish the executive power on the same bases as the legislative power—and to separate them at their common sources—the Constitution assigns each state two presidential electors with its two senators, and apportions one elector with each representative apportioned to its people. This is the provision of Article II:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the Congress; but no senator or representative or person holding an office of trust or profit under the United States shall be appointed an elector."

I emphasize the clause "in such manner as the Legislature may direct" because it is the source of our problem. Under it the Legislatures have required that the national, or representative electors be chosen statewide with the Federal, or senatorial electors. This is a clear and violent distortion of the Constitution's structure.

It is worthy of note that a dozen states, including New York, require the political parties to nominate one elector candidate for each Congressional District. This is a faithful adherence to the principle of representation of people in proportion to numbers. Here is the provision of New York's Election Law:

"Section 131–1. Party nominations for the office of elector of President and Vice President of the United States, one for each congressional district and two at large, shall be made by the state committee."

But the whole thing is distorted out of all proportion by the provision for their election:

"Section 290. . . . as many electors of President and Vice President of the United States as this state shall be entitled to, shall be elected by general ticket, and each voter in this state shall have the right to vote for the whole number."

New York's "whole number" of electors in 1968 was 43, made up of two Federal electors nominated at large, plus 41 national electors nominated for the 41 Congressional Districts. Because of "the right to vote for the whole number" each New York voter cast 43 votes in last year's Presidential election. Under the structural plan of the Constitution each New Yorker would be entitled to vote for two at large Federal elector candidates and only one national elector candidate—for a total of three electoral votes.

"What effect," you may ask, "would the structural plan of the Constitution have had on the 1968 Presidential election?" The answer will surprise you.

Under the present system the Republican Party elected 302 Presidential electors, the national Democratic Party elected 191 and the third party elected 45.

On a state and district basis (the structural plan of the Constitution) the Republican elector slates won 32 states and carried 226 Congressional Districts, for a total of 290 "electoral votes." The Democratic elector candidates won 14 states and carried 163 Congressional Districts, for a total of 191 "electoral votes." And the third party elector candidates won five states and carried 47 Congressional Districts, for a total of 57 "electoral votes. The Republicans would have won 12 fewer "votes," the Democrats exactly the same number, and the third party would have won 12 more than they did. The result of the election would not have been changed. These are the net gains and losses.

Now come some measures of the distortions of the general ticket in the present system. The Democratic elector slates carried 62 Congressional Districts in the states they lost and failed to carry 62 Congressional Districts in the states they won. The Republican elector slates carried 63 Congressional Districts in the states they lost and failed to carry 75 Congressional Districts in the states they won, for a net loss of 12. The third party elector slates carried 15 Congressional Districts in the states they lost and failed to carry three Congressional Districts in the states they won, for a net gain of 12, all in the South.

The Democratic elector slates carried 17 Congressional Districts in California, a state they lost. The Republican elector slates carried 20 Congressional Districts in New York, a state they lost. The net difference between the two parties is only three. But the people in 37 Congressional Districts in these two states were grossly mis-represented in the election under the present system by having their presidential votes cast for the man they opposed.

Clearly, there would have been no advantage to either major party under the structural plan of the Constitution. The small advantage to the third party is not much. However, and this is vitally important, if, as I propose, a contingent election is moved from the House, as at present, into a joint session of the Senate and House, with member having one vote, the prospect of a third party denying a majority of the electoral vote to a major party, and forcing a contingent election by Congress, would be more remote than ever before. Third parties have no members in the Senate and House of Representatives. They would have nothing to gain.

The shapes of our political parties are imposed by the structure of the Constitution, just as water takes the shape of its containing vessel. Everyone should realize that the parties in Congressional Districts nominate and strive to elect representatives in Congress. The state parties nominate and strive to elect United States senators. And the national parties—extralegal coalitions of state parties—voluntarily convene every four years to nominate candidates for President and Vice President. They put on nationwide campaigns. But the actual election contests are within the states between party slates of elector candidates. These run statewide in each of the 50 states.

The goals of party Presidential campaigns are victories in the larger states with large blocs of electoral votes being obtainable on a winner-take-all basis, while the goals of the parties' Senate and House campaigns are quite different. A party's campaign for Senate seats is bound to regard smaller states as valuable as the largest state because all are equal in the Senate. A party's campaign for House seats is bound to regard each Congressional District as equally valuable because they are all equal. Of course the party's chances of winning must be taken into account in each district and state. It can't go all out in a hopeless state or district. The problem of the parties is how to coordinate and correlate their Presidential campaigns with their campaigns for Senate and House seats when their goals are so different. The situation would be far worse were the Presidential campaigns aimed at winning only 40 percent of the vote in a mass popularity contest.

Conversely, how simple it would be to coordinate and correlate the three kinds of campaigns if they had common goals. With one national election in each district the Presidential candidates would strive to carry a majority of the 435 districts. They would quickly relate their campaigns to those of the most important men in the districts. These are his party's candidate for the House of Representatives and his supporters. House candidates would automatically rise to their highest point on the totem pole. Presidential candidates would quickly recognize their dependence on their parties in the districts; and this would make for closer relations between House members and a President of their party.

Similarly with Senate candidates. With two Federal electors to be chosen in each state the Presidential candidates could not without risk favor the larger state over the smaller state. The Presidential contest would be spread much more evenly over the whole country. This, too, would make for smoother relations between the Senate and the White House. Party campaigns for President, for the Senate and for the House could be coordinated and closely correlated. Campaign costs could be drastically lowered because every dollar would be spent on the common goals of winning a majority of the states and a majority of the districts. More often than not the party of the successful Presidential candidate would be in the majority in the houses of Congress.

Strong parties require strong and able men at all levels of leadership. Such men are attracted to important posts in the parties. In a district and state system of Presidential elections the district chairmen of the parties would be most important in the party hierarchy.

I hope I have convinced you, my reader, that the Constitution prescribes the badly needed reform of the manner of choosing electors of President and Vice President. Certainly the awful distortion of Presidential elections produced by the statewide general ticket for electors is an appalling travesty on representation in choosing the Chief Executive of the Government of the United States.

AIR PIRACY

Mr. MATHIAS. Mr. President, at this time all Americans stand united in outrage at the reckless acts of air piracy that have caused American citizens to be held hostage by a band of self-styled insurgents claiming a law unto themselves. This act is one of the most cynical examples of political blackmail that I have yet witnessed. Thirty-eight citizens of this sovereign country—men, women, and children—have, for 15 days thus far, been held prisoner by forces who choose to regard the United States as the enemy and its citizens as negotiable chattels. It is reminiscent of the attitude toward human life of history's worst regimes and it is a situation that this Government simply can not tolerate.

There is a convincing body of argument that holds that hijacking and similar acts by Arab extremists are a part of a systematic effort designed to brand the United States as the enemy of the Arab people. If this is in fact the objective, it will not succeed. All responsible governments, Arab and non-Arab, however, they may otherwise view this crisis-ridden area, have joined in condemning this piracy. Indeed, I am informed that most of the Fedayeen organizations have joined this denunciation. At the same time, it is unfortunate that legitimate Arab governments have been powerless to control lawless insurgents who are bent on exacerbating an already explosive situation and eliminating altogether any possibility for a peaceful set-want violence. They do not seek comtlement. They do not want peace, they promise they demand revenge. As we have noted in our own country, it is the

brokers of violence who do the greatest disservice to their own cause.

I have met with the Prime Minister of Israel, Mrs. Golda Meir, along with a number of other Members of the Senate. This meeting, which included a broad exchange of ideas, has reinforced my conviction that our preoccupation with Southeast Asia has diverted us from areas like the Mideast, where, in my view, American's vital interests are more directly at stake. Hence, to some degree, the plight of the hostage results from this misalinement of priorities. By focusing so long and so exclusively on Southeast Asia we have encouraged the development of a climate favorable to the forces of extremism and prejudicial to the elements of responsibility and moderation.

The vital imperative of developing techniques to prevent hijacking is clear to all Americans and I shall in the next weeks give my fullest support to the most comprehensive and effective measures to this end.

Among other things, I shall urge that: First, guards be posted on appropriate planes; second, the United States negotiate to make hijackings an international crime requiring extradition of the hijackers; and, third, the United States place an air embargo on all countries harboring hijackers and on the other countries whose airlines continue to land there.

At this moment, however, our overriding objective is to secure the release of captive American citizens. I recognize the wisdom of quiet diplomacy and muted tones as being frequently the most effective technique to secure our interests abroad. I and my staff have been in touch with the White House and the State Department in connection with this crisis, and I deeply admire their tireless and dedicated efforts in this fast-moving situation. It is my view, however, that the time for quiet diplomacy has passed and that what is now needed is a clear and unequivocal statement that the United States will not abide the detainment of its citizens. We are not belligerents in this tragic conflict however much the hijackers try to place us in this role. Accordingly, I have recommended to the White House and the Department of State that a very strong message be conveyed to the captors pointing out the gravity of their actions and making it clear that, if our citizens are not quickly released, we will have no choice but to consider extreme alternatives for which the hijackers must bear full responsibility.

More than 150 years ago, President Thomas Jefferson sent naval forces under Commodore Stephen Decatur, of Maryland, to put an end to the extortion of Barbary pirates who were exacting tribute from all shipping that dared to pass their shores. Though the United States was only a fledgling nation, Jefferson, in his wisdom, knew that the piracy had to be ended once and for all lest all American shipping everywhere be subject to such jeopardy. I see today a striking parallel to this historic situation and believe that the United States must now be firm and decisive if we are to be spared an epidemic of air piracy and the prospect of widespread exploitation of American citizens.

SCHOOL BUSING

Mr. JORDAN of North Carolina. Mr. President, I think that every Senator will agree that my North Carolina colleague (Mr. ERVIN) is not only the Senate's foremost authority on constitutional law but also among its most steadfast champions of individual rights and liberties.

It is in that light that I speak now of action he is taking to counter what I consider the most serious threat to public education in our time—the forced busing of students to achieve arbitrary levels of race integration.

Senator ERVIN, acting in the role of an attorney rather than as a legislator, plans to file a brief before the U.S. Supreme Court challenging the legality of such busing requirements under the Civil Rights Act of 1964.

While directly representing only parties involved in a Charlotte, N.C., school case, he will actually be speaking for every child anywhere in the country who is forced to leave a neighborhood school for a more distant classroom, for every teacher who suffers from the educational disruption, and for every school official whose system is forced into chaos.

He will speak, too, for Congress whose clear intent has been ignored in the efforts to impose forced busing requirements.

I am not a lawyer and for that reason could not join in a legal brief of this nature before the Supreme Court.

I am, however, in total accord with the position he is taking and am proud to associate myself with it in this fashion.

The rightness of that position seems crystal clear to me under the language of the Civil Rights Act which says:

> Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve racial balance in any school by requiring the transportation of pupils or students from any one school to another or one school district to another in order to achieve such racial balance or otherwise enlarge the existing power of the court to insure compliance with Constitutional standards.

This section of the law has not been repealed or amended.

I also feel very strongly that racial-balance busing is educationally unsound and economically unjustifiable in addition to its legal faults.

I think the destruction of the neighborhood school concept is unconscionable and a violence to the rights of black students and their parents as well as whites.

What is now happening could have been avoided if the Senate had adopted in 1968 or last year an amendment to the HEW appropriations bill forbidding the use of Federal funds for busing, school closures, or other measures beyond those required by the Civil Rights Act.

I supported that amendment strongly in both years and cosponsored with Senator ERVIN a similar amendment this year to the Elementary and Secondary Education Act.

I fervently hope that the Supreme Court will sustain his challenge and rule accordingly on the Charlotte appeal which it now has under review.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 a.m. tomorrow.

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

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HUGHES). Pursuant to the previous order, the Chair now lays before the Senate the unfinished business which the clerk will state.

The legislative clerk read as follows: Senate Joint Resolution 1, proposing an amendment to the Constitution of the United States relating to the election of the Presiden and the Vice President.

The Senate resumed the consideration of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAYH. 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. BAYH. Mr. President, Senate Joint Resolution 1, the pending business, has been before the Senate since the day before its recess for Labor Day.

It has been the subject of active debate or potentially active debate since the Senate returned from its Labor Day recess.

Mr. President, as every Member of the Senate knows, and as the Senate is certainly painfully aware, the issues encompassed in Senate Joint Resolution 1 have not been a matter of the national interest only for this period. Rather, I think these issues have been on the minds of the most astute citizens and particularly on the minds of those who are acutely aware of the functioning of our political process for a considerably longer period of time.

For those who have forgotten, let me suggest that we cannot afford to forget the near flirtation with tragedy that occurred on election eve in 1968 when, if there had been a change of less than 42,000 votes, we would have elected no President at all on Election Day. With that change, we would have seen either

Mr. Nixon nor Mr. Humphrey have a majority of the electoral college votes, and we would have given to Governor Wallace the position of power broker. With signed affidavits from some 46 electors who were pledged to do his bidding, he could have in essence auctioned off the Nation's highest office to the highest bidder.

I have been told by some of my distinguished colleagues, "Well, now, this really never has happened. So we really should not worry about it." I suggest it borders on the irresponsible to suggest that because one is almost run over by a drunken driver, that driver should not be arrested and put in jail to keep him from running over someone else.

We have averted tragedy before. Three times previously in national elections, we have seen the shortcomings of the electoral college vote actually come to pass. We had Presidents of the United States elected with fewer votes than the men they were running against.

One of the great strengths of the Senate is that it affords an opportunity to share camaraderie at the same time we differ from our colleagues. I suggest with all due regard to those sharing different views that to permit a man to be elected with fewer votes than his opponent is to enable the power broker, whether from the right or from the left, who has only a handful of votes, to actually determine who shall be the President of the United States.

It is a system which enables votes cast for one candidate in a State at the popular vote level to be cast in actuality for his opponent when the electoral votes are cast.

This is not the type of system which brings credibility to the system of government in this space age in which we live.

Mr. ERVIN. Mr. President, will the Senator from Indiana yield at that point?

The PRESIDING OFFICER (Mr. ALLEN). Will the Senator yield to the Senator from North Carolina?

Mr. BAYH. I will be more than happy to yield to my friend, the Senator from North Carolina, if he will permit me to conclude my rather brief opening remarks. I will not only yield the floor temporarily, but will yield for the rest of the day so that the Senator from North Carolina and some others might debate the matter further.

It has deeply concerned the Senator from Indiana that a President elected under this system without a plurality—legally elected, if you please—would be sorely pressed to govern effectively, to have the credentials and the competence necessary to govern the country.

For that reason the Senator from Indiana hopes that his colleagues will see the wisdom of giving the people the right once and for all of voting directly for their President and Vice President in a direct popular vote. Only that system guarantees that the people participate directly in the system without some intervening formula or agent.

Only the direct popular vote guarantees that a person's vote is counted for the man for whom the vote was cast and has the equal weight with every other vote in the outcome.

Only a direct popular vote guarantees that the man who gets the most votes wins.

I recognize the right of every one of my colleagues to differ with my opinion and to speak about another system they might prefer. But even though they do not share my feelings about electing the President, even though they may be unalterably opposed to a direct popular vote, even though they may feel that the average citizen is not intelligent enough or dedicated enough to vote for his President and Vice President, I would hope that they would nevertheless recognize the significance in this day and age of refusing to let the Senate of the United States vote on it. This is the type of occurrence that fans suspicions and threatens the very foundation of our society.

Mr. President, I have a few concluding remarks and then I will be glad to yield to the Senator from North Carolina for a question, or to yield the floor.

This matter has been on the floor now and has been available for discussion for 2 weeks or so. We went through the ordeals last week of a cloture motion that was initiated by our distinguished minority leader. At that time certain Members of the Senate felt that we had not had a long enough period in which to debate this issue.

The Senator from Indiana would suggest that, considering the length of debate that we have seen throughout this session on other matters, he can understand—not necessarily agree with, but understand—those contentions. But the Senator from Indiana finds it very difficult to understand why there has been so little debate, if indeed any debate since the rejection of the cloture motion from some of those who protested the loudest about the inadequacy of the time for debate.

So, Mr. President, the Senator from Indiana suggests that there be debate. I think the proponents have adequately, if not eloquently, presented a case.

From time to time we may want to answer the analysis of Senate Joint Resolution 1 offered by the loyal opposition. But it is time for those who feel that we have not had enough time to debate the matter, and who are committed to further debate in the Senate, to debate the matter so that the people of the country have a chance to know all about the legislation that is now before Congress.

Let us put the record straight. The proponents of Senate Joint Resolution 1, electoral reform, have made a case.

I am anxious to see what the opposition has to say. I am glad now to yield to the Senator from North Carolina, for a question or to yield the floor.

Mr. ERVIN. Mr. President, my question concerns the statement of the Senator from Indiana that we have had three crises in this Nation which demand adoption of Senate Joint Resolution 1 as part of the Constitution.

My question is: What three crises have we had in this country to which the Senator refers?

Mr. BAYH. The Senator from Indiana hates to provoke his friend from North Carolina by any remarks he makes, but the RECORD will show that the Senator from Indiana said there have been three times when we elected a President who had fewer votes in the election than the man against whom he was running: John Quincy Adams-Andrew Jackson, the first election between Samuel Tilden and Rutherford B. Hayes, and the Benjamin Harrison-Grover Cleveland election in 1888.

Mr. ERVIN. My recollection of history does not agree with that of the Senator from Indiana. My recollection is that only one time in the history of this Nation has a President who received a plurality of the popular vote been defeated in the electoral college and that was the second time Grover Cleveland ran. He got 100,000 more popular votes than Benjamin Harrison, but Benjamin Harrison received a majority of the electoral vote.

Mr. BAYH. I want to make sure the Senator from North Carolina did not misunderstand what the Senator from Indiana said. I said there were three occasions when the man who finally ended up in the White House received fewer votes than his nearest opponent in the election. That is what the Senator from Indiana said.

The record will demonstrate that John Quincy Adams got fewer votes than Andrew Jackson the first time they ran. Also the record will show the same thing in the Tilden-Hayes election and the Cleveland-Harrison election.

Mr. ERVIN. I would say to the Senator that a great deal of historical evidence can be amassed to show that the election of 1824 was left in doubt insofar as the popular vote was concerned; that at that time many of the States were still voting by designating their electors by legislative act and not by popular vote of the people in their States; and that there is not sufficient evidence to justify an assertion as to whether John Quincy Adams or Andrew Jackson would have received a majority of the popular vote in the United States, had the States cast all of their votes by popular vote rather than by electoral vote. Also, with respect to the Hayes-Tilden election, history leaves that entire controversy shrouded in grave doubt and obscurity.

In that case there was a controversy as to how the people in Louisiana and Florida had voted, how many votes were cast in those two States, and who had been elected as presidential electors in those two States. The Republican Congress set up a commission which had a majority of one Republican. The commission adjudged that the popular votes in Louisiana and Florida had given their electoral votes to Hayes and in consequence Hayes had been chosen over Tilden by the electoral votes. The commission so adjudged by a strictly party line vote.

Now, I would like to think that Andrew Jackson received more votes than John Quincy Adams in 1824 because it so happens that my children, through their mother, are blood relatives of Andrew Jackson, and my wife is about as near a

blood relative of Andrew Jackson as anyone on the face of the earth.

But I cannot go along with the Senator from Indiana on the statement that Andrew Jackson would have received the greatest popular vote in 1824 if all States had authorized popular voting for electors. He should have received it but somehow or other those who should receive the majority vote do not always receive it.

I want to say to the Senator from Indiana that I did not use the word "provoke" as meaning I was irritated in any respect with the Senator, but that I was incited or induced to ask these questions. The word "provoked" has two different connotations. I assure the Senator I used the most benign of those two connotations.

Mr. BAYH. Inasmuch as the Senator from Indiana has nothing but the kindest regard and highest respect for his friend from North Carolina and usually not only admires the fact that he has a great proportion of benign sinews running through his body but also usually has great intellect with which he agrees on many questions, I find it difficult to believe that the latter is not the case on this occasion. I am certain my friend is not incited in a violent way. He is a man who does not easily provoke.

I would like to say that I have the record before me. Perhaps the Senator from North Carolina would like to quote from a different record. To be sure there were some electors in the 1824 election who were chosen without the benefit of popular vote. But of all the popular votes cast in 1824 Andrew Jackson received 43.13 percent of the popular vote and John Quincy Adams received 30.54 percent of the popular vote. That record is rather clear.

Eighteen hundred and seventy-six, to be sure, was not the finest moment in American history. There is great reason to be suspicious of the possibility that election was purchased or at least procured by means other than the ballot box in a legitimate and legal sense. However, the record will show that Samuel Tilden received a majority popular vote—not just plurality but a majority popular vote—of 50.99 percent, and Rutherford B. Hayes received 250,000 less popular votes than Samuel Tilden. None of us really know what happened but the fact of the matter is that it was a lot easier to procure the necessary electoral votes, by whatever means used, than it would have been to secure those 250,000 popular votes.

The record will show that in 1888 Cleveland received 48.66 percent of the popular vote and his opponent Harrison received 47.86 percent of the popular vote.

However, on all three occasions the electoral college permitted the election of the man who had fewer popular votes. If the Senator has other evidence, I would be glad to have it for the RECORD.

Mr. ERVIN. I would say with respect to the election of 1876 between Samuel J. Tilden, the Democratic candidate, and Rutherford B. Hayes, the Republican candidate, that the facts are well summarized on page 53 of appendix A of the report of the Committee on the Judiciary to the Senate. It shows that in order to sustain the proposition that Tilden received a majority of the popular vote, one has to indulge in the presumption that all the charges made by the supporters of Tilden with respect to fraud and chicanery in the election were true. That matter, as I stated, is left in obscurity.

With respect to the election of 1824, the facts in respect to it are set forth on pages 52 and 53 of appendix A attached to the committee report. In the interest of time, I ask unanimous consent that the portion of appendix A beginning with the election of 1824, on page 52, and ending with the discussion of that point on page 53 be printed at this point in the body of the RECORD.

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

APPENDIX A.—HAS A POPULAR VOTE WINNER EVER LOST THE PRESIDENCY?

It is frequently said that the electoral college makes it possible for a candidate to be elected who receives fewer popular votes than his chief opponent. It is alleged that this has happened three times: in 1824, in 1876, and in 1888. We propose to examine this charge to see whether it is worthy of the attention it has received.

While it is theoretically possible for an electoral vote winner to be a popular vote loser, it is highly unlikely that such an event will occur. It is theoretically possible for the simple reason that there is not a perfect mathematical proportion between the size of the popular vote and the size of the electoral vote. That disproportion is due to the fact that each State has at least three electoral votes regardless of size—a concession that the Framers saw as necessary to shore up the federal system. So long as we believe it wise or useful for the States as States to have a say in the selection of Presidents, and so long as we believe that the smaller States ought properly to have a minimum representation, it will remain theoretically possible for an electoral winner to be a popular loser. Whether we have "winner-take-all" or some other system of awarding electoral votes, so long as the concept of electoral votes is retained with a minimum representation for small states, that theoretical possibility remains.

The decisive policy question is whether the risk of this theoretical possibility is worth running. And the most important factor in determining the worthiness of the risk is the likelihood of its occurrence. On the basis of past election results, the risk would appear to be minimal. Indeed, it is our belief that the much-feared result has never occurred.

Let us now turn to consider the three elections, which it is alleged, did produce the unwanted result.

(A) THE ELECTION OF 1824

In the election of 1824, Gen. Andrew Jackson obtained a plurality of both the popular and the electoral vote but, failing a majority in the electoral count, lost to John Quincy Adams in the House of Representatives.

The experience of 1824, however, is hardly relevant to present-day elections. None of the machinery we now possess to prevent such an outcome existed at the time; indeed, the growth of the party system and the birth of national conventions can both be directly attributed to the experience of 1824. The absence of nominating and other party machinery in 1824 accounts for the two facts which vitiate the election of 1824 as a relevant example: (1) unaffiliated a multiplicity of candidates, made it impossible for anyone to garner a majority of the electoral vote—a fact which, incidentally, was conceded by all prior to the election; (2) voters were not organized in any major sort of way on behalf of any of the candidates, with the result that voter turnout was minimal.

While accurate figures are especially difficult to obtain for early 19th century elections, most authorities are agreed that something like 350,000 votes were cast in the election of 1824, out of a total population of roughly 11 million, of whom roughly 3 to 4 million were white adult males. Of the small number of votes which were cast, Jackson obtained a total of roughly 150,000—more than any other candidate, but it was not even a majority of those voting. Jackson's plurality can in no sense be termed a "victory," nor can it be said to have constituted a "mandate."

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Further, there were four candidates in that election. Of the 24 States in the union at the time, the four candidates appeared together on the ballots of only five States; in six States, only three were on the ballot; and in seven only two. Moreover, six States (including New York, at that time by far the most populous State) had no popular election at all, the electors being appointed by the State legislatures.

The Presidency, in short, had yet to be conceived of as an elective office in the sense that we now understand it. Anyone who ventures to claim that Jackson's popular plurality represented the "will of the people" or that his defeat in the House was a "frustration of the popular will" understands neither the election of 1824 nor why its inconclusiveness cannot be repeated today. In the words of Prof. Eugene Roseboom, "The popular will had been so dimly revealed in 1824 that the House could not have subverted it." (*A History of Presidential Elections*, 1957, p. 88).

Mr. BAYH. Mr. President, in the event someone might be perusing the RECORD and would like to look to the source of the statistics just referred to by the Senator from Indiana, I ask unanimous consent to insert in the RECORD page 27, the chapter entitled "Election of Minority President," on over to the top part of page 28 of the study of the American Bar Association, entitled "Electing a President."

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

ELECTION OF MINORITY PRESIDENTS

The electoral college method of electing a President has governed forty-five presidential elections and has produced fourteen Presidents who did not obtain a majority of the popular votes cast in the election. They are: John Quincy Adams in 1824[1] (with 30.54 percent of the popular vote); James K. Polk in 1844 (49.56 percent); Zachary Taylor in 1848 (47.35 percent); James C. Buchanan in 1856 (45.63 percent); Abraham Lincoln in 1860 (39.79 percent)[2]; Rutherford B. Hayes in 1876 (48.04 percent); James A. Garfield in

[1] In 1824 the electors were chosen by the legislature in six of the twenty-four states.

[2] Lincoln's name did not appear on the ballot in ten states.

1880 (48.32 percent); Grover Cleveland in 1884 (48.53 percent); Benjamin Harrison in 1888 (47.86 percent); Grover Cleveland in 1892 (46.04 percent); Woodrow Wilson in 1912 (41.85 percent); Woodrow Wilson in 1916 (49.26 percent); Harry S. Truman in 1948 (49.51 percent); and John F. Kennedy in 1960 (49.71 percent).

Of the fourteen minority Presidents, three of them each received fewer popular votes than his major opponent.

In 1824: Andrew Jackson received 43.13 percent of the popular vote and 37.93 percent of the electoral vote; John Q. Adams, 30.54 percent of the popular and 32.18 percent of the electoral; Henry Clay, 13.24 percent of the popular and 14.18 percent of the electoral; and William H. Crawford, 13.09 percent of the popular and 15.71 percent of the electoral. Because no candidate received a majority of the electoral vote, the selection of President devolved on the House of Representatives. Adams was selected President, receiving the votes of thirteen states to seven states for Jackson and four for Crawford. It is alleged that Adams won the election because of Clay's support.[3]

In 1876: Democratic presidential candidate Samuel J. Tilden won a majority of the popular vote (50.99 percent). He had over 250,000 popular votes more than the Republican candidate, Rutherford B. Hayes. Yet Tilden lost the election by one electoral vote (185 to 184), after certain disputed electoral votes from four states had been determined (two days before Inauguration Day) adversely to him by an Electoral Commission created by Congress.

In 1888: Grover Cleveland received 48.66 percent of the popular vote and 42 percent of the electoral vote. On the other hand, Benjamin Harrison obtained a popular vote of 47.86 percent and an electoral majority of 58 percent. Harrison was elected President. Although Cleveland had about 100,000 popular votes more than Harrison, Harrison won pivotal states by small margins. A switch of a few thousand votes in New York would have swung the election to Cleveland.

Mr. BAYH. Mr. President, let me add that this study was the result of a blue ribbon panel study over a 10-month period. At the outset of that study the panel members all had different views about electoral reform. The chairman was Dean Storey, of Texas. Also on the panel was our distinguished colleague, HENRY BELLMON, who was unalterably opposed to direct election. Also on that panel were Paul Freund, of Massachusetts; E. Smyth Gambrell, of Georgia; Ed Gossett, of Texas; William T. Gossett, of Michigan, president of the American Bar Association; William J. Jameson, of Montana; our former colleague Senator Kenneth B. Keating, of New York; Otto Kerner, then Governor of Illinois; James C. Kirby, Jr., distinguished attorney from Illinois; James M. Nabrit, Jr., of this city; Herman Phleger, of California; C. Herman Pritchett, of California; Walter P. Reuther, our late, beloved president of the United Automobile Workers; and Whitney North Seymour, of New York.

The Senator from Indiana will let the RECORD show the facts, and he will let anyone who reads the RECORD draw his own conclusion.

Mr. ERVIN. Will the Senator inform the Senator from North Carolina who appointed that commission?

Mr. BAYH. The American Bar Association.

Mr. ERVIN. Who was president of the American Bar Association at the time?

Mr. BAYH. At that time Edward W. Kuhn or Bill Gossett.

Mr. ERVIN. Yes. And Mr. Gossett was chairman of the commission.

Mr. BAYH. No, he was not. Dean Storey, of Texas, was.

Mr. ERVIN. He was a member of the commission.

Mr. BAYH. So was Ed Gossett of Texas, who was unalterably opposed to direct election.

Mr. ERVIN. The appointing power has to put one or two men on a committee who entertain views contrary to those of the appointing power so as to make it look fair. For example, there used to be an election precinct in my home county where the Democratic precinct leader was Capt. Joe Mills. Joe Mills always made returns showing that one Republican had voted. He said he did that to show the election was fair.

If the Senator will allow me to select the jurors, I will always win the case. If he allows me to appoint a commission, I can always tell him in advance what the report of a commission is going to be.

Mr. BAYH. I am sure the Senator from North Carolina does not intend to impute devious motives to those who selected this commission. I am sure the Senator from North Carolina has had a lot of matters on his mind and has not had a chance to read every word of this report, but let me put in the RECORD the foreword of the report to show the real background of this matter.

I make that unanimous consent request, Mr. President.

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

FOREWORD

The Commission on Electoral College Reform was formed by the American Bar Association at the midyear session of the House of Delegates in February, 1966. Edward W. Kuhn, then President of the American Bar Association, reported at the time that congressional and executive leaders had urged the Association to examine the subject of electoral reform. He stated that this was due in some measure to the results the American Bar Association had achieved in promoting the proposed Twenty-fifth Amendment on Presidential Inability and the Vice-Presidential Vacancy.

In selecting the members of the Commission, the American Bar Association endeavored to have different walks of life, professions, and parts of the United States represented. Thus, governors, judges, lawyers, constitutional law authorities, political scientists, and representatives from labor and management were invited to be members of the Commission. Comprising the Commission are: Henry Bellmon, the Governor of Oklahoma; Paul Freund, Professor of Constitutional Law, Harvard Law School; E. Smythe Gambrell, Georgia attorney and former President of the American Bar Association (1955–1956); Ed Gossett, Texas attorney and former member of Congress from Texas (1939–1951); William T. Gossett, Michigan attorney, former President of the American Bar Foundation, and former General Counsel to the Ford Motor Company; William J. Jameson, United States District Court Judge for Montana and former President of the American Bar Association (1953–1954); Kenneth B. Keating, Associate Judge of the New York Court of Appeals, former United States Representative (1957–1959), and United States Senator from New York (1959–1965); Otto E. Kerner, the Governor of Illinois; James C. Kirby, Jr., Professor of Constitutional Law, Northwestern University Law School, and former Chief Counsel to the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee; James M. Nabrit, Jr., Deputy United States Representative to the United Nations and President of Howard University (on leave of absence); Herman Phleger, California attorney and former Legal Advisor to the United States Department of State (1953–1957); C. Herman Pritchett, Professor of Political Science, University of Chicago, on leave of absence at the University of California at Santa Barbara, and former President of the American Political Science Association; Walter P. Reuther, President of the United Automobile Workers Union and Vice-President of the AFL–CIO; and Whitney North Seymour, New York attorney and former President of the American Bar Association (1960–1961). The Commission's advisor, John D. Feerick, is a New York attorney who served as a member of the American Bar Association Conference on Presidential Inability and Succession and also as an advisor to the Special American Bar Association Committee on Presidential Inability and the Vice Presidential Vacancy. The Commission's liaison with the American Bar Association is Edward W. Kuhn, former President of the American Bar Association (1965–1966).

Upon its creation, the Commission was directed to seek a nonpartisan formula for electing a President and a Vice-President of the United States in accordance with this direction, the Commission had its staff undertake a comprehensive study of the electoral college system. After this study was supplied to the Commission, the Commission convened in Washington, D.C., on May 19 and 20, 1966.

At these meetings the Commission explored all of the pending proposals for reform of the electoral college system of electing a President and a Vice-President. It then decided that detailed studies of a number of specific questions were necessary. During the next few months the staff collected and compiled information and data regarding these questions. It studied the electoral systems of other countries, solicited the opinions of state officials regarding various aspects of the state election laws, and consulted with numerous persons and organizations knowledgeable in the area of electoral reform. The results of this comprehensive investigation were embodied in reports and memoranda which were sent to the Commission between June and October, 1966.

The Commission reconvened in Chicago, Illinois, on October 7, 1966. At that meeting the Commission discussed the subject of electoral reform in considerable detail and reached a consensus as to what it considered to be the best method of electing a President and a Vice-President. Although there was general agreement on the recommendations, it should be understood that not every member of the Commission subscribes to every recommendation. There was, however, unanimous agreement on the need for substantial reform in the present system.

In this report the Commission submits its recommendations. In addition to setting forth and explaining the recommendations, the report includes a brief history of electoral college developments from 1787 to 1966.

ROBERT G. STOREY,
Chairman.

Mr. BAYH. Let me also say to the Senator from North Carolina that the Senator from Indiana was present at that

[3] See Roseboom, A History of Presidential Elections, pp. 84–86 (The Macmillan Company 1965).

first meeting and asked the Commission to be diligent in its study. After the first meeting I said to the staff man who was with me, "We do not have a prayer of that Commission ever agreeing on anything." On that Commission were the Governor from Oklahoma, now our distinguished colleague from that State (Mr. BELLMON), who was unalterably opposed to direct election. Ed Gossett, who served in Congress during the tenure of the service of the distinguished Senator from North Carolina, was unalterably opposed to it.

So to contend that this was a stacked panel does not show the normal degree of attention that the Senator from North Carolina gives to a subject.

Mr. ERVIN. Perhaps I will accept the theory that the Senator from Indiana, by his eloquence, got that Commission started down the wrong pathway, since he appeared at the first meeting of the Commission.

I have been in Washington a long time. I have observed the actions of the American Bar Association a long time. I have observed the actions of Presidents a long time. I have noticed that whenever a committee or a commission or a board is appointed to study a proposition, a majority of the members of that committee or commission or board who are selected have a philosophy which runs in the same channel as the philosophy of those who exercise the appointing powers.

Since I came to the Senate of the United States 16 years ago, I have never known a single President to appoint a commission which did not number among its members a very substantial majority in favor of the philosophy of the President. I have never known of an absolutely impartial commission or committee or board ever set up to study anything with a view to deciding anything otherwise than in accordance with the predilections of its members.

Mr. BAYH. Mr. President will the Senator yield? I am not sure the Senator has the floor, but——

Mr. ERVIN. I do not say that to disparage anybody, but, with all due respect to the memory of the late Walter Reuther, he never had any doubt at any time on any subject in respect to what he conceived to be its proper solution.

Mr. BAYH. I hope we do not permit the focal point of the debate to shift from the question which is the pending order of business to the veracity of the panel. The record will clearly show that the assessment of that panel, while made in all good faith by my distinguished colleague from North Carolina, was incorrect.

The arguments made by my distinguished friend argue about this appointment of various panels, is a good example of the old adage about whose ox is being gored. It depends on whose ox is being gored. I remember standing on this floor and listening to the Senator from North Carolina argue persuasively on the relative merits of two nominations to the Supreme Court. He pointed out that these men had been recommended by a panel of this same bar association.

It seems to me rather inconsistent to suggest on one hand that a panel is all right if it is sustaining an individual's position, and on the other hand it should not really be considered if it comes to a contrary opinion.

Mr. ERVIN. I do not think I laid much stress on the recommendation of the American Bar Association.

Mr. BAYH. The RECORD will show that the Senator from North Carolina included that recommendation in his discussion.

Mr. ERVIN. While the Senator from Indiana and the Senator from North Carolina differ very profoundly with respect to this subject, the Senator from North Carolina and the Senator from Indiana agree in one respect. Each of them thinks a commission acts wisely when that commission makes recommendations in accord with his opinions. The Senator from North Carolina thinks a commission manifests wisdom when it agrees with his sound views, and if he were to appoint a commission to make a study, he would appoint on that commission members possessing that character of intelligence.

Mr. BAYH. There may be some wisdom in what the Senator has suggested. I think perhaps we ought to throw a couple of other items into the discussion here. Then I should like to hear from the Senator from North Carolina or some of the 10 speakers alluded to the other day that have yet to be heard from.

The Senator from North Carolina seems to agree with the Senator from Indiana that at least in the Grover Cleveland-Benjamin Harrison controversy, Harrison had fewer votes than Cleveland, but yet was the one who got the brass ring and was elected President of the United States.

I think we ought to look at what has happened in this last century. There are other occasions on which tragedies have been narrowly averted. We had better take cognizance of these. I have already referred to the cold fact of life that if there had been a change of fewer than 42,000 votes in the right three States in 1968, we would not have elected anyone President on election day, despite the fact that the present resident of 1600 Pennsylvania Avenue had about 500,000 more votes than his opponent.

If we go back to 1948, which I think is still fresh in memory of most of us in this body, we find there was an example where the incumbent President, despite expert predictions to the contrary, won a large landslide victory. President Truman had more than a 2 million vote plurality over his opponent, Governor Dewey of New York; yet the record will also show that if there had been a change of approximately 30,000 votes in the right States in that election, Governor Dewey would have been elected.

The election would not have gone to the House of Representatives; it would not have created the power broker situation that almost happend in 1968. At least under that situation the man who got the most votes could still win. But if there had been that change in 1948, Governor Dewey would have been elected, although President Truman still had a 2 million vote plurality. I do not see how any man elected under such circumstances can possibly be an effective President.

Mr. ERVIN. The Senator from North Carolina would like to observe to the Senator from Indiana that if the sun rose in the west, it would not rise in the east.

The PRESIDING OFFICER. The question is on agreeing to the joint resolution.

Mr. BAYH. The Senator from Indiana, after recovering from the shock of that profound observation, would like to suggest that the record will further show that there have been seven occasions since the turn of the century where a change of less than 1 percent of the popular vote would have sent to the White House a man who had fewer votes than the man he was running against.

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

Mr. BAYH. I have listened to the eloquent, if not to me persuasive, remarks of the Senator from North Carolina, and I am sure that the country is interested to hear what he and others have to say.

Mr. ERVIN. Will the Senator yield?

Mr. BAYH. Let us get on with the debate. Let us not be found wanting later this week or next week or the week after that, by some people who have the honesty to come on the floor of the U.S. Senate and say, "We still have 10 speakers." If they have 10 speakers, let us hear them. Let the country hear this persuasive argument, and let the Senate vote.

Mr. ERVIN. Mr. President, the last observation of my distinguished friend from Indiana reminds me of a story which happened in court on one occasion. There had been some disagreement between a husband and wife, and it had wound up in litigation. The wife took the stand and testified that her husband had not spoken to her for 5 years.

This testimony moved the judge to indignation. He demanded of the husband:

How do you explain such outrageous conduct toward your wife as that?

He said:

Well, Your Honor, I hated to interrupt the lady.

I have been reluctant to interrupt the Senator from Indiana to take the floor in debate.

This amendment—that is, the proposed amendment, Senate Joint Resolution 1—is generally referred to in the press as the Bayh amendment. In view of the statement of the distinguished Senator from Indiana concerning the apprehension created in his mind by George Wallace in 1968, I think we ought to change the name of the amendment to the George Wallace amendment.

I am also reminded of the story about the so-called Wise Men of Gotham. The author of the story says that on one occasion, while journeying he met the Wise Men of Gotham, and each one of them was carrying the detached front door to his house on his back.

He was impelled by curiosity to put this question to them:

Why are you carrying the front doors of your houses on your backs?

The Wise Men of Gotham responded, in unison:

It became necessary for us to take a long journey, and we got to thinking that some burglars might knock down the front doors of our houses and steal our possessions during our absence. So, we decided to keep the burglars from knocking down the front doors of our houses during our absence by bringing our front doors with us.

Senate Joint Resolution 1 emulates their example. It opens our constitutional house to fraud, delay, and confusion.

The Senator from Indiana bemoans the fact that we have had several close elections in this country, and so he proposes a constitutional amendment that would promote these three things. I have a speech on this subject, but I shall not deliver it right now.

Three irresistable temptations would arise out of the proposal for direct election of the President. The first of those is fraud, the second is delay, and the third is confusion. That is the title of the speech I have prepared for delivery: "Fraud, Delay, and Confusion—The Three Irresistable Temptations of Direct Election."

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

Mr. ERVIN. I yield.

Mr. BAYH. The Senator from Indiana, of course, is a relatively junior Member of the Senate compared to his distinguished friend and colleague from North Carolina; and although he might not always agree with his friend from North Carolina, he usually is able to understand the reasoning behind his usually good judgment.

But the Senator from Indiana, at this hour is history, at this hour in the session, at this hour in the debate on this issue, would like for the Senator from North Carolina to explain the profound wisdom and reasoning behind his reluctance to go ahead and make that speech—which I am sure will be an eloquent presentation of the opposition. The Senator from Indiana would like to hear it; and I think the country would like to hear the wisdom of the Senator from North Carolina. If we are going to debate this issue, let us debate it. If that is why we are really here, to discuss the issue, let us debate it. If we are trying to be dilatory—which is certainly out of character for the distinguished Senator from North Carolina—if we are trying to throw a roadblock in the way of due process, and deny the representatives of the people the right to vote, if we are going to run and hide, seek cover instead of being willing to stand up and be counted on something, then I think that certainly the Senator from North Carolina should prevent that possible interpretation from being attributed to his refusal to make the speech which he had in his possession.

Mr. ERVIN. The Members of the Senate can readily observe that like the husband, I have to interrupt the Senator from Indiana, to get in a word, and he is not easily interruptible for very long. I say that in all kindness.

But I am in favor of the people controlling the election of the President. That is the reason why I oppose Senate Joint Resolution 1. These elections tempt men to commit fraud. Senate Joint Resolution 1 proposes to convert 184,000 separate precincts in 50 States and the District of Columbia into one great big precinct where an election may be decided by as close a vote as one majority out of 60 million or more Americans.

As I have said before, for some strange reason, men who would not steal a penny from anybody will steal their votes; and the direct election encourages men to steal votes in every one of 184,000 separate precincts.

Then, after the polls are closed and the votes are counted, there will be a period of interminable delay. There will be charges and counter charges of fraud and corruption in virtually all the precincts throughout this Nation. We will have delay, not the little delay such as the time in which Senators say a matter of this consequence ought to be debated adequately in the Senate, but a delay of many months, while efforts are made to determine the question of: Who was elected President and which charges of fraud or which charges of miscounting of votes are correct and which are incorrect?

Senate Joint Resolution 1 brings the temptation to commit fraud, and provokes the charges and countercharges which cause delay. Hence, it produces a certainty of confusion. Senate Joint Resolution 1, which makes no provision as to how the charges and countercharges are going to be determined, will bring indescribable confusion into our Nation.

Mr. BAYH. In the meantime, I think it is important for us to get on with the business of the Senate. Our distinguished leader, the Senator from West Virginia, and the majority leader, the Senator from Montana, and all of us, have many responsibilities; and they have been diligently pursuing the business of the Senate. At this time, the final disposition of this important matter stands in the way of final consummation of Senate business.

So that we can move quickly, and to let the RECORD show what is happening, I would like to propose a series of unanimous-consent requests.

I would like to ask unanimous consent to vote on the Tydings-Griffin amendment, which is the pending order of business before the Senate, amendment No. 711, at 1 o'clock tomorrow.

Mr. ERVIN. Mr. President, I object to that unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. BAYH. Mr. President, the Senator from North Carolina objected?

Mr. ERVIN. Yes.

Mr. BAYH. The Senator from Indiana is surprised.

Mr. ERVIN. I hate to surprise the Senator from Indiana. It is with great regret that I do so.

Mr. BAYH. I am persuaded to pursue the other amendments and give the Senator from North Carolina the opportunity to change his mind in the process.

The Senator from Indiana makes a similar request with respect to amendment No. 878.

Mr. ERVIN. The Senator from North Carolina objects.

The PRESIDING OFFICER. Objection is heard.

Mr. BAYH. The Senator from Indiana makes a similar request relative to amendment No. 884.

Mr. ERVIN. The Senator from North Carolina again objects.

The PRESIDING OFFICER. Objection is heard.

Mr. BAYH. The Senator from Indiana regrets having to put the Senator from North Carolina through this strain.

Mr. ERVIN. It is no strain on the Senator from North Carolina. I thank the Senator from Indiana for giving me this opportunity.

Mr. BAYH. On reflection, I am sure the Senator from North Carolina is not suffering too much pain.

The Senator from Indiana would like to propose another unanimous-consent request, that the Senate proceed to the consideration of the amendment of the distinguished chairman of the Committee on the Judiciary, the Senator from Mississippi (Mr. EASTLAND), amendment No. 885, and vote tomorrow at 1 o'clock, with final consideration of the matter 2 days hence.

Mr. ERVIN. I object to that.

Mr. DOMINICK. I object to that, because we have a pending amendment now, and the sponsors of that amendment are not before us.

The PRESIDING OFFICER. Objection is heard.

Mr. BAYH. The Senator from Indiana would suggest unanimous consent that we move to amendment No. 887, the Eagleton amendment, and that we vote on it tomorrow.

Mr. ERVIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAYH. The Senator from Indiana asks unanimous consent that the Senate consider amendment No. 897.

Mr. ERVIN. I object.

Mr. BAYH. The Senator from Indiana asks unanimous consent that the Senate proceed to the consideration of amendment No. 898.

Mr. ERVIN. I object.

Mr. BAYH. To save the Senate and my distinguished colleague, the Senator from North Carolina, further stress and strain, let me propose a cafeteria unanimous consent request; and if any items on the menu should appeal to the taste of the Senator from North Carolina, perhaps he would suggest that he would not object to those.

The Senator from Indiana would like to suggest that the Senate move to the consideration of amendments 899, 900, 901, 905, 912, and 913, and then consider the final passage.

Mr. ERVIN. I object. I do so with great reluctance, because I dislike to be so objectionable to the Senator from Indiana.

Mr. BAYH. I think the Senator from North Carolina knows that it is very difficult for him to be objectionable to his friend, the Senator from Indiana. But whether the same can be said for the entire Senate, which the Senator from North Carolina is hindering in its con-

sideration of these measures, is something else.

Mr. President, I would like to make an observation. This is the second time the Senator from Indiana has gone through this effort, and it is abundantly clear that certain Members are not really intent on debating the issue before us, but are denying us any opportunity to move through the legislative process, with final consummation of some type of electoral reform. The irony of the last request, as in the previous request, is that the Senator from North Carolina objected to the consideration of four of his own amendments. So what we are saying, really, as a body, right now, as we proceed along at a turtle's pace, is that we are not going to consider any type of electoral reform at all. If Senators do not like the plan of the Senator from Indiana, then let us vote it down or at least see if there is enough support in the Senate to substitute other plans. Let us not stare election day 1972 in the face with the possibility that this whole thing could backfire and we could have a constitutional crisis and the Government could come tumbling down around our shoulders.

Mr. BYRD of West Virginia. Mr. President, Senators on both sides of this question having spoken, and seeing no other Senator who wishes to speak on Senate Joint Resolution No. 1, I ask unanimous consent that——

Mr. DOMINICK. If the Senator will withhold that for just a minute, I should like to inject 3 or 4 minutes of discussion here.

Mr. BYRD of West Virginia. Very well. I withhold my request.

Mr. DOMINICK. Mr. President, as I have said on a number of occasions, I would have no hesitation in voting, even today, if we could get enough Senators here to do it, on the basic direct vote amendment which was presented by the Senator from Indiana out of the committee. I say that because I am totally convinced that he could not muster a two-thirds vote in favor of that particular amendment. I say that, in turn, because he has outlined the two proposals which he thinks are most pressing; namely, first, he wants to eliminate the so-called faithless elector. That is easy to do with a minor amendment, without throwing out the baby with the bath water. We do not have to eliminate the whole electoral system just to prevent an elector from voting against the wishes of his State.

The second point the Senator from Indiana talked about is that we might possibly get a President who does not have a plurality of the vote. Well, Mr. President, that is just as likely to occur—even more likely—under the direct vote system than under the electoral system we have now.

Mr. BYRD of West Virginia. Mr. President, will the able Senator from Colorado yield?

Mr. DOMINICK. I yield.

Mr. BYRD of West Virginia. When the distinguished Senator spoke a moment ago about his being willing to reach a vote, referring to a number of Senators who are absent, did the Senator have reference to a vote on Senate Joint Resolution 1?

Mr. DOMINICK. I have said all the way through that, so far as I was personally concerned, if we could get to a vote directly on that one issue, I would be pleased to vote. I of course do not wish to bind any other Senator of my party.

Mr. BYRD of West Virginia. As long as a quorum is present, it does not make any difference how many Senators are absent beyond the point of the quorum. As long as two-thirds of the Members of the Senate who are present and voting vote for a joint resolution proposing a constitutional amendment, that resolution is adopted by such vote.

Mr. DOMINICK. I understand that very well, but as the Senator from West Virginia knows, on a vote of this magnitude, of such tremendous importance to the whole governmental structure, we do not spring off the cuff, so to speak such things without warning Senators ahead of time. That is the point I was making, so far as Senators being absent was concerned.

Mr. BAYH. Mr. President, will the Senator from Colorado yield?

Mr. DOMINICK. I yield.

Mr. BAYH. I appreciate the conscientious desire of my good friend from Colorado to bring this to a vote, but I am sure he has recognized that on two occasions the Senator from Indiana has not been permitted to do what the Senator from Colorado would like to see done.

Mr. DOMINICK. The Senator from Indiana is in a difficult position, as is the Senator from Colorado, on this. We are in this position for the following reasons: We come out with a proposition which the Senator from Indiana wants to get a vote on. Since that has been done, there have been 15 to 18 amendments filed, each one of which undoubtedly will be offered as an amendment to the proposal, each one of which will have extensive debate on it, and each one of which has been offered in good faith, I am sure, with everyone trying to reach the problem the Senator from Indiana has been talking about.

By the time we get through arguing the amendments, we will not get to a vote on the original proposition. We will be here until the snow flies before we get anywhere, which is why I think the only reasonable thing to do at this moment is to send the bill back to committee and start all over again next year. We will have plenty of time, then, to see if we can get something done, which will do something about the so-called faithless elector, and which will do something about the unit rule proposition. On both of those I happen to agree that we need changes. I do not think, as I said before, that we need to change or to throw out the whole electoral system just to arrive at two relatively minor problems which could be solved in another way.

Mr. BAYH. I appreciate the differing views of my good friend from Colorado, but I suggest that the parliamentary procedure, which has been accurately described by him, is not unique. It is not only the normal but it is an example of the finest traditions of the Senate. We have to report one particular proposal out of committee. After considering this matter as the pending order of business from September to February, then not voting on it until the last part of April, the Committee on the Judiciary reported out this measure by a vote of 11–6. It was not until the minority report was published, after 11 weeks, that this measure came before the Senate.

I know of no procedure in the Senate, no precedent at all, that suggests any Member of this body should not have the right to propose amendments. I am satisfied with it as it is, and will be willing to accept amendments if a majority of this body feels that it would improve the measure. But that is the way we do business here in the Senate. Is the Senator from Colorado suggesting that we should amend the rules of the Senate for this one particular proposal?

Mr. DOMINICK. No. The Senator from Indiana knows that I am not doing that. That is a very nice debating point he brings up.

Mr. BAYH. That is what is happening.

Mr. DOMINICK. I am simply stating what the facts are. There are 17 or 18 amendments to the bill, each one of enormous importance, some of which were not presented in committee.

For example, the amendment of the Senator from Massachusetts (Mr. BROOKE) the other day, was not presented in committee. My guess is that it has not had any extensive study to see exactly how it would work. There are a good many of these which have not been brought before the committee and which need extensive debate. My point is, if we are going to do something on this, we should do a much better job and do it next year rather than this year.

We can do it with far less trouble on other amendments than the one brought up on direct election because the Senator from Indiana knows, as has been brought out by the opponents of direct election, this does not solve the basic problem of whether we can elect a President who will have less than a majority of a state or less than a majority of the vote. This will also, in my humble opinion, accelerate the development of political machines in the large cities. It could also have the effect of frustrating the two-party system which we have had for so long in this country. Thus, I believe this is a disastrous type of amendment. I said so before. I still think so. But I am perfectly willing to debate it at length next year.

What have we had now, 8 or 9 days of debate on this so far, whereas we had 29 days of debate, I believe it was, on the military procurement bill with every conceivable type of amendment dedicated to trying to change the system which has been suggested for procurement authorizations and which had been brought out by the committee.

I think this is even more important for the whole structure of the country than that was.

So I do not think, by cutting off debate after 8 or 9 days, that we are really doing anything in helping to try to stream-

line the governmental system that we have.

Mr. BAYH. If the Senator has finished?

Mr. DOMINICK. Yes.

Mr. BAYH. Mr. President——

The PRESIDING OFFICER (Mr. GRAVEL). The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, I should like to reiterate that I am well aware of all the amendments. There is nothing unique about that. I have been on the floor when we have debated as many as 30, 40, or 50 amendments to a given bill and a big majority of them have never been discussed in committee. I dare say there is not a single Member of the Senate, at one time or another, who has not proposed an amendment to a bill that was not discussed in committee. To suggest this as a reason to change Senate procedure strikes on less receptive ears, so far as I am concerned.

Mr. DOMINICK. I did not suggest that we change Senate procedure. I suggest that it could not be heard. I said it had to be debated at length.

Mr. BAYH. I hope that the Senator from Colorado, and some who share his concern, will be on the floor of the Senate to debate it. They were not here on Thursday and Friday last. Let us debate this issue, if we are going to debate it.

Mr. DOMINICK. Mr. President, the Senator from Colorado was on the floor last Friday and last Thursday and engaged in colloquy with the Senator from Massachusetts (Mr. BROOKE) on his amendment.

Mr. BAYH. Mr. President, I think the RECORD will show that that was about the extent of the debate of even those who are concerned. I think the Senator from Delaware (Mr. WILLIAMS) had probably the most astute observation to make prior to the vote on the cloture motion the other day when he suggested that we really were not getting down to the business of debating the pending business. I think that the Senator is probably right.

We have heard that we had 12 speeches. Let us hear from the other nine.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. WILLIAMS of Delaware. Mr. President, I want to repeat what I said last week; namely, that this matter should be debated and voted upon. I think that the Senate should face up to the question before we adjourn.

What disturbs me, for example, is that this resolution has not been debated. The matter was not debated last week when the resolution was laid aside and we went on to other business 5 minutes after the vote on the cloture motion.

Under the rules of the Senate the rule of germaneness applies, and Senators would not have been able to debate this resolution while other business was pending during the 3-hour period.

On the question of whether the rule of germaneness applies to the second 3 hours of the day during the second half of the session I am not too sure.

My suggestion was that if the Senator from Indiana really wants to get this resolution voted on, he should object for a few days to the laying aside of the pending business and object to all committee meetings during sessions of the Senate. This has not been a filibuster. It has been a farce as far as trying to get a vote is concerned. Under the rules of the Senate if there are no speakers we vote and not take a recess and have the Senate wait for a speaker. Debate on this resolution began September 8, but since that time it has consistently been laid aside for other Senate business and on occasions the Senate has even recessed during the day for lack of a speaker.

If I were managing this bill, I would object to all committee meetings and to the laying aside of the pending business in order to proceed to the vote on the resolution. We would push for a showdown. Then if we could not get to a vote after extended debate I think there would be more votes for cloture. At least I would vote for cloture if there were evidence of a real filibuster, but I do not think we should have cloture until a strong effort has been made to force the matter to a vote.

Any one Senator can block committee meetings and can block a unanimous-consent request to lay aside the pending business, letting the Senate go into night sessions. This has not been done. We should hold the Senate in session. If we cannot get the matter to a vote then other steps can be taken, such as cloture.

Certainly the Senate ought to debate the matter and get it to a vote. But as the record stands, on Thursday and Friday we considered other business. I do not object to that if that is the plan. I would like to see this matter come to a vote; and I repeat that if a determined effort to get it to a vote fails I will vote for cloture, but I will not vote for cloture unless a realistic effort has been made to get it to a vote under our normal procedure.

Mr. BAYH. Mr. President, I appreciate the advice and counsel of the Senator from Delaware.

For the past 8 years the Senator from Indiana has tried to cooperate with his colleagues and tried not to take advantage of them. Indeed, he has tried to utilize the parliamentary rights of any Member of the Senate.

The Senator from Indiana realizes that all other Senators have personal or legislative business that they feel is important and needs to be tended to.

It is possible for one Member of the Senate to object and to do so completely uncontested. It has been done many times.

Let the Senator from Indiana suggest to the Senator from Delaware that he would like to have a chance to sit down and privately discuss his suggested strategy with him. Since the eloquent remarks of the Senator from Delaware the other day, I have been giving serious consideration to that suggestion.

The Senator from Indiana was on the floor when no objection was made the other day—and has been on previous occasions—to laying aside temporarily the pending business. I felt that perhaps by permitting some other business to flow through the Senate, we could ultimately persuade some of our colleagues to be more cooperative and let this matter come to a vote.

The opponents of this measure have made a case, and have made it rather extensively and in detail, and a significant majority of the Members of the Senate has suggested that they are willing to vote, the Senator from Indiana would like to resolve what obligation he has to force the opponents to speak when they apparently do not want to speak, when they apparently do not want to take the time to express opposition. They want to find some other means actually to delay the consideration of this measure.

My good friend, the Senator from Colorado, has suggested that if we debate all these measures, the snow may fly. Let me say, as kindly and as beneficently as I know how, that if we discuss this matter any further, the snow will fly before we consider some of the other issues.

This matter has been before the Senate now for almost 2 years. It has been on the calendar since before Labor Day.

The consideration of this matter has been fraught with the most dilatory of tactics. Perhaps I am being a little cruel in expressing this attitude concerning the tactics of some of my friends and colleagues. But the record will show that this matter became the pending business of the Judiciary Committee in September. One member of that committee even refused to let the committee discuss it until February.

Then, the Senator from Indiana did something about which he was not too proud; he suggested that we would have to fight fire with fire and that if we were not going to vote on the matter, we were not going to vote on Supreme Court nominations. After 24 hours of fighting fire with fire, they changed their attitude and we reached an agreement to vote.

I suggest that for any Senator to suggest to the rest of the Senate that this matter has not had the opportunity for adequate consideration is not accurate.

I do not want, as one Member of the Senate, to exercise my rights and prerogatives as a Senator to the detriment of others. But I think there are times when we have the obligation to see that issues of critical national importance to this country are put to a vote even if that inconveniences the other Members of the Senate.

When the Senator from Indiana has exhausted all other avenues and realizes that there is no other alternative, he is willing to fight fire with fire. However, I am deeply hopeful that this will not be necessary. Although I know those rights are there, I am frankly not persuaded that the use of those rights is always in the best interests of our country.

Particularly, let me suggest that one of the strengths of the U.S. Senate is the free nature of the debate, the fact that we do not have a 5-minute rule, a 3-minute rule, or a 1-minute rule in the U.S. Senate, History is replete with occasions when, because of extended debate on an ill-conceived or little-considered bill, the Senate was able to fully explore

the measure and to change the minds of the country. The Senate was able to keep certain things from happening or to enable certain things to happen which were in the best interests of our country.

This matter has been considered at some length. It has been passed upon by the House of Representatives by a vote of 339 to 70. It has the strong support of the people across this country. The test required to pass it is significantly higher than the test for normal legislation.

So, the suggestion that we are about to rush something through and make it part of the statute books is again not accurate.

We need more than a majority of the Senate. We need two-thirds of the Senate before this can be enacted. It does not go on the law books until enough time has passed for three-fourths of our State legislatures to ratify it.

During this time anyone who feels there is something dangerous or suspicious, undemocratic or un-American has the opportunity to go to the countryside and put this question to the people of America. That is what we want to do here. I put this question to the Senate: "If you do not like the proposal of the Senator from Indiana, vote it down, but have the courage to stand up and vote and be counted on it."

I would like the record to show that it is very easy to interchange words in this electoral college discussion. The Senator from Colorado is not in the Chamber now but I think the record will show that the Senator from Indiana has not expressed deep concern about the possibility of a President who does not have a majority. Although I must say I did everything I could, in my meager way, to keep the present incumbent from becoming President, I am not worried because he failed to garner a majority of the popular votes. He is in office and he has the credentials of the people of the country. He is President of the United States, even though he did not get a majority vote.

It concerns me that there have been three occasions when we sent to the White House a man who had fewer votes than the man against whom he was running. The same thing would have happened again in 1948 was a time if there had been a change in a handful of votes. It is this shortcoming of the present system which concerns me, and not the fact that we will not have a majority vote.

If the Senator from Colorado is really concerned about the need for a majority vote perhaps he should propose a constitutional amendment to accomplish that. I do not think it is necessary, but let us not argue the point unless we are willing to stand behind our beliefs.

Awhile ago the distinguished Senator from North Carolina pointed out that the direct election proposal would permit the election of a President who had a plurality of only one vote out of 60 million votes cast. Very well, I would not look with relish on such an occurrence, but I would much prefer a man sitting in the White House who had one more vote than his opponent than one who had 2 million votes less. If we are going to have close elections, let the winner be the man who wins the popular vote.

The Senator from North Carolina also expressed concern about vote fraud. I invite the attention of all those who are concerned about this to the majority report of the Committee on the Judiciary. The report answers this important question quite persuasively. That section of the report shows there is a considerably greater incentive under the present system to become involved in vote fraud than there would be under the direct popular vote system.

The Senator from North Carolina alleged that Senate Joint Resolution 1 does not specify who is going to count the votes or govern the election. I suggest that anyone who wants to read Senate Joint Resolution 1 will find that practically the same language is used in Senate Joint Resolution 1 as is presently incorporated in the Constitution.

Mr. President, I have nothing further to say in support of this measure; I want it put to a vote. The Senator from Delaware was not in the Chamber a moment ago when the Senator from Indiana made 13 separate unanimous-consent requests in which he asked the Senate to consider not his proposal but 13 other proposals by Members of this body. Four of those proposals are proposals by our distinguished friend and colleague from North Carolina. The Senators from North Carolina even objected to consideration of his own amendment. As a result we see the Senate refusing to vote on any proposal whatever, with not one iota of willingness to stand up and be counted on anything so far as electoral reform is concerned.

I hope it is not necessary for the Senate to be here until the snow flies discussing electoral reform, but I have great sympathy for argument made by the Senator from Delaware. And if that is what it takes to get a vote on this matter, the Senator from Indiana is willing to put on his snowshoes.

Mr. COTTON subsequently said: Mr. President, for the past 2 weeks the Senator from New Hampshire has been unable to be present in the Senate Chamber because of illness in his family. Because of that, the Senator from New Hampshire did not have the opportunity, as he had hoped, to speak at some length and in some detail on the problem of electoral college reform.

In view of the fact that the Senator from New Hampshire has been unable to do this, I ask unanimous consent to have printed in the RECORD a copy of a report on this question which I wrote to my constituents on March 13, 1969.

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

NORRIS COTTON REPORTS TO YOU FROM THE U.S. SENATE

The breathtaking closeness of the recent election is a warning that we can no longer delay overhauling the machinery for electing President and Vice President, and that we must face up to the longtime vexing problem of the Electoral College. Congress must act promptly because a constitutional amendment has to be submitted to the states and time given their legislatures to act on it before the next presidential election.

Should the Electoral College be reformed or abolished? The flash judgment of many is to discard it entirely as a leftover from the early days of the Republic, when the people were not supposed to vote directly for their President. Closer examination, however, reveals that the Electoral College still performs a vital function and, if its defects are cured, should be kept.

The Electoral College has long preserved the two-party system which has stabilized the Republic. As long as the electoral vote of each state cannot be split into fragments, splinter parties, the bane of many a foreign parliament, cannot flourish here. Under direct election a dozen parties could nominate candidates. If only a plurality were required to elect, we would always have a President favored by only a fraction of the voters. If a majority or even 40 per cent were required, a runoff election between the two leading candidates must be provided, which is almost unthinkable. The Nation is kept in a constant upheaval long enough now without superimposing a second election on the first.

Furthermore, the Electoral College isolates corruption. If bundles of ballots are miscounted or destroyed in a large city, only the electoral vote of one state is affected. If the ballots of all the people were dumped into one national pot, election frauds in a single metropolitan area could nullify the votes of several states. Thus, under the Electoral College system, state lines are a safeguard like fire partitions in a building or watertight compartments in a ship.

These are the reasons why Congress has many times refused to abolish the Electoral College.

The Electoral College in its present form has one fatal defect. Under it the winner takes all. The entire electoral vote of each state goes to the candidate who carries it—no matter how thin his margin. If a candidate squeaks through in certain key states he could enter the White House without winning the popular vote. This could easily have happened last fall as well as in the tight Kennedy-Nixon contest eight years ago.

Now, as in the past, two methods are offered to correct this defect.

One, the so-called "proportional system", would split each state's electoral vote into fractions proportionate to its popular vote. But this method, like the direct election, opens the way for splinter parties and runoff elections.

The other method, the "district system," would permit each congressional district to choose one elector. In the past this method has been rejected because congressional districts, juggled and gerrymandered by state legislatures, were glaringly unequal in population. But this inequality no longer exists. Under the "one man, one vote" decision of the Supreme Court, legislatures have been compelled to see to it that congressional districts contain, as near as practicable, equal population. This makes the district system as near perfect as any that could be devised. It guards against splinter parties and even further limits the effects of fraud or irregularities. It gives every vote the same weight, for each citizen would vote for one district elector and two at-large for his state. No longer would you be voting for four electors from New Hampshire while your cousin in New York votes for forty-five.

This is the constitutional amendment I support.

For 165 years Congress has been struggling with procedure for electing Presidents. Forty-four times it has debated and rejected direct election. Thirty-nine times it has fought over the district system and, more recently, the proportional system. Innumerable other proposals have been considered. Three times in the early years it was seriously suggested that the President be chosen from a selected group by drawing lots. The proponents of this absurd notion argued that it

would save us from the excitement of elections which, they said, "convulse the whole body politic."

And they had never watched a national convention on television!

STATUS OF UNFINISHED BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside, and that it remain in that status until the conclusion of morning business tomorrow.

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

LIBRARY SERVICES AND CONSTRUCTION AMENDMENTS OF 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 1179.

Mr. BAYH. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, considering the press of Senate business and the desire of the Senate leadership to try to move forward, and wanting to walk that last mile, and wanting to avoid the appearance of being arbitrary in pursuance of a goal I feel is vital to our country, the Senator from Indiana is reluctant to impose an objection at this time. But let the Senate be on notice that this will not be the response of the Senator from Indiana for too long a period of time.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows: A bill (S. 3318), to amend the Library Services and Construction Act, and for other purposes.

Mr. BYRD of West Virginia. 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. PELL. 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. PELL. Mr. President, the pending business, S. 3318, a bill to amend the Library Services and Construction Act, extends for 5 years the present public law which expires on June 30, 1971. The bill continues with certain modifications and improvements the present programs under the law, while at the same time simplifying the administration of these programs. Another facet of the bill is that it allows a certain amount of flexibility in the utilization of Federal funds by each State. In the future, the State itself will be able to design a program to best meet its own needs.

CONSOLIDATION—TITLE I OF BILL

The bill contains a consolidation of certain categorical programs of the present Library Services and Construction Act. The concept of consolidation was urged on the committee by the administration. While the reported bill does not contain the massive consolidation supported by the administration it does consolidate three of the presently authorized programs, which are:

First, title I, which provides authorization for grants for general library services;

Second, title IV–A, which provides special library services to persons in State institutions, both correctional and medical; and

Third, title IV–B, which provides special library services for the physically handicapped.

CONSTRUCTION—TITLE II OF THE BILL

The bill continues the present program of matching grants for library construction assistance. The present brick and mortar needs of the library are great. Indeed, when the committee was considering this section of the bill there were 271 construction project applications awaiting a total of $51.5 million in Federal funds. It is hoped that the appropriations will be made to fill this outstanding need.

INTERLIBRARY COOPERATION—TITLE III

The bill continues the present grants to the States for interlibrary cooperation programs. This money is to be used at the discretion of the State to carry out what it deems necessary to improve library services on a local, interstate, and regional basis, or to improve supplementary library services to the citizens of the State. Imaginative use has been made of the funds and the committee supports the continuation of the program.

The bill before us is a rather simple, straightforward measure which extends and improves an already excellent program for another 5 years.

LENGTH OF EXTENSION

Some have questioned the reason for a 5-year extension. Suffice it to say that the previous reauthorization of this program was for a 5-year period, and that the administration bill sent up to us, S. 3549, was also for a 5-year period.

COST

It can be seen that the bill is a reasonable extension of present law. Except for title I, which calls for more funds due to the consolidation, the levels for fiscal year 1972 remain the same as those already authorized for fiscal year 1971. For the 4 fiscal years following, the authorization is raised 5 percent each year, actually, a figure less than the rate of inflation. I ask unanimous consent that a table showing the cost of the bill be printed at this point in the RECORD.

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

AUTHORIZATIONS OF APPROPRIATIONS

[In millions of dollars]

Program	Fiscal year— 1971 present law	1972 proposed	1973 proposed	1974 proposed	1975 proposed	1976 proposed
Title I (library services) including specialized services	97	112	117.600	123.500	129.675	137.150
Title II (public library construction)	80	80	84.000	88.000	92.500	97.000
Title III (interlibrary cooperation)	15	15	15.750	16.500	17.300	18.200
Total	192	207	217.305	228.000	238.475	252.350

Mr. PELL. Mr. President, this is a good noncontroversial bill, one which will be of aid to people throughout the Nation. It was reported unanimously by both the subcommittee and the full committee. I urge its passage.

Mr. President, before the question is put, 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.

Mr. COOK. Mr. President, I ask for the yeas and nays on the pending bill.

The yeas and nays were ordered.

Mr. BYRD of West Virginia. 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.

Mr. PROUTY. Mr. President, I rise in support of the pending bill, the Library Services and Construction Amendments of 1970, S. 3318, which was reported unanimously from the Committee on Labor and Public Welfare.

This measure, as reported, contains elements of the administration's proposal, S. 3549, which Senator JAVITS introduced on March 5. The administration has long sought the consolidation of categorical programs. While not going as far as the administration bill, S. 3318 does consolidate titles I and IV of the present act, the titles relating to library services programs and to programs for institutionalized and handicapped persons, thus affording greater flexibility to the States and communities. The bill calls for development and submission of only one basic State plan. Special emphasis is given to programs for the disadvantaged.

In addition, the bill includes an amendment by Senator DOMINICK and me, as minority members of the Education Subcommittee, increasing the minimum allocation to each State from $100,000 to $200,000, a provision of particular importance to the smaller States.

The Library Services and Construction Act has accomplished a substantial growth of public library services for our citizens. Through title I, public library services have been expanded, improved,

and in many cases extended to communities previously without library services. Inadequate public library facilities have been remodeled and expanded through resources appropriated under title II; new facilities have been constructed in areas where none existed before. Title III has nurtured the growth of cooperative networks, enabling libraries of different kinds—public, academic, and specialized libraries, for example—to share resources and services. States have strengthened library resources and services in State residential institutions under the auspices of title IV–A of the act, reaching thousands of prison inmates, mental patients, orphans, and so on. Finally, title IV–B has helped the States and local communities to make special library services available to physically handicapped persons who would otherwise be deprived of library services, because their handicaps prevent them from using regular library materials.

I should like to commend the distinguished chairman of our subcommittee, Mr. Pell, for his guidance and leadership in the crafting of this legislation, which is a substantial clarification and updating of a program which has served the Nation well since its enactment in 1956. Many of us here, as did I, had the opportunity to support the Library Services and Construction Act in its original form during the 84th Congress as Members of this or the other body, or have had the opportunity to support the bills continuing and modifying the program enacted in subsequent Congresses. The measure before us merits similar support.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum for a brief quorum call before the roll is called.

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 question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

Mr. COOPER. Mr. President, I would like to express my support for the bill now before us, the Library Services and Construction Amendments of 1970.

For several years, I was a member of the committee which has jurisdiction in this field, and I have been a sponsor of previous extensions of the act. I have also supported appropriations for this program which has proven to be so valuable in the development of our public libraries.

I believe that it has been the efforts of the local communities which have made the impact of the program reach far beyond the actual dollars spent by the Federal Government. In my own State of Kentucky, over 75 counties have voted special library taxes to support and improve the local public libraries.

I would also like to mention the important work of the Kentucky Department of Libraries which has provided strong leadership in the development of a State public library program. In the few years that we have had title III, the interlibrary cooperation program, Kentucky has been able to develop 17 regional libraries with 90 of the 120 State counties participating. The State has also assumed a major portion of the cost of providing library services to the very poor rural areas. Presently the department operates 105 bookmobiles which bring books and other materials to these persons for the first time.

At this point, I affirm my continued support of the program, and I am glad to vote for this bill which will extend the Library Services and Construction Act for 5 more years.

Mr. STENNIS. Mr. President, as the Senate considers the Library Services and Construction Amendments of 1970, I would like to comment briefly on some of the accomplishments under this excellent program.

Since the federally assisted library services were started, with the passage of the Rural Library Services Act of 1956, $200 million in Federal funds have been provided and $135 million have been provided for library construction, since that became authorized in 1965, generating a building program of over 1,500 buildings, to serve 50 million people.

Between library services and construction, library benefits have been improved for about half our national population. This is a tremendous accomplishment over a relatively brief span of 13 years.

In Mississippi alone, since 1957, library service has been provided to almost 800,000 people, and library service has been improved for over a million people. Large sums of State and local funds have been generated by the availability of the Federal money. A total of 89 Mississippi counties have started library service where it previously was not available, and we now have 14 multicounty systems which include 46 counties.

From fiscal year 1965 through 1969, 29 new library buildings have been completed, and three are under construction. Eight of our towns have funds ready to be matched, and 28 more have applications on file for construction funds.

I wish to compliment the Committee on Labor and Public Welfare, the distinguished Senator from Texas, and the distinguished Senator from Rhode Island on this library services and construction bill, which extends the act for 5 years, and modifies and improves the programs. I am very pleased to see the increased percentage of Federal participation in library services, library construction, and interlibrary cooperation. Very encouraging also are the graduated increases in authorizations for all the programs. Grants authorized for Mississippi for library services will increase from $1,275,000 in fiscal year 1972 to $1,665,000 in 1976. Construction grant authorizations range from $965,000 in fiscal year 1972 to $1,162,000 in 1976. For financing State library networks, the grants range from $150,000 to $226,000 in fiscal year 1976.

Public library activities play a very important part in community life in Mississippi. This authorization bill helps to insure that we will continue to have a strong and vital public library program.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER (Mr. GRAVEL). 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 North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington, (Mr. MAGNUSON), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Wisconsin (Mr. NELSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Virginia (Mr. SPONG), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from California (Mr. CRANSTON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Missouri (Mr. SYMINGTON), the Senator from Texas (Mr. YARBOROUGH), the Senator from New Jersey (Mr. WILLIAMS), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Virginia (Mr. SPONG), and the Senator from North Dakota (Mr. BURDICK) would each vote "yea."

Mr. YOUNG of North Dakota. I announce that the Senator from Utah (Mr. BENNETT) is absent because of death in his family.

The Senator from Arizona (Mr. FANNIN), the Senators from New York (Mr. JAVITS and Mr. GOODELL), the Senator from California (Mr. MURPHY), the Senators from Illinois (Mr. PERCY and Mr. SMITH), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS) 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.

The Senator from New Hampshire (Mr. COTTON), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Michigan (Mr. GRIFFIN) are detained on official business.

If present and voting, the Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. PERCY), 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 63, nays 0, as follows:

[No. 317 Leg.]

YEAS—63

Aiken	Ervin	McGovern
Allen	Fong	McIntyre
Allott	Fulbright	Metcalf
Anderson	Gravel	Miller
Baker	Gurney	Mondale
Bayh	Hansen	Muskie
Bellmon	Harris	Packwood
Bible	Hart	Pastore
Boggs	Hatfield	Pearson
Brooke	Holland	Pell
Byrd, W. Va.	Hollings	Prouty
Case	Hruska	Proxmire
Church	Hughes	Russell
Cook	Inouye	Schweiker
Cooper	Jackson	Smith, Maine
Curtis	Jordan, N.C.	Sparkman
Dole	Jordan, Idaho	Stennis
Dominick	Long	Talmadge
Eagleton	Mansfield	Williams, Del.
Eastland	Mathias	Young, N. Dak.
Ellender	McClellan	Young, Ohio

NAYS—0

NOT VOTING—37

Bennett	Javits	Saxbe
Burdick	Kennedy	Scott
Byrd, Va.	Magnuson	Smith, Ill.
Cannon	McCarthy	Spong
Cotton	McGee	Stevens
Cranston	Montoya	Symington
Dodd	Moss	Thurmond
Fannin	Mundt	Tower
Goldwater	Murphy	Tydings
Goodell	Nelson	Williams, N.J.
Gore	Percy	Yarborough
Griffin	Randolph	
Hartke	Ribicoff	

So the bill (S. 3318) was passed.

Mr. MANSFIELD. Mr. President, the Senate is greatly indebted to the very distinguished and able chairman of the Education Subcommittee, the Senator from Rhode Island (Mr. PELL). Under his expert guidance, the Senate readily adopted the Library Services and Construction Act. Its unanimous acceptance speaks abundantly for his effective advocacy. All of us are aware of the importance of this measure. The presentation of its many features was freely outstanding. It represents another fine achievement of Senator PELL, who has served so capably as chairman of the Education Subcommittee.

Assisting in directing the bill through the Senate was the ranking minority member of the Education Subcommittee, the distinguished Senator from Vermont (Mr. PROUTY). With his backing and help, the library services measure passed the Senate today unanimously. The Senate is deeply grateful.

ENVIRONMENTAL QUALITY EDUCATION ACT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1181, H.R. 18260.

The ACTING PRESIDENT pro tempore (Mr. METCALF). The bill will be stated by title.

The assistant legislative clerk read as follows: H.R. 18260, 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.

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, 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 "Environmental Quality Education Act."

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress of the United States finds that the deterioration of the quality of the Nation's environment and of its ecological balance poses a serious threat to the strength and vitality of the people of the Nation and is in part due to poor understanding of the Nation's environment and of the need for ecological balance; that presently there do not exist adequate resources for educating and informing citizens in these areas, and that concerted efforts in educating citizens about environmental quality and ecological balance are therefore necessary.

(b) It is the purpose of this Act to encourage and support the development of new and improved curriculums to encourage understanding of policies, and support of activities designed to enhance environmental quality and maintain ecological balance; to demonstrate the use of such curriculums in model educational programs and to evaluate the effectiveness thereof; to encourage the development of educational processes directed toward increasing the awareness, concern, motivation, and training with respect to the total environment, natural and manmade, which will enable our citizens to improve the environment and better the quality of their lives; to disseminate information for use in educational programs throughout the Nation; to provide training programs for teachers, other educational personnel, public service personnel, and community, labor, and industrial and business leaders and employees, and government employees at State, Federal, and local levels; to provide for community education programs on preserving and enhancing environmental quality and maintaining ecological balance.

ENVIRONMENTAL EDUCATION

SEC. 3 (a) (1) There is established, within the Office of Education, an Office of Environmental Education (referred to in this section as the "Office") which, under the supervision of the Commission, shall be responsible for (A) the administration of the program authorized by subsection (b) and (B) the coordination of activities of the Office of Education which are related to environmental education. The Office shall be headed by a Director who shall be compensated at the rate prescribed for grade GS–17 in section 5332 of title 5, United States Code.

(2) For the purposes of this section, the term "environmental education" means the educational process dealing with man's relationship with his natural and manmade surroundings, and includes the relation of population, pollution, resource allocation and depletion, conservation, transportation, technology, and urban and rural planning to the total human environment.

(b) (1) The Commissioner shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, regional educational research organizations, and other public and private educational institutions (including libraries and museums) to support research, demonstration, and pilot projects and operational programs designed to educate the public on the problems of environmental quality and ecological balance, except that no grant may be made other than to a nonprofit agency, organization, or institution.

(2) Funds appropriated for grants and contracts under this section shall be available for such activities as—

(A) the development of curriculums (including interdisciplinary curricula) in the preservation and enhancement of environmental quality and ecological balance;

(B) dissemination of information relating to such curricula and to environmental education, generally;

(C) preservice and inservice undergraduate and post-graduate training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with environmental quality and ecology;

(D) programs and projects designed to familiarize public service personnel, government employees, and business, labor, and industrial leaders and employees with the problems of environment and ecology and with the means by which such problems may be solved; and

(E) community education programs. In addition to the activities specified in the first sentence of this paragraph, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any such activities, whether or not assisted under this section.

(3) Financial assistance under this subsection may be made available only upon application to the Commissioner. Applications under this subsection shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it—

(A) provides that the activities for which assistance is sought will be administered by, or under the supervision of, the applicant;

(B) describes a program for carrying out one or more of the purposes set forth in the first sentence of paragraph (2) which holds promise of making a substantial contribution toward attaining the purposes of this section; and

(C) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application.

(c) (1) There is hereby established an Advistory Council on Environmental Quality Education consisting of twenty-one members appointed by the Secretary. The Secretary shall appoint one member as Chairman. The Council shall consist of persons appointed from the public and private sector with due regard to their fitness, knowledge and experience in matters of, but not limited to, academic, scientific, medical, legal, resource conservation and production, urban and regional planning, and information media activities as they relate to our society and affect our environment, and shall give due consideration to geographical representation in the appointment of such members.

(2) The Council shall—

(A) advise the Commissioner and the Office concerning the administration of, preparation of general regulations for, and oper-

ation of programs assisted under this section;

(B) make recommendations to the Office with respect to the allocation of funds appropriated pursuant to subsection (d) among the purposes set forth in paragraph (2) of subsection (b) and the criteria to be used in approving applications, which criteria shall insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(C) develop criteria for the review of applications and their disposition; and

(D) evaluate programs and projects assisted under this section and disseminate the results thereof.

(d) For the purpose of carrying out the provisions of this section, there is hereby authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1972, and $10,000,000 for each of the succeeding fiscal years ending prior to July 1, 1974.

TECHNICAL ASSISTANCE

SEC. 4. The Secretary of Health, Education, and Welfare, in cooperation with the heads of other agencies with relevant jurisdiction, shall, upon request, render technical assistance to local educational agencies, public and private organizations, institutions of higher education, agencies of local, State, and Federal Government and other agencies deemed by the Secretary to play a role in preserving and enhancing environmental quality and maintaining ecological balance. The technical assistance shall be designed to enable the recipient agency to carry on education programs which are related to environmental quality and ecological balance.

Mr. HUGHES. Mr. President, the distinguished author of the bill, the Senator from Wisconsin (Mr. NELSON), is on his way to Washington, traveling by air, and is unable to be here at this moment to handle the bill. In his absence, I will deliver a statement he would have made, had he been here, supporting the bill.

If the Senator from Wisconsin (Mr. NELSON) were here, he would have presented his statement as follows:

Mr. President, it is becoming increasingly clear that finding answers to the environmental crisis will involve bringing sweeping changes in man's attitudes, values and modes of behavior.

The world is no longer a limitless frontier, where man has the luxury of stripping one site of its resources, to move on to the next virgin territory. Unfortunately, that has been man's tradition for hundreds of years, and that comes most naturally to him.

It will not be possible to develop broad environmental policies until we totally reexamine the relationships between ourselves, nature, and the world we have created. Man must come to understand that he is part of a delicate balance, and if he degrades, diminishes, wastes or misuses vital resources, he threatens his survival and that of all living things.

To change attitudes and to develop a conscious ethic that says man must not destroy and despoil his environment will require a major educational effort, for education is the only proper way to influence beliefs in a democratic society.

The beginning of such an effort was made in April, with a nationwide series of teach-ins on the environmental crisis, called Earth Day. In all, it was estimated that more than 2,000 colleges, 10,000 high schools, and uncounted thousands of community organizations participated.

This act would give the Office of Education a firm mandate to support bold and imaginative programs in environmnetal education, from pre-school to community and adult education level.

Specifically, the bill would authorize the Commissioner of Education to fund proposals from institutions of higher learning and other public or private agencies for developing environmental curricula. These would apply to elementary, secondary, university and adult and community education programs, using the environment more as a teaching resource than it has been used in the past.

New techniques will be devised to get children out of the classroom, to study nature and to look at pollution firsthand. Efforts at the secondary and undergraduate level will emphasize the problem-solving approach. Students will see what has happened physically, investigate technological means of correcting environmental damage, and then learn what can be done, from an economic and political standpoint.

At the graduate level the bill would step up the professionalization of ecology as a discipline.

Without adequate teacher training, the best curriculum will never be used. The act would provide training for both teachers and student teachers, through new courses of study, summer workshops, symposiums, seminars and conferences. It would be particularly helpful to the Office of Education in preparing undergraduate teachers, an area in which the Office has virtually no authority.

It would create an Advisory Committee on Environmental Education, composed of 21 distinguished persons familiar with education, information media, and the problems of the environment and ecological balance. The committee would advise on the program's administration, make recommendations on the allocation of funds, review applications and evaluate projects carried out under the act.

Mr. President, incentives and proscriptions on industry and other sources of pollution are a necessary part of securing a decent environment, but they will not be sufficient.

The issue involved is not only man's survival, but also the quality of that survival. Quality is inextricably bound to the science of ecology, which is concerned with the total system of life, and not just with how we dispose of our tin cans, bottles, and sewage. It is concerned with the habitat of marine creatures, animals, birds, and man. It is concerned with man's place as part of the system, and not as the incessant conqueror of it.

A program of environment education will help us reevaluate man's role, and if the program is to be fully effective, it must take into account the problems of cities and rural areas which are intimately intertwined, as is the relationship of human endeavors to the natural environment.

The inner-city slums, sprawling suburbia, dirty rivers, wasteheaps, garbage dumps, and congestion must be the classroom of the future if we are to face the realities of a society endangered by its own environmental destruction.

Mr. President, if the Senator from Wisconsin (Mr. NELSON) had been able to be present, he would have delivered this statement in person. In his absence and as a cosponsor of the bill, I wholeheartedly associate myself with his comments. I have delivered them on his behalf.

I certainly urge my colleagues in the Senate to pass this bill on environmental quality education. I believe it will be a great step in the right direction of bringing our educational resources to bear on one of the great problems of our time.

This is an initial phase that can begin to develop through the best minds programs not only to correct what is already wrong, but also to keep a balance in the future with the rapid technological advancement that has taken place. Hopefully it will establish international cooperation that can result in a balanced ecology around the world.

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

Mr. HUGHES. I yield.

Mr. PELL. Mr. President, As chairman of the Education Subcommittee I urge the Senate to adopt the environmental quality education bill.

Indeed, I was so struck by its importance when it was introduced that I held early hearings and offered an amendment to the bill, which was acceptable to its sponsors which established the specificity of Environmental Education within the Office of Education.

I think it is a significant bill. I am pleased that the Education Subcommittee was able to report it to the full Labor and Public Welfare Committee.

I congratulate the Senator from Wisconsin (Mr. NELSON) for introducing the bill, Representative JOHN BRADEMAS, of Indiana, who introduced the companion measure in the House, and the Senator from Iowa (Mr. HUGHES) who has ably handled the bill on the floor today.

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

Mr. HUGHES. I yield to the distinguished Senator from Vermont.

Mr. PROUTY. Mr. President, I am pleased to see H.R. 18260 come before the Senate. It authorizes the Commissioner of Education to establish education programs that will encourage greater understanding of problems affecting our environment. The bill also establishes an Office of Environmental Education within the Office of Education. I would have preferred that no such Office be created and that all programs operate directly under the Secretary of Health, Education, and Welfare. However, this view did not prevail in committee. Our need for these programs is very great today, and I will support the bill as it comes before the Senate today.

Mr. President, I thank the Senator for yielding.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

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

Mr. HUGHES. I yield to the distinguished Senator from Kentucky.

Mr. COOPER. Mr. President, I do not want to delay passage of this important bill. I have asked the Senator from Iowa to yield so that I may pay my respects to him and the Senator from Wisconsin (Mr. NELSON). The Senator from Iowa has said that his statement would have been made by the Senator from Wisconsin, if he could have been present but the Senator from Iowa said that it expresses his own views.

Mr. President, as the ranking minority member of the Committee on Public Works, I can say that that committee for a member of years has been working in the preparation of bills to control pollution whether water pollution, air pollution control—a bill which will be before the Senate today—with oil slicks, with solid waste disposal, and material re-

cycling, and also with other programs such as the Federal-aid highway authorization bill and the rivers and harbors bill.

Mr. President, the bill before us provides a necessary supplement with the nationwide program to control pollution. I believe it performs a necessary function. It directs attention toward the education of our people to enable them to comprehend this danger and join in its control. I am sure, too, that the people will join in the effort to control pollution in our country and in the world.

Mr. PROUTY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HUGHES. Mr. President, I wish to express my appreciation and gratitude to the Senator from Wisconsin (Mr. NELSON), as well as the Chairman of the Education Subcommittee, the Senator from Rhode Island (Mr. PELL), whose subcommittee handled this bill with such efficiency and rapidity, to the Senator from Vermont (Mr. PROUTY), and the Senator from Kentucky (Mr. COOPER) for their expressions of support for the bill.

I know that this will be a giant step in the right direction.

I would like to state, as I did earlier, that the Senator from Wisconsin (Mr. NELSON), the author of this bill, is traveling by air and will be unable to cast his vote on the bill.

Certainly had the Senator from Wisconsin been here, he would have voted for the bill.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the third reading and passage of the bill.

The bill (H.R. 18260) was ordered to a third reading and was read the third time.

Mr. MANSFIELD. Mr. President, the senior Senator from Texas (Mr. YARBOROUGH) is necessarily absent today, however, he has a longstanding interest in environmental education and has a statement on this pending bill. I ask unanimous consent that Senator YARBOROUGH'S statement be printed at this point in the RECORD.

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

STATEMENT OF SENATOR YARBOROUGH

Mr. President, the bill which is presently before us for consideration represents an important step forward in our fight to bring the sources and causes of air, water and noise pollution which threaten our society under control. This bill was originally introduced by the distinguished Senator from Wisconsin, Senator Nelson, as S. 3151. Because of its importance, I am co-sponsoring this measure and I am very pleased that it is now before the Senate for action.

This bill provides for direct attack on the problems of pollution by providing a program of education which will bring to the public's attention the threats that now exist to our environment. More specifically, the bill would establish an Office of Environmental Education within the Office of Education which would coordinate all the environment education activities of the Office of Education and administer the grant and contract program to institutions interested in establishing environmental education programs.

In addition to the Office of Environmental Education, the bill authorizes the Commissioner of Education to make grants to, and enter into contracts with, educational institutions, both private and public, and state and local agencies to assist them in developing research and demonstration projects in environmental education. This program of federal assistance will greatly stimulate interest in environmental education and encourage educational institutions and agencies throughout the country to enter into this area.

I commend the distinguished Senator from Wisconsin, Senator Nelson, for his creativeness and interest in this important area and for the leadership he is providing to the country in the fight against pollution. I sincerely hope that educational institutions and government agencies throughout the United States will take advantage of this program and bring the problems of pollution before our citizens. Only through education can we hope to save our environment. I urge all my colleagues to give this important bill their full support.

Mr. HUGHES. 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. HUGHES. 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 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 legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Wisconsin (Mr. NELSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK), the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. MAGNUSON), the Senator from Wisconsin (Mr. NELSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Missouri (Mr. SYMINGTON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Texas (Mr. YARBOROUGH), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from New Mexico (Mr. MONTOYA) would each vote "yea."

Mr. YOUNG of North Dakota. I announce that the Senator from Utah (Mr. BENNETT) is absent because of death in his family.

The Senator from Arizona (Mr. FANNIN), the Senators from New York (Mr. JAVITS and Mr. GOODELL), the Senator from California (Mr. MURPHY), the Senators from Illinois (Mr. PERCY and Mr. SMITH), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), 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.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Michigan (Mr. GRIFFIN) are detained on official business.

If present and voting, the Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senators from Illinois (Mr. PERCY and Mr. SMITH), 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 64, nays 0, as follows:

[No. 318 Leg.]

YEAS—64

Aiken	Ervin	Metcalf
Allen	Fong	Miller
Allott	Gravel	Mondale
Anderson	Gurney	Muskie
Baker	Hansen	Packwood
Bayh	Harris	Pastore
Bellmon	Hart	Pearson
Bible	Hatfield	Pell
Boggs	Holland	Prouty
Brooke	Hollings	Proxmire
Byrd, W. Va.	Hruska	Russell
Case	Hughes	Schweiker
Church	Inouye	Smith, Maine
Cook	Jackson	Sparkman
Cooper	Jordan, N.C.	Spong
Cotton	Jordan, Idaho	Stennis
Curtis	Long	Talmadge
Dole	Mansfield	Williams, Del.
Dominick	Mathias	Young, N. Dak.
Eagleton	McClellan	Young, Ohio
Eastland	McGovern	
Ellender	McIntyre	

NOT VOTING—36

Bennett	Hartke	Randolph
Burdick	Javits	Ribicoff
Byrd, Va.	Kennedy	Saxbe
Cannon	Magnuson	Scott
Cranston	McCarthy	Smith, Ill.
Dodd	McGee	Stevens
Fannin	Montoya	Symington
Fulbright	Moss	Thurmond
Goldwater	Mundt	Tower
Goodell	Murphy	Tydings
Gore	Nelson	Williams, N.J.
Griffin	Percy	Yarborough

So the bill (H.R. 18260) was passed.

The title was amended so as to read:

An act to authorize the U.S. Commissioner of Education to establish education programs to encourage understanding of policies, and support of activities, designed to enhance environmental quality and maintain ecological balance.

Mr. MANSFIELD. Mr. President, although he necessarily could not be present for the final passage of this very important measure in the Senate, the very distinguished and able Senator from Wisconsin (Mr. NELSON) deserves the highest commendation of the Senate for introducing this measure and for his devoted efforts in the whole field of concern regarding the environment. All of us know of his leadership, of his success in bringing into focus the many needs along these lines. We appreciate especially his bringing this bill through Committee and making it available for adoption today in the Senate.

The very articulate and able Senator from Iowa (Mr. HUGHES) deserves special recognition and commendation for his most capable handling of the measure on the Senate floor in the absence of Senator NELSON. In addition to those of Senator NELSON, Senator HUGHES brought us the benefit of his own very thoughtful and incisive views and we are most grateful.

INSPECTION OF LIVESTOCK PRODUCTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1215, S. 3942.

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

The legislative clerk read the bill, by title, as follows: A bill (S. 3942) to provide for thorough health and sanitation inspection of all livestock products imported into the United States, 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. MANSFIELD. Mr. President, I suggest the absence of a quorum. Several Senators are interested in the bill, and I hope they will be called.

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

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

Mr. MANSFIELD. Mr. President, the pending legislation was originally introduced in the House of Representatives by Dr. JOHN MELCHER, Representative from the First District of Montana. JOHN MELCHER happens to be the only veterinarian in the Congress of the United States, and he is a man who knows his business when it comes to ranching and when it comes to the feed and care of livestock, sheep, and other range animals.

Congressman MELCHER has put a great deal of effort into this proposal and has used his expertise in the drawing up of legislation which would seek to bring imported frozen beef, mutton, and veal up to the same sanitary and hygenic standards as we require of American packers in our own country.

A few days ago, Representative MELCHER told the House Agriculture Committee that inspection of imported meat by examining small samples in "the confusion, dust, and grime of oceanside docks should be ended."

He also testified that present imported meat inspection methods accept some defects and impurities, and give consumers no assurance of a wholesome, sanitary product.

He also noted—and this was brought out in testimony before the Senate Agriculture Committee—that at the present time, we have only 14 foreign review officers, watching 1,100 foreign plants which export meats to us, and that that number just cannot assure sanitary processing.

He noted that on-the-dock inspection is "scant and incomplete, with less than 1 percent of all meat inspected"; also, that incomplete examination of "these scant samples of meat is neither adequate nor a real assurance of wholesomeness."

Mr. President, this is something which I think is worth the consideration of the Senate and of Congress. I am disturbed that there is some opposition to it, because the basic intent of this legislation is to place importers of foreign meat products on the same hygienic and sanitary standard as American packers are, under the law, compelled to live up to at the present time.

I would hope, therefore, that the Senate will give this most serious matter, as far as the cattle and meat industry both are concerned, its most serious consideration this afternoon.

I ask unanimous consent to have printed at this point in the RECORD testimony which I gave before the Committee on Agriculture and Forestry some weeks ago.

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

STATEMENT OF HON. MIKE MANSFIELD, U.S. SENATOR FROM THE STATE OF MONTANA

Senator MANSFIELD. Thank you, Mr. Chairman and members of the committee, for this opportunity to appear before you in behalf of the Melcher bill, S. 3942, on inspection of imported meat.

There is nothing more important to consumers and to those who produce meat in this country—and we have both in Montana—than the maintenance of absolute confidence in the purity, wholesomeness and sanitary quality of the meat and animal products offered consumers.

Per capita consumption of beef has grown from 85 pounds in 1960 to 110 pounds last year, and of all meats from 161 pounds to 183 pounds per person. The Department of Agriculture is forecasting continued growth, and this is all because American consumers have confidence in our system of inspection and, therefore, in the quality of the meat allowed to be offered to the public at stores.

In recent years, when proof was offered that some slipshod practices existed in handling of meat, Congress has promptly provided for poultry inspection and for improved meat inspection. We have voted the most rigid requirements considered desirable on our own meatpacking and processing establishments, and we have voted to require that meat imported into the United States be produced under equally sanitary conditions so it will meet standards of wholesomeness equal to ours.

My confidence in the quality and thoroughness of inspection of imported meat was shaken when Dr. John Melcher, a Montana veterinarian who was elected to Congress just a year ago at a special election, described to me what he had learned as a result of a personal investigation into the nature of our inspection of foreign meat plants and of meat as it comes into the United States.

We have only 14 or 15 men who travel the globe to make sure that more than 1,100 foreign packing plants are designed and operated to meet our sanitation requirements, and that the day-to-day inspection of meat as it moves down the packing house lines is equal to the inspection standards and requirements we maintain. The annual report of the inspection branch at USDA shows that one of these men frequently inspects three plants a day, which certainly isn't much of an inspection of the plant, the premortem or postmortem procedures, the boning, cooking or freezing, packing and handling of meat destined for the United States. In his hour or two visit, he cannot, of course assure himself that there is premortem examination of all animals butchered around the year, or that there is thorough postmortem inspection of every carcass on the packing line 365 days a year—that has to be taken on faith that the governments in Central and South America, Oceania, Europe, and the East all provide rigid day-to-day inspection equal to ours.

We run a check on the results of the inspection on foreign plants when meat arrives in the United States. The equivalent of about 75 man-years is devoted to sampling the 1.6 billion pounds of meat shipped to us to make sure that the defects in it do not exceed certain tolerances: one minor defect per 30 pounds, one major defect over 400 pounds, and one critical defect per 4,000 pounds. Congressman Melcher will discuss those defects and their classification.

It is my understanding—and if it is not correct, we should make it so—that as meat moves down processing lines in an American packing plant, if any defect is discovered which affects the absolute wholesomeness of a piece of meat, that piece of meat is pulled off the line and the defect eliminated or the meat "tanked' and removed completely from any possibility of human use.

The bill which I introduced in the Senate, a companion to Congressman Melcher's H.R. 17444, provides for thorough inspection of all animal products imported into the United States, and that means piece-by-piece inspection, after thawing, of the fresh and frozen meat which arrives at our ports of entry.

We cannot provide hundreds or even thousands of U.S. inspectors in foreign plants to maintain daily vigilance over meat produced in each of them which may be shipped to us. We can inspect these products thoroughly which are offered for our markets, and that is what the bill proposes be done.

I am concerned about the volume of meat and animal products being imported into the United States. Unregulated, it can have extremely serious consequences for our domestic producers, upon whom we must rely for the great bulk of our meat, dairy products, and other animal foods. We deal with the problem of volume in separate import quota legislation. With others I authored the meat import law of 1965.

This question of thorough inspection in a separate question, just as important as any import quota, for failure to guarantee American consumers that imported meat—which is mixed with our own in ground and processed products and is unidentifiable as imported meat except in rare instances where it comes in, in consumer packages—is absolutely wholesome and sanitary can destroy confidence in the meat and animal

products on the shelves and in the coolers of our stores.

Congressman Melcher will testify today. As a veterinarian he can discuss with you in some detail the existing inspection procedures, and such problems as the failure of Australia to eliminate certain defects in shipments to us. This aspect of the problem is very technical and I defer to my colleague, Melcher, who is a very thorough person. At least, we have found him to be as a veterinarian in Forsyth, Mont., as a congressional candidate from the Second District, and as a Congressman, in all areas he is tops.

Mr. Chairman, I ask unanimous consent that I have inserted in the record here a letter addressed to you under date of July 14 from Bill McMillan, C. W. McMillan, in charge of the Washington office of the American National Cattlemen's Association, and also a letter addressed to me by Mr. Russell Heine, secretary-treasurer of the National Lamb Feeders Association, of which, incidentally, Mr. Roy A. Hanson of Miles City, Mont., is the president.

Senator JORDAN. It will be so ordered and will be inserted immediately after your remarks.

(The documents referred to follow:)

AMERICAN NATIONAL CATTLEMEN'S ASSOCIATION,
Denver, Colo., July 14, 1970.

Hon. B. EVERETT JORDAN,
Chairman, Subcommittee on Agriculture, Committee on Research and General Legislation, Senate Office Building, Washington, D.C.

DEAR SENATOR JORDAN: The American National Cattlemen's Association heartily endorses S. 3942, S. 3987, and S. Concurrent Resolution 73.

These bills all would provide for better inspection of meats for consumers. They would give additional assurances to the U.S. consumers that the product they purchase from domestic production or foreign nations will be wholesome.

Our Association was in strong support of amendments at the time of the passage of the Wholesome Meat Act of 1968 which require meat inspection standards in foreign meat plants exporting to the U.S. to be at least equivalent to those in our nation's federally-inspected plants. Up to that time, the regulations only stated that inspection standards should be "substantially equivalent" to those in the United States. That language provided a loophole whereby the foreign produced product needed only be "something less than" the standards of sanitation and wholesomeness existing in the United States' federally inspected plants.

One recommendation we offer to S. 3942 and S. 3987 is to make it perfectly clear that the dockside inspection of foreign meats would include product which is classified as canned, cooked and cured. The requirement for this product to be cooked is one related to animal disease, particularly to assure that the virus of foot and mouth disease is killed, thus preventing that dread disease from gaining entry into the United States. This cooking requirement does not insure that the product might be free from foreign materials considered to be unwholesome for human consumption. The requirement of dockside inspection of this product would be an additional assist in the interest of the U.S. consumers. Interestingly, most of this product arrives in the U.S. in large containers rather than "consumer size" so that administrative difficulties to inspect this product becomes much less.

Today we take the same viewpoint as we did in 1968. We support the legislation pending before your Subcommittee and urge its enactment simply because we feel that U.S. consumers are entitled to wholesome food whatever its source.

We respectively request that this letter be made a part of the hearing record. Thank you.

Cordially,

C. W. MCMILLAN,
Executive Vice President.

NATIONAL LAMB FEEDERS ASSOCIATION,
Spencer, Iowa, July 13, 1970.

Hon. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SIR: It has been brought to our attention that you are cosponsoring a bill for stricter inspection on imported meats. We highly commend you for this action.

We realize, of course, that lamb is not subject to quota restrictions but we feel it is very important that lamb be included along with other meats in this proposed legislation.

Sincerely,

RUSSELL HEINE,
Secretary-Treasurer.

Senator JORDAN. Do you have any questions, Senator Curtis?

Senator CURTIS. Well, I am certainly in accord with the objective of the bill.

I just have one question: Where would this inspection take place as envisioned in your bill?

Senator MANSFIELD. We would hope that more thorough inspections would take place at ports of entry, but we would leave that to the committee in its judgment which is more cognizant of the entire agricultural field, and specifically this area, as to what it would recommend as to what it thought should be done.

Senator CURTIS. Well, I am for more inspection.

Senator MANSFIELD. It is going to cost money but I think it is going to be worth while.

Senator CURTIS. I am glad to have any information available on the effectiveness of inspection at the point that it originates as compared with the point of arrival.

Senator MANSFIELD. We think the foreign governments have a responsibility in this respect, too.

Senator CURTIS. And we have a responsibility in the foreign countries.

Senator MANSFIELD. That is right.

Senator CURTIS. Under the prior act, if it is not being carried out and hasn't been funded or carried out in a big enough way.

Senator MANSFIELD. That is right. You can not do it, it is an impossibility with 14 or 15 inspectors around the world.

Senator CURTIS. Does your bill envision the inspection of canned and processed meats?

Senator MANSFIELD. Yes; I think it ought to take in the whole gambit.

Senator CURTIS. Thank you, Mr. Chairman.

Senator JORDAN. Senator Burdick, do you have a question before you start?

Senator YOUNG. I want to thank the Senators from North Dakota and Montana for sponsoring this kind of legislation. I do think we have a responsibility to the consumers of the United States to see that imported foods are thoroughly inspected and as pure and wholesome as American produced foods. There is no means of accomplishing this unless you have a better inspection.

I think this should be done both in the United States and at points of origin. I think we have to spend the money to see that meat is properly slaughtered at the points of origin in foreign countries.

Senator MANSFIELD. I agree completely.

Senator JORDAN. In that respect, I am sure Senator Curtis and other members of the Agriculture Committee heard Senator Bellmon at the last meeting, I believe, or the meeting before that. He had been to Australia on another occasion and visited what they said was the best packing plant there. He said it was far below the standards that we would require here, and he was surprised that they would take him to this particular plant as their best one.

Senator YOUNG. If I may say off the record.

(Discussion off the record.)

Senator CURTIS. Senator Allen, do you have any questions?

Senator ALLEN. No, sir.

Senator CURTIS. Senator Burdick, we will be glad to hear from you at this time.

Mr. MANSFIELD. May I say further that this measure has nothing to do with imports per se. There is an import limitation, providing quotas on frozen products. That will still remain in effect. This is concerned only with the matter of raising the hygenic and sanitary standards for imported beef to the same standards which we apply to our own packers in this country.

Mr. MILLER. Mr. President, the purpose behind the pending bill is to assure American consumers of imported meats that they will be eating the same wholesome quality of meats that would result from our own inspection and standards here at home.

At the time of the "clean meat" bill's passage here in the Senate, the distinguished Senator from Nebraska (Mr. HRUSKA) and I offered an amendment which provided that, in the case of imported meats, they would be subject to the same inspection requirements as our own domestic meats. The Senate accepted this amendment, I am pleased to say, but I fear that in the haste with which we passed that legislation, we did not go far enough, and the bill authored by the distinguished majority leader is designated to fill that gap.

I point out, on page 2 of the committee report, the following language:

> Imported meat products * * * are permitted to come in and move freely in interstate commerce and be commingled in the preparation of federally inspected products, if the plant producing them has inspection deemed equivalent to Federal inspection. This provides much less opportunity for continuing surveillance and much less assurance that the products will be wholesome than do the State systems.

This undoubtedly has been found to be true, and the Senator from Montana has quoted from one of the Members of Congress who is also a veterinarian to that effect.

Mr. President, I have an amendment which I hope will satisfy the requirements of the Senator from Montana, and at the same time not cause any abrasiveness with those countries in which either they now have or are fully capable of having standards and inspection equal to ours. I am referring particularly to Australia and New Zealand. Generally, those countries and their meat producers are quite proud of the quality that they produce. I myself have visited a good many of their packing plants, as well as a good many in this country, and I would have to say that I thought that the quality of their cleanliness, their modern machinery, and the way they handled their products was equal to that in this country.

I send my amendment to the desk at this point, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Insert the following before the comma (,) on line 5 of page 1: "from countries which do not have standards and inspection equal to those of the United States".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

Mr. MILLER. Mr. President, the point I wish to make is this: There was a gap left in the law, not intentionally but unintentionally, by the amendment which the Senator from Nebraska and I secured the adoption of at the time of the "clean meat" bill. Under our amendment, and under the existing law, a single plant which might be able to satisfy inspection requirements that are equal to those here in this country could export meat to the United States. But, as is pointed out in the committee report and as the Senator from Montana has pointed out, the surveillance of that situation is very limited. What is needed is something over that, in the country itself.

In Australia and New Zealand, they are quite capable of having standards and inspections equal to those of this country, and with the assurance that the country itself, as well as the plant, has standards and inspection equal to ours, I do not believe we are going to have a problem.

In the case of plants in countries other than those, the Senator from Montana would have a very tight requirement, which hopefully would induce those countries to adopt standards and inspection equal to ours, but until they do, they are going to have to get along under a much more restrictive situation.

I would say that with my amendment, the objectives of the Senator from Montana will be achieved, and our friendly neighbors like Australia and New Zealand, which are capable of having equal standards to ours and inspection equal to ours, will not have any misgivings over this legislation.

Mr. HRUSKA. Mr. President, I rise in support of the amendment just proposed by the Senator from Iowa.

There was an effort made, when the Wholesome Meat Inspection Act of 1967 was enacted, to meet this very problem, but apparently that effort was not extensive enough, and it should be in some way strengthened and built up.

The amendment offered by the Senator from Iowa is a good faith effort to improve the bill as nearly as we can here, by way of meeting some of the comments and exceptions taken to the bill in its present form by the Department of Agriculture.

Those exceptions and comments were made in the Department's letter of July 16 of this year. As to whether or not this amendment will fully comply with their request for tightening up the bill and making it less comprehensive than it is, as the Department of Agriculture desires, remains to be seen. But it is a good faith effort in that direction. I therefore support it, and I hope that the author of the bill will see fit to accept the amendment, if possible.

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

Mr. HRUSKA. I yield.

Mr. MANSFIELD. May I say that the author of the bill is the distinguished Representative from the First District of Montana, Dr. JOHN MELCHER, and all I am doing is offering the Senate version, in cooperation with my distinguished colleague from Montana (Mr. METCALF), who is now presiding over this body.

It appears to me, from reading the amendment proposed by the distinguished Senator from Iowa, that it fits in entirely with the intent of the Melcher proposal, and certainly, if these particular countries meet the standards which our own people do, there is no need for legislation of any sort.

May I say, in passing, that when I presented my testimony before the subcommittee, under the chairmanship of the distinguished Senator from North Carolina (Mr. JORDAN), immediately afterward I received a call from a CBS station in San Francisco. Some member of the Australian Cabinet, as I recall, was so put out that he ventured the suggestion—I hope in jest, but I am not at all certain—that "Senator MANSFIELD ought to be hung, drawn and quartered"—I think I quote his exact words—for offering this type of legislation. I could not follow the Australian's reasoning, because I do not think I mentioned Australia once during the course of the testimony.

So I hope that this Minister—I cannot recall his name, unfortunately—will follow this debate today, deal with the intent on the part of the Senate so far as this particular measure is concerned, and recognize that all we are asking of those who import frozen meat is that it be of the same standard, quality, and hygenic aspect as that which we require by law of our own producers in this country.

I am delighted to accept the amendment. I think it fits in with the intent, and I hope that the amendment will be unanimously adopted.

Mr. BROOKE. Mr. President, I should like to ask some questions of the distinguished Senator from Iowa.

I am not from a livesock-producing State but from a consumer State, and I should like to ask these questions. First, let me say that I certainly am in sympathy with the purpose of the proposed legislation.

Could the Senator give us any indication of the countries which do not have inspection standards which are equal to those of the United States from which we receive a sizable amount of imports of livestock?

Mr. MILLER. Mr. President, I understand that the inspection standards of Australia and New Zealand are substantially equal to ours. There might be some little differences. But I understand, further, after talking with the Australian and New Zealand meat boards and their ministers of agriculture, that their intention was to make their inspection standards equal to ours.

I do not know for a fact, but I have heard that some of the other countries from which we do receive some limited amounts of meat imports—from South America and from Poland—do not have standards of quality and inspection systems equal to ours. There may be an individual plant that does. But, so far as the countries are concerned, that is my understanding.

The Senator from Massachusetts undoubtedly realizes that approximately 75 percent of our imported meats do come from Australia and New Zealand.

Mr. BROOKE. Would the imposition of these standards be so costly upon the exporting countries that they would be unable to export livestock to the United States?

Mr. MILLER. Mr. President, I do not know. I would say that in the case of quantities of canned hams, for example, of which we receive a considerable amount from Poland, it would probably be worthwhile for them to adopt standards equal to ours. But in the case of other countries, I can see where they might make a decision that the cost of providing standards and inspection equal to ours, for the sake of their overall population, would make it prohibitive, and therefore they would forgo the exports to the United States. That would be an individual country's decision.

I want to emphasize that the largest chunk of imported meats by far comes in from Australia and New Zealand, which is one reason why the Senator from Iowa went to those countries to inspect some of their plants, to see how they were doing.

Mr. BROOKE. What effect would this legislation have on the cost of meat in the United States?

Mr. MILLER. Mr. President, I would say that I do not believe that it would have much effect, because the bulk of this meat comes in from those two countries, which I am quite well satisfied will be able to satisfy the requirements of the amendment.

But I might turn the question this way: There is no question in my mind that the Wholesome Meat Act and its implementation will require the consumers, either directly or through their taxes, to pay more for their meats. But we made a policy decision by an overwhelming vote in Congress that it was worth it, so that we would have the assurance that we would not have people eating contaminated meat.

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

Mr. BROOKE. I yield.

Mr HRUSKA. In answer to the first question, I should like to make a little comment, because there has been some development in the foreign meat plant inspection activities of the Department of Agriculture within the last few months.

The original question of the Senator from Massachusetts was as to what countries are complying with standards equal to ours and what are not. That will fluctuate, and it will be different from time to time, depending upon their behavior and upon their application of laws and the standards, some of which are in their statutes and some of which are not. Only recently, the Department of Agriculture embargoed further shipments of mutton from Australia or New Zealand.

I do not recall which, and I ask unanimous consent that in due time I be al-

lowed to confirm one or the other. I do not want to do injustice to the other.

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

Mr. HRUSKA. We had to embargo them because the conditions of processing in the plants there were so deplorable that the Department of Agriculture felt that they ought to be kept out.

Obviously, whatever the cost of such an operation is—and in that case it was embargoed—it had to be incurred, because the first consideration is the consumer, as it is in our Wholesome Meat Act itself.

So I would say, in answer to the first question, that, from the information I have on the subject, it will depend upon the constant efforts of these countries not only to impose standards which are equal to ours but also to execute them.

Mr. BROOKE. Will the Senator enlighten me as to the percentage of imports so far as the consumption of meat products in this country is concerned?

Mr. HRUSKA. In the case of beef and veal, I do not have the exact percentage, but it would be something on the order of 6, 7, or 8 percent currently. I should like to get a verification of that figure, too.

Perhaps the chairman of the Agriculture Subcommittee would have some information on that.

Mr. JORDAN of North Carolina. I cannot give the Senator the exact percentage of either of these meats, but last year, 2,300,700,000 pounds of canned and frozen meat were brought into the United States.

Mr. HRUSKA. That included the boneless beef, also.

Mr. JORDAN of North Carolina. That is correct.

Mr. HRUSKA. Plus the canned, cured, and chilled.

Mr. JORDAN of North Carolina. That is correct. A tremendous amount of meat came in.

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

Mr. BROOKE. I yield.

Mr. MANSFIELD. The distinguished Senator from Nebraska and I, among others, introduced a frozen meat import limitation bill 6 years ago. It passed both Houses. A reasonably good bill was arrived at in conference. It met with the satisfaction of the American National Cattlemen's Association, the International Livestock Feeders Association, all of the State livestock associations, and I believe with the approval of the Australia and New Zealand governments, though that is subject to a question mark at this time. But it did prevent the American market from being flooded by the frozen meat coming in and on a basis which seemed to be agreeable all around.

The pending bill in no way interferes with the imports as such based on U.S. production, and it does not apply to countries which meet U.S. hygienic, health, and sanitary standards.

In brief, what we are trying to do is to place these importers on the same plane that we, through law, place our own domestic producers.

Mr. BROOKE. If the distinguished majority leader will yield for one question, where there would be examination of frozen meats coming in, would this be a spot examination or would these frozen meats have to be thawed out, examined, refrozen, and then sold for consumption?

Mr. MANSFIELD. No. This would be made primary purpose in the countries of origin. It might mean an addition to the number of inspectors beyond the 14 we have at present covering the 1,100 plants all over the world, if my memory serves me correctly as to the number of plants. It would not be a case of freezing or chilling and then making them normal, because in that way one could develop many difficulties and that is not what we are trying to do. We are not trying to penalize a country or the product which it produces, but we are trying to establish standards which will fit in on a parity basis with our own American packers and producers.

Mr. BROOKE. I thank the Senators from Montana, Nebraska, and Iowa.

Mr. JORDAN of North Carolina. If I could add one thing there, in connection with that question. There is a spot check of meat at the port of entry into the United States——

Mr. MANSFIELD. That is right.

Mr. JORDAN of North Carolina. On packages that do come into this country.

Mr. BROOKE. Is that on frozen meats?

Mr. JORDAN of North Carolina. Anything but canned meat. There is no way to check on that——

Mr. HRUSKA. There is a spot check on that.

Mr. JORDAN of North Carolina. Yes, just on a spot check basis.

Mr. BROOKE. They would not wait to thaw out the meat and then examine it?

Mr. JORDAN of North Carolina. No. There is a system whereby an examination is made at the port of entry.

Mr. MANSFIELD. Plus the fact that we have these 14 inspectors who cover the 1,100 plants in the various countries in the world. It is an awfully hard job for them to undertake.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. HANSEN. Mr. President, as a cosponsor of S. 3942, I want to express my gratitude to the senior Senator from Montana (Mr. MANSFIELD) who was the original sponsor of the legislation in the Senate. I also appreciate the fact that the Agriculture Committee has seen fit to expedite action on this legislation. The fact that the bill has gone through the committee process so rapidly is an indication of the importance of the bill, and I hope that the Senate will see fit to pass it today.

Mr. President, under section 20 of the Federal Meat Inspection Act, only those countries with meat inspection systems that have been approved by the U.S. Department of Agriculture are permitted to ship meat to the United States.

Currently there are about 40 foreign countries which have been approved by the Agriculture Department to ship their meat into the United States.

It is important to note, however, that meat products may be exported into the United States only from foreign plants which meet this country's standards. Unfortunately, facilities to inspect these foreign plants are rather limited.

It is the responsibility of 14 veterinarians to make inspections of nearly 1,500 plants in 40 foreign countries to determine whether their meat processing routine meets the requirements of the United States. As one might guess, this means that a particular foreign plant is visited only once or twice a year.

When one compares this to the piece-by-piece inspection of domestic meat by some 8,200 meat inspectors, I think it should be evident just why this legislation is so important.

Mr. President, one inspection per year for each foreign plant is totally unacceptable to my way of thinking. I think that it is unfair to the general public here in the United States not to require the same high quality of inspected meat to come in from foreign countries as that which goes to the supermarket from domestic producers.

Aside from the fact that the foreign meat plant is inspected only once a year, a particularly disturbing fact is that the once-a-year visit is announced ahead of time. This opens the gate for a general cleanup and clearup so that a plant can plan ahead in order that its standards can be brought in line with U.S. requirements for only that 1 day.

Mr. President, when I appeared before the Agriculture Committee to testify in behalf of this bill, I tried to make the point that this bill is not drafted, nor is it intended to protect the cattle industry. The real benefactor of this legislation is the consumer. I think it is totally unacceptable that the consumer in the United States must accept meat from foreign countries that might not be pure or wholesome simply because the U.S. Department of Agriculture does not have the funds or the personnel to control the quality of meat that is imported into the United States.

Mr. President, the United States has the most thorough system for inspecting domestic meat production and processing of any country in the world. This is the way it should be.

I fully endorse the emphasis that we place on sanitation and quality control. The point is that the American consumer has the right to expect the same strict standards of sanitation of their foreign imported meat as they do of the domestic production.

Here in the United States, Government and plant inspectors inspect each piece of meat. The meat is then inspected through means of mathematical random selection. Each piece of meat is inspected and then there is a random inspection process.

Compare this to a process for foreign meat in which a plant is inspected once a year. There is no requirement that each piece of meat be inspected. There is no reason to believe each piece is.

The meat then comes to the United States in giant frozen blocks. At that time, a small sample of the frozen block is cut, unfrozen, and inspected. Depend-

ing on this small sample, the block of meat is either accepted or rejected.

The ratio of foreign meat that does not pass this final random inspection is nearly twice the domestic rate of failure. This helps to point up the problem.

As the bill is written, the foreign country that chooses to export its meat into the United States would pay the cost of the inspection. The added protection would not be levied against the United States. To my way of thinking that is entirely as it should be. Foreign imports do not contribute 1 cent to the high standard of living, the welfare programs, or other social institutions which we all enjoy.

In this regard, $1 spent on foreign meat passes through the economy here in the United States about two to two and one-half times. One dollar spent on domestic meat passes through the economy five to seven times.

Mr. President, the bill that is before the Senate today is a consumer bill. It is a bill that means as much or more to the protection of the consumer as any legislation that has been considered this year, and I hope that the Senate would proceed to give favorable consideration to it.

Mr. PEARSON. Mr. President, I want to take this opportunity to express my vigorous support for S. 3942.

In 1967 the Congress passed the Wholesome Meat Act. This was followed by the Wholesome Poultry Act in 1968. The objective of these two pieces of legislation was to assure that State inspection systems for meat would be equal to Federal inspection standards applied to meat products shipped in interstate commerce. In most cases, the State inspection systems were already comparable to Federal requirements and those laws have served to bring all States into compliance.

Ironically, however, meat products coming into this country from foreign countries are not subjected to the same stringent inspection standards that we impose on domestically produced and processed meat. It is true that the Wholesale Meat Act of 1967 provides that imported meat meet standards "equal to" our own Federal laws. However, studies and recent congressional committee hearings have demonstrated that this "equal to" objective is not being met. We simply do not have enough inspectors currently available to properly observe the quality of all the meat coming into this country. Indeed, it is my understanding that at the present only 14 inspectors are charged with the responsibility of checking on the sanitary standards of meat coming into this country from over 1,000 producing plants abroad.

The double standard here is simply not justified and it should no longer be tolerated. The legislation before us today will do a great deal to correct this situation. I recognize that there will be some difficulties encountered in administering this program, but the thing to be emphasized here is that the objective is absolutely sound, absolutely essential and that the technical mechanics of administering the program are of secondary importance, they can be overcome.

Mr. President, we must take all necessary steps to assure that imported meat meets the same standards we have wisely and properly established for domestically produced and processed meats. This bill will provide the Department of Agriculture with the necessary authority to achieve that objective. I urge its adoption.

Mr. DOLE. Mr. President, several years ago, Congress became concerned with the quality of the meat and poultry inspection system. The result was passage of the Wholesome Meat Act—Public Law 90–201—in 1967 and the Wholesome Poultry Act—Public Law 90–492—in 1968. These laws provided for all State meat inspection regulations to be "at least equal to" Federal regulations.

These laws have been difficult to implement and painful for many small businesses which faced complete remodeling of their meat slaughtering and processing plants or going out of business. This adjustment is being made—all to assure our citizens wholesome meat and poultry.

An additional provision of USDA regulations, however, is that meat and poultry from State-inspected plants is not allowed to move in interstate commerce. This regulation was made because the Department of Agriculture feared allowing interstate movement of meat from State-inspected plants might weaken the protection provided by the Federal inspection system.

The regulations for imported meat, however, provides that we may import meat from other nations under that Nation's meat inspection as long as it is "comparable to" our Federal inspection system. In other words, the foreign nation may inspect their own meat and ship it to the United States. That meat is allowed to be commingled with federally inspected domestic meat with no interstate restrictions. It must only comply with spot sampling at the port.

The purpose of the bill we consider today is to provide the consumer the same wholesome protection of meat from foreign plants as he receives from domestic plants. It provides that all meat is wholesome, by the same standards, not just the meat from our own meat plants. The American consumer deserves the protection this bill, S. 3942, provides.

Mr. BURDICK subsequently said: Mr. President, I wish to lend my support to S. 3942, the measure of the Senator from Montana (Mr. MANSFIELD), to insure that livestock products imported into the United States are subjected to adequate health and sanitation inspection.

As the sponsor of similar legislation, S. 3987, I am deeply gratified by the promptness with which the Senate has focused its attention on this major problem.

We live in an era of increasing concern over the quality of our lives: The air we breathe, the water we drink, the food we eat. In all areas, some steps are being taken to protect our health. Yet one area remains dangerously unguarded. That is the area of imported meat. The meat which enters our country from abroad is subject only to a very inadequate and random inspection conducted by a far too small staff.

In this country we are very careful about who touches the meat in our plants, and our sanitary inspection assures its wholesomeness. Our domestically produced beef is subject to strict inspections both before and after the animal is slaughtered. Every animal is thoroughly examined for health before slaughter and every carcass is again inspected for defects after slaughter. If the carcass meat is to be boned and used for hamburger, for example, it receives a further examination as it is consigned into lots for that use.

To carry out this extensive inspection process, the Federal Government has 7,050 inspectors on its payroll. This number includes 945 full-time veterinarians, 5,327 full-time food inspectors and an additional 124 veterinarians and 654 food inspectors who work part time. Working alongside these Federal meat watchers to insure high-quality and wholesome meat are also numerous State inspectors. All in all, these meat watchers keep a constant eye on 1,062 plants which slaughter and/or process either meat, animal, or poultry. This is an average of about six inspectors per plant.

Compare this system of rigid inspection of domestically produced meat with the inspection system of imported meat.

There are 1,141 foreign licensed plants around the world authorized to sell in the United States—more than the number of federally inspected plants in the United States. Yet, to inspect this larger number of foreign plants, there are only 15 veterinarians, known as "foreign review officers." This is an average of one inspector for 65 plants. In short, there are more plants operating outside the United States with fewer than 1 percent the number of Federal inspectors within the United States.

The implications of this system are obvious. These foreign plants are supposed to maintain an inspection system equal to ours. They are supposed to have premortem and postmortem inspection of animals, and they are supposed to be equally sanitary. Yet, we have only 15 men to insure proper inspection. To visit each of the 1,141 foreign plants at least once a year is an almost impossible task. I am sure these men do the best job they can, but we all can see the problems confronting one man trying to keep track of over 65 plants a year. The 15-man force is dangerously inadequate. It makes the U.S. consumer almost entirely dependent on the inspectors of the exporting nations for the premortem and postmortem and online inspection of meat produced there and sold several weeks later in this country.

The present system might be adequate if the volume of meat imports were small and if there were some reliable means of inspecting the meat once it reached the United States. But neither is the case.

Our Nation imports about 1.6 billion pounds of meat per year. That means each adult in this country consumes about 10 pounds of imported meat per year. Considering that a single ounce of impurity is capable of rendering a person deathly ill, this meat is in obvious

need of close inspection. But how closely is it being inspected?

Most of the one and a half billion pounds of meat imported in the United States is frozen or bonded out, such as meat used for hamburger, bologna, weiners, or cold cuts. This meat arrives at the docks and is sorted into lots, or consignments, to U.S. purchasers. If the meat is to go into processed products, such as weiners and sausage, it is frozen in 50 pound blocks.

There are 75 inspectors on the Federal payroll to receive and inspect the 1½ billion pounds of meat which enters this country. They make a random selection of the boxes and blocks, while the meat is sitting in outdoor temperature, for thawing and inspection. In short, less than 1 percent of this imported meat is actually examined by a Federal inspector.

After this random sampling, the meat is examined for minor, major, and critical defects. These defects may range from harmless extraneous matter to such defects as bruises, blood clots, bone fragments, insects, ingesta or stomach contents, fecal matter, or manure. Imported meat may be declared acceptable for consumption even though it contains one minor defect to each 30 pounds, one major defect in every 400 pounds, or one critical defect in every 3,000 pounds. According to this reasoning, even critical defects are permitted if they are mixed in with large amounts of meat.

On the basis of these standards, in calendar year 1969, the United States rejected 20,637,987 pounds of imported meat—slightly less than 1 percent of the beef offered and about 9 percent of lamb and mutton offered. The significance of that rejected 20 million pounds is this. Supposedly, the meat was inspected at the foreign plants to meet U.S. standards. Yet, more than 20 million pounds was rejected once it reached the United States. Clearly, the 15 foreign review officers are inadequate in numbers to cope with the inspection problems. Furthermore, since this meat receives an inadequate inspection abroad, the American consumer certainly deserves to have more than 1 percent of his meat inspected once it reaches the United States.

Mr. President, I strongly urge Senate approval of S. 3942.

The bill I have introduced solves two of the major problems relating to meat inspection which challenge the health of the American consumer. First, it specifically directs the Secretary of Agriculture "to establish a system of thorough examination and inspection of all livestock products imported into the United States—at the time of entry." This would provide greater protection for the American consumer—a greater protection that he needs and deserves. It would require a greater portion of our imported meat to be inspected, and, therefore, would decrease the chances of unwholesome imported meat entering the country.

Second, my bill provides for surveillance by U.S. Government inspectors "of all establishments abroad slaughtering animals or processing animal products for export to the United States." This provision will strengthen U.S. inspection of the slaughtering process in the foreign countries. This will further insure the purity of the meat before it leaves the foreign countries.

The cost of this thorough meat inspection to the American consumer will be small, and its benefits will be great.

Importers will pay the costs of the inspection system I propose. The American consumer deserves high-quality meat. Whether he chooses to buy foreign or domestic beef, he deserves high-quality meat. Whether he chooses to buy foreign or domestic beef, he deserves assurance of its wholesomeness.

The ACTING PRESIDENT pro tempore. 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 and passage of the bill.

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

S. 3942

An Act to provide for thorough health and sanitation inspection of all livestock products imported into the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is directed to establish a system of thorough examination and inspection of all livestock products imported into the United States from countries which do not have standards and inspection equal to those of the United States, including all fresh and frozen or chilled meats after thawing, providing for such examination at the time of entry or before any processing or offering for sale to consumers, to prevent the entry of any disease or distribution of any unwholesome products. The Commissioner of Customs shall levy on such animal products entering the United States, in addition to any tariffs, a charge or charges set by the Secretary of Agriculture, sufficient to defray the costs of such examinations and inspections and of United States surveillance of all establishments abroad slaughtering animals or processing animal products for export to the United States.

Mr. MANSFIELD. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. HRUSKA and Mr. MILLER moved to lay the motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HEALTH SERVICE CORPS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1213, S. 4106.

The PRESIDING OFFICER (Mr. BOGGS). The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 4106, to amend the Public Health Service Act in order to provide for the establishment of a National Health Service Corps.

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 amendments, on page 2, line 23, after the word "be", strike out "detailed" and insert "assigned"; in line 25, after the word "individual", strike out "detailed" and insert "assigned"; on page 3, line 8, after the word "the", where it appears the first time, strike out "President, by and with the advice and consent of the Senate.", and insert "Secretary, in consultation with the Surgeon General of the United States Public Health Service."; in line 13, after the word "Surgeon", strike out "General," and insert "General and the Secretary."; in line 18, after the word "personnel", strike out "detailed" and insert "assigned"; on page 4, line 9, after the word "such", strike out "services" and insert "services, or third parties"; after line 12 strike out:

"NATIONAL HEALTH CORPS ADVISORY COUNCIL

"SEC. 3991. (a) There is established a council to be known as the National Health Corps Advisory Council (hereinafter in this section referred to as the 'Council'). The Council shall be composed of twelve members appointed as follows:

"(1) three members from the Department of Health, Education, and Welfare, serving outside the Corps, to be appointed by the Secretary;

"(2) three members appointed by the Secretary from private life;

"(3) three members detailed to duty with the Corps, at least two of them shall be commissioned officers of the Service, to be appointed by the Secretary; and

"(4) three persons who have received more than minimal health care services from the Corps, to be appointed by the Secretary after the Corps has been in operation for a period of at least one hundred and twenty days and to be appointed from geographically dispersed areas to the extent practicable.

"(b) Members of the Council shall be appointed for a term of three years and shall not be removed, except for cause. Members may be reappointed to the Council.

"(c) It shall be the function of the Council—

"(1) to establish guidelines with respect to how the Corps shall be utilized and to consult with and advise the Director generally regarding the operation of the Corps;

"(2) to assist the Surgeon General, at his request, in the selection of commissioned officers of the Service and other personnel for assignment to the Corps, and to approve all assignments of Corps members;

"(3) to establish criteria for determining which communities or areas will receive assistance from the Corps, taking into consideration—

"(A) the need of any community or area for health services provided under this part;

"(B) the willingness of the community or area and the appropriate governmental agencies therein to assist and cooperate with the Corps in providing effective health services to residents of the community or area;

"(C) the prospects of the community or area for utilizing Corps personnel after their tour of duty with the Corps;

"(D) the recommedations of any agency or organization which may be responsible for the development, under section 314(b), of a comprehensive plan covering all or any part of the area or community involved; and

"(E) recommendations from the medical, dental, and other medical personnel of any community or area considered for assistance under this part.

On page 6, at the beginning of line 18, change the section number from "399m" to "3991.", in line 19, after the word "Service", strike out "detailed" and insert "assigned"; on page 7, line 4, after the word "to", strike out "lease" and insert

"lease, renovate,"; at the beginning of line 8, change the section number from "399n." to "399m."; in line 9, after the word "appropriated", strike out "the sum of $5,000,000 annually to carry out the provisions of this part; for the fiscal years of 1971, 1972, and 1973."; and insert "$5,000,000 for the fiscal year ending June 30, 1971; $10,000,000 for the fiscal year ending June 30, 1972; $12,000,000 for the fiscal year ending June 30, 1973; and $15,000,000 for the fiscal year ending June 30, 1974." 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 this Act may be cited as the "National Health Service Corps Act of 1970".

SEC. 2. Title III of the Public Health Service Act is amended by adding at the end thereof a new part as follows:

"PART J—NATIONAL HEALTH SERVICE CORPS

"ESTABLISHMENT OF NATIONAL HEALTH SERVICE CORPS; FUNCTIONS

"SEC. 399h. (a) There is established in the Service a National Health Service Corps (hereinafter in this part referred to as the 'Corps') which shall be under the direction and supervision of the Surgeon General.

"(b) It shall be the function of the Corps to improve the delivery of health services to persons living in communities and areas of the United States where health personnel, facilities, and services are inadequate to meet the health needs of the residents of such communities and areas. Priority under this part shall be given to those urban and rural areas of the United States where poverty conditions exist and the health facilities are inadequate to meet the needs of the persons living in such areas.

"STAFFING; TERM OF SERVICE

"SEC. 399i. (a) The Surgeon General shall assign selected commissioned officers of the Service and such other personnel as may be necessary to staff the Corps and to carry out the functions of the Corps under this part.

"(b) Commissioned officers of the Service in the Corps and other Corps personnel shall be assigned for service in the Corps for a period of twenty-five months. An individual assigned to the Corps may voluntarily extend his service in the Corps for a period not to exceed in additional twenty-five months. An individual shall have the right to petition the Director (appointed pursuant to section 399j of this part) for early release from service in the Corps at the end of twenty-four months of service therein.

"DIRECTOR OF THE NATIONAL HEALTH SERVICE CORPS

"SEC. 399j. The Corps shall be headed by a Director who shall be appointed by the Secretary, in consultation with the Surgeon General of the United States Public Health Service. It shall be the responsibility of the Director to direct the operations of the Corps, subject to the supervision and control of the Surgeon General and the Secretary.

"AUTHORITY OF SECRETARY TO UTILIZE CORPS PERSONNEL

"SEC. 399k. The Secretary is authorized, whenever he deems such action appropriate, to utilize commissioned officers of the Service and other personnel assigned to duty with the Corps to—

"(1) perform services in connection with direct health care programs carried out by the Service;

"(2) perform services in connection with any direct health care program carried out in whole or in part with the Department of Health, Education, and Welfare funds or the funds of any other department or agency of the Federal Government; or

"(3) perform services in connection with any other health care activity, in furtherance of the purposes of this Act. Should services provided under this subsection require the establishment of health care programs not otherwise authorized by law, the Secretary is authorized and directed to establish mechanisms whereby recipients of such services, or third parties shall pay, to the extent practicable, for services received. Any funds collected in this manner shall be used to defray in part the operating expenses of the Corps.

"MANPOWER LIMITATIONS SUSPENSION

"SEC. 399l. (a) Commissioned officers of the Service assigned to service with the Corps and other personnel employed in the Corps shall not be included in determining any limitation on the number of personnel which may be employed by the Department of Health, Education, and Welfare.

"(b) Notwithstanding any other provision of law, the Corps may, to the extent the Secretary determines such action to be feasible, utilize the facilities and personnel of hospitals and other health care facilities of the Service in providing health care to individuals as authorized under this part, and to lease, renovate, or purchase such other facilities as may be required to carry out the purposes of this Act.

"AUTHORIZATION FOR APPROPRIATIONS

"SEC. 399m. There is authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1971; $10,000,000 for the fiscal year ending June 30, 1972; $12,000,000 for the fiscal year ending June 30, 1973; and $15,000,000 for the fiscal year ending June 30, 1974."

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. DOMINICK. 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. DOMINICK. Mr. President, this bill comes from the Committee on Labor and Public Welfare, on which I have the honor to serve. The bill would amend title III of the Public Health Service Act, to provide for the establishment of a National Health Service Corps within the Public Health Service of the United States.

The function of the Corps shall be to improve the delivery of health services for persons living in communities and areas of the United States where health personnel, facilities, or services are inadequate to meet the health needs of the residents of such communities and areas. Priority is to be given to those urban and rural areas of the United States where poverty conditions exist and the health facilities are inadequate to meet the needs of the persons living there.

We suffer from a well-known shortage of health professionals, but the shortage is particularly acute in areas of urban and rural poverty and in isolated rural communities generally. Statistically, the ratio of health professionals to population is decidedly lower in such areas than in more affluent communities, where professional and economic opportunities are much greater.

The need for a program to encourage the location of health professionals in low-income or isolated areas has long been recognized, and the National Health Service Corps is such a program.

New legislation is needed to establish a National Health Service Corps, however, because the existing authority of the Public Health Service limits the provision of direct health care by the Service to selected, and narrow, population groups, such as the American Indians, merchant seamen, and Federal prisoners. This legislation, in a manner consistent with the Selective Service Act, broadens that authority to permit the provision of care to persons living in areas deficient in health personnel, and particularly to areas of urban or rural poverty.

At the level of $5 million for fiscal 1971, $10 million for fiscal 1972, $12 million for fiscal 1973, and $15 million for 1974, the corps will merely be an experimental program. It is the hope and expectation of the committee that a variety of approaches may be tested in the assignment of corps members. In establishing the pilot projects for corps assignments, the committee intends that a number of different activities, both urban and rural, should be undertaken. The Health Corps will be under the direction and supervision of the Surgeon General. Administration of the Health Corps will be provided by a Director, who will be appointed by the Secretary after consultation with the Surgeon General.

In drafting this legislation, an attempt has been made to allow the Secretary, the Surgeon General, and the Director a maximum of flexibility in administering the corps.

The committee expects that the Director of the corps shall, to the maximum extent possible, take into consideration the following criteria in determining which communities or areas will receive assistance from the corps:

First, the need of any community or area for health services provided;

Second, the willingness of the community or area and the appropriate governmental agencies therein to assist and cooperate with the corps in providing effective health services to residents of the community or area;

Third, the prospects of the community or area for utilizing corps personnel after their tour of duty with the corps;

Fourth, the recommendations of any agency or organization which may be responsible for the development, under section 314(b), of a comprehensive plan covering all or any part of the area or community involved or other similar agency where no 314(b) agency exists;

Fifth, recommendations from the medical, dental, and other medical personnel of any community or area considered for assistance.

Of great hope to the committee is the promise of this legislation to revitalize the U.S. Public Health Service and the commissioned officer corps.

As I mentioned earlier, this legislation creates an experimental program and does not commit the administration to continue the commissioned corps.

Mr. President, when the bill was first presented to our committee, it contained an advisory committee. After discussing this matter at some length in the executive markup, we decided that we should

leave the power largely in the hands of the Director, the Surgeon General, and the Secretary, and that the advisory committee was really not going to be needed. So that provision was stricken completely.

We did increase the authorization from that originally suggested by the Senator from Washington (Mr. MAGNUSON), who introduced the bill. He had an authorization providing for $5 million a year for 3 years.

We increased it substantially, but less than the Senator from Texas (Mr. YARBOROUGH), the committee chairman, would have liked. So, we compromised on that matter to its present funding of $5 million, $10 million, $12 million, and $15 million.

I feel that the bill in its present form is perfectly acceptable and should give us the ability to find means by which we can provide the needed health service to otherwise isolated areas. This would cure one of our serious health problems, that of distributing health services and medical services throughout the country.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD statements by the senior Senator from Washington (Mr. MAGNUSON), the junior Senator from Washington (Mr. JACKSON), and the senior Senator from Texas (Mr. YARBOROUGH) in support of the bill.

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

STATEMENT OF SENATOR MAGNUSON

Mr. MAGNUSON. Mr. President, this legislation will establish a National Health Service Corps within the Public Health Service, in order to improve the delivery of health services to areas of urban and rural poverty where health services are now inadequate. The Corps will be comprised of selected commissioned officers of the Public Health Service and of other health professionals under civil service. Supervision of the Corps' activity will come from a Director.

Mr. President, the National Health Service Corps Act is an important piece of legislation for many reasons. In offering it, Senator Jackson and I had three basic purposes in mind. First, we wanted to increase the quantity and quality of health services in those areas of the country, and among those segments of the population, that need such services the most. Second, we wanted to revitalize the Public Health Service generally and the commissioned corps specifically by providing them with a mission to match their proud tradition. Finally, we hoped in offering the National Health Service Corps Act to provide a framework within which the idealism and social commitment of our young health professionals and medical school students can be put to work, serving the most disadvantaged people in the nation.

In introducing this legislation, I commented individually on these three purposes, and then proceeded to an analysis of the legislation itself.

I. THE DISTRIBUTION OF MEDICAL MANPOWER IN THE UNITED STATES

Mr. President, anyone who is even remotely familiar with health care programs and services here in the United States recognizes that we are in the midst of a severe manpower shortage in the health professions. The first aspect of this manpower shortage is an absolute shortage in the number of trained doctors, dentists, nurses, and other health professionals.

The Appropriations Subcommittee on the Departments of Labor and Health, Education and Welfare, of which I am Chairman, has listened to the staggering statistics of this absolute shortage during our hearings over the past month. The Subcommittee, the full Appropriations Committee, and the Senate as a whole will act, I hope, to provide a level of funding for the current fiscal year that will help to alleviate this shortage.

But the manpower shortage among health professionals has another facet, one that cannot be solved simply by increasing our appropriations for existing programs. This second facet involves the maldistribution of the health professionals that we do have. Physicians, dentists, and all other forms of medical personnel simply are not distributed in relation to the health needs of the United States. And so, while the nation as a whole faces a doctor shortage, the shortages in areas of urban and rural poverty are particularly acute.

It is virtually impossible for poor communities to attract and retain sufficient health professionals to meet even their most basic health needs. Senator JACKSON and I have seen this over and over again in our home State of Washington, where isolated rural communities and the core areas of our larger cities simply do not receive a level of health care that most middle-class individuals would consider adequate. The causes of this maldistribution are no mystery—poorer communities have few attractive features for a young doctor or dentist with a family to raise—yet the consequences of inadequate health care in these communities are physically, socially, and economically crippling to our poorer citizens, and shameful for our nation as a whole.

Many health problems that would appear routine or even trivial in more affluent communities become serious or near fatal in those areas where access to health care is severely restricted. The "diseases of poverty"—high infant mortality, short life expectancies, malnutrition, anemia, and so on—are exacerbated greatly when they go untreated, and contribute substantially to the vicious circle of poverty and low economic productivity.

The National Health Service Corps will not eliminate these diseases, nor will it solve completely the massive problem of maldistribution in the health professions. At the level of funding provided in this act, few communities across the nation will receive care from Corps members. But this pilot project phase, if it proves successful in more adequately meeting the health needs of the poor, can be expanded easily simply by increasing the authorization provided in this act and the appropriations to match.

What the Corps will do is provide substantial infusions of medical manpower in areas with ongoing Federally-funded health care programs. In some instances, the Secretary of HEW may choose to deploy Corps personnel in areas without existing health care programs, and authority is provided in the act to meet this eventuality. At this stage, however, and at this level of funding, the purpose of the act will be to demonstrate that the health care needs of the poor can be substantially met through a redistribution of health manpower.

A long range solution to the maldistribution of health professionals will require more than a Federal program of this type, of course, and it is our hope in offering this legislation that doctors, dentists, nurses, and other health professionals who serve in the Corps will wish to continue practicing in poverty areas after their tour of duty with the Corps has been completed. One of the factors to be taken into account in assigning Corps members, in fact, will be the prospects for continued service to the community after completion of the 25–50 month term of service in the Corps.

The National Health Service Corps thus will help meet the problem of maldistribution of health professionals in two ways: first, it will provide an infusion of health personnel into Federal health care programs in physician-deficient areas, and second, it will provide a program whereby health professionals can serve for a time in poverty areas and determine whether or not continued service in such areas would be worthwhile as a career.

II. REVITALIZING THE PUBLIC HEALTH SERVICE AND THE COMMISSIONED OFFICER CORPS

The National Health Service Corps established in this Act is to be set up within the Public Health Service. The health professionals in the Corps will be drawn primarily from the commissioned officer corps of the Public Health Service. These two facts make the Corps, even at this pilot project level of funding, an extremely significant development for both the Public Health Service and the commissioned corps.

The Public Health Service and the commissioned corps have a long and proud tradition. Founded for the purpose of protecting our seaports from importation of communicable disease, they have undergone many protean changes. The Public Health Service and the commissioned corps currently do not provide direct health services except to special population groups—American Indians, merchant seamen and the Coast Guard, and Federal prisoners. These programs are worthy ones, but being limited to such programs makes the direct health care services of the Public Health Service relatively minor in comparison with the other health care programs in which the Federal government has become involved.

Technically, of course, the Public Health Service and the Surgeon General are charged with the responsibility for administering the National Institutes of Health (NIH), the Food and Drug Administration (FDA), and the Environmental Health Service (EHS). I use the word "technically" because the *de facto* control of these organizations, insofar as there is centralized control and direction of their activities, lies with the Assistant Secretary of HEW for Health and Scientific Affairs. As a result, there is a great deal of confusion about the what the Public Health Service is, what it is doing, what it could be doing, and why it continues in existence at all.

These doubts surrounding the role and functions of the Public Health Service have contributed substantially to a lowering of morale within the commissioned corps. Proposals have been made, from time to time, to abolish the commissioned corps entirely or to transfer its functions to other, more logical, agencies. At the present time, most commissioned corps members who do not work in the direct health services programs for Indians, seamen or prisoners spend their tour of duty in the Corps performing research or administrative tasks. This conflicts with the desire of many commissioned officers to be active in providing health care commensurate with their training and interests.

The sponsors of this legislation do not believe that the commissioned corps and the Public Health Service should be allowed to wither on the vine. Neither do we feel that we can afford to wait until one study after another is undertaken to determine the future of the commissioned corps and the PHS. We feel, rather, that the commissioned corps and the PHS should be rejuvenated by assuming new responsibilities in keeping with their abilities and their proud traditions.

There is a unique cameraderie and feeling of mission among the commissioned corps that sets it aside from regular civil service. Even if this spirit is currently at a low ebb, there is ample reason—and more than ample need—to energize the commissioned corps and the PHS once again and to take advantage of these unique characteristics.

This spirit should be redirected toward meeting the most challenging health problems of this nation, not dissipated during this period of great social need.

The National Health Service Corps will not displace the other functions of the PHS, nor will it absorb an inordinate number of PHS personnel, at least during this exeprimental phase. But it will provide an additional mission, that of providing health care directly to those segments of the population who need it most and who are being inadequately served today. This challenging new mission can raise the morale of the commissioned corps and the PHS at the same time it benefits the people of this nation.

III. THE NATIONAL HEALTH SERVICE CORPS AND THE "NEW" GENERATION OF HEALTH PROFESSIONALS

The National Health Service Corps has a third purpose, and that is the utilization of the idealism and social commitment that characterize so many of our young health professionals and medical school students. I have met and talked with literally dozens of these fine young men, and women, as I know the other sponsors of this legislation have. Like so many other young adults with fine minds and excellent training, they are less than enthusiastic about the opportunities for social service within the "established" institutions of their profession. They desire instead to serve the poor, the hungry, and the needy who simply are not receiving adequate health care today, and they are willing to sacrifice more lucrative opportunities in order to perform this service.

The National Health Service Corps will provide a framework within which these men and women can achieve the service to society that they seek. It is upon the social commitment of these young men and women, in fact, that we will be relying to produce the personnel the Corps will need. Knowing that service in the Corps is an opportunity available to them should raise the morale of these health professionals during the time they are in their professional schools as well.

Ultimately, if the Corps proves to be a successful concept in improving the delivery of health care, it is not too much to anticipate that the experiences of the Corps will be drawn upon in the evaluation and planning of both government and non-governmental health care programs. In this sense, the young men and women who enter the Corps will know that their performance is important for the future of health care in the United States. The knowledge that they may be aided in the redirection of the Federal and private health efforts, combined with the satisfaction of actually serving those in greatest need, will be the prime reward for Corps members and the prime incentive for those who wish to serve in the Corps.

IV. ANALYSIS OF SECTIONS OF THE NATIONAL HEALTH SERVICE CORPS ACT

In drafting the National Health Service Corps Act, an attempt has been made to allow the Department of HEW some discretion and flexibility in administering the Corps. Passage of the Act should provide the Department with an opportunity as well as a directive, and its experimental nature necessitates a somewhat broad piece of legislation. The reasoning behind some of the sections of the Act may not be clear on first reading, so I would like to take this opportunity to clarify exactly what we had in mind in drafting the Act.

Section 399h establishes the Corps within the Public Health Service (for reasons outlined in Part II of my remarks), and defines the mission of the Corps, "to improve the delivery of health services to persons living in communities or areas of the United States where health personnel, facilities, and services are inadequate to meet the health needs of the residents of such communities and areas." The same Section further states that priority shall be given to those urban and rural areas where poverty conditions exist. As I explained above, poverty and physician-deficiency tend to go hand in hand in such areas.

Section 399i deals with the staffing of the Corps. As I noted earlier, the Corps will be composed of both commissioned officers of the Public Health Service and other civil service personnel. All Corps members will serve for a period of 25 months, with the option of extending their tours of duty for a period not to exceed another 25 months. The purpose of having a 25 month tour of duty is to allow a one month transition period within which incoming personnel can work with outgoing personnel in order to facilitate a continuity in patient care and other duties. For those members of the Corps who wish to follow their tour of duty with more schooling, this Section provides the right to petition for release from the Corps at the end of 24 months. The purpose of not allowing Corps members to serve more than 50 months is to provide an incentive to Corps personnel and to the agencies or communities within which they serve to find positions outside the Corps that will allow them to continue serving the poor. Part of the purpose for the Corps itself, after all, is to encourage health professionals to locate permanently in areas with inadequate health care. We assume that a Corps member may serve in more than one community during a 50 month tour of duty, but that by the end of that period both the Corps member and a community within which he has served should be in a position to determine whether or not the individual is willing and able to undertake a long range commitment to a needy community.

Section 399j provides that the Director of the Corps shall be appointed by the Secretary, in consultation with the Surgeon General. Establishing the Corps under a Director will give the Corps a stature similar to other Federal health agencies, and will serve to emphasize the importance that Congress attaches to this program even in its pilot project phase.

Section 399k establishes the manner in which Corps personnel may be utilized. Under Part 1 of this Section, Corps members may be used to supplement manpower in ongoing direct health care programs of the Public Health Service, meaning all programs within the Department of HEW. Part 2 specifies that Corps personnel may also be used in any direct health care program of other government agencies, such as the Office of Economic Opportunity's programs or those of the Department of Housing and Urban Development, or direct health care programs whose costs are underwritten by Federal funds. The practical effect of these two parts is to allow the Secretary to deploy corps personnel to any direct health care program that is ongoing and funded, in whole or in part, from the Treasury.

Part 3 of Section 399k authorizes the Secretary to utilize Corps personnel "in any other health care activity, in furtherance of the purposes of this act." The purpose of this Part is to allow the establishment of health care programs where none presently exist, should this be something that the Director of the Corps and the Council feel to be of value. The applicability of this section would undoubtedly arise in rural areas where no Federally-funded program currently provides health services, yet where the Director and Council feel a pilot project would be useful. This Part provides that the Secretary will establish some fee-for-service mechanism in the event a project is established under this part, such revenues as may be collected being used to partially defray the cost of the Corps operations. Under the other two Parts of this Section, no fees will be collected by the Corps, as Corps members will be serving in programs with fee mechanisms of their own. Insofar as the activities of Corps members under these two parts may contribute to more fees being paid into the program within which they are serving, such fees will continue to be paid into the general revenue of those programs. The purpose of the Corps is to provide health services, not to collect fees, but under each of these Parts a built-in precaution exists against the diversion of fees that might otherwise go to private practitioners.

In establishing criteria for assignment of Corps personnel, the report directs the Director to take into account at least five factors. The first of these factors is the community's need for health services. The second is the willingness of the community—including the program within which the Corps will serve—to assist and cooperate with the Corps and its mission; this provision will insure that administrative restrictions—such as hospital visiting privileges—from various sources in the community will not impede the Corps' operations. A third factor to be taken into account in establishing criteria for utilization of the Corps is the prospect for utilizing Corps personnel within a community after their tours of duty are complete. This is necessary to provide an incentive for the community, and the program within which the Corps member may serve, to facilitate the retention in the community of those Corps personnel who may desire to continue serving the community following completion of their tour of duty. The knowledge that assignment of Corps personnel to the program and the community in the future may hinge in part on the post-service opportunities provided for Corps personnel who have served the community in the past should encourage communities who desire Corps assistance to take positive steps toward finding permanent positions for Corps members.

A fourth factor in establishing these guidelines will be the recommendations of the 314(b) comprehensive health planning agency responsible for the area or community under consideration. These agencies not only have responsibility for the planning of health programs within their areas of jurisdiction, but through their heavy representation of poor people, insure that all health programs are consistent with the needs of those who are to receive services from them.

Finally, the recommendations of all medical personnel in the community or area under consideration for assignment of Corps personnel will also be taken into account. This insures that private practitioners, state medical societies, and other relevant organizations and individuals will not be ignored in the making of decisions affecting utilization of the Corps.

Section 3991. (a) waives the manpower ceilings on both the commissioned corps and the Department of HEW, to the extent that the number of individuals in the Corps exceeds either of these ceilings. Section 3991. (b) waives the restriction on the utilization of Public Health Service facilities and personnel for the provision of direct health care, provided the waiver is exercised only for Corps activities. This provision will allow the use of Public Health Service hospital facilities for pilot projects, if the Director and Council wish to do so. The Subsection also provides that the Corps may lease or purchase facilities in order to provide health care; this is to allow some flexibility in the event that the Council approves assignment of Corps personnel to a program or community whose facilities would be unable to accommodate the personnel assigned.

Finally, Section 399m authorizes the appropriation of $5,000,000 for FY 1971 to carry out the purposes of this Act. This sum might be spent to provide, for example, for 75

commissioned officers and 150 civil service personnel within the Corps (at a cost of $3.8 to $4 million), and for some minor leasing arrangements with respect to facilities and supplies. This sum is hardly sufficient to effect any sweeping changes in the health of our nation's poor, but if spent judiciously, could provide sufficient care in selected pilot project areas to allow some determination as to the feasibility and desirability of the National Health Service Corps concept. The committee has increased the amount for future years.

V. CONCLUSION

The purposes of the National Health Service Corps, and the manner in which it will function, have now been described in some detail. Further explanations will get forthcoming from other sponsors of this legislation here and in the House of Representatives.

In closing, I wish to make an appeal for the objective and open-minded consideration of this legislation both within Congress and beyond. At first reading, some individuals or groups may perceive in this legislation a threat to established institutions or a barrier to future innovations. Closer inspection of the bill and its provisions will reveal that nothing of the sort is intended or contained within it. The National Health Service Corps is frankly an experimental concept, and one that may lead to many different conclusions about the nature of health care in the future. In and of itself, however, the National Health Service Corps is not incompatible with any current or potential national policy on the delivery of health care; it is not a threat to the manpower needs of the Department of Defense; it will not hamper, nor be hampered by, abolition of the doctor draft or the introduction of National Health Insurance. The National Health Service Corps is not an attempt to structure the health policies of the United States government, nor need it be subjected to a "public-*vs.*-private" debate that inevitably occurs whenever innovations in health care are suggested. Its only purpose is to serve the health needs of the poor, and to provide us with a body of knowledge from which we may find more effective ways to serve those needs on a major scale in the future.

Let us not judge the Corps in advance. Let us create it, fund it, and observe its performance. Then let us draw our independent conclusions about its value and what it tells us about the future. At the very worst, by creating the Corps and setting it in operation we will have provided some health care to those who need it most, and we will have demonstrated to the poor that we truly are concerned about improving their condition. And if the Corps should fare better than this—as I hope and believe it will—its creation will have been a major step in meeting the crisis in health care that we face as a Nation today.

STATEMENT OF SENATOR JACKSON

Mr. President, my colleague from the State of Washington (Mr. MAGNUSON) and I have worked closely on this National Health Service Corps concept for months. We have discussed our ideas with officials from the Department of HEW, members of the commissioned corps of the Public Health Service, senior officers of the Service, doctors, and medical school students. We know from these discussions that there is support for our proposals.

More importantly, we know that there is a great need for our proposal—a need that is not being met today and a need that will not be met in the future unless action is taken. Senator MAGNUSON, and I have seen this need, not merely in a mass of statistics, but face to face in our own State of Washington. From the small logging towns and the tiny Indian fishing communities to the crowded neighborhoods of our inner cities, we have seen the need for this legislation. Even in our relatively affluent State, we have seen vast areas with little or no health services available, and we have seen hundreds of our constituents wracked by malnutrition and the diseases of poverty.

The poor and the isolated in our State are not unique in their need for health care; similar and even worse conditions exist in nearly every county in this Nation. In every corner of the land, poverty breeds ill health and ill health perpetuates poverty. Most Americans never see the diseases of poverty—malnutrition, anemia, high infant mortality, and low life expectancies—in their immediate communities, but this low visibility cannot obscure the statistical facts.

Fifty percent of the poor children in America have never had a polio shot or any other form of vaccination to protect them against this dreaded disease.

Two-thirds of our poor children have never seen a dentist during their lifetime.

At least half of the mothers who give birth in poor or isolated areas receive no prenatal care whatsoever.

The statistics go on and on; so does the subculture of poverty in America and the ill health that attends it. Those who speak of the need to make the poor productive, of taking them off the welfare rolls and getting them on the payrolls, must realize that little or no progress can be made in this respect until the poor and the isolated are provided a decent standard of medical care.

If a child's growth is stunted, if he cannot stay awake in class or if he is constantly ill, he cannot be expected to get ahead in life, or even to keep up. If a grown man is crippled unnecessarily by a disease that could easily have been cured, he cannot earn an adequate living for his family. If a mother is overly susceptible to illness, she cannot meet the demands of raising a family. To those without an adequate standard of health care, the promise of equal opportunity is a hollow one indeed. As President Nixon has said:

"Many of the problems of the poor are the product of ill health and many have serious medical consequences. We have already begun to develop new mechanisms for helping the poor pay medical costs, but now we must further improve our methods for delivering health services (to them) . . ."

The National Health Service Corps is an experimental attempt to deliver those health services to the segment of our population that need health care most desperately. The Corps will not be operating on a huge scale, nor will it solve this health care distribution problem by itself. What the Corps will do is to provide us with greater practical experience in meeting the health care needs of the poor. It is on this experience that we will have to draw in the years ahead, whether the ultimate answer lies in the governmental or private sector, or somewhere in between.

STATEMENT OF SENATOR YARBOROUGH

Mr. President, it is always a great privilege for a Committee chairman to bring before the Senate a bill about which he feels strongly. That is my privelege today, and I have the additional privilege of reporting to the Senate that the other members of the Committee on Labor and Public Welfare and the Subcommittee on Health not only support this bill, but are nearly unanimous in their cosponsorship of it.

It has a bi-partisan list of 27 cosponsors, a majority of whom are members of the Committee on Labor and Public Welfare. This support within the Committee, and the short period of time between the introduction of this legislation and its consideration here on the flood, testify to the conviction of the Committee that this is indeed urgently needed.

The situation with which this legislation is designed to deal is the maldistribution of health manpower in the United States—one of the most pressing in the panoply of health problems confronting this nation today. The "doctor shortage" throughout the United States is acutely intensified by this maldistribution of trained health professionals, very few of whom decide to settle or practice in isolated communities or areas of urban and rural poverty. Such areas, according to statistics received by the Subcommittee on Health, clearly lag behind our more affluent suburbs and urban areas in the quantity, quality, and availability of health services.

It is no coincidence, Mr. President, that the cosponsors of this legislation are Senators who represent States with many isolated rural communities or with large urban ghettoes. The special health needs of such communities, and the appalling shortage of trained health professionals and health facilities in such areas, are painfully obvious to every Senator familiar with the problems of his constituents.

The consequences of the lack of health care in these areas are not pleasant to contemplate, whether we read about them in our mail or in the news, whether we see them through first-hand experience or on a television documentary. The economic malaise afflicting isolated or impoverished communities is attended by a whole subculture of ill health; and the "diseases of poverty"—malnutrition, anemia, high infant and maternal mortality, high death rates, short life expectancies—abound in areas too poor or too remote to attract and support qualified doctors and other health personnel.

As the Subcommittee heard, again and again, during our hearings on S. 4106, by ever available health index the poor and the isolated are being forced to bear the crushing burden of ill health. Two-thirds of our poor children have never had a polio vaccination; over half have never seen a dentist; countless numbers have never had an eye examination for the problems that may be holding them back in school or on the job. With such statistics, it is a small wonder that the poor and the isolated become further and further removed from the promise of equal opportunity upon which our whole society is ostensibly based.

Finding a way to encourage more health professionals to locate permanently in physician-deficient areas is thus an urgent concern of the Subcommittee on Health and the full Committee on Labor and Public Welfare. The present legislation is by no means the only measure proposed or under consideration to deal with this problem; and in the future we may bring forward a variety of measures to compliment the National Health Service Corps. It is our earnest hope, in fact, that by establishing the National Health Service Corps now, by putting it into operation during the next few months, we will not only be providing health services, but will be gaining the experience upon which to base future efforts to deal with this important distribution problem.

This legislation is not complex. It establishes, within the Public Health Service and under the guidance of the Secretary of the Department of Health, Education, and Welfare, a National Health Service Corps comprised of both commissioned officers of the Public Health Service and certain civil service personnel. Corps personnel will serve for at least two years in communities where health services are now deficient, and will be encouraged to locate permanently in such communities once they have finished their tour of duty in the Corps.

The intent of the legislation is to have the Corps be an experimental approach to the problems of health care delivery in physician-deficient areas, and thus the legislation is drawn to allow a maximum of flexibility in the types of health care efforts to which Corps personnel may be assigned. It is intended that a variety of pilot projects will be

undertaken, with some rough balance between urban and rural health needs.

In many areas, National Health Service Corps personnel will be assigned to supplement manpower in ongoing health programs funded in whole or in part by the various departments and agencies of the Federal government. In urban areas, for example, Corps personnel might be assigned to health programs of the Office of Economic Opportunity, the Department of Housing and Urban Development, as well as programs of HEW. In rural areas, Corps personnel could supplement manpower in understaffed migrant and Indian health programs.

The Act provides for wide latitude to innovate programs, however. In urban areas, authority is granted for the utilization of Public Health Service Hospitals for the treatment of the local citizenry, and in rural areas it would be possible to assign a young Corps member to work with an overburdened private practitioner who requested assistance.

The possibilities for utilization of the Corps have not been limited in this legislation. The bill, and the report accompanying it, make clear, however, that local cooperation and the prospects for permanent location of Corps personnel shall be taken into account in making assignments. The Corps cannot be effective where the local citizenry of the local medical community does not desire it, and there should be more communities desiring assistance than the Corps will be able to serve in any event. Under such circumstances, the desires of the local community, as well as its need, will be taken into account in making Corps assignments.

Because this is a frankly experimental program, it is important to reiterate that it will not solve, by itself, the pressing medical manpower maldistribution problem. It should lead us to new ideas for effectively coping with this problem, including the recruitment of medical school students from the physician-deficient areas themselves. But whatever form later programs and initiatives take, the National Health Service Corps will provide a framework within which young health professionals can obtain a position, supervision in their work, affiliation with local medical institutions, and an opportunity to decide—without having first to make a substantial financial commitment—whether or not they desire to spend their careers serving those most in need.

Mr. President, I have touched briefly upon the primary problem that the National Health Service Corps is designed to deal with—the problem of maldistribution of health professionals in the United States. The report accompanying this legislation goes into this problem in somewhat greater depth, and the hearing record is replete with statistical data on this point.

I would therefore like to turn my remarks to a second problem that this legislation should help cure, a problem that is very much on my mind and clearly in the minds of Senator Magnuson and Senator Jackson when they introduced this bill, S. 4106. That problem is the apparently-imminent demise of the Public Health Service, a once-important arm of the federal health effort that is currently atrophying at an alarming rate.

The Public Health Service, as the Senate is well aware, has a long and proud tradition. In recent years, however, the status of the Service has become confused, its mandate has become uncertain, and its reason for remaining in existence has become unclear. The office of the Surgeon General of the Public Health Service has been virtually emasculated, "kicked upstairs" in HEW with the hope that it will be forgotten. Morale in the Service has never been lower, as demonstrated clearly by reenlistment and early retirement rates.

The National Health Service Corps will boost the morale of the Public Health Service, and revive, at least in part, the camaraderie that has made this Service so effective in the past. This new mission will nicely supplement the other direct-care activities of the Public Health Service—including the treatment of Indians, Alaskan natives, federal prisoners, and merchant seamen. It is a new mission designed not to extend PHS care to the entire population, not to "socialize" medicine, but to reach those population groups who simply are not receiving health care today. By providing health care directly, rather than by languishing in an administrative or research post, young Commissioned officers will be encouraged about the Service they have joined. Those who remain in the Service will have a greater reason to do so; those who leave will have been channeled, at least in part, to the areas in this country that need health services the most.

I do not envision, nor do I desire, a state of affairs where the Public Health Service is the center of the American health care system. But I do not believe that the opposite extreme—the abolition of the PHS—can or should be condoned by the Congress. There are too many important missions, such as the mission of the National Health Service Corps, that the Service can and should perform, and that will not be performed at all if the Service is allowed to die. And the Senate should make no mistake—without the National Health Service Corps, or some similar program, the Public Health Service will in fact continue to languish.

Mr. President, there is yet a third purpose of this legislation, closely tied to the purpose of providing better medical manpower distribution and revitalizing the Public Health Service. This third purpose is to provide a program that will challenge the professed idealism and social commitment of our young health professionals and medical school students.

As Chairman of the Subcommittee on Health, I have had an opportunity to meet and talk with dozens of these young men and women. Thre is no doubt in my mind that this generation of health professionals is prepared to undertake the types of sacrifices associated with practice in a poverty area. They want to turn their skills and their education to the service of the needy. Nothing could more eloquently testify to this fact than the number of letters we received from such young men and women while we had this bill under consideration, all of them urging that we adopt this program, and quickly.

The National Health Service Corps provides a fine mechanism for service to the country, and for service beyond one's self. For various reasons, it would provide an opportunity that simply is not available today. And it would provide a demonstration of our desire to accommodate those of our youth who set about patiently and constructively to bring change to isolated and impoverished communities.

Mr. President, I could elaborate on the significance of this bill, but I think by now it is clear to the Senate. It is clear in the broad, bi-partisan, and near-unanimous support for this bill on the Labor and Public Welfare Committee; it is clear in the unanimity of favorable testimony received on this bill; it is clear in the eloquent statements of the bill's authors when they first introduced it.

The National Health Service Corps will not solve the physician-maldistribution problem. But it will be an important first step. In my opinion, it should have been created long ago, and we should not delay any longer in enacting this legislation and establishing this vitally important program.

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

Mr. DOMINICK. I yield.

Mr. PROUTY. Mr. President, as a cosponsor of S. 4106 to provide a National Health Service Corps, I am pleased to see this bill come before the Senate. It will help our Nation alleviate the crisis affecting our health delivery system by utilizing public health service officers in rural and urban areas. I believe it will bring much relief to those areas where adequate health facilities and personnel are lacking. I hope my colleagues will join me in supporting this measure. I think it is an excellent approach.

I thank the Senator for yielding.

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

Mr. DOMINICK. I yield.

Mr. COOPER. Mr. President, I would like to ask a few questions on the bill.

What type of services would the members of the National Health Service Corps perform? To be more specific, under this bill, could the Director provide and send doctors to administer medical care in isolated areas or in slums, or other areas?

Mr. DOMINICK. Mr. President, may I say to the Senator from Kentucky that his question is extremely good. We have left the delivery system as flexible as we can, depending upon the type of personnel and area.

It was anticipated during the discussion that these services would range all the way from trying to assist people to set up better sanitary facilities to having immunization programs and the opportunity to get different kinds of medicine and medical help into isolated areas of the country. The scope of the Corps program would cover everything that health services deal with.

Mr. COOPER. Mr. President, under this bill, if adopted, the Director would provide doctors and nurses for States.

Mr. DOMINICK. The language of the bill does not provide for State administration of their portion of the program. It is designed to be an experimental corps to go into isolated areas within the State or within the territories of the United States in coordination with but independent of the various States and territories.

Mr. COOPER. I understand. When I spoke of States, I was speaking of them as geographical units.

Mr. DOMINICK. The Senator is correct. It would involve all kinds of medical personnel or medical services, including paraprofessionals who would be sent into areas where the need seemed to be the worst.

Mr. COOPER. The Senator knows that at present there are programs for which appropriations are made for health services within States upon a Federal, State, and local bases. The States provide health services of a public nature to counties or municipalities including doctors and nurses. We have such programs in Kentucky. Part of the cost is provided by the Federal Government, part by the State, and part by the local county or community. But, such cooperative programs are directed to the State. The Senator is familiar with these programs.

Mr. DOMINICK. The Senator is correct.

Mr. COOPER. Why did the committee consider it necessary to move away from this established system by the direct allocation of health personnel to areas in these States?

Mr. DOMINICK. I think the feeling of the committee consistent with the feeling of the Senator from Washington (Mr. MAGNUSON) that the Corps would be a totally funded Federal effort designed to go into those areas where the State, despite its efforts, had been unable to provide public health service. It goes beyond the State public health service to the U.S. Public Health Service, and that is the intent of the measure. I would like to emphasize that this is an experimental program.

Mr. COOPER. I understand the problem. There are counties in my State where there is only one doctor. Many areas have no nurses. In fact, there are not enough nurses and doctors, private or public, in this country.

There is no provision in the bill which would require the director or Secretary to at the least consult with the State and with the State health authorities, to assure that they had the cooperation of the State, to be certain there is no overlapping of services and personnel and to prevent some of the problems we know arise when the Federal Government impinges on the authority of the States.

Mr. BYRD of West Virginia. Mr. President, before the Senator responds, would the Senator from Colorado yield to the Senator from Iowa so that he may ask for the yeas and nays on final passage?

Mr. DOMINICK. I yield to the Senator from Iowa.

Mr. HUGHES. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. DOMINICK. I say to the Senator from Kentucky that the language of the bill does not specifically require State coordination. Page 5 of the report clarifies the roll of the area or community of contemplated activity by providing for Corps consideration of the recommendations of any agency or organization which might be responsible for the development, under section 314(b), of comprehensive plan covering all or any part of the area or community involved or other similar agency where no 314(b) agency exists.

That would give the director the authority to consult with the State and State health officers, in particular to determine the needs of the community that may be trying to get more free medical help than it deserves.

Mr. COOPER. Where is that provision in the bill?

Mr. DOMINICK. It is in the report on page 5. Similar language was previously contained in the bill but it was removed when the Advisory Council was stricken from the bill in executive session.

Mr. COOPER. I am not against the objectives of this legislation. I ask these questions because I had some practical experience with Federal-State problems in this field. I was a county judge in my county. It is an administrative office more than a judicial office. I refer to the period 1930 to 1937. I have always said that if I could be satisfied with anything in my political career it would be that I was able then to argue and persuade my fiscal court to secure county health officers and county health nurses. I also learned something about local questions which have to be thrashed out before these programs are put into effect. Doctors are concerned about impingement on their professional field. Our States maintain health agencies which coordinate the work of State and Federal programs. I think it would be proper in this legislation to provide that the director coordinate the work of the Corps with State and local agencies.

I shall offer an amendment to that effect, although I must do so quickly. I am not prepared to do so for I did not see the bill until I came to the Chamber today, the first day of its report.

Mr. DOMINICK. The Senator will notice that on page 5 of the bill before us, the section relating to the advisory council, which I had stricken, goes all the way to line 17 on page 6. Language similar to what I quoted before appear on lines 9 through 13 of page 6. They appear in the report as being the intent of the committee in passing the bill; that is, among the criteria to be observed, is included the recommendations of agencies and organizations which may be responsible for the development of a comprehensive plan.

Mr. COOPER. Mr. President, I think it is important to attempt to secure the approval and cooperation of State and local agencies. I wish to ask first whether a council is to be established.

Mr. DOMINICK. There is no council.

Mr. COOPER. There is no council. Then, this plan will be under the supervision of the Surgeon General.

Mr. DOMINICK. The Secretary, the Surgeon General, and the Director of the Corps.

Mr. COOPER. Mr. President, I offer an amendment. Beginning at the top of page 5, line 12.

The PRESIDING OFFICER. The Chair is advised that we must dispose of the committee amendments first.

Mr. COOPER. Very well.

Mr. DOMINICK. Mr. President, for that purpose, I ask that the committee amendments to S. 4106 be considered and agreed to en bloc.

The request was agreed to and the committee amendments were agreed to en bloc.

Mr. COOPER. Mr. President, I offer an amendment on page 5 after line 11.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 5, after line 11, insert a new section, as follows:

"SEC. 3991. It shall be the function of the Director—

(1) to establish guidelines with respect to how the Corps shall be utilized;

"(2) to assist the Surgeon General, at his request, in the selection of commissioned officers of the Service and other personnel for assignment to the Corps, and to approve all assignments of Corps members;

"(3) to establish criteria for determining which communities or areas will receive assistance from the Corps taking into consideration—

"(A) the need of any community or area for health services provided under this part;

"(B) the willingness of the community or area and the appropriate governmental agencies therein to assist and cooperate with the Corps in providing effective health services to residents of the community or area;

"(C) the prospects of the community or area for utilizing Corps personnel after their tour of duty with the Corps;

"(D) the recommendations of State and local health agencies; and any agency or organization which may be responsible for the development, under section 314(b), of a comprehensive plan covering all or any part of the area or community involved;

"(E) recommendations from the medical, dental, and other medical personnel of any community or area considered for assistance under this part.

On page 6, at the beginning of line 18, change the section number to "399m".

On page 7, at the beginning of line 8, change the section number to "399n".

The PRESIDING OFFICER. Is there objection to the consideration of the amendments en bloc?

Mr. DOMINICK. Mr. President, to clarify this matter for the purpose of the record, we previously knocked out the advisory council. The Senator from Kentucky's amendment is in connection with the jurisdiction of the Director of the Corps. Thus it adds local or community involvement in the services provided to the betterment of the bill.

Mr. HUGHES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUGHES. I would like to inquire if the passage en bloc of the amendments now requires the restating of their position, as to the number and order of the amendments.

The PRESIDING OFFICER. After these amendments have been agreed to, if they are agreed to, it could be requested that the sections of the bill be appropriately renumbered.

The question is on agreeing to the amendments of the Senator from Kentucky.

Mr. HUGHES. Mr. President, I simply want to say, from this side of the aisle—as I am apparently the only majority representative of the committee present on the floor—that this amendment apparently does strengthen the bill, and I certainly would see no objection to it, and would endorse and support it. I can see no reason why it should not be incorporated in the bill, and would encourage my Senate colleagues on the majority to support it.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from Kentucky.

The amendments were agreed to.

PHYSICIAN SHORTAGES IN OREGON

Mr. PACKWOOD. Mr. President, in recent years, many of us have become deeply concerned about the shortage of physicians in the United States. Experts have predicted that approximately 48,000 additional physicians currently are needed to meet our Nation's health care demands. Perhaps one of the most serious aspects of the doctor shortage in America, and certainly one that is of great concern to the people of Oregon, is the decreasing number of general practitioners in relation to our Nation's

population growth. Rural areas especially have suffered because of this growing shortage.

Many of the health needs of the rural and small community are presently being met by the general practitioner. This occurs, in most instances, because specialists tend to practice in more populated areas where needed facilities and allied health personnel are more readily available. Many of our rural general practitioners also tend to be older and when they die or retire no one takes their place. Statistics provided by the AMA's Ad Hoc Committee on Education for Family Practice clearly show this unfortunate trend:

> In 1931 there were 112,000 physicians who classified themselves as general practitioners on A.M.A.'s annual directory cards. In 1960, the number had declined to 75,000 and in 1965, to 66,000.

Mr. President, as I said before, we in Oregon have particular cause to be concerned about this situation. Recently, the Oregon State Medical Association prepared a tabulation of opportunities for physicians in our State—it included comparisons of physician and population ratios for the years 1964 and 1968. The results were not encouraging. Oregon, like the rest of our country, has a physician shortage problem. Much of our State is rural. Part of it is comprised of small, scattered communities nestled in mountainous areas. In some cases, these communities are in desperate need of a physician.

Right now the Oregon Medical Association has 259 requests for physicians in their files. This figure represents those requests received from other physicians, civic groups, and interested citizens in the various communities. One hundred and ten of these requests are for general practitioners. The remaining are divided among the various specialties. This does not represent, however, Oregon's total need for additional physicians. We are aware of areas within the State which are not represented in these figures and are in need of a physician.

In 1964, 729 general practitioners practiced medicine in our State. That number declined to 656 in 1968. Oregon counties with populations under 10,000 had a ratio of one physician for every 1,511 persons in 1964. In 1968, statistics showed one physician per 1,581 persons.

This situation holds true for the rest of the Nation. Rural communities stretching from New York to Washington State are feeling the strain. Some commentators have maintained that physician shortages in these areas will reach crisis proportions within the next 10 years.

Mr. President, it is obvious to all of us here that something must be done to ease this situation—and it must be done soon. That is why I have cosponsored two pieces of legislation which have recently been introduced in this body. One of these measures, S. 4106, the National Health Service Corps Act of 1970 is before us today. It will, if enacted, establish a corps comprised of selected commissioned officers and other health professionals which will operate within the Public Health Service Corps. The Corps' purpose would be to improve the delivery of health services to areas in the United States which have inadequate health services. The Corps would be used to supplement the Federal Government's ongoing direct health care programs and would also be used to establish new health care programs where none currently exist. Members of the Corps would be required to spend a specified period of time in designated areas.

The second, S. 4208, is entitled the Family Physician Scholarship and Fellowship Program Act. This legislation would offer Federal assistance in the form of medical education scholarships and fellowships to young men and women who agree to practice in designated physician shortage areas or to serve migratory agricultural workers and their families. In addition, the bill provides postgraduate fellowships for interns and residents. For each year of the scholarship, participants in this program would be required to serve for 1 year in the designated physician shortage area. I hope that we may soon have the opportunity to consider this important measure as well.

Both of these programs complement each other. Both are important and necessary. I cannot emphasize too strongly the need for each of them—not just in Oregon, but throughout our Nation—not just in rural areas, but in the urban ghetto.

Mr. President, in closing let me say that our Nation's health care system is beset with many problems. Demands for physician's services are increasing at a rapid rate. These demands must be met. Health services must be made available to our entire population. When we enact the legislation which I have cosponsored, we will continue to fulfill our responsibility and our obligation to the people of this Nation.

Mr. DOMINICK. Mr. President, I ask unanimous consent, in the event the bill passes—and a rollcall has already been ordered—that the clerk be authorized to renumber the sections as they ought to be, and to make such other clerical and technical modifications as may be necessary.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Colorado? The Chair hears none, and 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.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

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

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

The question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Virginia (Mr. BYRD), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland, (Mr. TYDINGS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire, (Mr. MCINTYRE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Missouri (Mr. SYMINGTON), the Senator from Texas (Mr. YARBOROUGH), the Senator from New Mexico (Mr. MONTOYA), the Senator from West Virginia (Mr. RANDOLPH), the Senator from North Dakota (Mr. BURDICK), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent because of death in his family.

The Senator from Arizona (Mr. FANNIN), the Senators from New York (Mr. JAVITS and Mr. GOODELL), the Senator from California (Mr. MURPHY), the Senators from Illinois (Mr. PERCY and Mr. SMITH), the Senator from Ohio (Mr. SAXBE), the Senator from Alaska (Mr. STEVENS), 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.

The Senator from Oklahoma (Mr. BELLMON) is detained on official business.

If present and voting, the Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 66, nays 0, as follows:

[No. 319 Leg.]

YEAS—66

Aiken	Fong	McGovern
Allen	Fulbright	Metcalf
Allott	Goldwater	Miller
Anderson	Gravel	Mondale
Baker	Griffin	Muskie
Bayh	Gurney	Packwood
Bible	Hansen	Pastore
Boggs	Harris	Pearson
Brooke	Hart	Pell
Byrd, W. Va.	Hatfield	Prouty
Case	Holland	Proxmire
Church	Hollings	Russell
Cook	Hruska	Schweiker
Cooper	Hughes	Scott
Cotton	Inouye	Smith, Maine
Curtis	Jackson	Sparkman
Dole	Jordan, N.C.	Spong
Dominick	Jordan, Idaho	Stennis
Eagleton	Long	Talmadge
Eastland	Mansfield	Williams, Del.
Ellender	Mathias	Young, N. Dak.
Ervin	McClellan	Young, Ohio

NOT VOTING—34

Bellmon	Kennedy	Ribicoff
Bennett	Magnuson	Saxbe
Burdick	McCarthy	Smith, Ill.
Byrd, Va.	McGee	Stevens
Cannon	McIntyre	Symington
Cranston	Montoya	Thurmond
Dodd	Moss	Tower
Fannin	Mundt	Tydings
Goodell	Murphy	Williams, N.J.
Gore	Nelson	Yarborough
Hartke	Percy	
Javits	Randolph	

So the bill (S. 4106) was passed, as follows:

S. 4106

An act to amend the Public Health Service Act in order to provide for the establishment of a National Health Service Corps

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 "National Health Service Corps Act of 1970".

SEC. 2. Title III of the Public Health Service Act is amended by adding at the end thereof a new part as follows:

"PART J—NATIONAL HEALTH SERVICE CORPS

"ESTABLISHMENT OF NATIONAL HEALTH SERVICE CORPS; FUNCTIONS

SEC. 399h. (a) There is established in the Service a National Health Service Corps (hereinafter in this part referred to as the 'Corps') which shall be under the direction and supervision of the Surgeon General.

"(b) It shall be the function of the Corps to improve the delivery of health services to persons living in communities and areas of the United States where health personnel, facilities, and services are inadequate to meet the health needs of the residents of such communities and areas. Priority under this part shall be given to those urban and rural areas of the United States where poverty conditions exist and the health facilities are inadequate to meet the needs of the persons living in such areas.

"STAFFING; TERM OF SERVICE

"SEC. 399i. (a) The Surgeon General shall assign selected commissioned officers of the Service and such other personnel as may be necessary to staff the Corps and to carry out the functions of the Corps under this part.

"(b) Commissioned officers of the Service in the Corps and other Corps personnel shall be assigned for service in the Corps for a period of twenty-five months. An individual assigned to the Corps may voluntarily extend his service in the Corps for a period not to exceed an additional twenty-five months. An individual shall have the right to petition the Director (appointed pursuant to section 399j of this part) for early release from service in the Corps at the end of twenty-four months of service therein.

"DIRECTOR OF THE NATIONAL HEALTH SERVICE CORPS

"SEC. 399j. The Corps shall be headed by a Director who shall be appointed by the Secretary, in consultation with the Surgeon General of the United States Public Health Service. It shall be the responsibility of the Director to direct the operations of the Corps, subject to the supervision and control of the Surgeon General and the Secretary.

"AUTHORITY OF SECRETARY TO UTILIZE PERSONNEL

"SEC. 399k. The Secretary is authorized, whenever he deems such action appropriate, to utilize commissioned officers of the Service and other personnel assigned to duty with the Corps to—

"(1) perform services in connection with direct health care programs carried out by the Service;

"(2) perform services in connection with any direct health care program carried out in whole or in part with the Department of Health, Education, and Welfare funds or the funds of any other department or agency of the Federal Government; or

"(3) perform services in connection with any other health care activity, in furtherance of the purposes of this Act. Should services provided under this subsection require the establishment of health care programs not otherwise authorized by law, the Secretary is authorized and directed to establish mechanisms whereby recipients of such services, or third parties shall pay, to the extent practicable, for services received. Any funds collected in this manner shall be used to defray in part the operating expenses of the Corps.

"SEC. 3991. It shall be the function of the Director—"(1) to establish guidelines with respect to how the Corps shall be utilized;

"(2) to assist the Surgeon General, at his request in the selection of commissioned officers of the Service and other personnel for assignment to the Corps, and to approve all assignments of Corps members;

"(3) to establish criteria for determining which communities or areas will receive assistance from the Corps, taking into consideration—

"(A) the need of any community or area for health services provided under this part;

"(B) the willingness of the community or area and the appropriate governmental agencies therein to assist and cooperate with the Corps in providing effective health services to residents of the community or area;

"(C) the prospects of the community or area for utilizing Corps personnel after their tour of duty with the Corps;

"(D) the recommendations of State and local health agencies; and any agency or organization which may be responsible for the development, under section 314(b), of a comprehensive plan covering all or any part of the area of community involved;

"(E) recommendations from the medical, dental, and other medical personnel of any community or area considered for assistance under this part.

"MANPOWER LIMITATIONS SUSPENSION

"SEC. 399m. (a) Commissioned officers of the Service assigned to service with the Corps and other personnel employed in the Corps shall not be included in determining any limitation on the number of personnel which may be employed by the Department of Health, Education, and Welfare.

"(b) Notwithstanding any other provision of law, the Corps may, to the extent the Secretary determines such action to be feasible, utilize the facilities and personnel of hospitals and other health care facilities of the Service in providing health care to individuals as authorized under this part, and to lease, renovate, or purchase such other facilities as may be required to carry out the purposes of this Act.

"AUTHORIZATION FOR APPROPRIATIONS

"SEC. 399n. There is authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1971; $10,000,000 for the fiscal year ending June 30, 1972; $12,000,000 for the fiscal year ending June 30, 1973; and $15,000,000 for the fiscal year ending June 30, 1974."

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, informed the Senate that Mr. WAMPLER of Virginia had been appointed as a manager on the part of the House at the conference of the two Houses on the bill (H.R. 18546) to establish improved programs for the benefit of producers and consumers of dairy products, wool, wheat, feed grains, cotton, and other commodities, to extend the Agricultural Trade Development and Assistance Act of 1954, as amended, and for other purposes.

The message announced that the House had passed, without amendment, the following bills of the Senate:

S. 406. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the rotation of certain property whenever its remaining storage or shelf life is too short to justify its retention, and for other purposes;

S. 2763. An act to allow the purchase of additional systems and equipment for passenger motor vehicles over and above the statutory price limitation; and

S. 3777. An act to authorize the Secretary of the Interior to enter into contracts for the protection of public lands from fires, in advance of appropriations therefor, and to twice renew such contracts.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 5365) to provide for the conveyance of certain public land held under color of title to Mrs. Jessie L. Gaines of Mobile, Ala.

EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a supplementary convention on the executive calendar.

The PRESIDING OFFICER (Mr. COOK). Is there objection?

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

SUPPLEMENTARY EXTRADITION CONVENTION WITH FRANCE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Chair lay before the Senate Executive F, 91st Congress, second session.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive F, 91st Congress, second session, the supplementary extradition convention with France, which was read the second time, as follows:

COMPOSITE TEXT OF EXTRADITION TREATY BETWEEN THE UNITED STATES AND FRANCE SIGNED JANUARY 15, 1909, AS IT WILL BE AMENDED BY THE SUPPLEMENTARY CONVENTION SIGNED FEBRUARY 12, 1970

(Italic indicates additions to be made by 1970 supplementary convention; brackets in-

dicate deletions to be made by that convention.)

The United States of America and the Republic of France, being desirous to confirm their friendly relations and to promote the cause of justice, have resolved to conclude a new treaty for the extradition of fugitives from justice, and have appointed for that purpose the following plenipotentiaries:

The President of the United States of America:

His Excellency Mr. Henry WHITE, Ambassador extraordinary and plenipotentiary of the United States of America to the French Republic,

And the President of the French Republic:

His Excellency M. Stephen PICHON, Senator, Minister for Foreign Affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

The Government of the United States and the Government of France mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes or offenses specified in the following article, committed within the jurisdiction of one of the contracting Parties, shall seek an asylum or be found within the territories of the other: Provided That this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime or offence had been there committed.

ARTICLE I BIS

Without prejudice to the jurisdictional provision of Article I of this Convention when the offense has been committed outside the territory of both contracting Parties, extradition may be granted if the laws of the requested Party provide for the punishment of such an offense committed in similar circumstances.

ARTICLE II [1]

[Extradition shall be granted for the following crimes and offenses:]

Extradition shall be granted for the following acts if they are punished as crimes or offenses by the laws of both States: [2]

1. Murder, assassination, parricide, infanticide and poisoning; manslaughter, when voluntary; assault with intent to commit murder.

2. Rape, abortion, bigamy.

3. Arson.

[4. Robbery, burglary, housebreaking or shop-breaking.]

4. Larceny; robbery, burglary, housebreaking or shopbreaking; assault with intent to rob.

5. Forgery; the utterance of forged papers, the forgery or falsification of official acts of Government, of public authority, or of courts of justice, or the utterance of the thing forged or falsified.

6. The counterfeiting, falsifying or altering of money, whether coin or paper, or of instruments of debt created by national, state, provincial, municipal or other governments, or of coupons thereof, or of banknotes, or the utterance or circulation of the same; or the counterfeiting, falsifying, or altering of seals of State.

[7. Fraud or breach of trust by a bailee, banker, agent, factor, executor, administrator, guardian, trustee or other person acting in a fiduciary capacity, or director or member or officer of any company, when such act is made criminal by the laws of both countries, and the amount of money or the value of the property misappropriated is not less than two hundred dollars, or one thousand francs.

[Embezzlement by public officers or depositaries; embezzlement by persons hired or salaried, to the detriment of their employers.

[8. Larceny; obtaining money, valuable securities or other property by false pretenses, when such act is made criminal by the laws of both countries, and the amount of money of the value of the property fraudulently obtained is not less than two hundred dollars or one thousand francs.]

7. Fraud or breach of trust by a bailee, banker, agent, factor, executor, administrator, guardian, trustee or other person acting in a fiduciary capacity, or director or member or officer of any company.

Embezzlement by public officers or depositories; embezzlement by persons hired or salaried, to the detriment of their employers.

8. Obtaining money, valuable securities or other property by false pretenses.

9. Perjury, subornation of perjury.

[10. Child-stealing, or abduction of a minor under the age of 14 for a boy and of 16 for a girl.]

10. Child-stealing; abduction of a minor.

11. Kidnapping of minors or adults.

12. Willful and unlawful destruction or obstruction of railroads, which endangers human life.

13*a*. Piracy, by the law of nations.

b. The act by any person, being or not being one of the crew of a vessel, of taking possession of such vessel by fraud or violence.

c. Wrongfully sinking or destroying a vessel at sea.

d. Revolt or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the captain or master.

e. Assaults on board a ship on the high seas, with intent to do grievous bodily harm.

14. Crimes and offences against the laws of both countries for the suppression of slavery and slavetrading.

[15. Receiving money, valuable securities or other property knowing the same to have been unlawfully obtained, when such act is made criminal by the laws of both countries and the amount of money or the value of the property so received is not less than two hundred dollars or one thousand francs.

[Extradition shall also be granted for participation or complicity in or attempt to commit any of the crimes or offenses above mentioned when such participation, complicity, or attempt is punishable by the laws of the two countries.]

15. Receiving money, valuable securities or other property knowing the same to have been unlawfully obtained.

16. Offenses against the laws relating to the traffic in, possession, or production or manufacture of, opium, heroin and other narcotic drugs, cannabis, hallucinogenic drugs, cocaine and its derivatives, and other dangerous drugs and chemicals; or poisonous chemicals or substances injurious to health.

17. Offenses against the laws relating to bankruptcy.

18. Use of the mails or other means of communication in connection with schemes devised or intended to deceive or defraud the public or for the purpose of obtaining money or property by false pretenses.

19. Revolt on board an aircraft against the authority of the captain; any seizure or exercise of control, by force or threat of force or violence, of an aircraft.

ARTICLE III

Requisitions for the surrender of fugitives from justice shall be made by the diplomatic agents of the contracting Parties, or, in the absence of these from the country or its seat of government, they may be made by the consular officers.

If the person whose extradition is requested shall have been convicted of a crime or offense, a duly authenticated copy of the sentence of the court in which he was convicted, or, if the fugitive is merely charged with a crime or offense, a duly authenticated copy of the warrant of arrest in the country where the crime or offense has been committed and of the depositions or other evidence upon which such warrant was issued, shall be produced.

The extradition of fugitives under the provisions of this treaty shall be carried out in the United States and in France, respectively, in conformity with the laws regulating extradition for the time being in force in the State on which the demand for surrender is made.

ARTICLE IV

The arrest and detention of a fugitive may be applied for on information, even by telegraph, of the existence of a judgment of conviction or of a warrant of arrest.

In France, the application for arrest and detention shall be addressed to the Minister of Foreign Affairs who will transmit it to the proper department.

In the United States, the application for arrest and detention shall be addressed to the Secretary of State, who shall deliver a warrant certifying that the application is regularly made and requesting the competent authorities to take action thereon in conformity to statute.

In both countries, in case of urgency, the application for arrest and detention may be addressed directly to the competent magistrate in conformity to the statutes in force.

In both countries, the person provisionally arrested shall be released, unless within forty days from the date of arrest in France, or from the date of commitment in the United States, the formal requisition for surrender with the documentary proofs herein before prescribed be made as aforesaid by the diplomatic agent of the demanding government or, in his absence, by a consular officer thereof.

ARTICLE V

[Neither of the contracting Parties shall be bound to deliver up its own citizens or subjects under the stipulations of this convention.]

There is no obligation upon the requested State to grant the extradition of a person who is a national of the requested State, but the executive authority of the requested State shall, insofar as the legislation of that State permits, have the power to surrender a national of that State if, in its discretion, it be deemed proper to do so.

ARTICLE VI

[A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded be of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

[If any question shall arise as to whether a case comes within the provisions of this article, the decision of the authorities of the Government on which the demand for surrender is made shall be final.]

Extradition shall not be granted in any of the following circumstances:

1. When the person whose surrender is sought is being proceeded against or has been tried and discharged or punished in the territory of the requested Party for the acts for which his extradition is requested.

2. When the person whose surrender is sought establishes that he has been tried and acquitted or has undergone his punishment in a third State for the acts for which his extradition is requested.

3. When the person claimed has, according to the law of either the requesting or the requested Party, become immune by the reason of lapse of time from prosecution or punishment.

4. If the offense for which the individual's

[1] See note following text.

[2] See note following text.

extradition is requested is of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offense of a political character. If any question arises as to whether a case comes within the provisions of this subparagraph, the authorities of the Government on which the requisition is made shall decide.

5. When the offense is purely military.

ARTICLE VI

Extradition shall be granted, in accordance with the provisions of this Convention, for offenses in connection with taxes, duties, customs and exchange only if the Contracting Parties have so decided in respect of any such offense or category of offenses.

ARTICLE VII

No person surrendered by either of the High contracting Parties to the other shall be triable or tried or be punished for any crime or offence committed prior to his extradition, other than the offence for which he was delivered up, nor shall such person be arrested or detained on civil process for a cause accrued before extradition, unless he has been at liberty for one month after having been tried, to leave the country, or, in case of conviction, for one month after having suffered his punishment or having been pardoned.

ARTICLE VIII

Extradition shall not be granted, in pursuance of the provisions of this convention, if the person claimed has been tried for the same act in the country to which the requisition is addressed, or if legal proceedings or the enforcement of the penalty for the act committed by the person claimed have become barred by limitation, according to the laws of the country to which the requisition is addressed.

ARTICLE IX

If the person whose extradition may be claimed, pursuant to the stipulation hereof, be actually under prosecution for a crime or offence in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be terminated, and until such criminal shall be set at liberty in due course of law.

ARTICLE X

If the individual claimed by one of the High contracting Parties, in pursuance of the present treaty, shall also be claimed by one or several other Powers on account of crimes or offences committed within their respective jurisdictions, his extradition shall be granted to the State whose demand is first received; Provided, That the Government from which extradition is asked is not bound by treaty, in case of concurrent demands, to give preference to the one earliest in date, in which event that shall be the rule; And Provided That no other arrangement is made between the demanding Governments according to which preference may be given either on account of the gravity of the crime committed or for any other reason.

ARTICLE XI

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime of offence charged, or being material as evidence in making proof of the crime or offence, shall, so far as practicable, and if the competent authority of the State applied to orders the delivery thereof, be given up when the extradition takes place. Nevertheless, the rights of third parties with regard to the articles aforesaid shall be duly respected.

ARTICLE XII [3]

[The expenses incurred in the arrest, detention, examination and delivery of fugitives under this treaty shall be borne by the State in whose name the extradition is sought; Provided, That the demanding Government shall not be compelled to bear any expense for the services of such public officers or functionaries of the Government from which extradition is sought as receive a fixed salary; And Provided, That the charge for the services of such public officers or functionaries as receive only less fees or prerequisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the country of which they are officers or functionaries.]

Expenses related to the transportation of the person sought shall be paid by the requesting Party. The appropriate legal officers of the state in which the extradition proceedings take place shall, by all legal means within their power, assist the requesting Party before the respective judges and magistrates. No pecuniary claim, arising out of the arrest, detention, examination and surrender of persons sought shall be made by the requested Party against the requesting Party other than as specified in the following paragraph of this Article and other than, if legislation requires, for the lodging, maintenance and board of the person sought.

The legal officers, other officers of the requested Party, and court stenographers, if any, of the requested Party, who shall in the usual course of their duty give assistance and who receive no salary or compensation other than specific fees for services performed, shall, if legislation requires, be entitled to receive from the requesting Party the usual payment for such services performed by them in the same manner and to the same amount as though such services had been performed in ordinary criminal proceedings under the laws of the state of which they are officers.

The documents in support of the request for extradition shall be translated into the language of the requested Party at the expense of the requesting Party.

ARTICLE XIII

[In the colonies and other possessions of the two High contracting Parties, the manner of proceeding may be as follows:

[The requisition for the surrender of a fugitive criminal who has taken refuge in a colony or foreign possession of either Party may be made to the Governor or chief authority of such colony or possession by the chief consular officer of the other in such colony or possession; or if the fugitive has escaped from a colony or foreign possession of the Party on whose behalf the requisition is made, by the Governor or chief authority of such colony or possession.

[Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this treaty, by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the surrender or refer the matter to their Government.]

The provisions of the present Convention shall apply to the territories of each contracting Party.

ARTICLE XIV

The present treaty shall take effect on the thirtieth day after the date of the exchange of Ratifications, and shall not operate retroactively.

On the day on which it takes effect, the conventions of November 9, 1843, February 24, 1845, and February 10, 1858, shall cease to be in force except as to crimes therein enumerated and committed prior to that date.

The ratifications of this treaty shall be exchanged at Paris as soon as possible, and it shall remain in force for a period of six months after either of the two Governments shall have given notice of a purpose to terminate it.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the above articles both in English and the French languages and have hereunto affixed their seals.

Done in duplicate at Paris, on the 6th January 1909.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. DOLE). Without objection, the supplementary convention will be considered as having passed through its various parliamentary stages up to and including presentation of the resolution of ratification, which will be read for the information of the Senate.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of a Supplementary Convention on Extradition between the United States and France, together with two related exchanges of letters, signed at Paris on February 12, 1970, and a related exchange of notes dated June 2 and June 11, 1970.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–23), explaining the purposes of the supplementary convention.

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

PROVISIONS OF CONVENTION

According to the State Department's letter of submittal, the primary purpose of the supplementary convention with France "is to add to the list of extraditable offenses that of aircraft hijacking, and to clarify and expand the offenses relating to narcotics, which now will include hallucinogenic drugs and other dangerous drugs." Another new provision is incorporated in article I to provide for the discretionary return of fugitives who have committed offenses outside the territory of either France or the United States when the offense is punishable under the laws of both countries. For example, narcotics and counterfeiting are offenses which might be involved in the application of this provision.

Article II of the supplementary convention lists 19 acts for which extradition shall be granted "if they are punished as crimes or offenses by the laws of both States." This article is subject to the provisions of article VIII which states that the convention shall apply to an offense committed "before as well as after" the date it enters into force, provided it was an offense under the laws of both countries at the time of its commission. An exchange of notes appended to the supplementary convention further interprets article II by providing that "Extradition will be based on the nature of the acts and not on the particular statutory terminology." The exchange of notes agreed to states that "this modification will resolve any question concerning jurisdictional terminology of Federal offenses of the United States." It should be noted, however, that article III of the supplementary convention provides that there is no obligation upon either the United States or France to surrender one of its nationals; the executive authority in each country has discretion in this matter.

Article IV of the supplementary convention provides that extradition shall not be granted when the person whose surrender is sought has been tried and acquitted or punished; when the person has become immune by reason of lapse of time from prosecution or punishment; if the offense for which the individual's extradition is requested is of a

[3] See notes following text:

political character; or when the offense is purely military. These provisions are in accord with similar articles in other extradition agreements concluded by the United States.

Pursuant to the provisions of article VI, the requesting party is responsible for paying the transportation costs and other expenses connected with the extradition proceedings. In the exchange of notes appended to the supplementary convention, the Attorney General of the United States has been designated as the appropriate U.S. official to represent the French Government in cases of extradition requests from that country.

DATE OF ENTRY INTO FORCE

The pending supplementary convention will enter into force 30 days after the exchange of instruments of ratification. It may be terminated by either country by giving 6 months notice. As of this date, France has not ratified the convention.

COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the Supplementary Extradition Convention With France on August 27, 1970, at which time testimony in support of the convention was received from Mr. Knute E. Malmborg, Assistant Legal Adviser, Department of State. His prepared statement is reprinted below. No witness appeared in opposition to the convention.

On August 28, 1970, in executive session, the committee ordered the supplementary convention favorably reported with the recommendation that the Senate give its advice and consent to ratification of the agreement.

For the information of the Senate, included in the appendix to this report is the text of the 1909 Extradition Treaty Between the United States and France as it will be amended by the pending supplementary convention. Also included are two related notes which were exchanged after the supplementary convention was transmitted to the Senate.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification of Executive F 9, 91st Congress, second session, on the Supplementary Extradition Convention with France?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. BYRD of West Virginia. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Texas (Mr. YARBOROUGH), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from New Mexico (Mr. MONTOYA), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Missouri (Mr. SYMINGTON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from North Dakota (Mr. BURDICK) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent because of death in his family.

The Senator from Arizona (Mr. FANNIN), the Senators from New York (Mr. JAVITS and Mr. GOODELL), the Senator from California (Mr. MURPHY), the Senators from Illinois (Mr. PERCY and Mr. SMITH), the Senator from Ohio (Mr. SAXBE), the Senator from Alaska (Mr. STEVENS), 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 Utah (Mr. BENNETT), the Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senators from Illinois (Mr. PERCY and Mr. SMITH), the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 66, nays 0, as follows:

[No. 320 Ex.]

YEAS—66

Aiken	Fong	Metcalf
Allen	Fulbright	Miller
Allott	Goldwater	Mondale
Anderson	Gravel	Muskie
Baker	Griffin	Nelson
Bayh	Gurney	Packwood
Bellmon	Hansen	Pastore
Bible	Harris	Pearson
Boggs	Hart	Pell
Brooke	Hatfield	Prouty
Byrd, W. Va.	Holland	Proxmire
Case	Hollings	Russell
Church	Hruska	Schweiker
Cook	Hughes	Scott
Cooper	Inouye	Smith, Maine
Cotton	Jackson	Sparkman
Curtis	Jordan, N.C.	Spong
Dole	Jordan, Idaho	Stennis
Dominick	Long	Talmadge
Eagleton	Mansfield	Williams, Del.
Ellender	Mathias	Young, N. Dak.
Ervin	McClellan	Young, Ohio

NOT VOTING—34

Bennett	Kennedy	Ribicoff
Burdick	Magnuson	Saxbe
Byrd, Va.	McCarthy	Smith, Ill.
Cannon	McGee	Stevens
Cranston	McGovern	Symington
Dodd	McIntyre	Thurmond
Eastland	Montoya	Tower
Fannin	Moss	Tydings
Goodell	Mundt	Williams, N.J.
Gore	Murphy	Yarborough
Hartke	Percy	
Javits	Randolph	

The PRESIDING OFFICER (Mr. HANSEN). Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the President be immediately notified of the agreement of the Senate to the resolution of ratification.

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

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

Without objection, the Senate resumed the consideration of legislative business.

POLITICAL BROADCASTING—CONFERENCE REPORT

Mr. PASTORE. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3637) to amend section 315 of the Communication Act of 1934 with respect to equal time requirements for candidates for public office, 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 August 13, 1970, pages 28798–28799, CONGRESSIONAL RECORD.)

AGREEMENT TO VOTE

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

Mr. PASTORE. I yield.

Mr. SCOTT. Mr. President, I would suggest to the distinguished Senator from Rhode Island, the chairman of the subcommittee, since I am the ranking minority member of the subcommittee on this side, that we seek to work out some early occasion when we can have a vote on this matter, at a time when we can have as many Senators present as possible, perhaps Wednesday or Thursday.

Mr. PASTORE. How about Wednesday at 2 p.m.?

Mr. SCOTT. Wednesday at 2 p.m. I have no objection. I would agree to that.

Mr. PASTORE. Mr. President, I ask unanimous consent that we vote on this conference report on Wednesday, September 23, at 2 p.m.

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

The unanimous-consent agreement was later reduced to writing, as follows:

Ordered, That the Senate proceed to vote on Wednesday, September 23 at 2 o'clock p.m. on agreeing to the conference report on S. 3637, equal time amendment under requirements of the Communications Act of 1934.

Mr. PASTORE. Mr. President, the conference report, S. 3637, a bill amending section 315 of the Communications Act which applies to the use of broadcast facilities by legally qualified candidates for public office.

As agreed to by a majority of the conferees the major provision of the bill would:

First. Repeal the equal opportunities provision of section 315 as it applies to the use of broadcast facilities by legally qualified candidates for the offices of President and Vice President in the general election.

Second. Require broadcast licensees to charge legally qualified candidates for all public offices the station's lowest unit

rate charged any commercial time buyer for the same amount of time in the same time period. This requirement would become effective 30 days after enactment of the legislation.

Third. Sets a limitation on the amount of money a candidate for the offices of President, Senator, Congressman, Governor, or Lieutenant Governor, or anyone on his behalf could spend on the broadcast media in a general election campaign. Amounts spent by or on behalf of a vice presidential candidate would be counted as an expenditure on behalf of the candidate for President with whom he is running.

The limitation would be 7 cents multiplied by the number of votes cast for all legally qualified candidates for the office in question in the last preceding election, or $20,000, whichever is greater.

This limitation would become effective 30 days after enactment. In order to protect the integrity of any written agreements that have already been made between candidates or anyone on their behalf and broadcast licensees, however, the conference report provides that if the FCC determines that anyone who is a legally qualified candidate as of August 12, 1970, and has entered into written agreements as of that date with broadcast licensees for the purchase of time to be used 30 days after the enactment of this legislation, and such agreements in the aggregate would exceed the monetary limitation for that office in the general election, then the limitation shall not apply to any of the candidates for the office.

The limitation would become effective 30 days after enactment. This provision is moot now because of the delay in acting on the conference report.

Fourth. Sets a limitation on the amount of money candidates in a primary election for nomination for the office of U.S. Senator, U.S. Congressman, Governor or Lieutenant Governor or anyone on his behalf may spend. This amount would be 50 percent of the amount such a candidate could spend under the formula used to set the limitation on expenditures for that office in the general election. This limitation would become effective January 1, 1971.

Fifth. States could also by legislation place similar limitations on expenditures for other public offices within the State.

Mr. President, what the conferees on S. 3637 have accomplished is a major breakthrough in one of the most critical areas affecting our electoral process—the spiraling cost of campaigning for public office. The American people will be the beneficiaries and I can think of no more compelling reason for urging its adoption.

A CIVILIAN SUPERSONIC TRANSPORT

Mr. PELL. Mr. President, I have followed closely and with great interest the debate over continuation of Federal Government expenditures for development of a civilian supersonic transport.

As I have indicated previously, I am deeply concerned over questions raised by the economic justification and economic effects of this project, and the possible effects on our environment of the operation of large numbers of these aircraft. In my own view, the economic benefits on the one hand and the predictions of environmental catastrophe on the other both have been subject to some overstatement.

If anything is clear from the public debate and the opposing testimony of qualified scientists and economists, it is that there are many questions lacking definitive answers. In regard to the SST, I am not convinced that we are in a do-or-die, now-or-never position.

In my own view, we should have definitive answers to the troubling questions raised before proceeding with its further funding.

Mr. PELL. Mr. President, I am not surprised, but deplore the word that the administration will resume heavy military assistance to Greece.

I realize that the use of torture as an administrative practice has lessened.

I realize some steps are being taken to rub the sharp edges off the harshness of the military regime. But, what I regret is that the United States has yet to take an unequivocal position regretting the junta's very existence and calling for its replacement by a government which respects the principles set forth in the preamble of the North Atlantic Treaty Organization. I had also hoped that some public recognition of the King would have occurred in this period, that he would have been called upon by some high-level American official. The King is, after all, an obvious nucleus for return to normal parliamentary government in Greece.

I anticipate that many smooth words and explanations will be used in an effort to make it appear that more rapid progress cannot be made to return Greece to its democratic heritage. But, what bothers me even more than that is the continued abuse of political prisoners.

We have reached an odd Alice-in-Wonderland state where it is alleged if we do not give heavy military aid to Greece we are interfering in Greek affairs. This, despite the fact that the items which we have been shipping may well have been used to strengthen the junta's grip on the Greek people. On the other hand it is argued that if we resume shipping heavy arms, then this is a sign of noninterference. It seems doubly odd that this announcement would be coming out at the very time that there is a meeting in Strasbourg of the Council of Europe. The Council is growing in influence and importance, and we all recall, how the Council, our sister parliamentary body, was about to expel Greece until on the very eve of her expulsion, Greece withdrew voluntarily.

I merely rise at this time to add my voice to protest this decision unaccompanied as it is by a more specific evidence that the regime does indeed intend to restore the democratic institutions and civil liberties of the Greek people.

THE DEPARTMENT OF TRANSPORTATION'S LACK OF COMMITMENT TOWARD HIGH-SPEED GROUND TRANSPORTATION

Mr. PELL. Mr. President, recently the Bureau of the Census announced preliminary census figures which confirm a trend I predicted in my book "Megalopolis Unbound" in 1966; that is to say, the United States is becoming a country of megalopolises. Stretching along the east coast, along the Great Lakes, and along California shoreline, concentrated and connected communities of urban dwellers are growing in size and in dimension.

It was the existence of this trend toward megalopolization that provided the raison d'etre for the Congress passage of legislation establishing the Federal Government's high-speed ground transportation program. In the crowded urban corridors of our megalopolises it was thought that high-speed trains, running between cities as subway cars run between city stops, represented a highly viable method of relieving megalopolitan congestion. The Metroliner and Turbo-train were developed as models of that concept.

Now that the census figures have demonstrated the trend I predicted toward megalopolization, and now that the public has demonstrated its support for high-speed trains, I would have thought the policy of the Department of Transportation would be to strengthen and expand their high-speed ground transportation program. However, on the contrary, in spite of the obvious need for the program, the administration has shown no real commitment to this program. Unfortunately the facts speak for themselves.

The position of the Director of the Office of High-Speed Ground Transportation has not been filled since it became vacant in December of 1969. The position of Administrator of the Federal Rail Administration has been vacant since July of 1970.

The staff used to undertake systems analysis of overall high-speed transportation needs in urban corridors has been removed from the Office of High-Speed Ground Transportation.

Funding support for high-speed trains has been minimal. While high-speed trains, such as New England's Turbotrain, have demonstrated themselves as a ready and immediate solution to the problem of moving people at high speeds in urban corridors, the Department of Transportation has practically dropped its support for the program and has attempted to make a technological jump to the development of tracked air cushion vehicles funded through the Urban Mass Transit Administration.

Not even speaking to the question of the expansion of the program, the Department of Transportation has even expressed reluctance to continue the Turbotrain demonstration program on its present limited scale. While many millions have been committed to the tracked air vehicle development in the Department of Transportation budget, only $900,000 has been programmed for the Turbotrain program.

While I am delighted that the Department is interested in TACV's, unfortunately, tracked air cushion vehicles do not represent a realistic solution to the problem of ground passenger transportation for some years to come.

I ask unanimous consent that an article published in the Providence Journal of September 19 and an editorial published in the Providence Evening Bulle-

tin of September 15 regarding these points be printed at this point in the RECORD.

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

[From the Evening Bulletin, Sept. 15, 1970]

WHY NOT FAST TRAINS?

Scarcely a day passes without a painful reminder of how far this country has fallen behind in high-speed rail service. For instance, the British Association for the Advancement of Science announced that passenger trains in England will be traveling at 160 miles per hour on existing track within four years. Our own scientists, meanwhile, are talking in terms of developing the required technology simply to usher in high-speed rail service of any kind rather than in terms of expanded service.

This is not to disparage America's research efforts in this mode of travel. But scientists and rail experts agree that by means of a steel wheel on a steel rail, safe and comfortable speeds in excess of 150 miles per hour can be achieved. True, there are alternatives—the air-cushion vehicle, for instance—but interminable debate over alternatives can and does act like a dead head on progress. Surely Congress would be more disposed to sponsor enactment of a railroad bill that would create an agency to run the nation's passenger trains if it were clear just what type of passenger trains would be running a few years from now.

European governments and scientific communities have not worked themselves into a state of near paralysis by endlessly probing alternate technologies. In respect to high-speed rail service, it's as though the U.S. were possessed by a vision of the ultimate, beyond which there can be no conceivable improvement.

Meanwhile, the mayors of American cities warn that downtown streets may be closed to traffic because of the congestion and pollution. This is a time when the New York-Boston mainline track should be humming with Metroliner and Turbo Train service, and the best way to begin is to stop confusing the lawmakers, who control the purse strings, about alternate technologies for high-speed trains.

[From the Providence Journal, Sept. 19, 1970]

TURBOLINER TRAIN OPERATION MAY BE ENDED NEXT MONTH

Streamlined TurboLiner trains which have been carrying passengers between Boston and New York for nearly two years may stop running after October 22.

A decision on whether the service, begun as an experiment in April, 1969, will continue is expected in about three weeks.

The two streamlined trains, based at Field's Point and operated by the Penn Central Railroad, are leased to the federal Department of Transportation by the builder, United Aircraft Corporation.

The two-year lease expires Oct. 22 and contains a two-year option to be exercised 90 days before expiration. The option has not been exercised and a United Aircraft spokesman acknowledges, "The program definitely is in jeopardy."

A Transportation Department spokesman in Washington said there is only enough money left from the original 8.4-million-dollar budget to "tail off" the present program. There is no provision in the budget for the present fiscal year, not yet passed, for a continuance, he said.

Edwin Edel, director of public affairs for the department's railroad administration, said a decision on the fate of TurboLiners could be expected at least two weeks before the United Aircraft lease expires.

He said the expiring contract gives United 1.7 million dollars for leasing the two trains and 2.8 million dollars toward maintenance, fuel and operating costs of the Field's Point depot, over the two-year period. But United Aircraft, he said, is asking for about 7 million dollars for a two-year renewal and no such money is available.

The United spokesman said that on July 2, the Department of Transportation asked cost estimates on a new two-year contract and said it would choose to renew the contract if a mutually acceptable agreement could be worked out. He did not challenge the department's 7-million-dollar figure.

"We are negotiating, but the program definitely is in jeopardy," he said.

Mr. PELL. Mr. President, hopefully before this session is completed, the House of Representatives will have acted upon, and the Congress will have passed the legislation needed to establish a National Rail Passenger Corporation. If this new passenger corporation is to be successful, it will only be successful if it has new high-speed trains speeding up and down our country's urban corridors. If this vision is to be a reality, the Office of High-Speed Ground Transportation must be available to provide the corporation with the research and development support it needs in the area of high-speed ground transportation. In its present condition I do not believe the Office of High-Speed Ground Transportation can do the job.

Mr. President, while I realize that the Department's concerns are probably more focused now on the problems of moving a few people across the oceans at supersonic speeds than it is on problems of moving 19 million people up and down the east coast, I would hope that the Department could take time to reevaluate its policy posture in regard to the Office of High-Speed Ground Transportation. I believe the facts justify a reevaluation.

ORDER FOR ADJOURNMENT TO WEDNESDAY, THURSDAY, AND FRIDAY, RESPECTIVELY, AT 10 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on Tuesday, Wednesday, and Thursday of this week, it stand in adjournment until Wednesday, Thursday, Friday, respectively, at 10 a.m.

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

ORDER FOR RECOGNITION OF SENATOR CHURCH AND SENATOR YOUNG OF OHIO TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, immediately after disposition of the reading of the Journal and the disposition of any unobjected-to items on the Consent Calendar, the able Senator from Idaho (Mr. CHURCH) be recognized for not to exceed 20 minutes, and that he be followed by the able Senator from Ohio (Mr. YOUNG) for not to exceed 20 minutes.

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

NATIONAL AIR QUALITY STANDARDS ACT OF 1970

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Order No. 1214, S. 4358.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read the bill by title, as follows: S. 4358, to amend the Clean Air Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine?

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

Mr. MUSKIE. Mr. President, one of the most troubling aspects of our national mood is the crisis in confidence which afflicts too many Americans in all walks of life. It is a crisis marked by self-doubt, by a fear that our problems may be greater than our capacity to solve them, that our public and private institutions may be inadequate at a time when we need them most.

Our environmental problems have contributed heavily to that self-doubt and fear. A nation which has been able to conquer the far reaches of space, which has unlocked the mysteries of the atom, and which has an enormous reserve of economic power, technological genius, and managerial skills, seems incapable of halting the steady deterioration of our air, water, and land.

The legislation we take up today provides the Senate with a moment of truth: a time to decide whether or not we are willing to let our lives continue to be endangered by the wasteful practices of an affluent society, or whether we are willing to take the difficult but necessary steps to breathe new life into our fight for a better quality of life.

This legislation will be a test of our commitment and a test of our faith: in our institutions, in our capacity to find answers to difficult economic and technological problems, and in the ability of American citizens to rise to the challenge of ending the threat of air pollution.

I am prepared to affirm that faith—on the basis of the knowledge we have gained from existing air pollution control legislation, on the basis of our committee's studies, and on the basis of what Americans have been telling me and other Members of the Senate about their determination to overcome the obstacles to clean air.

I. THE NEED FOR THE LEGISLATION

Mr. President, we are considering this legislation in a year of environmental concern. The President devoted much of his state of the Union message to the environment, young and old together marked Earth Day in April, and Congress has considered an unprecedented number of bills dealing with the degradation of our air, water, and land.

In January of this year the President signed the National Environmental Policy Act. That law commits all agencies of the Federal Government to continuing environmental concern. In April of this year the Water Quality Improvement Act, built upon the record established by the Congress since 1965 in the

area of water pollution control, was enacted.

The bill we consider today, however, faces the environmental crisis with greater urgency and frankness than any previous legislation. The effect of these amendments to the Clean Air Act will be felt by all Americans. This bill states that all Americans in all parts of the Nation should have clean air to breathe, air that will have no adverse effects on their health. And this bill is aimed at putting in motion the steps necessary to achieve that level of air quality within the next 5 years.

It is a tough bill, because only a tough law will guarantee America clean air. It is a necessary bill, because the health of our people is at stake.

Over 200 million tons of contaminants are spilled into the air each year in America. Each year we soil more clothes and buildings, destroy more plant and animal life, and threaten irreversible atmospheric and climatic changes. And each year these 200 million tons of pollutants endanger the health of our people.

The costs of air pollution can be counted in death, disease and disability; it can be measured in the billions of dollars of property losses; it can be seen and felt in the discomfort of our lives.

A reduction of 50 percent in air pollution in urban areas would result in savings of over $2 billion in the annual costs of health care in America.

So there is a need for this legislation. During the past year all of us have recognized this need. Last month, in transmitting the first annual report of the Council on Environmental Quality, President Nixon recognized this need.

Man—

He said—

has been too cavalier in his relations with nature. Unless we arrest the depredations that have been inflicted so carelessly on our natural systems . . . we face the prospect of ecological disaster.

In hearings on the bill before us, Mr. Joseph Germano, a steelworker from Chicago, also recognized this need. He told the committee:

This old philosophy, that when you see the smoke rolling out of the tops of the blast furnaces there is prosperity, doesn't go anymore. The people don't look at that anymore. Prosperity doesn't mean anything if they are not going to live to enjoy the prosperity.

All Americans have agreed on the need for action. It is now time to determine whether that agreement has reflected only a lack of disagreement, or a genuine commitment to action.

II. A REVIEW OF THE LAW

The bill now before the Senate would amend the Clean Air Act. It is consistent with the purpose of that law and with the basic approach of the present program. In the Air Quality Act of 1967, Congress adopted this basic approach in amendments to the Clean Air Act of 1963.

The Senate report on the 1967 bill stated the purposes of the legislation:

(It) is the intent of the Committee to enhance air quality and to reduce harmful pollution emissions anywhere in the country, and to give the secretary authority to implement that objective in the absence of effective state and local control.

The committee feels that S. 4358 is consistent with those purposes and reflects knowledge gained since the law has been in force.

The 1967 act established procedures for the achievement and maintenance of federally approved regional standards of ambient air quality. These standards, based on Federal criteria documents describing the effects of pollutants on health and welfare, are adopted and enforced on the State and local level. In the event that adequate standards are not developed or enforced, the Federal Government assumes the responsibility.

The underlying wisdom of the original legislation has been confirmed. We have learned from the criteria documents which have been issued for five pollutants that more decisive action must be taken now. We have learned from the standards-setting process that public participation is important, and we have learned from experience with implementation of the law that States and localities need greater incentives and assistance to protect the health and welfare of all people.

III. WHAT WE HAVE LEARNED FROM THE LAW

From the operations of the existing law, we have learned a great deal—about the concern of Americans over air pollution, about the response of polluters to this concern, and about the sacrifices we must make to protect our health.

The effectiveness of existing law depends in great part on the willingness of people to make tough decisions concerning the quality of air they want to breathe. And it depends on their willingness to make their wishes known in public hearings on the local level. This experiment in public participation has worked. It has opened doors once closed. People have become involved in the standards-setting process. They have learned of the threats to their health and they have sought to make the program responsive to their needs.

At the same time, some industries have not exerted their best efforts to control air pollution. Two steel companies in the Chicago area, for example, dumped more pollutants into the air in 1968 than in 1963—3,500 tons more. Oftentimes, funds which should have gone for air pollution control have been spent on advertising and public relations designed to reduce the pressure on the companies to do what is necessary.

In the face of citizen concern and corporate resistance, we have learned that the air pollution problem is more severe, more pervasive, and growing faster than we had thought. Unless we recognize the crisis and generate a sense of urgency from that recognition, lead times may melt away without any chance at all for a rational solution to the air pollution problem.

IV. WHAT WE HAVE LEARNED ABOUT THE LAW

While we have learned much from the operations of the laws passed in 1963, 1965, and 1967, we have also learned much about the law itself.

It is clear that Congress was right in 1967 when national emissions standards without ambient air quality standards for stationary sources were rejected—in favor of regional ambient air quality standards with emissions standards as tools to meet them. Emissions standards alone will not—and probably cannot—guarantee ambient air quality which will protect the public health. The implementation of air quality standards must take more forms than emissions controls.

It is also clear that ambient air quality standards which will protect the health of persons must be set as minimum standards for all parts of the Nation, and that they must be met in all areas within national deadlines.

Congress did adopt emissions standards as the basic control technique for moving sources in 1965, because they are not controllable at the local level. Here we have learned that tests of economic and technological feasibility applied to those standards compromise the health of our people and lead to inadequate standards. It is clear that the long-range proposal for emission standards will only be adequate if the timetable is accelerated.

In 1963, Congress recognized that the Federal Government could not handle the enforcement task alone, and that the primary burden would rest on States and local governments. However, State and local governments have not responded adequately to this challenge. It is clear that enforcement must be toughened if we are to meet the national deadlines. More tools are needed, and the Federal presence and backup authority must be increased.

Finally, no level of government has implemented the existing law to its full potential. On all levels, the air pollution control program has been underfunded and undermanned. To implement the greater responsibilities of this bill, great financial commitments will have to be made and met at all levels. Air pollution control will be cheap only in relation to the costs of lack of control.

V. CHANGES RECOMMENDED

What we have learned—from and about the existing law—forms the basis of the changes recommended by the committee. Because we have fallen behind in the fight for clean air, it is not enough to implement existing law. We must go further. The Senate committee report on the Air Quality Act of 1967 warned polluters:

Considerations of technology and economic feasibility, while important in helping to develop alternative plans and schedules for achieving goals of air quality, should not be used to mitigate against protection of the public health and welfare.

That warning, Mr. President, has been on the books of this committee for 3 years, for all to read.

Contrary to this intent, these considerations have been used as arguments to compromise the public health. Therefore, the committee has made explicit in this bill what is implicit to standards designed to protect our health. That concept and that philosophy are behind every page of the proposed legislation.

The first responsibility of Congress is not the making of technological or economic

judgments—or even to be limited by what is or appears to be technologically or economically feasible. Our responsibility is to establish what the public interest requires to protect the health of persons. This may mean that people and industries will be asked to do what seems to be impossible at the present time. But if health is to be protected, these challenges must be met. I am convinced they can be met.

First, the bill provides for national ambient air quality standards for at least ten major contaminants that must be met by national deadlines. This means that in every region of the country, air quality must be better than that level of quality which protects health. Anybody in this Nation ought to be able at some specific point in the future to breathe healthy air.

Second, national air quality goals—protective against any known or anticipated adverse environmental effects—will be set for the major pollutants and must also be achieved within specific time-frames on a regional basis. Air quality goals are especially important because some pollutants may have serious effects on the environment at levels below those where health effects may occur. For example, the Secretary would be expected to disapprove regional air quality goals which would delay the application of controls required to protect plants and animals from the well-known hazards of exposure to fluorides.

Third, the bill provides that newly constructed sources of pollution must meet rigorous national standards of performance. While we clean up existing pollution, we must also guard against new problems. Those areas which have levels of air quality which are better than the national standards should not find their air quality degraded by the construction of new sources. There should be no "shopping around" for open sites. These standards of performance would not specify what technology must be used by particular types of sources, only the emissions performance that must be met.

Fourth, the bill provides the Secretary with the authority to prohibit emissions of hazardous substances. The committee was presented with strong evidence that any level of emissions of certain pollutants may produce adverse health effects that cannot be tolerated.

Fifth, the bill provides the Secretary with the authority to set emission standards for selected pollutants which cannot be controlled through the ambient air quality standards and which are not hazardous substances. These pollutants could later be covered by either ambient air quality standards or by prohibitions as hazardous substances.

These five sets of requirements will be difficult to meet. But the committee is convinced that industry can make compliance with them possible or impossible. It is completely within their control. Industry has been presented with challenges in the past that seemed impossible to meet, but has made them possible.

As far back as 1869, the Alkali Act prohibited the emissions of hydrogen sulfides in England. Although industry had said that requirement could not be met, there was compliance within 2 years.

At the beginning of World War II industry told President Roosevelt that his goal of 100,000 planes each year could not be met. The goal was met, and the war was won.

And in 1960, President Kennedy said that America would land a man on the moon by 1970. And American industry did what had to be done.

Our responsibility in Congress is to say that the requirements of this bill are what the health of the Nation requires, and to callenge polluters to meet them.

The committee has also recommended significant changes in title II of the Act dealing with moving sources, and especially with automobiles.

In 1968, moving sources were responsible for more than 42 percent of the total emissions of the five major pollutants—including 64 percent of the carbon monoxide and 50 percent of the hydrocarbons. In health effects, these pollutants mean cancer, headaches, dizziness, nausea, metabolic and respiratory diseases, and the impairment of mental processes. Clearly, solving the air pollution problem depends on the achievement of significant reductions in the emissions from automobiles. Clearly, protection of the public health requires quick and drastic reductions.

Since legislation to deal with the problem of automotive emissions was first introduced in 1964, the industry has known that they would have to develop the solutions to the problem. In 1965 they announced that national standards could be met in the fall of 1967.

As the report of the committee indicates, it is now clear that continued reliance on gradual reductions in automotive emissions would make achievement of the ambient air quality standards impossible within the national deadlines established in title I of this act. More important, it would continue hazards to our health long after they should have been eliminated.

In order to maintain those standards set under title I—standards which are necessary to protect the public health and which must be met in the next 5 years—the emissions standards for carbon monoxide, hydrocarbons, and nitrogen oxides which have been projected for 1980 must be met earlier. This bill would require that this be done by 1975.

To insure that production line vehicles perform adequately, this bill would require that each vehicle manufactured comply with the standards for a 50,000-mile lifetime. The manufacturer would be required to warranty the performance of each individual vehicle as to compliance with emission standards. The increased price of new cars that would be a result of this bill can be defended only if the emission control systems work satisfactorily for the life of the car.

The committee, in setting the 1975 deadline, made every effort to make that requirement consistent with what the industry has told the committee on many occasions over the years: It provides 2 years for research and development of the necessary technology, and 2 years to apply that technology in the mass production of vehicles.

In response to claims that these requirements cannot be met, the committee has included in the legislation an opportunity for a secretarial review of the 1975 deadline. A 1-year extension of the deadline could be granted upon a secretarial finding that such an extension would be necessary and justified. The bill also provides for a review of that decision by an appellate court.

It was only on the issue of secretarial review that the committee was divided. Several members, including myself, felt that an extension of the deadline was a major policy decision that should be made only by the Congress. We felt that if Congress decided the requirements of public health were not to be compromised in any way, any change in that policy would be properly reserved to the Congress.

It should be clear that the committee was unanimous on the important question of when review could be sought—either before Congress or the Secretary. In the committee's view, such review should not be available until the last possible moment. For an extension to be granted, the manufacturer would have to demonstrate not only impossibility, but also that all good-faith efforts had been made.

The committee is aware of the problems these requirements might create for individual companies. Therefore, the bill provides a procedure for mandatory licensing which would make available patents, trade secrets, or know-how necessary to achieve compliance with the Standards Act to any manufacturer who can show a need and to whom the information is not otherwise available. This provision would also apply to stationary sources.

Mr. President, I should like to make the philosophy of the bill clear, with this emphasis:

Predictions of technological impossibility or infeasibility are not sufficient as reasons to avoid tough standards and deadlines, and thus to compromise the public health. The urgency of the problems requires that the industry consider, not only the improvement of existing technology, but also alternatives to the internal combustion engine and new forms of transportation. Only a clear cut and tough public policy can generate this kind of effort.

This philosophy has been stated by the committee before. In reporting the Air Quality Act of 1967 to the Senate, the committee said:

> The Committee recognizes the potential economic impact, and therefore economic risk, associated with major social legislative measures of this type. But this risk was assumed when the Congress enacted social security, fair labor standards, and a host of other legislation designed to protect the public welfare. Such a risk must again be assumed if the nation's air resources are to be conserved and enhanced to the point that generations yet to come will be able to breathe without fear of impairment of health.

Detroit has told the Nation that Americans cannot live without the automobile.

This legislation would tell Detroit that if that is the case, they must make an automobile with which Americans can live.

The third major area in which the committee has recommended significant changes is the area of enforcement. Standards alone will not insure breathable air. All levels of government must be given adequate tools to enforce those standards.

The committee remains convinced that the most effective enforcement of standards will take place on the State and lo-

cal levels. It is here that the public can participate most actively and bring the most effective pressure to bear for clean air.

Public participation is therefore important in the development of each State's implementation plan. These plans do not involve technical decisions; they do involve public policy choices that citizens should make on the State and local level. They should be consistent with a rational nationwide policy and would be subject to the approval of the Secretary.

The powers to enforce these standards must be increased for the State and local governments as well as the Federal Government. The bill thus requires adequate State enforcement authority as a part of implementation plans and provides that abatement orders may be issued by the Secretary or his representative. Violations of these orders will be punishable by statutory penalties of as much as $25,000 for each day of a first violation.

The bill also provides the Federal Government with the authority to use the influence of the Federal contract as an incentive to compliance with standards established under this act. Federal contracts could be awarded only to facilities which were in compliance with the standards and requirements of this act.

Finally, the bill extends the concept of public participation to the enforcement process. The citizen suits authorized in this legislation would apply important pressure. Although the committee does not advocate these suits as the best way to achieve enforcement, it is clear that they should be an effective tool.

VI. WHAT THE LAW CAN MEAN

These, then, are the commitments that the Congress should make—commitments to meaningful environmental protection; effective protection of the health of all Americans; and the early achievement of these goals.

Committing the Congress with this legislation, however, will not be enough. Here we can make only promises to provide the funds and manpower necessary to set and enforce the standards. We must carry this commitment through to the appropriations of those funds. If these promises that we make here are not kept, these will be empty promises.

May I re-emphasize the point, Mr. President, that the number of personnel in the agency available today to deal with these problems is less than 1,000. We asked the administration to give us its best estimate of the numbers needed and the costs to administer and fully implement the bill before us if it is enacted into law.

The details on the administration's figures are in the report. Personnel would have to be increased to 1,741 in the present fiscal year; 2,535 in fiscal 1972; and 2,930 in fiscal 1973. In 1973, in order to provide the necessary personnel, the annual appropriations would have to be $320 million.

We talked about commitment, Mr. President. The 1967 act has not worked as well as it should have because we did not provide the manpower and the money to enforce it. For that reason, we are now forced to consider a more stringent law. So, for those who look to the law enacted in 1967, to those who are tempted to weaken this one, let me make this point.

If the Senate passes the bill, if the House passes it in this form, and if the President signs it into law, we cannot make it work unless we have as a minimum the personnel and the dollars recommended by the administration.

Mr. President, I emphasize this because it is such an important point. The committee got these detailed estimates from the administration so that we could tell the Senate and the House of Representatives in advance what it is going to cost to make this law work.

I know the traditional attitude of the Appropriations Committee is that we in the legislative committees are good at putting together the big promises, but that since we do not have to concern ourselves with the details of what it will cost or how many people it will take, we are really not a very good bunch to write the figures into the law.

This is one time a legislative committee got the details. They are here for all to see. If the members of the Appropriations Committee are interested in those details, they are here.

If there is any doubt on the part of any Senator about whether he would support the appropriations necessary to make this law work, let him vote against the bill. Let us not vote for empty promises.

Mr. President, I emphasize that this bill seeks a commitment not only from Congress but also from the people. As I said earlier in this statement, clean air will not come cheap and it will not come easy.

The legislation would require new kinds of decisions with respect to transportation and land-use policies. It would require new discipline of our desire for luxury and convenience. And it would require a new perspective on our world, a recognition that nothing is more valuable or essential to us than the quality of our air.

Mr. President, 100 years ago the first board of health in the United States, in Massachusetts, said this:

> We believe that all citizens have an inherent right to the enjoyment of pure and uncontaminated air and water and soil, that this right should be regarded as belonging to the whole community and that no one should be allowed to trespass upon it by his carelessness and his avarice, or even by his ignorance.

Mr. President, 100 years later it is time to write that kind of policy into law. The pending bill is such a law. I urge the Senate to approve it overwhelmingly.

Mr. President, at this point I would like to pay tribute to all members of the Committee on Public Works and the Subcommittee on Air and Water Pollution for their involvement in, their commitment to, and their dedication to what, for me, has been one of the most unusual experiences of committee work since I have been a Member of the Senate.

Hearings on this legislation began early this year. They were concluded early in the spring, in ample time for us to have simply passed out any one of the bills that were introduced and consider our work done. But we were conscious of the fact that the legislation already enacted had proven inadequate.

We were also conscious of the fact that in the climate of environmental concern which we faced in the country, it was important that Congress give to the country the best bill it was possible for Congress to devise.

Since the completion of the hearings, therefore, the subcommittee and the full committee have spent long hours in deliberation and consultation and finally in decision. Never was a partisan line drawn in any of those deliberations. Never was there any effort to obstruct or delay the action of the committee.

The discussions were long because it was necessary to educate ourselves, the Senate and ultimately the country as to the options available to us and the implications of these options.

We have been conscious, I think, since early June that what we were considering writing into law could result in drastic changes in the pattern of the life we live in the urban areas of America. We felt that just such changes were essential if we were really to come to grips with the problem of air pollution. We cannot solve the problem of air pollution in the city of Washington by prohibiting the backyard burning of leaves. That has already been done in some of the suburban counties. It does not begin to touch the job.

All of us in the Senate travel about this country by air. I know of no city of more than 50,000—and that includes my own State—which is not threatened already by the pall of smog. Beyond any question the automobile is the principal contributor to that pall; and the results have grown visably since 1967. The problem that troubled the committee most was not the problem of the new car, but the problem of the used car. There are more than 100 million on the road. And before this law takes effect, if it is enacted into law, four or five new generations of automobiles will become used cars at the rate of 8 million to 9 million a year.

After new cars roll out of the showrooms onto the streets and into the control of their owners, it is technologically almost impossible to make them clean cars.

In title I of this act we have written a national deadline for the purpose of implementing applicable ambient air quality standards. That is going to require every State Governor and the mayor of every city in this country to impose strict controls on the use of automobiles before the new car is a clean one.

The only way we can deal effectively with the used car is to begin making clean cars in Detroit. Under the program as it is presently planned, the used car population will not be cleaned up until 1990. Under the pending bill, the used car population would not be cleaned up until 1985.

Mr. President, that is not too soon to be concerned about the health effects of automobiles on the lives of the people living in these cities.

Drastic medicine? Yes.

Necessary? Yes.

The industry will have 5 years to make its peace with this proposal. As we bear in mind the space program and other great technological achievements of American industry, I find it difficult to believe that, whatever their present doubts, they cannot meet the challenge of this bill.

They have been able to meet such challenges in the case of war when President Roosevelt asked them to build 100,000 planes a year.

They have been able to meet such challenges in the case of national curiosity when President Kennedy asked them to make it possible to send a man to the moon in the 1960's.

Here, in the case of a national objective more serious than either of those—the national health, I think that we have an obligation to lay down the standards and requirements of this bill.

I think that the industry has an obligation to try to meet them. If, in due course, it cannot, then it should come to Congress and share with the Congress—the representatives of the people—the need to modify the policy.

That is the philosophy of this bill. The committee felt it owed no less duty to the Senate and the Congress than to state it in these terms. That is why we have this kind of bill. It was not unreasonable or arbitrary in the sense that it was ill-considered. The committee spent hundreds of hours over weeks and months before it came to this hard decision.

Mr. President, I wish to list in the RECORD at this point the names of the members of the committee: Senator RANDOLPH, Senator YOUNG of Ohio, Senator MUSKIE, Senator JORDAN of North Carolina, Senator BAYH, Senator MONTOYA, Senator SPONG, Senator EAGLETON, Senator GRAVEL, Senator COOPER, Senator BOGGS, Senator BAKER, Senator DOLE, Senator GURNEY, and Senator PACKWOOD.

After all these hundreds of hours covering weeks and months of deliberations, all those Senators—obviously of widely varying political philosophies—voted unanimously to recommend to the Senate and Congress the passage of this bill, the goals it establishes, the sense of urgency it incorporates, and the program for meeting the problem. I cannot think of a major piece of domestic legislation that has had such complete committee support from that spectrum of opinion. There was no doubt in the minds of any of them about supporting it.

It is with that recommendation that I am proud to submit the legislation to the floor of the Senate.

At this point I would like to express my heartfelt appreciation to the chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH), the ranking Republican member, the Senator from Kentucky (Mr. COOPER), the ranking Republican member of the subcommittee, the Senator from Delaware (Mr. BOGGS), and every one of the members of the committee for the most conscientious attention to duty, committee meetings, and the responsibilities this legislation imposes that I have ever witnessed in a committee in my experience.

This is not the usual pat on the back one gets on the floor of the Senate. This is heartfelt. Not only did they contribute their energy and time, but the ideas in this bill could not be separated along party lines of Democratic and Republican. These are Democratic, Republican, liberal, and conservative ideas. This is an integrated piece of legislation incorporating the full thought of all members of the committee.

I would like to express my appreciation to the members of the committee staff. I include their names here because they have given such a fine example of the kind of staff work that is possible in Senate committees. They are: Mr. Richard B. Royce, chief clerk and staff director; Mr. M. Barry Meyer, chief counsel; Mr. Bailey Guard, assistant chief clerk for the minority; Mr. Tom Jorling, minority counsel; Mr. Leon G. Billings, Mr. Richard W. Wilson, Mr. Philip Cummings, Mr. Richard Grundy and Mr. Harold Brayman, professional staff members; and Mrs. Frances Williams, Miss Rebecca Beauregard, Miss Sally White, and Miss Cecily Corcoran of the committee staff.

I would like to express my appreciation to Mr. Eliot Cutler of my staff and to the members of the staffs of members of the committee.

Mr. GRIFFIN. Mr. President, will the Senator yield to me for a few minutes? I realize that the ranking Republican Member has a statement to make and I do not wish to impose too much on his time.

Mr. MUSKIE. I yield.

Mr. GRIFFIN. Needless to say, there are portions of this bill which have a significant impact on the State of Michigan. The Senator from Maine has addressed himself to those provisions. I realize, of course, that there are other important portions of the bill. I would be less than honest with the Senate if I did not indicate some serious misgivings about certain provisions of the bill which write into legislative concrete, in effect, that certain standards—standards which are exceedingly high—must be met by 1975 or 15 million workers will lose their jobs.

Is it the position of the Senator from Maine that the state of the art is such now that the standards for automobile exhaust set in this bill could be met now?

Mr. MUSKIE. If that were the case, I would say somebody has failed in discharging his responsibilities under the 1967 law in not requiring that such standards be met by models coming off the lines now. No, if we thought the technology existed today we would insist that it be incorporated in these cars today.

Mr. GRIFFIN. Is it a fact that no hearings were held by the committee with regard to the question as to whether the standards set in the bill could be met by 1975?

Mr. MUSKIE. Let me read something to the Senator from the testimony in 1967 of Mr. Thomas Mann, president of the Auto Manufacturers Association. He made several points, but on this one he said:

> My fourth point is related to the third: As research indentifies objectionable or harmful pollutants and determines dangerous levels to be avoided, it defines ambient air quality needs in terms of specific goals to be met. With these goals clearly established it becomes appropriate to project timetables for all industries or other sources of emissions so they can begin research and development work to devise methods of achieving the goals.

At that time we did not have criteria identifying the health effects of pollutants. So Mr. Mann urged research to find these defects before timetables were set. He did not say that before we set timetables the committee should be satisfied that technology is available. No. He said, "With these goals"—talking about health effect goals—"clearly established it becomes appropriate to project timetables for all industries or other sources of emissions so that they can begin research and development work to devise methods of achieving the goals."

Since then, under pressure of hearings first held by the subcommittee in 1964 and held almost every year since, the industry has come before us and clearly has been pushing technology, research, and development to the point that they now indicate to us not any commitment to what they can do, but the contention, as one president of one auto company said:

> You can't put this in the record, but we are that close.

If we are "that close," it seems to me we have to set the timetable and challenge them to meet it. They can always come back to Congress.

There is something here in Mr. Mann's testimony, in another portion of his statement, on the timetable question where he defines the process through which a company has to go in order to devise the changes necessary to meet the goals; that is a separate process, after they have been told what the goals are. He said:

> Normally, what I have referred to in the preceding paragraph takes approximately two years in addition to the time needed for design, research, and development stages.

A lot of the hardware is already being tested. We saw at the time of the hearings prototype models which already meet the 1975 standards. Various companies have differing degrees of competency to meet 1980 standards under the present program, but they recognize they have to push ahead.

There is another point I would like to make about the attitude of the automobile companies. It is surely understandable, under the pressures of customer demands and expectations, and under the kinds of pressure generated in connection with safety devices, that the industry wants to walk the extra mile in testing and refining any new technical hardware before putting it in the hands of the customers. That is where, it seems to me, we have a problem of such urgency that normal procedures have to be shortened if we are to achieve the goals.

Mr. GRIFFIN. With all deference to the distinguished Senator from Maine, I must say he has not given a very satis-

fying answer so far as the junior Senator from Michigan is concerned. Let me elaborate a bit, if I may. It is fine and very desirable to set national goals as the committee seeks to do in this bill.

The Senator from Maine referred to President Kennedy's goal to reach the moon. With respect to that goal, I would remind the Senator from Maine that the Congress did not set itself up as a group of scientists and say, in legislative concrete, that—

We shall reach the moon on such and such a date, and if we do not, those working in industries having to do with space achievements shall be put out of their jobs.

It is completely understandable——

Mr. MUSKIE. May I say that this bill does not say that.

Mr. GRIFFIN. It is understandable that the President of the United States or, perhaps, the Senate through a sense of the Senate resolution, might want to set a goal in this field, toward which we should strive. But what bothers me about this legislation is that it does not repose any real authority in those who have scientific competence and knowledge—those who could judge the state of the art and its applicability on a realistic basis to this industry at any given point in time.

With all due respect, I believe the Senator from Maine and the committee have gone too far. There ought to be some flexibility in the hands of the Secretary of Health, Education, and Welfare or a committee of scientists and engineers—people with some competent ability to judge the state of the art as it continues to develop.

As I understand the situation, without any hearings at all, the committee has, itself, made what is, in effect, a scientific judgment; it has assumed the role of scientists, and said:

This cannot be done now, but we think it can be done by 1975.

Without any particular basis for such a declaration.

Mr. MUSKIE. We made no such judgment.

Mr. GRIFFIN. Not only that it can be done, but "It will be done or you are out of business."

Mr. MUSKIE. We made no such statement.

Mr. GRIFFIN. That is the effect, as I understand it.

Mr. MUSKIE. Well, to clarify the Senator's understanding of the effect, I shall be happy to repeat what I said. We made no technological judgments in this bill. We do not presume to be in a position to do that. Neither have we made any judgment of our own with respect to the health effects of pollutants that are emitted by the automobile.

In that respect we did what Mr. Mann and the automobile industry suggested we do back in 1967. We directed the Secretary of HEW to issue criteria documents identifying those pollutants. This is what the criteria said:

Air quality criteria documents for automobile related pollutant agents have provided information on the effect of those pollutants on health and welfare. As an example, health effects can be expected from carbon monoxide exposure of 8 to 10 parts per million for an 8-hour period. Many communities exceed these concentrations with unacceptable frequency. For example, carbon monoxide concentrations in Chicago exceed the standard more than 20 percent of the time.

This is the judgment the committee made—no more, no less.

Knowing what the health effects are, we could not see ourselves in the position of saying to the country:

Emissions from automobiles are unhealthy. The agency we charged with giving us that information in 1967 has told us so. But we are going to leave it to the automobile industry to tell us when those health effects are to be eliminated.

We felt it was our responsibility, and no one else's, to establish the public policy. We are saying in this bill that this is what the public health requires. We are saying to the country, this is what the automobile ought to be measured against. We are saying to the industry, this is what you must try to do.

Congress, I assume, will be in session in 1971, 1972, 1973, 1974, and 1975—and possibly without any interruption if we continue at the present rate. The committee would be available to sit. The companies would be in a position to make their case. If the Congress, which would have made the policy in the first instance, is persuaded that the industry cannot do the job, Congress could change the policy.

It is conceivable, may I say to the Senator from Michigan, that by 1973 we may know a great deal more about the health effects of the automobile and decide that they are so bad that the companies ought to make the required changes by January 1, 1975—or stop producing cars until they do. I am not predicting that. I do not think that is necessary. I do not think that will happen.

But this would be—as it is now—a policy decision of such moment to the country that it ought to be made by nobody other than the Congress, so that the decision gets the visibility, the prestige and the responsibility that are necesary to deal with this problem.

It is not necessary to say that any company is going to be closed on January 1, 1975, but it is necessary for the Congress to say that they must meet the standards until the Congress itself decides otherwise. That is what we are asking. Five years is a long time for the companies to make their effort, then to make their case and then for Congress to consider a change of policy.

If the Senator from Michigan is going to assume that, in the face of a convincing demonstration, the Congress will irresponsibly shut down the automobile companies, then, of course, the Senator should vote against the bill.

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

Mr. MUSKIE. Let me first read this letter of September 11, 1970, written to me by President E. N. Cole of General Motors. He says this:

Remarkably low emissions can be achieved with experimental laboratory cars without any regard to mass production, manufacturing tolerances, durability, maintenance, cost, and conditions of customer use.

If I understand that sentence, he is saying that the way of dealing with these emissions is now available in the laboratory—that it can be done, and that what stands between us and January 1, 1975 is the development of the mass production techniques to convert what can now be done in the laboratory into a production line automobile. This man, who is a product of an American industry whose great genius is mass production, is now telling us that what is possible in the laboratory cannot be converted to the mass production line in 5 years.

I can remember, when the astronauts were burned in their space vehicle in Cape Kennedy, how long it took to completely change the system so a safe one could be sent to the moon.

Let me give the Senator another piece of information. Then he may respond. This information concerns the clean car race of a short time ago.

I read from this report:

When the Wayne State University entry reached California, it was tested for pollution control. The results, after this 3600-mile race, showed that the student-modified internal combustion engine, using nonleaded gasoline, surpassed not only the proposed 1975 Federal standards—

And by that is meant the ones agreed to by the administration—

but were far below the proposed 1980 Federal standards—

which the subcommittee has recommended be advanced for 1975.

So these students were able to achieve what the automobile industry tells us they cannot achieve.

Mr. GRIFFIN. Mr. President, I wish to respond briefly; I shall have more to say tomorrow. I am aware of the fact that the automobile industry has made, and is making, great progress in the effort to reduce auto exhaust pollution.

Is it not the case that a 70-percent reduction in the auto exhaust pollution has been achieved, or is being achieved, as measured by standards already set? And is it not true that the provision of this bill would require what amounts to a further reduction by 90 percent of the 30 percent that has not yet been achieved? Roughly, is that not a fair statement?

Mr. MUSKIE. I think that is roughly so; yes. I will check the exact figures, but I am prepared to accept that.

Mr. GRIFFIN. Although the Senator from Maine has read some portions of a letter, I shall make the statement—on the basis of information that I have been able to gather—that the technology is not available today to meet the standards set in this bill, and it appears to me that the Senator from Maine and his committee have only a pious hope that the technology can be available for cars to be produced in 1975.

To suggest that 1975 is a long time away, with all due respect, is to indicate not very much acquaintance with the automobile industry and what is involved in producing automobiles.

Mr. MUSKIE. Mr. President, will the Senator yield? Is it all right for the Senator from Maine to rely on the testimony of the industry spokesman in 1967?

Mr. GRIFFIN. It take a long time from the drawing board stage to make a major

or significant change in an automobile—a long time until it rolls off the assembly line. That fact must not be overlooked because it can mean a great deal to those who work in the automobile industry. In fact, I understand that it can take as much as 43 months to incorporate a major change into an automobile.

So, while the committee may say that it is giving the automobile industry until 1975, it is not—because the industry must have the know-how and begin making such a change long before 1975. Indeed, it may be necessary to have the technology perfected and ready to incorporate into an automobile 43 months before the final product begins to roll off the 1975 assembly line.

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

Mr. GRIFFIN. And then the Senator says, in effect, that if the industry cannot do that, it can come back to Congress for what essentially would be a political decision.

Mr. MUSKIE. Will the Senator yield?

Mr. GRIFFIN. I think that is very unwise.

Mr. MUSKIE. Will the Senator yield?

Mr. GRIFFIN. I want to make it very clear, I think the goal is fine. But the policy we establish should be administered by those with some degree of technical competence—by people who have some basis for judging the state of the art—who will not have to come back to Congress and make a political appeal.

Another point that I wish to make is this: under the bill, I understand that economic feasibility is not a factor. Accordingly, if it cost $15,000 or $20,000 to produce an automobile to meet the standards, that would not be taken into account, as I understand this bill.

Mr. MUSKIE. Is that a figure that the industry has authorized?

Mr. GRIFFIN. No, I am just saying if it should cost that much, it would not make any difference.

Mr. MUSKIE. The Senator from Maine does not use figures that lightly.

Mr. GRIFFIN. Will it?

Mr. MUSKIE. I do not know. I do not think anyone knows.

Mr. GRIFFIN. Should it be talked about, then? Does the Senator from Maine know what it would cost?

Mr. MUSKIE. No. I said in my statement—I have not hidden anything—that our responsibility is to tell the industry what the public health requires. If the Senator thinks the industry ought to make that public health decision, I do not agree with him. If he says that the industry should tell us—and that not until the industry tells us it can build this automobile should we require it—that I do not agree with him.

Where would the Senator place a decision of such importance to the public health? In the boards of directors of these great motor companies? Does Congress have no responsibility?

We began talking to the industry about this problem in 1964, not just recently. The Senator speaks as though we had only a nodding acquaintance with this problem, the industry attitudes and the development of technology over the years. We have been working on this matter for 7 years. I have been in Detroit. I have been in the laboratories of all the companies. They have not hesitated to bring their prototypes here.

We have tried to get all of the insight into and feel for the companies' capability in this area that we could, but I will say in frankness that the industry has never, during all these years, shown any sense of urgency about anything except the preservation of the internal combustion engine—no real push to do anything else, or to explore any other technology, because, they have said, "We can clean up the internal combustion engine."

They told us that in 1964; they told us that in 1965; they have told us that on innumerable occasions. So we are not talking about 5 years between now and 1975; we are talking about the years between 1964 and 1975, when they should have generated the feeling of urgency.

Sure, we set a target for them, an informal one: "You have got to clean up the automobile." Did that create a feeling of urgency? The Senator says they can do it in 43 months; why did they not do it in 43 months?

Mr. GRIFFIN. The Senator misunderstood me. I said it could take 43 months from the time the technology is available.

Mr. MUSKIE. I doubt that. That is inconsistent with Mr. Mann's testimony of 1967 that I read. He said:

> What I have referred to in the preceding paragraph takes approximately two years.

They are up to 43 months now that they are under the gun. At the time of Mr. Mann's testimony, was opposing proposals giving the States authority to set different standards in every State. I did not put these words in his mouth; he stated them.

It is not this committee's responsibility to perfect the technology required by this deadline. That we ought to have some feel for it, that we ought to have some understanding of the industry's problems, that we ought not to do it hastily or arbitrarily, I will concede as a measure of congressional responsibility. But we have been working on this matter since 1964. The Senator might look at our hearings over the years, and judge for himself why I have tried to communicate a sense of urgency to this industry.

Mr. GRIFFIN. Did the committee have any hearings in this session on this problem as to the state of the art—on the likelihood or possibility that this goal can be reached by 1975?

Mr. MUSKIE. Yes, we had testimony jointly before the Commerce Committee and before our committee from the automobile companies on the state of the art. With respect to this specific deadline, no.

Mr. GRIFFIN. On this particular bill?

Mr. MUSKIE. Yes, but not on this specific deadline.

Mr. GRIFFIN. As to whether this deadline was realistic?

Mr. MUSKIE. No.

Mr. GRIFFIN. No hearings?

Mr. MUSKIE. The deadline is based not, I repeat, on economic and technological feasibility, but on considerations of public health. We think, on the basis of the exposure we have had to this problem, that this is a necessary and reasonable standard to impose upon the industry. If the industry cannot meet it, they can come back.

I think that, in terms of public health, if we do not say that this is necessary, there is nobody to say it. But on the question of technological and economic feasibility, there are all kinds of people who complain that it cannot be done. We are the only ones who can say to the automobile industry, and make it stick, "The public health requires this."

That is what this bill says, and nothing more.

Why does not the industry say, if it wants us to make a technological judgment, "All right, we will try, and we will come back in 1973, and let us both take a look at it then." No, they want us to make that judgment now.

Mr. GRIFFIN. I want to be sure the distinguished Senator from Delaware has time to make his statement. I would not say this bill plays "Russian roulette"—let me say it plays "economic roulette," with millions of jobs in the automobile industry. Without adequate expertise, without the kind of scientific knowledge that is needed—with the hearings that are necessary and expected, this bill would write into legislative concrete requirements that can be impossible—and that will literally force an industry out of existence. That may be fine for the Senator from Maine to advocate——

Mr. MUSKIE. Mr. President, I have not said that nor advocated that.

Mr. GRIFFIN. I want to remind the Senate that a great many jobs are involved. One job out of seven in the United States depends directly or indirectly, on the manufacture, sale, or service of automobiles.

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

Mr. GRIFFIN. I yield.

Mr. MUSKIE. The Senator complains when he says I distort what he says. I thought I had made it eminently clear that I was not saying what he has just put in my mouth.

What I said—I will repeat it to make it clear—is that in the judgment of this committee—this includes Senators from the Senator's side of the aisle—some of a pretty conservative political persuasion—that Congress has the duty to say, "This is what ought to be done in the interests of the health of the country." If it cannot be done, if the industry has made a good faith effort, it can come back to Congress.

We speak of Russian roulette. If it is really that choice—and I do not agree that it is—I would rather play Russian roulette with the automobile companies than with the trapped inhabitants of urban America. Their health is involved.

But it is not a question of Russian roulette, and no amount of rhetorical exaggeration can make it that. What we are talking about is very clear and simple. We are saying that Congress, in the interest of public health, should say to the country and to the industry that this is what that health requires. Then industry should go to work over the next 5 years

to either make it possible or, if it proves to be impossible, ask Congress to change the policy.

That is all there is here, and it is tough. The Senator thinks it is tough, and we understand it is tough. We have no desire to be unreasonable. Does the Senator tell me that Senator JOHN COOPER is an unreasonable man, or Senator CALEB BOGGS, or the other Senators on this committee? They are thoughtful men, and they have given this matter thoughtful consideration, and they were not engaged in a game of Russian roulette.

Mr. BOGGS. Mr. President, I commend the distinguished chairman of the subcommittee, the floor manager of this bill, on his excellent opening statement. He has ably and carefully covered the intention of the committee as well as the provisions of the bill.

I wish to express my strong support for S. 4358, a bill that is intended to help bring clean air to every city and town in the United States.

This measure may be the most important to be considered by the Senate this year, charting, as it does, a path toward a better quality of life in America. As President Nixon stated on the first morning of this decade:

> The 1970's absolutely must be the years when America pays its debt to the past by reclaiming the purity of its air, its waters, and our living environment. It is literally now or never.

The amendments to the Clean Air Act seek to answer the President's call by improving existing laws and developing a method to insure that the air of the United States attains a level of purity compatible with public health.

The proposed legislation incorporates many of the best proposals offered by Members of the Senate, in particular the distinguished chairman of the Subcommittee on Air and Water Pollution (Mr. MUSKIE). The testimony during 11 days of hearings was also most valuable in shaping this legislation.

Yet much of the basic outline for S. 4358 was established by President Nixon in his thoughtful message on the environment last February.

Mr. President, I ask unanimous consent that the President's February 10 environmental message to Congress be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BOGGS. In addition, I ask unanimous consent that the Council on Environmental Quality's discussion on air pollution in its first annual report be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. BOGGS. At this point, I would like to discuss some of the President's proposals and the manner in which they were incorporated into the committee's bill.

One of President Nixon's most significant proposals called for establishing national ambient air quality standards. This bill incorporates that proposal, seeking to insure that the air around us will be protective of health in every corner of the nation.

President Nixon asked Congress to accelerate the designation of air quality control regions. This measure requires, 90 days after passage, that air pollution control regions be created to cover every portion of the Nation.

President Nixon's program for air pollution control sought to establish national emission standards for pollutants of an extremely hazardous character, as well as national standards of performance for major classifications of new facilities. The proposed legislation gives the President authority in both of these areas.

President Nixon sought Federal enforcement authority covering intrastate violations in addition to authority over interstate violations. This bill extends that authority to the President, while maintaining a primary enforcement reliance at the State level.

President Nixon sought court imposed fines of up to $10,000 per day for violation emission requirements. It was the committee's judgment that a penalty of up to $25,000 per day would prove more effective.

President Nixon in February announced that more stringent motor vehicle emission standards for the 1975 model year would be adopted. This bill for the first time writes into law specific standards intended to enhance air quality and to place a virtually pollution-free car on the Nation's highways by 1975.

President Nixon's environmental program sought new procedures to inspect new cars on the assembly line to assure that they meet the low-pollution standard. This measure adopts procedures for assembly line testing, and adds a provision requiring warranty of air pollution control performance for 50,000 miles.

President Nixon sought authority to regulate fuels and fuel additives. The proposed legislation gives such authority, tempered with a necessity that the need for such regulation be examined in public hearings if the Secretary seeks to control or prohibit use of a fuel for reasons other than the protection of health.

President Nixon sought financial support for research and development of low-pollution vehicles driven by unconventional power sources. This bill expands the air pollution control program to support such research and development on an accelerated basis. These points, I believe, demonstrate the tremendous contribution the administration has made to the shaping of this legislation.

There is one other section of this bill I would like to mention. It is a section that has not received broad public attention, yet it is a vital provision of the bill. This is section 118, dealing with the control of pollution from Federal facilities. President Nixon has pledged his support for effective pollution abatement at Federal facilities. This section of the bill reinforces the President's stand and encourages publicly owned and operated facilities across our Nation to become models of environmental enhancement and pollution control.

The key word is "leadership." For that is what the proposed legislation seeks to create—a method and pattern for national leadership in the fight to preserve and enhance our environment. This legislation may be characterized as tough. But a tough bill is essential to meet the vast challenge facing us.

It is a workable and realistic bill, taken as a whole. Yet I know there are provisions in the bill that raise some concern among my colleagues, as the Senator from Michigan (Mr. GRIFFIN) just stated.

One involves the warranty provision incorporated into section 207(c) of the bill. The full Committee on Public Works amended the warranty provision that had been reported by the Subcommittee on Air and Water Pollution, and I believe the full committee's change greatly improves this section, strengthening the warranty by making it more realistic.

Yet there remains a question over whether the performance of the air pollution control system should be warranted, as proposed in the bill, or whether the warranty should extend to the materials, the design, and the workmanship used to create that pollution control system.

The second concern of some magnitude involves the procedure to be employed to extend the deadline for marketing a car that will meet the standard established under section 202(b) (1) and (2). The Committee on Public Works added to section 202 a provision suggested by Senator COOPER and Senator BAKER. This provision, section 202(b)(4) would allow a vehicle manufacturer to seek a 1-year extension in the deadline if effective control technology does not exist. The Secretary's decision on the extension could be appealed to the U.S. Court of Appeals for the District of Columbia.

I commend the distinguished ranking Republican member of the committee (Mr. COOPER) and my distinguished colleague (Mr. BAKER) for their work on this provision. Such a review procedure is needed to prevent chaos in the event that the automobile industry makes every possible effort to achieve a 90-percent reduction in emissions and still cannot achieve that goal.

The distinguished Senator from Kansas (Mr. DOLE) has indicated in his individual views that he will offer an amendment that will bring the Congress into that review procedure. It is my thought that congressional review is more appropriate in light of the responsibility assumed by the Congress in setting a specific standard. Nevertheless, I want to reiterate my view that the committee was wise to provide such a possible extension, with safeguards, whether that extension is reviewed by the Congress or the courts.

In closing, Mr. President, I wish to commend my colleagues on the Subcommittee on Air and Water Pollution and the full Committee on Public Works for their vigorous and thoughtful attention to this bill over the past several months. The committee and subcommittee devoted many long hours in numerous executive sessions in consideration of this legislation, working together to create a bill that will prove to be effective and workable. The leadership provided by the chairman of the full committee (Mr.

RANDOLPH), the ranking member of the full committee (Mr. COOPER), and in particular, the chairman of the subcommittee (Mr. MUSKIE), has been an inspiration to every member of the committee. Their leadership in the effort to meet the challenge of air pollution has produced what I consider to be a responsible and thoughtful bill. I commend them.

In addition, I would like to thank the staff members of the committee, as well as the staffs for various members of the committee for their efforts to assist the committee in perfecting this legislation.

Mr. President, in closing I wish to commend this legislation to my colleagues for their consideration. I know there will be amendments seeking to strengthen and improve this bill. Undoubtedly many provisions will also receive attention in conference with the House, which has adopted legislation that has many differences with this bill. I shall listen carefully to the debate, as I know it will result in legislation that will have a beneficial impact for the decade of the 1970's and beyond. I urge support of this important legislation.

EXHIBIT 1

THE PRESIDENT'S MESSAGE ON THE ENVIRONMENT, FEBRUARY 10, 1970

To the Congress of the United States:

Like those in the last century who tilled a plot of land to exhaustion and then moved on to another, we in this century have too casually and too long abused our natural environment. The time has come when we can wait no longer to repair the damage already done, and to establish new criteria to guide us in the future.

The fight against pollution, however, is not a search for villains. For the most part, the damage done to our environment has not been the work of evil men, nor has it been the inevitable by-product either of advancing technology or of growing population. It results not so much from choices made, as from choices neglected: not from malign intention, but from failure to take into account the full consequences of our actions.

Quite inadvertently, by ignoring environmental costs we have given an economic advantage to the careless polluter over his more conscientious rival. While adopting laws prohibiting injury to person or property, we have freely allowed injury to our shared surroundings. Conditioned by an expanding frontier, we came only late to a recognition of how precious and how vulnerable our resources of land, water and air really are.

The tasks that need doing require money, resolve and ingenuity—and they are too big to be done by government alone. They call for fundamentally new philosophies of land, air and water use, for stricter regulation, for expanded government action, for greater citizen involvement, and for new programs to ensure that government, industry and individuals all are called on to do their share of the job and to pay their share of the cost.

Because the many aspects of environmental quality are closely interwoven, to consider each in isolation would be unwise. Therefore, I am today outlining a comprehensive, 37-point program, embracing 23 major legislative proposals and 14 new measures being taken by administrative action or Executive Order in five major categories:

Water pollution control.
Air pollution control.
Solid waste management.
Parklands and public recreation.
Organizing for action.

As we deepen our understanding of complex ecological processes, as we improve our technologies and institutions and learn from experience, much more will be possible. But these 37 measures represent actions we can take now, and that can move us dramatically forward toward what has become an urgent common goal of all Americans: the rescue of our natural habitat as a place both habitable and hospitable to man.

WATER POLLUTION

Water pollution has three principal sources: municipal, industrial and agricultural wastes. All three must eventually be controlled if we are to restore the purity of our lakes and rivers.

Of these three, the most troublesome to control are those from agricultural sources: animal wastes, eroded soil, fertilizers and pesticides. Some of these are nature's own pollutions. The Missouri River was known as "Big Muddy" long before towns and industries were built on its banks. But many of the same techniques of pest control, livestock feeding, irrigation and soil fertilization that have made American agriculture so abundantly productive have also caused serious water pollution.

Effective control will take time, and will require action on many fronts: modified agricultural practices, greater care in the disposal of animal wastes, better soil conservation methods, new kinds of fertilizers, new chemical pesticides and more widespread use of natural pest control techniques. A number of such actions are already underway. We have taken action to phase out the use of DDT and other hard pesticides. We have begun to place controls on wastes from concentrated animal feed-lots. We need programs of intensified research, both public and private, to develop new methods of reducing agricultural pollution while maintaining productivity. I have asked The Council on Environmental Quality to press forward in this area. Meanwhile, however, we have the technology and the resources to proceed *now* on a program of swift clean-up of pollution from the most acutely damaging sources: municipal and industrial waste.

Municipal wastes

As long as we have the means to do something about it, there is no good reason why municipal pollution of our waters should be allowed to persist unchecked.

In the four years since the Clean Waters Restoration Act of 1966 was passed, we have failed to keep our promises to ourselves: Federal appropriations for constructing municipal treatment plants have totaled only about one-third of authorizations. Municipalities themselves have faced increasing difficulty in selling bonds to finance their share of the construction costs. Given the saturated condition of today's municipal bond markets, if a clean-up program is to work it has to provide the means by which municipalities can finance their share of the cost even as we increase Federal expenditures.

The best current estimate is that it will take a total capital investment of about $10 billion over a five-year period to provide the municipal waste treatment plants and interceptor lines needed to meet our national water quality standards. This figure is based on a recently-completed nationwide survey of the deficiencies of present facilities, plus projections of additional needs that will have developed by then—to accommodate the normal annual increase in the volume of wastes, and to replace equipment that can be expected to wear out or become obsolete in the interim.

This will provide every community that needs it with secondary waste treatment, and also special, additional treatment in areas of special need, including communities on the Great Lakes. We have the industrial capacity to do the job in five years if we begin now.

To meet this construction schedule, I propose a two-part program of Federal assistance:

—*I propose a Clean Waters Act with $4 billion to be authorized immediately, for Fiscal 1971, to cover the full Federal share of the total $10 billion cost on a matching fund basis. This would be allocated at a rate of $1 billion a year for the next four years with a reassessment in 1973 of needs for 1975 and subsequent years.*

By thus assuring communities of full Federal support, we can enable planning to begin *now* for all needed facilities and construction to proceed at an accelerated rate.

—*I propose creation of a new Environmental Financing Authority, to ensure that every municipality in the country has an opportunity to sell its waste treatment plant construction bonds.*

The condition of the municipal bond market is such that, in 1969, 509 issues totaling $2.9 billion proved unsalable. If a municipality cannot see waste treatment plant construction bonds, EFA will buy them and will sell its own bonds on the taxable market. Thus, construction of pollution control facilities will depend not on a community's credit rating, but on its waste disposal needs.

Providing money is important, but equally important is where and how the money is spent. A river cannot be polluted on its left bank and clean on is right. In a given waterway, abating *some* of the pollution is often little better than doing nothing at all, and money spent on such partial efforts is often largely wasted. Present grant allocation formulas—those in the 1966 Act—have prevented the spending of funds where they could produce the greatest results in terms of clean water. Too little attention has been given to seeing that investments in specific waste treatment plants have been matched by other municipalities and industries on the same waterway. Many plants have been poorly designed and inefficiently operated. Some municipalities have offered free treatment to local industries, then not treated their wastes sufficiently to prevent pollution.

To ensure that the new funds are well invested, five major reforms are needed. One requires legislation: the other four will be achieved by administrative action.

—*I propose that the present, rigid allocation formula be revised, so that special emphasis can be given to areas where facilities are most needed and where the greatest improvements in water quality will result.*

Under existing authority, the Secretary of the Interior will institute four major reforms:

—*Federally assisted treatment plants will be required to meet prescribed design, operation and maintenance standards, and to be operated only by State-certified operators.*

—*Municipalities receiving Federal assistance in construction plants will be required to impose reasonable users' fees on industrial users sufficient to meet the costs of treating industrial wastes.*

—*Development of comprehensive river basin plans will be required at an early date, to ensure that Federally assisted treatment plants will in fact contribute to effective clean-up of entire river basin systems. Collection of existing data on pollution sources and development of effluent inventories will permit systems approaches to pollution control.*

—*wherever feasible, communities will be strongly encouraged to cooperate in the construction of large regional treatment facilities, which provide economies of scale and give more efficient and more thorough waste treatment.*

Industrial Pollution

Some industries discharge their wastes into municipal systems; others discharge

them directly into lakes and rivers. Obviously, unless we curb industrial as well as municipal pollution our waters will never be clean.

Industry itself has recognized the problem, and many industrial firms are making vigorous efforts to control their water-borne wastes. But strict standards and strict enforcement are nevertheless necessary—not only to ensure compliance, but also in fairness to those who have voluntarily assumed the often costly burden while their competitors have not. Good neighbors should not be placed at a competitive disadvantage because of their good neighborliness.

Under existing law, standards for water pollution control often are established in only the most general and insufficient terms: for example, by requiring all affected industries to install secondary treatment facilities. This approach takes little account of such crucial variables as the volume and toxicity of the wastes actually being discharged, or the capacity of a particular body of water to absorb wastes without becoming polluted. Even more important, it provides a poor basis for enforcement: with no effluent standard by which to measure, it is difficult to prove in court that standards are being violated.

The present fragmenting of jurisdictions also has hindered comprehensive efforts. At present, Federal jurisdiction generally extends only to interstate waters. One result has been that as stricter State-Federal standards have been imposed, pollution has actually increased in some other waters—in underground aquifers and the oceans. As controls over interstate waters are tightened, polluting industries will be increasingly tempted to locate on intrastate lakes and rivers—with a consequently increased threat to those waterways—unless they too are brought under the same strictures.

I propose that we take an entirely new approach: one which concerts Federal, State and private efforts, which provides for effective nationwide enforcement, and which rests on a simple but profoundly significant principle: that the nation's waterways belong to us all, and that neither a municipality nor an industry should be allowed to discharge wastes into those waterways beyond their capacity to absorb the wastes without becoming polluted.

Specifically, I propose a seven-point program of measures we should adopt *now* to enforce control of water pollution from industrial and municipal wastes, and to give the States more effective backing in their own efforts.

—*I propose that State-Federal water quality standards be amended to impose precise effluent requirements on all industrial and municipal sources. These should be imposed on an expeditious timetable, with the limit for each based on a fair allocation of the total capacity of the waterway to absorb the user's particular kind of waste without becoming polluted.*

—*I propose that violation of established effluent requirements be considered sufficient cause for court action.*

—*I propose that the Secretary of the Interior be allowed to proceed more swiftly in his enforcement actions, and that he be given new legal weapons including subpoena and discovery power.*

—*I propose that failure to meet established water quality standards or implementation schedules be made subject to court-imposed fines of up to $10,000 per day.*

—*I propose that the Secretary of the Interior be authorized to seek immediate injunctive relief in emergency situations in which severe water pollution constitutes an imminent danger to health, or threatens irreversible damage to water quality.*

—*I propose that the Federal pollution-control program be extended to include all navigable waters, both inter- and intrastate, all interstate ground waters, the United States' portion of boundary waters, and waters of the Contiguous Zone.*

—*I propose that Federal operating grants to State pollution control enforcement agencies be tripled over the next five years—from $10 million now to $30 million in fiscal year 1975—to assist them in meeting the new responsibilities that stricter and expanded enforcement will place upon them.*

AIR POLLUTION CONTROL

Air is our most vital resource, and its pollution is our most serious environmental problem. Existing technology for the control of air pollution is less advanced than that for controlling water pollution, but there is a great deal we can do within the limits of existing technology—and more we can do to spur technological advance.

Most air pollution is produced by the burning of fuels. About half is produced by motor vehicles.

Motor vehicles

The Federal Government began regulating automobile emissions of carbon monoxide and hydrocarbons with the 1968 model year. Standards for 1970 model cars have been made significantly tighter. This year, for the first time, emissions from new buses and heavy-duty trucks have also been brought under Federal regulation.

In future years, emission levels can and must be brought much lower.

The Secretary of Health, Education and Welfare is today publishing a notice of new, considerably more stringent motor vehicle emission standards he intends to issue for 1973 and 1975 models including control of nitrogen oxides by 1973 and of particulate emissions by 1975.

These new standards represent our best present estimate of the lowest emission levels attainable by those years.

Effective control requires new legislation to correct two key deficiencies in the present law:

(*a*) *Testing procedures.*—Under present law, only manufacturers' prototype vehicles are tested for compliance with emission standards, and even this is voluntary rather than mandatory.

I propose legislation requiring that representative samples of actual production vehicles be tested throughout the model year.

(*b*) *Fuel composition and additives.*—What goes into a car's fuel has a major effect on what comes out of its exhaust, and also on what kinds of pollution-control devices can effectively be employed. Federal standards for what comes out of a car's engine should be accompanied by standards for what goes into it.

I propose legislation authorizing the Secretary of Health, Education and Welfare to regulate fuel composition and additives.

With these changes, we can drastically reduce pollution from motor vehicles in the years just ahead. But in making and keeping our peace with nature, to plan only one year ahead or even five is hardly to plan at all. Our responsibility now is also to look beyond the Seventies, and the prospects then are uncertain. Based on present trends, it is quite possible that by 1980 the increase in the sheer number of cars in densely populated areas will begin outrunning the technological limits of our capacity to reduce pollution from the internal combustion engine. I hope this will not happen. I hope the automobile industry's presently determined effort to make the internal combustion engine sufficiently pollution-free succeeds. But if it does not, then unless motor vehicles with an alternative, low-pollution power source arre available, vehicle-caused pollution will once again begin an inexorable increase.

Therefore, prudence dictates that we move now to ensure that such a vehicle will be available if needed.

I am inaugurating a program to marshal both government and private research with the goal of producing an unconventionally powered virtually pollution-free automobile within five years.

—*I have ordered the start of an extensive Federal research and development program in unconventional vehicles, to be conducted under the general direction of the Council on Environmental Quality.*

—*As an incentive to private developers, I have ordered that the Federal Government should undertake the purchase of privately produced unconventional vehicles for testing and evaluation.*

A proposal currently before the Congress would provide a further incentive to private developers by authorizing the Federal government to offer premium prices for purchasing low-pollution cars for its own use. This could be a highly productive program once such automobiles are approaching development, although current estimates are that, initially, prices offered would have to be up to 200% of the cost of equivalent conventional vehicles rather than the 125% contemplated in the proposed legislation. The immediate task, however, is to see that an intensified program of research and development begins at once.

One encouraging aspect of the effort to curb motor vehicle pollution is the extent to which industry itself is taking the initiative. For example, the nation's principal automobile manufacturers are not only developing devices now to meet present and future Federal emission standards, but are also, on their own initiative, preparing to put on the market by 1972 automobiles which will not require and, indeed, must not use leaded gasoline. Such cars will not only discharge no lead into the atmosphere, but will also be equipped with still more effective devices for controlling emissions—devices made possible by the use of lead-free gasoline.

This is a great forward step taken by the manufacturers before any Federal regulation of lead additives or emissions has been imposed. I am confident that the petroleum industry will see to it that suitable nonleaded gasoline is made widely available for these new cars when they come on the market.

Stationary-source pollution

Industries, power plants, furnaces, incinerators—these and other so-called "stationary sources" add enormously to the pollution of the air. In highly industrialized areas, such pollution can quite literally make breathing hazardous to health, and can cause unforeseen atmospheric and meteorological problems as well.

Increasingly, industry itself has been adopting ambitious pollution-control programs, and state and local authorities have been setting and enforcing stricter anti-pollution standards. But they have not gone far enough or fast enough, nor, to be realistic about it, will they be able to without the strongest possible Federal backing. Without effective government standards, industrial firms that spend the necessary money for pollution control may find themselves at a serious economic disadvantage as against their less conscientious competitors. And without effective Federal standards, states and communities that require such controls find themselves at a similar disadvantage in attracting industry, against more permissive rivals. Air is no respecter of political boundaries: a community that sets and enforces strict standards may still find its air polluted from sources in another community or another state.

Under the Clean Air Act of 1967, the Federal government is establishing air quality control regions around the nation's major

industrial and metropolitan areas. Within these regions, states are setting air quality standards—permissible levels of pollutants in the air—and developing plans for pollution abatement to achieve those air quality standards. All state air quality standards and implementation plans require Federal approval.

This program has been the first major Federal effort to control air pollution. It has been a useful beginning. But we have learned in the past two years that it has shortcomings. Federal designation of air quality control regions, while necessary in areas where emissions from one state are polluting the air in another, has been a time-consuming process. Adjoining states within the same region often have proposed inconsistent air quality standards, causing further delays for compromise and revision. There are no provisions for controlling pollution *outside* of established air quality control regions. This means that even with the designation of hundreds of such regions, some areas of the country with serious air pollution problems would remain outside of the program. This is unfair not only to the public but to many industries as well, since those within regions with strict requirements could be unfairly disadvantaged with respect to competitors that are not within regions. Finally, insufficient Federal enforcement powers have circumscribed the Federal government's ability to support the states in establishing and enforcing effective abatement programs.

It is time to build on what we have learned, and to begin a more ambitious national effort. I recommend that the Clean Air Act be revised to expand the scope of strict pollution abatement, to simplify the task of industry in pollution abatement through more nearly uniform standards, and to provide special controls against particularly dangerous pollutants.

—*I propose that the Federal government establish nationwide air quality standards, with the states to prepare within one year abatement plans for meeting those standards.*

This will provide a minimum standard for air quality for all areas of the nation, while permitting states to set more stringent standards for any or all sections within the state. National air quality standards will relieve the states of the lengthy process of standard-setting under Federal supervision, and allow them to concentrate on the immediate business of developing and implementing abatement plans.

These abatement plans would cover areas both inside and outside of Federally designated air quality control regions, and could be designed to achieve any higher levels of air quality which the states might choose to establish. They would include emission standards for stationary sources of air pollution.

—*I propose that designation of interstate air quality control regions continue at an accelerated rate, to provide a framework for establishing compatible abatement plans in interstate areas.*

—*I propose that the Federal government establish national emissions standards for facilities that emit pollutants extremely hazardous to health, and for selected classes of new facilities which could be major contributors to air pollution.*

In the first instance, national standards are needed to guarantee the earliest possible elimination of certain air pollutants which are clear health hazards even in minute quantities. In the second instance, national standards will ensure that advanced abatement technology is used in constructing the new facilities, and that levels of air quality are maintained in the face of industrial expansion. Before any emissions standards were established, public hearings would be required involving all interested parties. The States would be responsible for enforcing these standards in conjunction with their own programs.

I propose that Federal authority to seek court action be extended to include both inter- and intrastate air pollution situations in which, because of local non-enforcement, air quality is below national standards, or in which emissions standards or implementation timetables are being violated.

I propose that failure to meet established air quality standards or implementation schedules be made subject to court-imposed fines of up to $10,000 per day.

SOLID WASTE MANAGEMENT

"Solid wastes" are the discarded left-overs of our advanced consumer society. Increasing in volume, they litter the landscape and strain the facilities of municipal governments.

New packaging methods, using materials which do not degrade and cannot easily be burned, create difficult new disposal problems. Though many wastes are potentially re-usable, we often discard today what a generation ago we saved. Most bottles, for example, now are "non-returnable." We reprocess used paper less than we used to, not only adding to the burden on municipal sanitation services but also making wasteful use of scarce timberlands. Often the least expensive way to dispose of an old automobile is to abandon it—and millions of people do precisely that, creating eyesores for millions of others.

One way to meet the problem of solid wastes is simply to surrender to it: to continue pouring more and more public money into collection and disposal of whatever happens to be privately produced and discarded. This is the old way; it amounts to a public subsidy of waste pollution. If we are ever truly to gain control of the problem, our goal must be broader: to reduce the volume of wastes and the difficulty of their disposal, and to encourage their constructive re-use instead.

To accomplish this, we need incentives, regulations and research directed especially at two major goals: a) making products more easily disposable—especially containers, which are designed for disposal; and b) re-using and recycling a far greater proportion of waste materials.

As we look toward the long-range future—to 1980, 2000 and beyond—recycling of materials will become increasingly necessary not only for waste disposal but also to conserve resources. While our population grows, each one of us keeps using more of the earth's resources. In the case of many common minerals, more than half those extracted from the earth since time began have been extracted since 1910.

A great deal of our space research has been directed toward creating self-sustaining environments, in which people can live for long periods of time by re-processing, recycling and re-using the same materials. We need to apply this kind of thinking more consciously and more broadly to our patterns of use and disposal of materials here on earth.

Many currently used techniques of solid waste disposal remain crudely deficient. Research and development programs under the Solid Waste Disposal Act of 1965 have added significantly to our knowledge of more efficient techniques. The Act expires this year. I recommend its extension, and I have already moved to broaden its programs.

I have ordered a re-direction of research under the Solid Waste Disposal Act to place greater emphasis on techniques for re-cycling materials, and on development and use of packaging and other materials which will degrade after use—that is, which will become temporary rather than permanent wastes.

Few of America's eyesores are so unsightly as its millions of junk automobiles.

Ordinarily, when a car is retired from use it goes first to a wrecker, who strips it of its valuable parts, and then to a scrap processor, who reduces the remainder to scrap for sale to steel mills. The prices paid by wreckers for junk cars often are less than the cost of transporting them to the wrecking yard. In the case of a severely damaged or "cannibalized" car, instead of paying for it the wrecker may even charge towing costs. Thus the final owner's economic incentive to deliver his car for processing is slight, nonexistent or even negative.

The rate of abandonment is increasing. In New York, 2,500 cars were towed away as abandoned on the streets in 1960. In 1964, 25,000 were towed away as abandoned; in 1969, more than 50,000.

The way to provide the needed incentive is to apply to the automobile the principle that its price should include not only the cost of producing it, but also the cost of disposing of it.

I have asked the Council on Environmental Quality to take the lead in producing a recommendation for a bounty payment or other system to promote the prompt scrapping of all junk automobiles.

The particular disposal problems presented by the automobile are unique. However, wherever appropriate we should also seek to establish incentives and regulations to encourage the re-use, re-cycling or easier disposal of other commonly used goods.

I have asked the Chairman of the Council on Environmental Quality to work with the Cabinet Committee on the Environment, and with appropriate industry and consumer representatives, toward development of such incentives and regulations for submission to the Congress.

PARKS AND PUBLIC RECREATION

Increasing population, increasing mobility, increasing incomes and increasing leisure will all combine in the years ahead to rank recreational facilities among the most vital of our public resources. Yet land suitable for such facilities, especially near heavily populated areas, is being rapidly swallowed up.

Plain common sense argues that we give greater priority to acquiring now the lands that will be so greatly needed in a few years. Good sense also argues that the Federal Government itself, as the nation's largest landholder, should address itself more imaginatively to the question of making optimum use of its own holdings in a recreation-hungry era.

I propose full funding in fiscal 1971 of the $327 million available through the Land and Water Conservation Fund for additional park and recreational facilities, with increased emphasis on locations that can be easily reached by the people in crowded urban areas.

I propose that we adopt a new philosophy for the use of Federally-owned lands, treating them as a precious resource—like money itself—which should be made to serve the highest possible public good.

Acquiring needed recreation areas is a real estate transaction. One-third of all the land in the United States—more than 750,000,000 acres—is owned by the Federal Government. Thousands of acres in the heart of metropolitan areas are reserved for only minimal use by Federal installations. To supplement the regularly-appropriated funds available, nothing could be more appropriate than to meet new real estate needs through use of presently-owned real estate, whether by transfer, sale or conversion to a better use.

Until now, the uses to which Federally-owned properties were put has largely been determined by who got them first. As a result, countless properties with enormous potential as recreational areas linger on in the hands of agencies that could just as well —or better—locate elsewhere. Bureaucratic inertia is compounded by a quirk of present accounting procedures, which has the effect of imposing a budgetary penalty on any

agency that gives up one piece of property and moves to another, even if the vacated property is sold for 10 times the cost of the new.

The time has come to make more rational use of our enormous wealth of real property, giving a new priority to our newly urgent concern with public recreation—and to make more imaginative use of properties now surplus to finance acquisition of properties now needed.

—*By Executive Order, I am directing the heads of all Federal agencies and the Administrator of General Services to institute a review of all Federally-owned real properties that should be considered for other uses. The test will be whether a particular property's continued present use or another would better serve the public interest, considering both the agency's needs and the property's location. Special emphasis will be placed on identifying properties that could appropriately be converted to parks and recreation areas, or sold, so that proceeds can be made available to provide additional park and recreational lands.*

—*I am establishing a Property Review Board to review the GSA reports and recommend to me what properties should be converted or sold. This Board will consist of the Director of the Bureau of the Budget, the Chairman of the Council of Economic Advisers, the Chairman of the Council on Environmental Quality and the Administrator of General Services, plus others that I may designate.*

—*I propose legislation to establish, for the first time, a program for relocating Federal installations that occupy locations that could better be used for other purposes.*

This would allow a part of the proceeds from the sales of surplus properties to be used for relocating such installations, thus making more land available.

—*I also propose accompanying legislation to protect the Land and Water Conservation Fund, ensuring that its sources of income would be maintained and possibly increased for purchasing additional parkland.*

The net effect would be to increase our capacity to add new park and recreational facilities, by enabling us for the first time to use surplus property sales in a coordinated three-way program: a) by direct conversion from other uses; b) through sale of presently-owned properties and purchase of others with the proceeds; and c) by sale of one Federal property, and use of the proceeds to finance the relocation and conversion costs of making another property available for recreational use.

—*I propose that the Department of the Interior be given authority to convey surplus real property to State and local governments for park and recreation purposes at a public benefit discount ranging up to 100 percent.*

—*I propose that Federal procedures be revised to encourage Federal agencies to make efficient use of real property. This revision should remove the budgetary penalty now imposed on agencies relinquishing one site and moving to another.*

As one example of what such a property review can make possible, a sizable stretch of one of California's finest beaches has long been closed to the public because it was part of Camp Pendleton. Last month the Defense Department arranged to make more than a mile of that beach available to the State of California for use as a State park. The remaining beach is sufficient for Camp Pendleton's needs; thus the released stretch represents a shift from low-priority to high-priority use. By carefully weighing alternative uses, a priceless recreational resource was returned to the people for recreational purposes.

Another vast source of potential parklands also lies untapped. We have come to realize that we have too much land available for growing crops and not enough land for parks, open space and recreation.

—*I propose that instead of simply paying each year to keep this land idle, we help local governments buy selected parcels of it to provide recreational facilities for use by the people of towns in rural areas. This program has been tried, but allowed to lapse; I propose that we revive and expand it.*

—*I propose that we also adopt a program of long-term contracts with private owners of idled farmland, providing for its reforestation and public use for such pursuits as hunting, fishing, hiking and picnicking.*

ORGANIZING FOR ACTION

The environmental problems we face are deep-rooted and widespread. They can be solved only by a full national effort embracing not only sound, coordinated planning, but also an effective follow-through that reaches into every community in the land. Improving our surroundings is necessarily the business of us all.

At the Federal level, we have begun the process of organizing for this effort.

The Council on Environmental Quality has been established. This Council will be the keeper of our environmental conscience, and a goad to our ingenuity; beyond this, it will have responsibility for ensuring that all our programs and actions are undertaken with a careful respect for the needs of environmental quality. I have already assigned it major responsibilities for new program development, and I shall look to it increasingly for new initiatives.

The Cabinet Committee on the Environment, which I created last year, acts as a coordinating agency for various departmental activities affecting the environment.

To meet future needs, many organizational changes will still be needed. Federal institutions for dealing with the environment and natural resources have developed piecemeal over the years in response to specific needs, not all of which were originally perceived in the light of the concerns we recognize today. Many of their missions appear to overlap, and even to conflict. Last year I asked the President's Advisory Council on Executive Organization, headed by Mr. Roy Ash, to make an especially thorough study of the organization of Federal environmental natural resource and oceanographic programs, and to report its recommendations to me by April 15. After receiving their report I shall recommend needed reforms, which will involve major reassignments of responsibilities among Departments.

For many of the same reasons, overlaps in environmental programs extend to the Legislative as well as the Executive branch so that close consultation will be necessary before major steps are taken.

No matter how well organized government itself might be, however, in the final analysis the key to success lies with the people of America.

Private industry has an especially crucial role. Its resources, its technology, its demonstrated ingenuity in solving problems others only talk about—all these are needed, not only in helping curb the pollution industry itself creates but also in helping devise new and better ways of enhancing all aspects of our environment.

I have ordered that the United States Patent Office give special priority to the processing of applications for patents which could aid in curbing environmental abuses.

Industry already has begun moving swiftly toward a fuller recognition of its own environmental responsibilities, and has made substantial progress in many areas. However, more must be done.

Mobilizing industry's resources requires organization. With a remarkable degree of unanimity, its leaders have indicated their readiness to help.

I will shortly ask a group of the nation's principal industrial leaders to join me in establishing a National Industrial Pollution Control Council.

The Council will work closely with the Council on Environmental Quality, the Citizens' Advisory Committee on Environmental Quality, the Secretary of Commerce and others as appropriate in the development of effective policies for the curbing of air, water, noise and waste pollution from industrial sources. It will work to enlist increased support from business and industry in the drive to reduce pollution, in all its forms, to the minimum level possible. It will provide a mechanism through which, in many cases, government can work with key leaders in various industries to establish voluntary programs for accomplishing desired pollution-control goals.

Patterns of organization often turn out to be only as good as the example set by the organizer. For years, many Federal facilities have themselves been among the worst polluters. The Executive Order I issued last week not only accepts responsibility for putting a swift end to Federal pollution, but puts teeth into the commitment.

I hope this will be an example for others.

At the turn of the century, our chief environmental concern was to conserve what we had—and out of this concern grew the often embattled but always determined "conservation" movement. Today, "conservation" is as important as ever—but no longer is it enough to conserve what we have; we must also restore what we have lost. We have to go beyond conservation to embrace restoration.

The task of cleaning up our environment calls for a total mobilization by all of us. It involves governments at every level; it requires the help of every citizen. It cannot be a matter of simply sitting back and blaming someone else. Neither is it one to be left to a few hundred leaders. Rather, it presents us with one of those rare situations in which each individual everywhere has an opportunity to make a special contribution to his country as well as his community.

Through the Council on Environmental Quality, through the Citizens' Advisory Committee on Environmental Quality, and working with Governors and Mayors and county officials and with concerned private groups, we shall be reaching out in an effort to enlist millions of helping hands, millions of willing spirits—missions of volunteer citizens who will put to themselves the simple question: "What and can I do?"

It is in this way—with vigorous Federal leadership, with active enlistment of governments at every level, with the aid of industry and private groups, and above all with the determined participation by individual citizens in every state and every community, that we at last will succeed in restoring the kind of environment we want for ourselves, and the kind of generations that come after deserve to inherit.

This task is ours together. It summons our energy, our ingenuity and our conscience in a cause as fundamental as life itself.

RICHARD NIXON.

The White House.

EXHIBIT 2

AIR POLLUTION

We tend to view air pollution as a recently discovered phenomenon. But since the lawn of the industrial revolution, people in many communities have endured levels of smoke pollution that would be held intolerable today. In the last half of the 19th century, a surprising number of aroused citizen groups protested the smoke-laden air of London. But their protests were lost in the overwhelming

clamor for industrial development at any price.

Progress in the United States was no more heartening. Chicago and Cincinnati passed smoke control laws in 1881. By 1912, 23 of the 28 American cities with populations over 200,000 had passed similar laws. But still there was little dent made in air pollution.

In the 1930's, 1940's, and 1950's smoke pollution reached its zenith in the United States, especially in Eastern and Midwestern industrial cities. The public outcry against these conditions resulted in the enactment of improved smoke pollution legislation, its partial enforcement, and a visible improvement in the air of some industrial cities. These local control efforts focused primarily on cutting down smoke from fossil fuels, particularly coal. The fortunate advent of diesel engines in place of steam locomotives and the increased use of gas as a fuel for space heating also helped cut back air pollution in that era.

The Donora disaster in Pennsylvania in 1948 pricked the conscience of the Nation, but the experience of Los Angeles, beginning in that same decade was a more certain sign of the complex air pollution problem which now confronts cities throughout the world. When the citizens of Los Angeles began to complain of smog, few people suspected that air pollution was a great deal more than just smoke. Los Angeles used virtually none of the fuels primarily responsible for the smoke problems of cities elsewhere; yet smog appeared and worsened. Dr. Aria J. Haagen-Smit, of the California Institute of Technology, finally pinpointed the principal sources of photochemical smog in Los Angeles—hydrocarbons and nitrogen oxides from automobile exhausts. Smog was at first thought to be a phenomenon amplified by local weather conditions and limited to Los Angeles. Today, however, most major cities are afflicted to some degree by photochemical smog as well as by other forms of air pollution.

Air pollution is for the most part a phenomenon of urban living that occurs when the capacity of the air to dilute the pollutants is overburdened. Population and industrial growth and a high degree of dependence on the motor vehicle cause new gaseous and particulate emissions to complement, interact with, and further complicate the traditional ones.

When the first Federal air pollution control legislation was passed in 1955 there were no viable ongoing State programs at all. There was little interest in the scientific community, and the public, by and large, equated air pollution with coal smoke and considered smog a problem unique to Los Angeles. It is no wonder that air pollution is regarded as a recently discovered phenomenon.

POLLUTANTS AND THEIR SOURCES

Five main classes of pollutants are pumped into the air over the United States, totaling more than 200 million tons per year. These are summarized in table 1 for 1968, the latest year for which data are available for making estimates.

Transportation—particularly the automobile—is the greatest source of air pollution. It accounts for 42 percent of all pollutants by weight. It produces major portions not only of carbon monoxide but of hydrocarbons and nitrogen oxides.

TABLE 1.—ESTIMATED NATIONWIDE EMISSIONS, 1968

[In millions of tons per year]

Source	Carbon monoxide	Particulates	Sulfur oxides	Hydrocarbons	Nitrogen oxides	Total
Transportation	63.8	1.2	0.8	16.6	8.1	90.5
Fuel combustion in stationary sources	1.9	8.9	24.4	.7	10.0	45.9
Industrial processes	9.7	7.5	7.3	4.6	.2	29.3
Solid waste disposal	7.8	1.1	.1	1.6	.6	11.2
Miscellaneous [1]	16.9	9.6	.6	8.5	1.7	37.3
Total	100.1	28.3	33.2	32.0	20.6	214.2

[1] Primarily forest fires, agricultural burning, coal waste fires.

Source: NAPCA Inventory of Air Pollutant Emissions, 1970.

Carbon monoxide (CO) is a colorless, odorless, poisonous gas, slightly lighter than air, that is produced by the incomplete burning of the carbon in fuels. Carbon monoxide emissions can be prevented by supplying enough air to insure complete combustion. When this occurs, carbon dioxide, a natural constituent of the atmosphere, is produced instead of carbon monoxide.

Almost two-thirds of the carbon monoxide emitted comes from internal combustion engines, and the overwhelming bulk of that comes from gasoline-powered motor vehicles.

Particulate matter includes particles of solid or liquid substances in a very wide range of sizes, from those that are visible as soot and smoke to particles too small to detect except under an electron microscope. Particulates may be so small that they remain in the air for long periods and can be transported great distances by the winds. They are produced primarily by stationary fuel combustion (31 percent) and industrial processes (27 percent). Forest fires and other miscellaneous sources account for 34 percent.

There are established techniques for controlling particulates from a boiler stack or from a waste air stream—among them filtering, washing, centrifugal separation, and electrostatic precipitation. These work well for most of the particles, but complete removal, especially of the very finest particles, is technically and economically difficult.

Sulfur oxides (SOX) are acrid, corrosive, poisonous gases produced when fuel containing sulfur is burned. Electric utilities and industrial plants are its principal producers since their most abundant fuels are coal and oil, which contain sulfur as an impurity. The burning of coal produces about 60 percent of all sulfur oxides emissions, oil about 14 percent, and industrial processes that use sulfur 22 percent. Most of the coal and oil is burned in electric power generation plants. About two-thirds of the Nation's sulfur oxides are emitted in urban areas, where industry and population are concentrated. And seven industrial States in the Northeast account for almost half of the national total of sulfur oxides. In rural areas, however, sulfur oxides sources may be large industrial plants, smelters, or power plants. Any one of these may throw out several hundred thousand tons of sulfur oxides in a year.

Government agencies and industry have sought to reduce sulfur oxide emissions in three ways: switching to low sulfur fuels (those with less than 1 percent sulfur), removing sulfur from fuels entirely, and removing sulfur oxides from the combustion gases.

Hydrocarbons (HC), like carbon monoxide, represent unburned and wasted fuel. Unlike carbon monoxide, gaseous hydrocarbons at concentrations normally found in the atmosphere are not toxic, but they are a major pollutant because of their role in forming photochemical smog. More than half the estimated 32 million tons of hydrocarbons produced each year comes from transportation sources, mainly gasoline-fueled vehicles. Another 27 percent comes from miscellaneous burning and 14 percent from industrial processes. About 60 percent is produced in urban areas, largely because there are more automobiles.

Nitrogen oxides (NO_x) are produced when fuel is burned at very high temperatures. Stationary combustion plants produce 49 percent of the nitrogen oxide emissions; transportation vehicles, 39 percent; and all other sources, 12 percent.

Internal combustion engines operate at very high temperatures, and so do efficient, large electric power and industrial boilers. Nitrogen that is ordinarily inert combines with oxygen in high temperature flames and tends to stay combined if the exhaust gases are cooled too quickly. The control of NO_x from stationary sources requires careful adjustment of flame and stack gas temperatures. Control of nitrogen oxides from automobiles is more difficult because reducing other pollutants can increase the output of NO_x.

Under the influence of sunlight, nitrogen oxides combine with gaseous hydrocarbons to form a complex variety of secondary pollutants called *photochemical oxidants*. These oxidants, together with solid and liquid particles in the air, make up what is commonly known as smog. The photochemical oxidant family of pollutants includes, among others, ozone, an unstable, toxic form of oxygen; nitrogen dioxide; peroxyacyl nitrates; aldehydes; and acrolein. In air they can cause eye and lung irritation, damage to vegetation, offensive odor, and thick haze.

Air pollution emissions in the United States, 1968

[Percentage by weight]

What they are:	
Sulfur oxides	15
Hydrocarbons	15
Particulates	13
Nitrogen oxides	10
Carbon monoxide	47
Where they come from:	
Fuel combustion in stationary sources	21
Solid waste disposal	5
Forest fires	8
Miscellaneous	10
Industrial processes	14
Transportation	42

Source: National Air Pollution Control Administraton, HEW.

WHAT AIR POLLUTION DOES

Air pollution adversely affects man and his environment in many ways. It soils his home and interferes with the growth of plants and shrubs. It diminishes the value of his agricultural products. It obscures his view and adds unpleasant smells to his environment. Most important, it endangers his health.

The extent of air pollution depends heavily on how weather disposes of the pollutants. The ability of the atmosphere to dilute and disperse them is limited to two factors—wind speed and the depth in the atmosphere to which air near the surface can be mixed. Although considerable variation occurs from day to day in the extent to which these factors disperse air pollution, the same patterns tend to repeat themselves over months or years. On some few days in a year, strong winds and highly unstable atmospheric conditions may disperse even the heaviest blanket of pollution. On many other days, weak winds and highly stable conditions let small quantities of pollutants accumulate and build up to serious proportions. Between these extremes, variations in weather condi-

tions create varying levels of pollution over a given area.

Many cities lie in natural basins at the confluence of rivers, around bays, or in flat areas backed against mountains. Such basins are natural gathering places for low-lying masses of warm air, which trap pollutants in the familiar phenomenon known as an "inversion." However, even communities more favorably located increasingly find that atmospheric conditions limit the amount of air available as a dumping place for pollutants.

To human health

The most important effect of air pollution is its threat to human health. Acute episodes of pollution in London, New York, and other cities have been marked by dramatic increases in death and illness rates, especially among the elderly and those with preexisting respiratory or cardiac conditions.

The incident most familiar to Americans occurred in 1948 in Donora, an industrial town in the mountains of western Pennsylvania. Almost half of the town's 14,000 inhabitants fell ill; 20 died. The worst air pollution disaster of modern times struck in London in 1952 when its famous "killer smog" increased the number of deaths in London to 1,600 more than would have normally occurred. Both of those episodes occurred when, under conditions lasting for several days, unusual weather prevented the dispersal of pollutants.

Such major disasters are cause for concern. However, of much greater significance for the American population are the subtle, long-range effects on human health of exposure to low-level, long-lasting pollution.

The causes of chronic diseases which constitute the major public health problems of our time are difficult to determine. Assessing the contribution of particular pollutants to these conditions is complicated by the seemingly infinite variety of pollutants to which persons, particularly those in urban areas, are exposed from the day of their birth. And it is difficult to separate pollution from the other biological and physical stresses to which people are subjected.

Nonetheless, it is well established that air pollution contributes to the incidence of such chronic diseases as emphysema, bronchitis, and other respiratory ailments. Polluted air is also linked to higher mortality rates from other causes, including cancer and arteriosclerotic heart disease. Smokers living in polluted cities have a much higher rate of lung cancer than smokers in rural areas.

The incidence of chronic diseases has soared sharply during this century, while the infectious diseases which were the primary public health concern in the past have been brought under control. Heart and blood vessel diseases caused more than half the deaths in the United States in 1962. Lung cancer, once a rarity, now kills more persons than all other cancer types combined. Emphysema has doubled every 5 years since World War II. Air pollution has been linked to asthma, acute respiratory infections, allergies, and other ailments in children. Such childhood diseases may well underlie chronic ills developed in later life.

Knowledge of the health effects of specific contaminants present in the air is far from complete. However, the more overt health effects of several major classes of pollutants are beginning to be defined. Those pollutants are found almost everywhere in the United States.

When *carbon monoxide* is inhaled, it displaces the oxygen in the blood and reduces the amount carried to the body tissues. At levels commonly found in city air, it can slow the reactions of even the healthiest persons, making them more prone to accidents. Moreover, it is believed to impose an extra burden on those already suffering from anemia, diseases of the heart and blood vessels, chronic lung disease, overactive thyroid, or even simple fever. Cigarette smokers, who are already inhaling significant amounts of CO in tobacco smoke, take on an additional CO burden from polluted air.

Studies show that exposure to 10 parts per million of CO for approximately 8 hours may dull mental performance. Such levels of carbon monoxide are commonly found in cities throughout the world. In heavy traffic situations, levels of 70, 80, or 100 parts per million are not uncommon for short periods.

Sulfur oxides, produced mainly by burning coal and oil, can cause temporary and permanent injury to the respiratory system. When particulate matter is inhaled with the sulfur oxides, health damage increases significantly. The air pollution disasters of recent years were due primarily to sharply increased levels of sulfur oxides and particulates.

Sulfur dioxide can irritate the upper respiratory tract. Carried into the lungs on particles, it can injure delicate tissue. Sulfuric acid—formed from sulfur trioxide when water is present—can penetrate deep into the lungs and damage tissue.

Health may be imperiled when the annual mean concentration of sulfur dioxide in the air rises above 0.04 parts per million. Deaths from bronchitis and from lung cancer may increase when this level of sulfur dioxide is accompanied by smoke concentrations of about 0.06 parts per million. American cities often exceed this annual mean substantially. The annual mean concentration of SO_2 in the air was 0.12 parts per million in Chicago in 1968; in Philadelphia it was 0.08. When SO_2 exceeds 0.11 parts per million for 3 to 4 days, adverse health effects have been observed, and this level is reached in many large cities during inversions.

Photochemical oxidants have emerged relatively recently as a major health problem, and research relating to their effects on human health is still in its infancy. However, studies have shown that eye irritation begins when peak oxidant levels reach 0.10 parts per million. Increased frequency of asthma attacks occurs in some patients on those days when hourly concentrations average 0.05 to 0.06 parts per million. Even the healthiest persons may be affected; however, a study of cross-country runners in a Los Angeles high school showed that their performances suffered when hourly average oxidant levels ranged from 0.03 to 0.30 parts per million.

Less is known about the effects on health of *nitrogen oxides,* which play such an important part in producing photochemical pollution. They have been little studied until recently. However, evidence so far suggests that they may be harmful to human health. A study in Chattanooga, Tenn., linked very low levels to these oxides in the air to children's susceptibility to Asian flu.

The lowest *particulate levels* at which health effects have been noted in the United States were reported at Buffalo. The Buffalo study suggests that the overall death rate rises in areas with an annual average concentration ranging from 80 to 100 micrograms per cubic meter. The study also reveals a tie between these levels of particulate matter and gastric cancer in men 50 to 69 years old. A similar association was found in a Nashville study. Particulate levels in this range are found in most major urban areas and are common even in smaller industrial cities.

The findings relating to particulate matter, as a class of pollutants, amply justify measures to reduce their level in the air. Included in this class of pollutants are a number of substances which are potential health hazards at much lower concentrations and which will require even more stringent controls.

Beryllium, for example, which may be emitted from industrial sources and from rocket fuel, can cause lesions in the lung, producing serious respiratory damage and even death. Since the sources of this pollutant are limited, however, it may be a problem only in specific localities.

Asbestos, long recognized as an occupational hazard, is increasingly present in the ambient air because of its use in construction materials, brake linings, and other products. Long exposure in industry produces the lung-scarring disease, asbestosis. On the other hand, mesothelioma, a type of lung cancer associated almost exclusively with asbestos exposure, does not appear to be associated only with heavy or continued exposure.

Many other particulate pollutants are a growing public health worry even though they may not constitute such an immediate and direct threat. Current studies suggest that lead levels now found in the blood and urine of urban populations—although well below those associated with classic lead poisoning—may interfere with the ability of the human body to produce blood. As air pollution becomes more widespread, increased numbers of people are being exposed to airborne lead, chiefly from automotive emissions, at levels formerly found only in congested areas.

To vegetation and materials

Air pollution inflicts widespread and costly damage on plant life and buildings and materials. Some experiences of the past warned of the effects of air polltution on plant life. Sulfur dioxide fumes from a large copper smelting plant set up after the Civil War in Copper Basin, Tenn., damaged 30,000 acres of timberland. Much of this originally forested mountain land is still barren. Today, the damage to plant life is less dramatic than in the days of unrestricted smelter operations. But the slower, chronic injury inflicted on agricultural, forest, and ornamental vegetation by increasing quantities and varieties of air pollutants has now spread to all parts of the country.

Smog in the Los Angeles basin contributes to the slow decline of citrus groves south of the city and damages trees in the San Bernardino National Forest 50 miles away. Fluoride and sulfur oxides, released into the air by phosphate fertilizer processing in Florida, have blighted large numbers of pines and citrus orchards. Livestock grazing on fluoride-tainted vegetation develop a crippling condition known as fluorosis. In New Jersey, pollution injury to vegetation has been observed in every county and damage reported to at least 35 commercial crops.

At sulfur oxide levels routinely observed in some of our cities, many plants suffer a chronic injury described as "early aging." Nitrogen dioxide produces similar injury symptoms and seems to restrict the growth of plants even when symptoms of injury are not visible. Ozone, a major photochemical oxidant, is a significant threat to leafy vegetables, field and forage crops, shrubs, and fruit and forest trees—particularly conifers. The damage from ozone in minute quantities can be great. Extended ozone exposure to 0.05 parts per million can reduce a radish yield 50 percent. Tobacco is sensitive to ozone at a level of 0.03 parts per million.

Air pollutants also damage a wide variety of materials. Sulfur oxides will destroy even the most durable products. Steel corrodes two to four times faster in urban industrial areas than it does in rural areas where much less sulfur-bearing coal and oil are burned. When particulate matter is also present in the air, the corrosion rates multiply. One-third of the replacement cost of steel rails in England is estimated to be caused by sulfur pollution. The rise of sulfur oxides levels in the air is accelerating the erosion of statuary and buildings throughout the world, and in some cities, works of art made of stone, bronze, and steel must be moved indoors to preserve them from deterioration. Particulate matter in the air not only speeds the corrosive action of other pollutants but

by itself is responsible for costly damage and soiling. Clothes and cars must be washed, houses painted, and buildings cleaned more often because of the particulates in the air. Ozone damages textiles, discolors dyes, and greatly accelerates the cracking of rubber.

To visibility

Air pollution dims visibility, obscures city skylines and scenic beauty, interferes with the safe operation of aircraft and automobiles, and disrupts transportation schedules. In one recent year, low visibility from smoke, haze, and dust was the suspected cause of 15 to 20 plane crashes. In Los Angeles, visibility in the smog frequently lowers to less than 3 miles. During the air pollution alert in the eastern States during July 1970, visibility was almost totally obscured in some areas. The Federal Aviation Administration's visibility safety factor for airplane operation without instruments is 5 miles. Nitrogen dioxide, which reaches peak levels during morning rush-hour traffic, is responsible for the whiskey-brown haze that stains the sky over many cities. Particulates, however, are the major villain in reducing visibility. Particles (ash, carbon, dust, and liquid particles) discharged directly to the air scatter and absorb light, reducing the contrast between objects and their backgrounds. Particles are also formed in the atmosphere by photochemical reactions and by the conversion of sulfur dioxide to sulfuric acid mist. Wherever sulfur pollution is significant—which is wherever large amounts of coal and oil are burned—visibility diminishes as relative humidity rises.

To climate

Air pollution alters climate and may produce global changes in temperature. Chapter V of this report deals with that subject.

WHAT AIR POLLUTION COSTS

In damages

The total costs of air pollution in the United States cannot be precisely calculated, but they amount to many billions of dollars a year. Economic studies are beginning to identify some of the more obvious costs. To paint steel structures damaged by air pollution runs an estimated $100 million a year. Commercial laundering, cleaning, and dyeing of fabrics soiled by air pollution costs about $800 million. Washing cars dirtied by air pollution costs about $240 million. Damage to agricultural crops and livestock is put at $500 million a year or more. Adverse effects of air pollution on air travel cost from $40 to $80 million a year. Even more difficult to tie down are the costs of replacing and protecting precision instruments or maintaining cleanliness in the production of foods, beverages, and other consumables. It is equally difficult to assess damage, soiling, and added maintenance to homes and furnishings or how air pollution acts on property values. The cost of fuels wasted in incomplete combustion and of valuable and potentially recoverable resources such as sulfur wasted into the air is also hard to count. It is still more difficult to determine the dollar value of medical costs and time lost from work because of air pollution—or to calculate the resulting fall in productivity of business and industry.

In control

The total investment necessary through 1975 to control the major industrial and municipal sources of particulate matter, sulfur oxides, hydrocarbons, and carbon monoxide in 100 metropolitan areas of the United States has been estimated at $2.6 billion. This includes costs for controlling both existing and new sources. By 1975, it will cost another $1.9 billion for operation, maintenance, depreciation, and interest.

These estimated costs are based on assumed future control requirements. Still, the yearly cost to control the industrial sources of these four major pollutants is relatively low, less than 1 percent of the value of the annual output of the industries involved, although the costs to some industries is much greater.

According to industry estimates, the costs of control devices to meet Federal motor vehicle emission standards are rising rapidly, both because of general increases in prices and because of the increasing stringency of the standards. The cost for 1968 and 1969 models was $18–19 per car; for 1970, $36 per car; and for 1971 models it is estimated at $49 per car. The application of more stringent standards will increase these costs still further. Thus in 1971 the cost for installing control devices on the 10 million new cars produced will be almost $500 million. However, assuming that the average vehicle life is 10 years, the cost is only $5 per car per year.

PROGRAMS IN AIR POLLUTION CONTROL

Legislative history

The first Federal legislation concerned exclusively with air pollution was enacted in July 1955. It authorized $5 million annually to the Public Health Service of the Department of Health, Education, and Welfare for research, data collection, and technical assistance to State and local governments.

Pressures for action led to the Clean Air Act of 1963. It provided grants to air pollution agencies for control programs (with special bonuses for intermunicipal or interstate areas). And it provided Federal enforcement authority to attack interstate air pollution problems.

In October 1965, the Clean Air Act was amended to permit national regulation of air pollution from new motor vehicles. The first standards were applied to 1968 models. These standards were tightened for 1970 and 1971 model cars. And even more stringent standards have been announced for 1973 and 1975.

In November 1967, the Congress passed the comprehensive Air Quality Act, which undergirds much of the current Federal air pollution control effort. That act set in motion a new regional approach to establishing and enforcing Federal-State air quality standards:

The Secretary of HEW first must designate air quality control regions within a State or within an interstate region.

The Secretary must promulgate air quality criteria which, based on scientific studies, describe the harmful effects of an air pollutant on health, vegetation, and materials. He must issue control technology documents showing availability, costs and effectiveness of prevention and control techniques.

In the designated regions, the States must show willingness to establish air quality standards.

The States then set standards limiting the levels of the pollutant described in the criteria and control technology documents. If the States fail to do this, the Secretary is empowered to set the standards.

After the States have developed air quality standards, they must establish comprehensive plans for implementing them. (These plans should set specific emission levels by source and a timetable for achieving compliance.)

The process of adopting standards and implementation plans can take up to a year and a half, and the approval process requires still more time. The process must be renewed and repeated each time criteria and control techniques are issued for a new pollutant.

On February 10, 1970, the President made a number of legislative proposals to improve the air quality program. Among them were proposals to apply air quality standards throughout the entire Nation, not just within the air quality control regions. Hearings are provided for, and the States have the option of adopting more stringent standards if they choose. The States would have 9 months from the time the national standards are established to submit a plan detailing how they would enforce the national standards, including the associated emission standards. The Federal Government would enforce the standards if the air quality in a State or region fell below the standards and the State plan was not being carried out. The provisions for national standards should markedly quicken the process of establishing enforceable standards and a workable plan for abatement.

The President's proposals also call for national emission standards for new pollutant sources considered harmful to health and welfare and which can be controlled. This authority is necessary to insure that new stationary sources are designed to reduce emissions to the lowest level consistent with available technology. National emission standards would apply to existing as well as to new stationary sources for pollutants extremely hazardous to health, such as asbestos, cadmium, or beryllium. The legislation would authorize the Secretary of HEW to move directly against sources of these pollutants when States do not act.

The President's program would also extend Federal enforcement authority to pollution within one State. And it would levy fines of up to $10,000 a day for noncompliance.

The Department of HEW first issued documents on air quality criteria and control methods for sulfur oxides and particulate matter in February 1969. This triggered the standards-setting process for these two key pollutants. In March 1970, criteria and control documents were issued for carbon monoxide, hydrocarbons, and photochemical oxidants. HEW expects to issue documents on lead, nitrogen oxides, flourides, and polynuclear organic compounds early in 1971.

By July 1, 1970, air quality regions had been designated in 40 major metropolitan areas. By the end of the summer 1970, HEW expects to designate 90 regions, providing at least one region in each State. These regions will embrace 123 million people, almost 60 percent of the U.S. population. As of July 1, 1970, 17 States had submitted standards to the Department, and 10 had been approved. No implementation plans have yet been approved.

Action on each new pollutant requires publication of air quality criteria and control technology, the development and approval of State standards for each region, and the development and approval of State implementation plans for each region. The National Air Pollution Control Administration (NAPCA) is currently studying 30 different pollutants to determine their potential effects on health. When the evaluations are completed, criteria documents will be issued, as necessary.

Federal abatement actions

Although the major current emphasis is on developing standards, some action continues under the enforcement provisions of the 1963 Clean Air Act. Since passage of the act, 10 enforcement conferences have been held. Four have dealt with single sources of pollution; six have considered all sources of pollution within major metropolitan areas, including the metropolitan areas of New York-New Jersey, Kansas City, and Washington, D.C.

Those conferences covering whole metropolitan areas have concentrated more on strengthening State and local efforts than on directly curbing polluters. The conference-public hearing procedure has been a cumbersome and time-consuming method of taking action against individual polluters.

The first air pollution enforcement action was instituted in 1965 against a chicken rendering plant in Bishop, Md. A conference was held in 1965 and a public hearing in 1967; a suit was begun in the Federal district court in 1969, and an appeal finally made to the U.S. Supreme Court. The plant was not shut

down until the Supreme Court refused to hear the appeal in May 1970—5 years after the action started. No other enforcement action has proceeded beyond the conference stage.

No enforcement has yet taken place under the 1967 act, since the standards, for the most part, have not yet been adopted nor implementation plans approved. The President has submitted comprehensive proposals to the Congress to strengthen enforcement powers. These are discussed later in the chapter.

Curbing auto pollution

The first standards set under the 1965 Amendments to the Clean Air Act applied to 1968 model vehicles. These standards required complete control of crankcase hydrocarbons and partial control of exhaust hydrocarbons and carbon monoxide.

In June 1968, HEW tightened exhaust standards for 1970 and later model vehicles and for the first time set evaporative loss standards—to be applied starting with the 1971 model year.

In July 1970, the Secretary proposed sweeping changes in procedures for testing whether new automobiles meet the Federal emission standards—when it was discovered that the existing procedures underestimated the actual amount of pollution being emitted. The new test procedures would take effect when prototypes of 1972 model cars begin their tests at the end of this year. At the same time, the Secretary confirmed the same 1975 standards for hydrocarbons and carbon monoxide and said that the nitrogen oxide and particulate standards proposed in February 1970 would be confirmed as soon as test procedures for these standards had been developed. Table 2 summarizes the effects of all these standards on automobile emissions through 1975.

Under the 1965 Amendments to the Clean Air Act, NAPCA tests only vehicles submitted by a manufacturer. If the test vehicle meets the Federal standards, all other like model vehicles sold by a manufacturer are deemed in conformity with the standards.

The first surveillance data on production line cars subject to the Federal standards were reported in the summer of 1968. The data showed that, on the average, the cars complied with the Federal standards. However, by the winter of 1969, the surveillance data showed that, on the average, hydrocarbon emissions of 1968 cars ran about 20 percent above the standard and carbon monoxide emissions about 8 percent above. Reports in 1970 show hydrocarbon emissions higher than the standard by 25 percent and carbon monoxide by about 10 percent.

TABLE 2.—EXHAUST EMISSION STANDARDS AND UNCONTROLLED VEHICLE EMISSION LEVELS BASED ON CURRENT AND PROPOSED 1972 TEST PROCEDURES

PRESENT TEST PROCEDURE

	Hydrocarbons		Carbon monoxide		Oxides of nitrogen		Particulates	
	G./mi.[1]	Percent[2]	G./mi.	Percent	G./mi.	Percent	G./mi.	Percent
Baseline (uncontrolled vehicle)	11.2		73.0					
Present standards (intended degree of control)	2.2	80	23.0	69	N A.[3]	N.A.	N.A.	N.A.
1975 standards (expected control)	.5	96	11.0	86				

PROPOSED TEST PROCEDURE

Baseline (uncontrolled vehicle)	14.6		116.3		6.0		0.3	
Equivalent present standards (achieved degree of control)	4.6	69	47.0	60				
Proposed 1972 Standards (control)	2.9	80	37.0	69				
Proposed 1973 standards (control)					3.0	50		
Proposed 1975 standards (control)	.5	97	11.0	91	.9	85	.1	66.7

[1] Grams per mile emitted.
[2] Percentage reduction from uncontrolled vehicle.
[3] No standards applicable.

Source: NAPCA.

Remedies for the failure of production line cars to perform as well as their prototypes are both administrative and legislative. New tests to be applied for the first time to 1972 models include a revised durability test. It will more accurately reflect actual operating conditions. And the manufacturer will be required to make available to NAPCA test cars to be under the control of the Federal Government in accumulating durability mileage.

Proposed Presidential amendments to the Clean Air Act would authorize HEW to withdraw approval of a particular model of car if vehicles coming off the production lines do not meet the Federal standards. Moreover, the Secretary of HEW would be explicitly authorized to test, or require manufacturers to test, vehicles at the end of production lines. Even with these safeguards, many automobiles will not meet the standards. In addition to systems that break down or are not sufficiently durable, the car owner may not provide proper maintenance.

The data on present levels of pollution in our urban environment, the projected increase in urban traffic in the years ahead, and the performance of pollution control systems under actual driving conditions make it clear that even applying stricter standards in 1975 will only prolong the downward curve in vehicle emissions until the middle 1980's. After that, carbon monoxide levels will again rise because of the sheer number of automobiles on the roads and highways.

Motor vehicle pollution is the product of a complex combustion system of engines, fuels, and fuel additives. Effective control, then, means dealing not only with engines and control devices but with the fuel itself and with fuel additives. The President's proposed legislation includes authority to establish standards and regulations for both fuel and fuel additives.

The key additive from an air pollution control viewpoint is tetraethyl lead in gasoline. It accounts for a significant portion of the particulate pollution from automobiles. Most experts believe that control systems incorporating chemical catalysts will be required to meet 1975 standards. Experience to date indicates that lead in gasoline poses serious problems to the ues of catalytic control devices. Although other control methods are likely to be available, the catalyst appears to be most economical and durable. A panel of the Commerce Technical Advisory Board concluded that lead-free gasoline should be ready within the next few years so that industry will have the chance to road-test these catalytic devices. Automobile manufacturers say that they intend to market vehicles with low-octane requirements in their 1971 models, thus reducing or even eliminating the need for lead in gasoline.

The Secretary of HEW has asked the chief executives of the Nation's petroleum companies to work toward production of a lead-free gasoline. The Secretary suggested a plan to reduce lead levels in regular grades to 0.5 gram per gallon by July 1, 1971, and to zero lead content by July 1, 1974. However, since premium gasoline containing lead will still be needed for a number of years to meet the requirements of high compression engines in older cars, the Secretary's plan provides for leaded premium gasoline as long as it is needed. To make the new gasolines competitive, the administration has requested a $4.25 per pound tax on lead used in gasoline.

An alternative to the internal combustion engine may be necessary if it cannot meet the increasingly stiff standards. The President announced in his February 10, 1970, environmental message a program to develop one or more alternatives within 5 years. He called for:

An extensive research and development program to be conducted under the general direction of the Council on Environmental Quality;

An incentive program to private developers, through Government purchase of privately produced unconventional vehicles for testing and evaluation.

Controlling sulfur oxides

Sulfur oxides are one of the most difficult classes of air pollutants to control. Because of their toxicity and pervasiveness, they are among the most dangerous air pollutants to human health and are clearly the most harmful to vegetation, buildings, and materials. Because their source is chiefly the electric power industry, their potential increase is tied to the burgeoning industry, which almost doubles its output every 10 years.

At present about 65 percent of the energy for generating electricity stems from coal; gas, oil, and hydroelectric sources account for about 34 percent; and nuclear energy the remaining 1 percent. By 1980, 22 percent of the total installed electric power capacity is expected to be nuclear. By 1990, it will be 40 percent. However, by far the greatest source of energy is now, and will continue to be for the rest of this century, the burning of coal and oil. The amount of coal used for power by the year 2000 will be four times greater than it is today.

A number of alternatives are available to control sulfur oxide pollution over the next decade. Switching fuels is possible, but only when an alternative, low-sulfur fuel is available. Most coal near the Nation's centers of population and power demand is high in sulfur. Low-sulfur coal not only is far away but also commands a higher price for use as coke by domestic and foreign steelmakers. North Africa and other areas are rich in low sulfur oil but are limited by low production and refinery capabilities. Oil import quotas bar it from certain areas of the Midwest and the West Coast, although the oil may be imported to other areas of the United States. The United States will probably continue to rely primarily on residual oil from the Western Hemisphere. And that oil will have to be desulfurized before it is used. Natural gas carries an insignificant sulfur content, but it is the scarcest of fossil fuels, and most of it is being conserved for nonpower purposes.

Sulfur can be separated from coal and oil, but the processes are costly, and some are not fully developed technically. Methods to remove sulfur from the stack gases after the fuel is burned are under development. However, none of these processes is yet in large-scale use and the costs are not yet known. Some of the stack control processes recover sulfur or a sulfur byproduct, which can be sold to help offset costs. Some are also being evaluated for their potential in reducing pollution from nitrogen oxides.

Research and development

A number of technological and research gaps in controlling air pollution still exist. NAPCA carries on an extensive research, development, and demonstration program in its own facilities and through grants and contracts. The fiscal year 1970 budget contains $59.3 million in budgeted funds for research and demonstration. The fiscal year 1971 budget requests call for $63.3 million.

Two principal areas hold high priority. One is the development of technology for the control of stationary sources. Currently, a comprehensive program is underway in NAPCA, working with the Bureau of Mines and TVA, aimed at perfecting techniques for controlling sulfur oxides. A similar program is getting underway for nitrogen oxides. The second prime priority is the development of new low emission power systems for motor vehicles. This program aims to develop at least two unconventional vehicle prototypes and to demonstrate commercial feasibility by 1975. Initial research will center on gas turbine, steam, and hybrid systems, with continued work on electrical systems. The 1971 Federal Budget sets aside $9 million for this program. The Council on Environmental Quality has worked closely with the Department of Health, Education, and Welfare, which is the lead agency for this program, and with other Federal agencies to assure that the widest range of Federal talents is enlisted in the low-emission power program. The Council has also appointed a committee to advise it on this program, headed by Dr. Ernest Starkman, of the University of California at Berkeley.

Air quality monitoring

Collecting and evaluating data on air pollutant emissions and air quality require a joint Federal-State-local effort. NAPCA is now engaged not only in operating its own air monitoring network but also in supporting State and local monitoring activities. NAPCA's own air monitoring program involves operation of more than a thousand air sampling devices at stations across the country, including six continuous monitoring stations in major cities. Over the past year, mechanized devices for measuring various gaseous pollutants were put in operation at 145 sites. This expansion of NAPCA's network reflects the increased stress on gathering data for air pollutants which have been or will be the subject of air quality criteria documents.

State and local governments, which have the primary responsibility for monitoring air quality, operate over 2,000 stations. Most of them, however, monitor air quality only intermittently.

State and local programs

With one major exception—new motor vehicles, whose control the Clean Air Act preempts to the Federal Government—primary responsibility for the control of the sources of air pollution is assigned to State and local governments. An assessment, then, of State and local air pollution control programs is a useful measure of the current efforts to cope with the problem.

A March 1970 Department of Health, Education, and Welfare report to the Congress, "Progress in the Prevention and Control of Air Pollution," traces the considerable increase in State and local budgets for air pollution control, stimulated in large part of the Federal matching grants program initiated in 1963. However, of the 55 State and territorial programs being financed by the grants program in 1970, only six have reached an annual per capita expenditure of 25 cents, which is generally considered the minimum expenditure needed for State programs. Only 23, including the six, are spending as much as 10 cents per person per year. At the local level, the situation is better: 64 of 144 grantee agencies are spending at least 40 cents per capita per year, which is generally considered the minimum needed for local programs.

Table 3, also from the March 1970 HEW progress report, shows the accelerated pace at which States have been adopting air pollution control regulations during the last several years. Prior to passage of the Clean Air Act in 1963, only nine States had adopted air pollution control regulations. By 1967–68, 30 had. By the end of 1970 it is expected that all States will have established the legal basis for controlling the sources of air pollution.

No detailed survey has been made of the adoption of air pollution regulations at the local level of government. However, local agencies set up to deal with the problem have proliferated—from 85 agencies in 1962 to more than 200 today.

TABLE 3.—STATE LAWS AND REGULATIONS

[Number of States enacting laws and regulations in specified years]

	1951–62	1963–64	1965–66	1967–68	Total
Initial law enacted	11	3	9	23	46
First regulation adopted	9	.....	4	17	30
Type of regulation:					
Administrative	9	.....	4	13	26
Fuel burning	2	.....	3	11	16
Open burning	4	.....	3	12	19
Ambient standards	2	1	1	11	15
Visible emissions	5	.....	3	14	22
Incinerator	1	1	2	13	17
Industrial process	.....	1	4	9	14
Vehicle	1	.....	.....	5	6
Sulfur oxides	.....	.....	1	5	6

Perhaps the most significant indicator of the adequacy of State and local air pollution control programs is manpower. The 1970 HEW report to the Congress, "Manpower and Training Needs for Air Pollution Control," indicates that in general control agencies are inadequately staffed. Fifty percent of State agencies have fewer than 10 positions budgeted, and 50 percent of local agencies have fewer than seven positions budgeted. Further, during 1969 the vacancy rate for all agencies was 20 percent. Recruitment of competent personnel is difficult. The report estimates that by 1974 State and local agencies will need 8,000 personnel if they are to implement the Clean Air Act properly—a jump of 300 percent over the number of persons currently employed in these programs.

The chief difficulty is the low salary rates paid by State and local agencies. The HEW report cites a study which indicates that State and local median salaries fall 20 to 50 percent below the median paid by industry for comparable positions.

EVALUATION

In evaluating the effectiveness of air quality efforts, it is useful to separate stationary from mobile sources, since the methods of control and the implementing institutions are so different. It is also useful, for purposes of perspective, to compare air quality and water quality efforts on stationary sources, since many aspects of the Federal legislation are similar.

Stationary sources

Congressional and public concern focused on water pollution many years before air pollution. The first permanent water pollution legislation was enacted in 1956, the first permanent air pollution legislation not until 1963. There are currently standards and implementation plans for almost all the interstate and coastal waters of the United States, covering most forms of water pollution. Water quality criteria have been developed, and Federal, State, and local governments and industry are beginning to commit themselves to abatement programs.

In contrast, only five air pollution criteria have been issued; only 10 State standards have been approved; and no State implementation plans have yet been approved. There is currently no basis for enforcing standards, because enforcement must await approval of implementation plans.

The air pollution effort is not as advanced as water pollution in terms of stationary sources for three major reasons. First, there is no available technology for a number of air pollutants, although most forms of industrial water pollution are amenable to control. Second, State water pollution control agencies have existed for many years in the United States and have developed capabilities, although often limited. Until enactment of the Air Quality Act of 1967, air pollution control was largely conducted by local agencies. Few States had adequate manpower and resources. Finally, the Air Quality Act of 1967 is no longer an adequate tool to cope with current pollution problems. Procedures for development and implementation of air quality standards are too slow and place an inordinate burden on both the States and the Federal Government.

The current enforcement authority is also inadequate. As with water pollution, the Federal Government has no jurisdiction if the pollution from one State is not endangering health and welfare in another State, unless the Governor of the State in which the pollution occurs requests help. The current conference-hearing procedure is unduly cumbersome and time consuming. The only court action that can be requested by the Government against a polluter is a cease-and-desist order, and the only available remedy in the case of noncompliance is to hold the polluter in contempt of court. The current act does not provide for fines to compel compliance.

Mobile sources

The attack on pollution from automotive emissions has begun to make progress. Current standards have already reduced emissions, and the 1973 and 1975 standards are expected to bring a further marked decrease. As discussed earlier, however, control systems on vehicles sold to the public lose their effectiveness more rapidly than on test vehicles, and, accordingly, the goals may not be met. Also, the current program does not deal with the millions of cars on the road with no control systems at all or with systems that do not or will not meet the required standards.

Monitoring

Although air pollution monitoring has been underway for years, the current systems—Federal, State, and local—are so spotty in coverage that it is very difficult to determine trends in the quality of air. For example, sampling stations are generally in downtown areas. The deterioration of air quality away from these regions, where the greatest amount of industrialization and urbanization has been taking place, is often not even monitored. Often trend data indicate improvement in one pollutant, while other pollutants not measured in the same city are increasing. Clearly, the total level of pollutants in our major urban areas continues to be above levels at which adverse effects on human health and destruction of vegetation, buildings, and materials occur. But improved monitoring systems are necessary to understand the status and trends of air quality and to develop better control programs.

State and local programs

As discussed earlier, until enactment of the Air Quality Act of 1967, air pollution was carried on largely by local agencies. The expenditures by State government were only $1.1 million in 1961. Even under the stimulation of Federal grants, State air pollution control agencies spent only $9.6 million in 1970, compared to $17.2 million for local air pollution control agencies and about $36 million for State water pollution agencies.

NAPCA considers inadequate some 28 to 34 State programs for areas not under the jurisdiction of a local agency. Some 14 to 20 are considered adequate or progressing rapidly, and only two to four are considered good. Local and regional programs are doing better, with 44 percent of the agencies spending what NAPCA considers adequate for a minimal program.

WHAT NEEDS TO BE DONE

The Council on Environmental Quality recommends the following:

1. *The President's legislative program should be enacted to deal more effectively with stationary sources by setting national air quality standards and national emission standards on substances harmful to health, by streamlining enforcement procedures, and by providing fines of up to $10,000 a day.*

2. *If the President's legislative program is enacted, the major Federal efforts on stationary sources should be directed toward the prompt establishment of national air quality standards covering a wide range of pollutants, and toward development of emission control limits for harmful pollutants such as asbestos, beryllium, cadmium, and other toxic materials.*

3. *Programs must be developed to improve State and local control agencies.* Highest priority should be given to increasing personnel, monitoring, and other control and enforcement activities. The recently developed program of assigning Federal personnel to the agencies is a positive step. But greatly expanded training efforts and higher pay are necessary to provide the personnel needed for effective air quality management.

4. *Federal research and development on sulfur oxides and nitrogen oxide control technology should be accelerated.* Sulfur oxides control technology for large coal- and oil-fired powerplants should be demonstrated in actual operation so that the technology can be applied throughout the industry. Both government and industry share responsibilities for this. Studies of better combustion methods to reduce oxides of nitrogen are also needed.

5. *A more balanced research and development program is necessary to hasten the development of more efficient energy processes.* Although control technology for sulfur oxides will provide appreciable improvement for several decades, a longrun answer to this type of air pollution lies in better energy conversion processes which will emit less pollutants per unit of energy produced. Gasified coal, fluidized bed combustion, breeder reactors, and nuclear fusion all hold promise. Although research for new nuclear power sources have already received significant support, greater attention must be given to these other processes. Even now, the Nation needs to use its fuel resources more effectively through development of a national energy policy. Such a policy would guide the use of natural gas, low-sulfur coal and oil, and other energy resources to assure their availability and minimize air pollution.

6. *Incentives to accelerate industry support for research and to stimulate corrective actions should be considered.* Specifically, incentives might encourage increased research by the electric power industry to develop better control methods and new types of power that are less polluting. Other incentives could encourage a shift to techniques which would reduce pollution from combustion processes.

7. *The President's legislative proposals for regulating fuel and fuel additives, taxing lead to be used in gasoline, and testing emission systems on the production line are critical for meeting motor vehicle emission standards and should be enacted.*

8. *Alternatives available to assure continued control of motor vehicle emissions under actual road conditions should be evaluated.* Some alternatives include warranty of system effectiveness by the manufacturer, incentives to States to check vehicle emissions as part of their automobile inspection procedures, and development of more foolproof emission control systems as a prerequisite for Federal certification.

9. *The development and widespread testing of an inexpensive and effective emission control system for installation on used cars should be accelerated. Consideration should be given to requiring its use on all automobiles or on vehicles in areas with severe pollution problems.*

10. *The program for development of an unconventional vehicles propulsion system (e.g., steam, gas turbine, or hybrid) should be accelerated to assure that the technology will be available if conventional propulsion systems are incapable of meeting increasingly stringent Federal standards.*

11. *Increased research should be conducted on the development of transportation systems that not only move people and goods efficiently but also help reduce both dependency on the private car and, with it, air pollution.* Although the principal goal of mass transit is more efficient transportation, it is also a method to reduce air pollution. It deserves more study as such. Also, more research is necessary on the placement of roadways and traffic flow patterns as a method of minimizing air pollution.

12. *More research should be conducted on the effects of air pollutants on man.* More knowledge is especially necessary about short- and long-term health impacts of air pollutants. The number of health effect studies should be increased and a thorough evaluation made of current epidemiological evidence.

13. *Federal, State, and local monitoring programs must be improved considerably.* There is need to develop inexpensive automated instruments to monitor air pollutants. More monitoring stations, especially in areas of rapid population growth and industrialization, are vital. And standard methods of measurement need improvement.

14. *Land use planning and control should be used by State, local, and regional agencies as a method of minimizing air pollution.* Large industries and power generating facilities should be located in places where their adverse effect on the air is minimal. There is a need for State or regional agencies to review proposed power plant sites to assure that a number of environmental values, including air pollution, are considered.

15. *The United States should work toward cooperative arrangements with other nations in limiting total amounts of air pollutants emitted into the atmosphere.* Air pollution is no longer solely a local, State, regional, or even national problem. It is ultimately an international problem and must be so recognized. As discussed in Chapter V, the addition of particulates and carbon dioxide in the atmosphere could have dramatic and long-term effects on world climate. The United States should take the initiative in forming cooperative arrangements to control air pollutants that could have widespread effects.

POTENTIAL FOR PROGRESS

During the last 15 years, much data on the health dangers from air pollution have been accumulated. During that time, progress in improving air quality has not kept pace with increased population and urbanization—except in some cities where efficiency of combustion and changes in fuel use have reduced soot.

The costs and institutional barriers to higher air quality are not as massive as in water pollution control. Abatement technology can be installed rapidly when available. Clearly the technological gaps in air pollution control must be overcome, but once breakthroughs are made, rapid progress will be possible.

The Council on Environmental Quality believes that a very high priority should be given to air pollution control. The opportunities for making significant improvements in the environment, at relatively low cost, are impressive. Indeed, the benefits which can be derived from greater control of air pollution far outweigh the costs of the control measures.

Mr. COOPER. Mr. President, the distinguished Senator from Maine (Mr. MUSKIE) has provided the Senate and the country with a concept of the pending bill and its purposes—an excellent and noble purpose, may I say. We are indebted to him for his initiative and leadership in the field of pollution control over many years.

The distinguished Senator from Delaware (Mr. BOGGS), who has been the ranking Republican member of the Subcommittee on Pollution Control for a number of years, has rendered yeoman service to the committee, to the Congress, and to the people of this country. He deserves our gratitude.

I join the Senator from Maine (Mr. MUSKIE) in saying that the work on this bill, which has characterized the work on other pollution bills, has been of the greatest interest and, I may say, the most satisfactory interest to all members of the committee. The very nature of the problem itself demands long hours of labor and the attention of each member of the committee to the intricate and delicate provisions involved in such a problem. Its immensity drew from every member his attention and his devotion in order to try to find a solution that would be fair and, more than that, would also meet the necessities of our time in the field of air pollution.

Mr. President, I cannot pay too great a tribute to the members of the staff who worked day and night with creativeness and industry to help bring this bill before the Senate.

As the Senator from Tennessee (Mr. BAKER), one of the members of the subcommittee, said, this bill is far reaching and may be as profound in its impact upon the social and economic life of our Nation as any that has been enacted into law by this session of Congress.

I would go further and say that it may have a larger impact upon the social and economic life and health of this Nation than any bill I have observed during my service in the Senate.

To all members of the committee, the majority and minority, Republican and Democratic, my congratulations. We worked together. We disagreed. We worried about many provisions of the bill. At last, however, we joined unanimously in recommending and sponsoring this bill, believing that our approach was one that could make progress toward solution of the problem of air pollution.

No, Mr. President, I have prepared some remarks. I do not wish to take much time, because some of my comments emphasize points already made by the Senator from Maine and the Senator from Delaware, but in my remarks I attempt to provide the general concept and plan of the bill and its purpose. I hasten now with my statement:

Mr. President, I would like to present an outline of the general plan of the air quality bill, which the committee developed after long and intensive consideration and has now presented to the Senate for its approval.

The bill extends for 3 years the au-

thorizations of the Clean Air Act of 1967, for extension of that authority is necessary this year, and it provides greatly increased amounts to accomplish the work laid out by the bill.

It establishes a new framework for action to achieve clean air, based in large part on recommendations of the administration and the President's Council on Environmental Quality, proposals which have been advanced by Senator MUSKIE, and those developed by the committee as the result of testimony received and through consideration of the air pollution problems facing the country. I do say at this point that many of these proposals were similar, although there were differences in specifics. This general agreement in approach shows, I think, that we have learned much about air pollution and how to go about this task. Alternative ways of proceeding and a rational plan of attack on the problems of air pollution are now better known—as they were not in earlier years.

The bill grants large powers to the Secretary of Health, Education, and Welfare which, it should be noted, will be transferred to the Administrator of the Environmental Protection Agency under the President's reorganization plan to consolidate air, water, and land pollution research, standard setting, and control and enforcement.

The bill in effect establishes a very high national priority for the goal of clean air. It will not succeed without a massive effort, not only by the Federal Government, the States, and localities, but by industry and through the willingness of citizens throughout the country to make the sacrifices necessary and to pay the price of accomplishing the goals of clean air—goals which the committee, the administration, and, I am sure, the Congress believe the public urgently desires.

It is a far-reaching bill, as profound in its impact on the social and economic life of our Nation as any I have seen during my service in the Senate. I know from our discussions, that all members of the committee are keenly aware of the scope of the challenge, of the complexities of the problem, and of the sustained and massive effort which the bill requires—in funding, training of personnel, research, private investment and enforcement. Adoption by the Senate of the National Air Quality Act of 1970, and we trust its enactment into law, will be only the beginning—the step which lays out the statutory plan.

Mr. President, I am glad to see present in the Chamber the Senator from Virgina (Mr. SPONG), the Senator from Missouri (Mr. EAGLETON)—who is now presiding—the Senator from Tennessee (Mr. BAKER), the Senator from Delaware (Mr. BOGGS), and the Senator from Maine Mr. MUSKIE). That is an indication of their deep interest that follows upon the great work they have done in the committee.

While the bill is far reaching, and sets a high challenge, we believe it necessary for life and for health, and responsive to our duty in husbandry to future generations.

I have emphasized at the outset my appraisal, for I think it important that the Congress and the country recognize the size of the task—that they know the consequences of a decision to secure clean air under an accelerated schedule. Unless this program is recognized and accepted for what it is—if it is to be underfunded or reduced in priority, or if the national affection for the environment now evident is fickle or inconstant—the bill ought not be enacted, for it would be a shame and tragic to hold out false hope. I make this point also because the scope of action required by the bill rests largely with local decisions—often hard and costly decisions.

This bill is certainly far more than an exercise in the revised authority of Federal agencies. Carrying out the program envisioned by the bill will require actions beyond the jurisdiction and control of the Senate Committee on Public Works, or of any branch of Government alone. We are making our recommendation. We hope we are correctly reflecting the desire of the Congress and of the people of our country.

This is the general plan of the bill:

First, immediately after enactment of the bill—30 days—air quality standards will be issued and then within 90 days established—a national standard applicable to the entire country, and at a level "protective of health." It would be established for each of the five major pollutants for which we now have the most knowledge on effects and about control technology, already published—particulates, sulphur oxides, hydrocarbons, carbon monoxide and photochemical oxidants—and nitrogen oxides next to be published—which account for 98 percent by weight of all air pollution.

These ambient air quality standards would apply, as I have said, to every part of the country, rather than only to the air quality regions established under the 1967 act, when we sought to first concentrate on the most critical areas, some 40 of which have now been designated. For administrative purposes in developing control or implementation plans, the Secretary would complete the designation of the important air quality regions, and the States could divide their remaining area into separate regions if they wish.

Within 9 months after standards are fixed, pollution sources must be inventoried in the entire country, hearings held, and a control plan must be developed—including emission requirements for sources, and whatever land-use, traffic or other controls may be necessary. And these plans must accomplish the air quality standards within 3 years. It is at this point that States and communities must make economic decisions, and decisions on the future growth of their areas and the kind of life they want, in considering alternative means of achieving clean air.

National air quality goals, as distinguished from standards, goals protective of public welfare as well as health and including visibility and effects on the environment, would also be established, but with flexibility to the States in the time for their achievement. Later, the Secretary could add additional agents to those in the ambient air for which national standards would be set and implementation plans required. This is the basic plan, building on the concept of the 1967 act, laid out in sections 108 through 111.

Second, in section 113 the bill establishes a procedure to control emissions from all new factories, including the expansion of facilities, in industries designated by the Secretary. These new source performance standards would require industry to apply the latest available emission control technology and processes wherever a new plant is located—and that high standard would apply even if the local implementation plan alone could be accomplished with some lesser degree of control. The concept is that wherever we can afford or require new construction, we should expect to pay the cost of using the best available technology to prevent pollution. Like national ambient air quality standards, the best control of new sources, wherever located, is also a recommendation of the President.

This provision requires that new sources, that is, the industry plants, be certified by the Secretary before they can begin operation, to insure they will meet the performance standards—a degree of Federal control beyond any I have supported in the past, which we hope will not be abused, but one we believe necessary as we begin to deal with the air pollution as a national problem.

Further, section 114 requires the Secretary to set emission standards for specific industrial pollutants—applicable to old plants as well as new. This procedure would apply to the same industries designated for new source standards of performance in section 113.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks these industries which it is expected could be designated for control.

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

(See exhibit 1.)

Mr. COOPER. Mr. President, the committee considers this approach in section 114 much more manageable than attempting to monitor in the ambient air in every region the less diverse and widespread agents, trace them back to the source, and attempt to enforce against violations of the ambient air quality—as would have been required under the 1967 act.

Taken together, the new source standards of performance, and the national emission standards for selected agents from old as well as new plants, moves a long way toward national emission standards—a concept rejected by the committee in 1967 as logical for moving sources but not for stationary sources. I point out, however, that the earlier concept of national emission controls alone was a simplistic and unsatisfactory approach, which not only raised great problems of fairness and Federal determination of local consequences but also gave no assurance that it would achieve quality of the air we breathe.

The plan proposed in the bill developed by the committee combines air quality standards, local implementation plans, and national emission standards for new sources and for specific agents

from old sources, in a way that we believe will accomplish the purpose of the country.

Once the national standards for air quality are established, the next step is for communities to determine how they wish to meet that standard. They will be assisted in drawing up their implementation plans by the knowledge of new plant performance, and of emission control for industrial pollutants, required by the Federal Government. At this point of decision, communities and States must also know what level of emissions they can expect from automobiles—and the consequent degree of traffic control or other steps which must be taken.

I must say that the most difficult part of the bill—and one which earlier had not been squarely faced—is the relationship between moving and stationary sources. We have attempted to bring about a relationship between the two in this bill, and any member of the committee can tell you that it has not been easy. The central problem is that the automobile not only is the source of at least 40 percent of the pollution, but cars move about, and we assume, therefore, must all achieve the same standard. The amount of pollution to be allowed from automobile traffic must really be decided first—and then the remaining decisions can be made, the remaining pieces of the plan can be put into place, to accomplish clean air.

The committee, has set a stringent standard and a high goal for the reduction of automobile emissions—by 90 percent of 1970 standards for new cars, by the 1975 model year. I am sure there will be debate on whether that can be accomplished.

These standards also will be set by law, and not be regulated by the Secretary. I am frank to say I do not know if these standards can be met by 1975. I do not know if the national ambient air quality standards required by the implementation plans, including stationary source controls, can be accomplished in all places by 1975. However, as emphasized by the Senator from Maine and the Senator from Delaware, we have set these standards because we believe that they can be met. Second, we know if they are to be met, the maximum effort must be made by the automobile manufacturers, and by the owners of other emission sources. We know that if delay is permitted the number of cars in use will increase, new plants will be built, existing pollution will continue, and the possibility of clean air will be set back, perhaps 5 years or longer.

There will be debate on amendments, and perhaps we will be able to review provisions in the bill, not only for automobile manufacturers, but also for the owners of other facilities with source emissions. For example, in the committee I offered, for myself and the Senator from Tennessee (Mr. BAKER), a section which provides for review by the Secretary with appeal to the courts, permitting a special extension of 1 year if certain strict requirements cannot be met. The section was adopted by the committee, and is section 202(b)(4).

I must say it is a very strict and tightly drawn provision, but it does assure the right that should be accorded everyone, the right of due process under the law.

Mr. President, in presenting this general outline of the plan of attack on air pollution provided by the bill, it might as well be said that the philosophy of the bill abandons the old assumption of requiring the use of only whatever technology is already proven and at hand and of permitting pollution to continue when it is not economically feasible to control it. The bill proceeds instead to set out what is to be achieved, and places its reliance on a great effort to develop technology, to train and put to work the manpower to accomplish that purpose, and it assumes a readiness by industry and the people or the country to pay the costs of pollution control.

There are a great many other important provisions of the bill, especially those dealing with much more stringent and timely enforcement. But I think that is the conceptual framework, and I thought it would be useful for me to give my appraisal at this time, as the Senate begins its debate and consideration of the National Air Quality Standards Act of 1970.

EXHIBIT 1

New stationary sources which the administration has advised the committee to expect would be subject to the provisions of this section include:

Cement manufacturing;
Coal cleaning operations;
Coke byproduct manufacturing;
Cotton ginning;
Ferroalloy plants;
Grain milling and handling operations;
Gray iron foundries;
Iron and steel operations;
Nitric acid manufacturing;
Nonferrous metallurgical operations (e.g. aluminum reduction, copper lead, and zinc smelting);
Petroleum refining;
Phosphate manufacturing;
Phosphoric acid manufacturing;
Pulp and paper mill operations;
Rendering plants (animal matter);
Sulfuric acid manufacturing;
Soap and detergent manufacturing;
Municipal incinerators; and
Steam electric powerplants.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I yield briefly to the Senator from Delaware.

PRIVILEGE OF THE FLOOR

Mr. BOGGS. Mr. President, I ask unanimous consent that additional staff members of the Committee on Public Works be permitted on the floor during consideration today and tomorrow of amendments to the Clean Air Act.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 3153) to authorize the Secretaries of the Interior and the Smithsonian Institution to expend certain sums, in cooperation with the territory of Guam, the territory of American Samoa, the Trust Territory of the Pacific Islands, other U.S. territories in the Pacific Ocean, and the State of Hawaii, for the conservation of their protective and productive coral reefs.

The message also announced that the House insisted upon its amendment to the bill (S. 2264) to amend the Public Health Service Act to provide authorization for grants for communicable disease control and vaccination assistance, 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. JARMAN, Mr. ROGERS of Florida, Mr. SPRINGER, and Mr. NELSEN were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 15424) to amend the Merchant Marine Act, 1936; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. GARMATZ, Mr. CLARK, Mr. DOWNING, Mr. MAILLIARD, and Mr PELLY were appointed managers on the part of the House at the conference.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 10149) for the relief of Jack W. Herbstreit.

NATIONAL AIR QUALITY STANDARDS ACT OF 1970

The Senate continued with the consideration of the bill (S. 4358) to amend the Clean Air Act, and for other purposes.

Mr. SPONG. Mr. President, the proposed National Air Quality Standards Act of 1970 is without question the most significant and far-reaching environmental protection bill ever to be considered on the floor of the Senate. For the first time, specific air pollution compliance schedules would be established by legislation—a provision reflecting the committee's concern over the direct adverse effect of air pollution upon public health.

We have carefully preserved the right of the public to participate in the pollution abatement process. In one significant respect, we have broadened that right. We have written into the bill a section authorizing citizens to bring suits on their own behalf to assure enforcement of standards, emission requirements or implementation plans.

In an effort to prevent frivolous or harassing litigation, we have provided that before instituting suit a citizen must give notice to Federal and State authorities, and allow at least 30 days to permit them to initiate enforcement proceedings against the alleged violator. There would be no provision for delay following notice if there is alleged violation of the certification requirements under section 115, or a court order. The court could allow costs of litigation to either party whenever it determines that such an award was in the public interest.

It is not our intent to substitute citizen suits for the enforcement efforts of the responsible administrative agencies. Rather, we intend the provision to complement and encourage the abatement activities of governmental agencies.

I am particularly pleased, Mr. President, over those sections of the bill dealing with pollution from Federal facilities and installations. Existing law contains only an expression of intent that Federal departments and agencies should, "to the extent practicable," cooperate with Federal and State efforts for the prevention and control of air pollution.

As is pointed out in the committee report, Federal agencies have been notoriously laggard in abating pollution. The pending bill would require Federal agencies to provide leadership for the control of air pollution. Only the President could exempt a Federal facility from the act, and then only if he determined the exemption to be in the paramount interest of the United States. An exemption could not be granted because of a lack of an appropriation unless the President requested an appropriation and the Congress failed to approve such appropriation. The President would be required to report to Congress annually the specific exceptions granted, together with an explanation of the exceptions.

We cannot expect individuals and businesses to be motivated to abate pollution if their Government continues to pollute. I support wholeheartedly the mandate for the Federal Establishment to live up to the national commitment for clean air.

The committee has changed the thrust of existing law as it relates to emissions from motor vehicles. In the Air Quality Act of 1967, we required the Secretary to set such standards on the basis of economic and technological feasibility. Under the pending bill, the Secretary would set standards on the basis of the degree of control necessary to insure health-related ambient air quality levels.

In view of evidence that emissions of carbon monoxide, hydrocarbons, and nitrogen oxides now exceed safe health levels in many major metropolitan areas, the committee's decision is amply justified. The overriding purpose in the enactment of legislation of this type should be the protection of public health. The automobile is the major moving source of pollution. Its emissions are responsible for an estimated 60 percent of the Nation's urban air pollution problem. Moreover, the rate of growth in motor vehicles is twice that of our national population increase. Our population growth is about 6,000 per day, but motor vehicles are increasing at the rate of 12,000 per day.

The bill would establish as 1975 standards the emission goals proposed for 1980. Automobile manufacturers have made it abundantly clear that there are serious leadtime problems involved, and that technology may not be available to meet the 1975 standards. The committee weighed very carefully that position against the opinion that health requirements warrant an escalation in the 1980 goals.

In my view, the industry should be required to exert every effort to meet the standards set forth in the bill. Recognizing that technology may not be available to meet the standard, and that the industry's leadtime requirements may pose problems, I concluded that there should be a carefully drawn mechanism in the bill which would permit an extension of the standard.

Such a provision has been included. It would permit the Secretary of Health, Education, and Welfare, after a hearing, to grant an extension of 1 year. That decision would be subject to judicial review. During the committee's consideration of this problem it was suggested that Congress, rather than the courts, should review the Secretary's decision.

I concluded that jurisdiction should be vested in the courts because they are better equipped to obtain the information necessary on which to make a judgment. In this particular situation, most of the information would be in the hands of the automobile manufacturers. The courts can obtain that information through the discovery process, and can compel the attendance of witnesses. In any event, Congress would set the standard by this legislation, and of course Congress could amend it at any time.

Mr. President, it has been a privilege to participate in the development of this landmark bill. The Subcommittee on Air and Water Pollution devoted most of the summer to the measure, and I hope it will be enacted. I wish to thank our distinguished subcommittee chairman, the Senator from Maine (Mr. MUSKIE), for his leadership during our deliberations. Without question, he is the most knowledgeable Member of the Senate on the subject of this bill. I also am indebted to the distinguished chairman of the full committee, the Senator from West Virginia (Mr. RANDOLPH), for accommodating the members while they worked their will on the legislation.

I also wish to acknowledge the efforts and contributions of the Senator from Missouri (Mr. EAGLETON), and the minority members of the committee—particularly the Senator from Kentucky (Mr. COOPER), the Senator from Delaware (Mr. BOGGS), and the Senator from Tennessee (Mr. BAKER).

Mr. MUSKIE. Mr. President, I wish to express my appreciation for the statements made this afternoon by the distinguished Senators from Delaware, Kentucky, and Virginia. Each of them has made a significant contribution to the work on this bill, the ideas contained in it, the shape it now takes. I expressed my appreciation generally to the members of the committee earlier. I would like to reinforce it in response to the excellent statements made today.

I yield to the distinguished Senator from Tennessee (Mr. BAKER), whose work also has been indispensable.

Mr. BAKER. Mr. President, I thank our colleague from Maine. I thank him for the opportunity to speak briefly in the nature of an opening statement on an important piece of legislation. It is important that the Senate understand the potential implications of this bill.

Although as a rule I try to avoid hyperbole, I do not think it is exaggeration to say I think this bill will have a profound impact on the economic and governmental characteristics of the American Nation.

One of the most self-evident truths about the environment is the fact that the environment is a system, from which no part can be truly and finally separated. Thus, every act which impinges on one part of the environment or the "ecosystem" has an impact on other parts of the system. The death of an insect has an impact on the food chain; the detonation of a nuclear device in the atmosphere has a potential impact on the genetic characteristics of unborn children.

It is not necessary that mankind be paralyzed into inaction by the realization that his actions spread like ripples on the surface of a pond. It is also not necessary that man return to the cave to protect his environment. But it is necessary that we seek new knowledge of how our actions do affect our environment, that we rationally choose ways to minimize or eliminate effects that we do not want to occur, and that we implement these methods with a sense of urgency where the effects are immediate.

Mr. President, the concept established in this bill that the objective of healthful air be attained within a required period of time is not entirely new and one that is entirely appropriate in pollution control. In the bill it is proposed that the quality of air necessary to protect the health of persons in the United States in every area of the United States must be obtained within 3 years from this date of promulgation or approval of an implementation plan. It is proposed that this is what the Congress would determine to be the maximum time to attain this quality of air and what the American people have a right to expect.

It is important to note that in considering this bill we are considering a basic change in the philosophy of the Government of the United States toward the pollution of the air envelope upon which we all depend. When I first came to the Senate of the United States, the first legislation in this field had already been passed, largely under the guidance and directions of the subcommittee chairman, the Senator from Maine (Mr. MUSKIE).

At that time, in early 1967, the junior Senator from Tennessee was exposed to the intricacies and underlying rationale of the so-called ambient air theory; that is, that the emphasis was going to be directed toward accomplishing the improvement of the particular quality of the overall atmosphere.

I recall at that time that we also considered as an alternative to the ambient air approach the establishment of uniform national standards for all sources of emissions by class.

I remember at that time there was considerable dialog among members of the committee and witnesses on the relative methods, the so-called dilution theory and the pristine air theory.

The ambient air concept implies that it is possible or desirable to accept a certain amount of pollution; that it is not desirable to set uniform standards for every source. It is implicit in the stack standard or emission standard theory that we will not permit a degree of pollution in the atmosphere of those areas that have relatively clean air, which is probably the more idealistic and probably less attainable objective.

At that time, in 1967, the policy of ambient air quality was adopted and became the law of the land. It has proceeded apace now for more than 5 years.

The uniqueness of this legislation is that it proceeds to depart from the ambient air theory with the requirement that, at least insofar as the automobile is concerned, we are going to establish by statute certain precise emission levels that cannot be exceeded by any automobile anywhere, which brings us from the ambient theory back to the original concept of the alternative of the emission standard theory.

It is an important step, and I think I would be less than candid with my colleagues if I did not make the estimate that, if the legislation is passed—and I hope it is—it probably is the forerunner of other efforts to establish particular standards for particular sources of pollution into the atmosphere. It most certainly is not likely to be the last.

So if we establish these standards for automobiles now, which is potentially one of the most controversial sections of the bill, I think we should keep one eye cocked on the fact that we are likely to pursue this theory further rather than stop here.

I believe, on balance, that in the 4 years I have been in the Senate I have seen few, if any, other pieces of major legislation that have been as thoroughly examined and as painfully considered as the bill before us has.

I have seen the committee work together, and I have seen it work against itself, so to speak, in trying to arrive at a fair plan, under the necessities and requirements of the circumstances, for a workable solution of the problem. I have seen us evolve this new theory and yet imbed it into the original concept of the quality of ambient air. I see in the bill a melding together of the two concepts and the beginning of some new differences.

I do not suggest, as I never suggested in committee, nor do I believe any other member of the committee suggested, that the bill is perfect, or even that it is outstanding. It is good. It may turn out to be very good. It may turn out to be best of all, though, for beginning something new.

There are certain provisions in it that give me great pause. One is the very nature of the requirement that certain statutory standards be met by the automobile industry by a specific statutory date, with the provision for only a limited escape hatch.

As the distinguished Senator from Kentucky (Mr. COOPER) pointed out, there was considerable discussion of the various ways of relieving the stresses of uncertainty; and the bill as reported reflects a limited possibility of relief based on judicial review within narrow limits.

I am not certain this is the best way or only way to do it—there are other ways—but it seems to me it is the best compromise under the circumstances. If we are to consider the possibility that the automobile industry cannot in fact build production line vehicles for sale to the general public that meet these standards by the year 1975, and if we are to give credence to the allegation that they do not now have the technology in sight, then I think it is incumbent on us to provide a method of escape from the statutory provision. We have attempted to do that by judicial review.

It seems to me that judicial review—calm, judicious determination, that certain fact situations do or do not exist which would form the basis for relieving the automobile industry from compliance with these sections of the statute—is the best way to isolate that determination from the considerable political pressures which would be brought to bear if we had not then solved the problem of automobile pollution.

Other ways are suggested, one of which is similar to the procedure followed under the Reorganization Act suggested by the distinguished junior Senator from Kansas, or other methods of judicial review. The important thing to me, though, is that the bill as reported does provide an escape hatch. It does provide a method of coming to terms with the possibility that we will not be able to meet the standards set.

I frankly think we can. I frankly think the automobile industry can meet these standards. And the overriding consideration is that we must do something to clean up atmospheric pollution, and recognize the fact that the automobile is a major contributor to it.

Mr. President, another section that concerns me has to do with the regulation of vehicle fuels. The language as finally reported by the committee appears in section 8 beginning at page 74, line 12. A new section, 212, is added to the Clean Air Act.

There has been a flurry of attention recently in connection with the introduction of low-lead automobile fuels into the market. At least one major metroplitan government has announced that its fleet vehicles will use only gasoline with no lead additives.

Although it has been lead that has received the greatest attention, there are other additives used in fuels or which might be used in fuels which are potentially hazardous or undesirable. The subcommittee received testimony from witnesses to the effect that the combustion of certain aromatics present in high-octane unleaded fuels might be more hazardous to health than the presence of lead itself in emissions from vehicles burning leaded gasolines. The subcommittee also heard testimony from at least one scientific witness to the effect that more lead is introduced into the human system through the food chain than through the inhalation of lead particles present in the atmosphere.

There appears to be no unanimity among competent persons about the contribution of fuel additives to the general pollution problem. But there is no doubt that the combustion of fuels in vehicles is a significant source of air pollution.

It has seemed to me from the outset—and I have sought to have this concept embodied in the committee language—that in considering the question of fuel composition one must never lose sight of the fact that what is of interest is not the composition of the fuel per se but the emission of the products of the combustion of a given fuel into the atmosphere. This may seem like a simplistic or truistic point, but it is a central one. Put more colloquially it says, "We are concerned not with what goes into the tank but with what comes out of the tailpipe."

The committee bill provides that any manufacturer of a vehicle fuel must register that fuel with the Secretary and disclose to the Secretary, among other information, the composition of the fuel and the products of the combustion of the fuel. The Secretary is authorized to either control or prohibit the sale of any given fuel when he finds one of two things:

First. That the combustion or evaporation of such fuel produces emissions that, in and of themselves, endanger the public health or welfare; or

Second. That such emissions prevent the operation of a system that is necessary to reduce automobile emissions to the levels required by standards issued by the Secretary under section 202 of the act.

The important thing to bear in mind is that this section is not designed to give to the Secretary of Health, Education, and Welfare the authority to set about regulating the composition of fuels. The composition of fuels in the business of fuel manufacturers and those who buy their products. The business of the Secretary of Health, Education, and Welfare is seeing to it that the public health and welfare of people is protected from the harmful effects of air pollution. It is, for example, entirely possible that an economic manner can be found to meet the section 202 standards that would permit the continued us of lead additives in gasoline. In such an event, the Secretary would ban fuels containing lead only if he found that the fuel emission into the atmosphere of the combustion products of a given fuel containing lead additives was, in and of itself, an endangerment of the public health or welfare. An amendment offered in committee by Senator SPONG and now appearing as new subsection 212(c)(3) at page 77, line 3, further provides that the Secretary shall prohibit the use of any fuel until he finds that such prohibition will not result in the use of another fuel which will provide emissions dangerous to the public health or welfare in the same or greater degree.

I simply reemphasize for the record that what is intended is the regulation of fuels and not fuel additives or fuel composition. And the fuel is proposed to be regulated, not because of what is in it or how it is made up according to what formula or process, but because of emissions into the atmosphere following the combustion of the fuel.

I think it is urgently important, Mr. President, that we keep in mind that we are trying to regulate the combustion by-products of the fuel, and not shift the burden of innovation from the manufacturer of the fuel to the Secretary.

Mr. President, I referred earlier to section 202 as it relates to automobile emissions. This section of the bill has gained the greatest public attention. It relates, of course, to emission standards for moving sources, and most particularly subsection 202(b), beginning at page 46, line 21, which sets very tough new emission

standards for passenger automobiles which must be met no later than January 1, 1975. It is well known to the Senate and to the people generally that the four principal manufacturers of automobiles in the United States have stated that they know of no way in which the standards can be met.

It may prove to be true that the standards cannot be met. The industry does not know. The Secretary of Health, Education, and Welfare does not know. Certain it is that the junior Senator from Tennessee does not know. But I do know that we need to try, and to try hard. It is believed by the committee that section 202(b) provides an incentive for such an all-out effort. It is, I think, the conviction of the committee, generally, that without such an incentive such an all-out effort might not be made. This is not meant to impute to the automobile industry any lack of devotion to the public welfare. It is meant only to acknowledge a certain conviction on the part of members of the committee, and particularly of the subcommittee, nurtured from years of contact with the problem and efforts that have been made to deal with it, that an ambitious goal encourages and promotes a more satisfying result.

As I stated earlier, Mr. President, such a requirement, I think, might better not be built into the statute if it were not for the fact that we also provide a realistic appraisal and review of whether or not the industry is not able to meet the requirements of the statute. Of course, it is clear that what Congress does today, Congress can undo later, but I think that is a fairly faulty way to approach a subject as important as this.

I think the bill does provide relief in the form of judicial review under section 202, and that there is a fair opportunity for the industry to show that, with good-faith effort, it was not able to meet those standards, if that turns out to be the case.

But I underscore my comments on that particular subject by saying that I personally have great faith that the automobile industry, with the internal combustion engine, if it chooses, can meet these requirements, and that in any event we must meet them, if we are to protect the health and welfare of this and future generations.

Mr. President, I yield the floor.

(Mr. SPONG assumed the chair as Presiding Officer at this point.)

Mr. EAGLETON. Mr. President, much has been said today, and will be said, with respect to the origin and background of the pending legislation with respect to air pollution and the establishment of national air quality standards. All I wish to do, Mr. President, is add a few brief words echoing the sentiments as previously expressed, I think, by the Senator from Kentucky (Mr. COOPER), the Senator from Delaware (Mr. BOGGS), the Senator from Tennessee (Mr. BAKER), the Senator from Virginia (Mr. SPONG), and others in paying tribute both to the chairman of the subcommittee (Mr. MUSKIE) and to his very able and hard-working staff, which assisted all of us in the preparation of this measure.

No single piece of legislation, Mr. President, has demanded more of my personal attention in the past 6 months than the matter now before the Senate. As the Senator from Tennessee (Mr. BAKER) has pointed out, this may not go down in history as the most outstanding piece of legislation ever enacted, but I think, to use the Senator's words, in his judgment it will be considered to be a very good piece of legislation. And insofar as that which can be devised by mortal man—to wit, nonperfection—is concerned. I guess the accolade of "good" is about as safe a one and as appropriate a one as we can apply to the legislative process.

Thus it was with great pleasure that I joined as a cosponsor of this measure, and I repeat that in significant measure, the credit for this bill emerging in its present form to the floor of the Senate belongs to the Senator from Maine and, in no small measure, to his very able and persevering staff, who spent many, many hours during the nitty-gritty and unheroic work of assisting us in getting it into final legislative form.

I think that at the very outset, as Senator BAKER pointed out, it will be considered a very good, very meaningful, and very worthwhile piece of legislation.

Mr. MUSKIE. Mr. President, I should like to say a word about members of the committee I regard as counsel to the committee.

Senator BAKER, Senator EAGLETON, and of course the distinguished Senator from Kentucky (Mr. COOPER) have been of great value to me, as well as to the rest of the committee, I think, in picking up the legal challenges that are obviously involved in the bill. I think that by their disagreements with each other as much as by their agreements, they were able to focus our attention on important points that might otherwise have been neglected. I should like to express my appreciation. Senator BAKER this afternoon has particularly given us an example of the kind of thoughtfulness that he has addressed to this bill in that respect.

Mr. President, I yield to the Senator from Kansas. I should like to express my appreciation to him, as a member of the committee, for the work he has given to this bill. Especially I am interested in paying tribute to an amendment he will call up later in the course of this debate which I think is an ingenious answer to the troublesome problem of reviewing a policy which the bill incorporates.

Mr. DOLE. I thank the Senator. Mr. President, President Nixon, in the first Presidential message to Congress on the environment proposed far-reaching legislative and administrative initiatives to restore and preserve our precious natural resources. The President pointed out that we have "too casually and too long abused our national environment." He emphasized that "the time has come when we can wait no longer to repair the damages already done, and to establish new criteria to guide us in the future."

In his recent message "A Call for Cooperation" President Nixon declared that "reform" would be the watchword of his administration—reform of our institutions and creation of the conditions we will live with in the future. The President described our choice very clearly:

> We can choose to debase the physical environment in which we live, and with it the human society that depends on that environment, or we can choose to come to terms with nature, to make amends for the past, and build the basis for a balanced and responsible future.

A major portion of the 37-point program proposed by the President was devoted to air pollution. We have become increasingly aware that the air around us is our most valuable resource and one which we must act now to preserve. Carbon monoxide, one of the major polluants, is reaching unhealthy levels regularly in major metropolitan areas. Other contaminants entering our air cause millions of dollars in property damage and destroy plant and animal life.

The bill reported from committee is in response to this challenge and is the result of many hours of bipartisan efforts by committee members, staff members, and the executive branch. It contains elements of legislation introduced by Senator MUSKIE, chairman of the subcommittee on Air and Water Pollution, as well as significant aspects of legislation introduced by Senator SCOTT, minority leader, on behalf of the administration.

Specifically, the following Presidential administrative and legislative recommendations for control of air pollution are contained in the bill:

1. More stringent motor vehicle emission standards.
2. More effective procedures for insuring that motor vehicles meet the low pollution standards.
3. Authority to regulate fuels and fuel additives.
4. Financial support for research and development of unconventional pollution-free power sources.
5. National ambient air quality standards, with the States required to prepare implementation plans for meeting these standards.
6. Accelerated designation of interstate air quality control regions.
7. Establishment of national emission standards for pollutants which are extremely hazardous to health and for new facilities which could be major contributors to air pollution.
8. Extension of Federal authority to seek court actions against both interstate and intrastate air pollution.
9. Court authority to impose increased fines for violation of emission requirements.

My State of Kansas is fortunate that it does not face so many of the severe problems of air pollution confronting more intensively industrialized States. Passage of this bill will assist in remedying the problems which do exist and insure the preservation of the high-quality of air Kansas presently enjoys. Specific pollutants present in the Kansas City air quality control region will be subject to action by both Kansas and Missouri within 3 years.

Under this bill, we can continue to encourage the location of new industry in Kansas and other rural unspoiled regions without fear of polluting the high quality of air found there. At the same time, national standards for new stationary sources will not place some States at a comparative disadvantage affecting industry decisions on plant locations.

Kansas State officials responsible for

administering air pollution laws have expressed a hope that with the increased responsibilities mandated by this bill will come an increase in the Federal funding necessary to hire additional technical personnel. I want to specifically urge the Congress to appropriate sufficient funds to meet this need, and urge officials responsible on the Federal level to work closely with the States in fulfilling their new responsibilities.

While I am in substantial agreement with the bill as reported, I feel there are certain provisions which could be improved. We have established the 1975 model year as the deadline for achieving a 90-percent reduction in automobile emissions from specified 1970 levels. The committee, recognizing that there might not be sufficient time for the industry to meet this standard, provided for a 1-year extension of the deadline by the Secretary, subject to judicial review. However, I believe a combination of administrative and congressional action would be more consistent with the intent of Congress. I have submitted an amendment in the form of a substitute for Section 202(b)(4) to provide automobile manufacturers an opportunity to petition the Secretary for a 1-year extension of the 1975 deadline. If the Secretary who possesses the expertise and factfinding authority, finds the extension to be in the public interest, and also finds that all possible good faith efforts to meet the standard have been made, and the technology is not available, he must recommend to Congress a 1-year extension. Congress, with a complete record of information available to it, will then be in a position to determine if the Secretary's policy judgment in establishing the 1975 deadline, and it is only logical that Congress should have the authority to review that policy decision on the basis of social, health, and economic considerations, which might become apparent as that deadline approaches.

By the terms of the amendment, Congress would be given the final opportunity to act, thus placing the responsibility where it should be. The procedure is similar to that employed in the executive reorganization acts and would be more expeditious than depending on court action with the potential for delay incumbent in that process.

Adoption of this amendment will provide a responsible answer to a difficult problem, one that I know concerns every member of the committee greatly. If Congress, in a declaration of national policy, establishes stringent emission requirements for the automobile industry, it should assure congressional review of that policy judgment in the event that compliance with those standards is not possible.

I urge my colleagues to support this bill and my proposed amendment.

AMENDMENT NO. 928

I submit the amendment and ask unanimous consent that it may be printed in the RECORD.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 48, beginning with line 11, strike out all through line 6 on page 52, and insert in lieu thereof the following:

"(4)(A) Within 24 months but no later than 12 months before the effective date of standards established pursuant to this subsection any manufacturer or manufacturers may file with the Secretary an application for a public hearing on the question of a suspension of the effective date of such standards for one year. Upon receipt of such application, the Secretary shall promptly hold a hearing to enable such manufacturer or manufacturers and any other interested person to present information relevant to implementation of the standards.

"(B) In connection with any hearing under this subsection, the Secretary may sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a supoena served upon any person under this subparagraph, the district court of the United States for any district in which such is found or resides or transacts business, upon application by the United States and after notice to such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(C) Within 6 months after such receipt of the application for suspension, the Secretary shall, if he finds upon a preponderance of evidence adduced at such hearing that a suspension is essential to the public interest and the general welfare of the United States, that all possible and good faith efforts have been made to meet the standards established by this subsection, and that effective control technology, processes, operating methods or other alternatives are not available or have not been available for sufficient period to achieve compliance prior to the effective date of such standards even with the full application of section 309 of this Act, recommend to Congress that (i) the effective date of such standard be suspended for a period of only one year, and (ii) the emission standard that should be applied during any such suspension which standard shall reflect the greatest degree of emission control possible through the use of technology available.

"(D) The findings and recommendations required by this subsection shall not be subject to judicial review. Such recommendations shall be effective as law at the end of the first period of 60 calendar days of continuous session of Congress after the date on which the recommendation is transmitted to it unless, between the date of transmittal and the end of the 60-day period, either House passes a resolution stating in substance that the House does not favor such recommendation.

"(E) For the purpose of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

"(F) Nothing in this paragraph shall extend the effective date of any emission standard established pursuant to this subsection for more than one year.

Mr. COOPER. Mr. President, I know there is wide interest in the emission standards for automobiles required by the bill developed by the committee. During consideration in subcommittee and the full committee, we referred to a summary table of automobile emissions, which contains the figures in grams per mile comparing uncontrolled emissions, the 1970 standard, the proposed 1975 standard under present law, the 1980 goal put forward by the administration, and the level proposed in the bill. I ask unanimous consent that the table be printed in the RECORD for the information of Members, because I am sure that these facts will be referred to during the debate.

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

AUTO EMISSIONS

[All figures in grams per mile]

	Hydrocarbons, new test	Carbon monoxide, new test	Nitric oxides, old test	Particulate matter, old test
Uncontrolled	14.6	116.3	4.0	0.4
1970 standard	2.9	37.0	----------	----------
Proposed 1975 standard	.5	11.0	.9	.1
Proposed 1980 standard	.25	4.7	.4	.03
Bill language (90 percent reduction of 1970 or uncontrolled)	.29	3.7	.4	.04

Mr. HRUSKA. Mr. President, at the outset of my remarks, I want to testify and bear witness to the great interest this Senator has had in measures dealing with pollution and with antipollution measures. Ths Senator has cosponsored the administration bill, which was introduced by the distinguished Senator from Pennsylvania (Mr. SCOTT).

I have subscribed to the very comprehensive program which the President has announced and which he is urging with such commendable loyalty and aggressiveness. After all, this is one of the leading issues, if not the leading issue, of the day. The need is urgent; it is vital. It is vital and urgent not only for proper living and for health and for safety to the millions of people in America, but also in terms of survival on a longer pull.

This bill and the subject with which it deals is monumental, and I commend the committee for it. It is a pioneering effort, and I subscribe to the words of the Senator from Tennessee that many of its provisions are the result of painstaking effort as well.

Our task in this field is a great one, as we all know. It is not only to overcome the backlog of 100 years of neglect in this field. During that time this Nation has become an industrial Nation. We have profligate with our resources. We have not been sufficiently concerned with the abuses we have committed upon our air, our soil, and our water.

Again I say that I commend the committee for the effort it has made in this bill, which contains almost 100 printed pages.

However, one thing distresses this Senator very much. Notwithstanding the importance of this bill and its monumental character, it was not until Friday, when Thursday's RECORD became available, that the text of this bill became available even to Members of the Senate.

It was not until this morning that copies of the report on this bill were available so that we could get a feeling for the rationale and the fashion in which it is to be implemented and its provisions enforced.

It has been only since last Friday that the Office of Budget and Management got the bill so that it could study it and give its opinion to the Members of Congress.

Just this morning, the Department of Justice got it for the purpose of giving its legal opinion to the Office of Budget and Management. That does not comport with the general idea of legislating carefully and properly in a field which is so important.

There is a provision in the bill analogous to S. 3201, which is known as the consumers class action bill. This is a highly technical and vital field since it directly affects the functioning of our court system.

Our courts are hard pressed these days, it took us 5 years to get to the authorized strength of 401 judges in our judicial system. It will take perhaps another year to get the full benefit of the program because of delays in getting the appointments, getting the judges qualified, and getting them ready to begin their duties.

From time to time we have had discussions about the situation that exists in the court system. One of the most dramatic presentations was made by Chief Justice Burger during the sessions of the American Bar Association in St. Louis, Mo., in August of this year—about 6 weeks ago—when he called attention to the plight of the judicial system and the heavy load and backlog, and the many antiquated procedures and practices which still prevail in the judicial system. Then he went on to say this:

> Meanwhile, not a week passes without speeches in Congress and elsewhere, and editorials, demanding new laws, new laws to control pollution, new laws to change the environment, new laws to allow class actions by consumers to protect the public; but the difficulty lies in our tendency to meet new and legitimate demands for new laws but without adequate considerations for the consequences on the courts.

That defect is reflected in this bill.

Again, let me say—and I propose to repeat this proposition another time, or perhaps two or three times—that I am entirely in sympathy with the objectives of the bill. I realize the important and the vital part it will play in the health, welfare, safety, and survival of the citizens of the Nation, born and unborn. I appreciate all those things. But we should also fix in our minds, when we expect to place a bigger burden on the judiciary system, that we have to accommodate that added burden in one of two ways.

One is to enlarge the court system, enlarge its capacity to handle an added load, or, alternatively, to adjust the priorities of our judicial system.

Shall we burden the court system with the large number of lawsuits I anticipate will result from section 304 at the expense of trying criminal cases?

Shall we do it at the expense of added delay in trying very important cases in antitrust and civil cases of all kinds They cannot, of course, all be tried at once.

As we proceed with this important legislation, we must take into consideration the burden that will be placed on the court system by section 304.

Let me invite attention to the fact that in S. 3201, the so-called consumers class action bill, there is an elaborate and far-reaching provision for bringing class actions. Many of the restraints which are normally put upon Federal court jurisdiction are removed. Serious questions are therefore raised as to whether real relief or redress for the individual results, or the cause of combating unfair trade practices is advanced.

There is very important testimony in the record before the Judiciary Committee that says there will actually be a penalty, what we call a whiplash to the consumers. Instead of advancing the cause of combating unfair trade practices and affording relief and redress to the individuals involved, the opposite will be true.

The consumers class action bill was referred to the Judiciary Committee, not for the purpose of obstruction, not for the purpose of defeating or postponing action on the bill, but for the purpose of insuring that the bill will truly serve the purposes intended.

Hearings were extended, but we heard the last witnesses today. We hope to have reported by the Judiciary Committee very soon the results of our inquiry into the subject. We hope to improve the bill so that the provisions of the Consumers Unfair Trade Practices Act can be carried out in an effective way without menacing the functioning of the court system. We want to give the court system a chance to work with some respect for national setting of priorities, considering the tremendous backlog of cases in the courts.

Mr. President, during the hearings, we heard testimony from former Judge Rifkind. His testimony included statistics on court congestion. I have excerpted that material from his testimony and ask unanimous consent that it be printed in the RECORD. It gives a very good idea of the problem which we already have, without even considering the load proposed as an additional burden upon the courts by section 304 of this bill.

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

APPENDIX

STATISTICS ON COURT CONGESTION

From the Fiscal Year 1969 Annual Report of the Director of the Administrative Office of the United States Courts, the following information has been obtained:

COURT OF APPEALS

In fiscal year 1969, there were 10,248 appeals commenced—a record number, amounting to a 12.4% increase over the previous year. At the end of fiscal 1969, there were 7,849 cases pending in the Court of Appeals, an all time high. In 1967 there were 90 appeals docketed per judgeship on a national average, and in 1969, the figure was 106 per judgeship. The heaviest increase in appeals, according to type of case, was in habeas corpus by Federal prisoners (up 55% over previous year); appeals from denial of motions to vacate sentence under 28 U.S.C. § 2255 (up 29%); and Civil Rights appeals (up 46%).

DISTRICT COURTS

In an attachment to the Annual Report it is stated that: "The United States District Courts during 1969 experienced the largest increase in case filings (exclusive of bankruptcy) in recent years." (p. 115). During 1969, there were 110,778 civil and criminal cases filed in the district courts, an increase of 8.4% over the previous year, and at the end of the year there were 104,091 cases pending. This is the highest pending case figure in the district courts on record. This increase case load caused the median time to reach trial in civil cases to increase from 12 months in 1968 to 13 months in 1969.

On the civil side, a great portion of the increase was attributable to civil actions brought under special statutes. These types of cases increased by 17.3% during the year. For example, over the one-year period suits under Narcotic Rehabilitation Act (Pub. Law 89–793, Nov. 8, 1966) increased by 419.6%; Civil Rights suits by 51.5%; Federal prisoner petitions, by 26.7%; state prisoner petions 12.2%. Securities suits, by 15.5%; and Social Security cases by 32.3%. At the end of 1969, there were 83,957 civil actions pending, and of these 9.8% have been pending for more than 3 years. And, according to the report, "Since 1963, 3-year-old pending civil actions have increased steadily." (p. 124).

There were 33,585 criminal cases filed in the district courts during 1969, an increase of 9.3% over 1968. This increase was largely attributable to increase in certain types of cases: Selective Service cases, up 81%; Immigration cases, up 57%; and Narcotics cases, up 21%. In the attachment to the Director's Annual Report, it was stated:

"Thus overall, both the Courts of Appeals and the district courts experienced an across-the-board increase in judicial business in 1969 of approximately 10%. In spite of an increased output of terminated cases, the arrearages on the dockets of the courts of appeals increased 19% and the arrearages on the dockets of the district courts increased 7%." (p. 103) . . .

"The weighted caseload per judgeship in the United States district courts increased to 289 in 1969 compared with 265 in 1968 and 252 in 1967. The increase this year reflects primarily the 10 percent increase in the filing of civil and criminal cases. But it also reflects the changing character of the litigation. The increase in the filing of the more time-consuming cases was greater than average in 1969. In the last 2 years the weighted caseload per judgeship has increased almost 15 percent from 252 to 289. Approximately 47 additional district judgeships would be required to reduce the 1969 weighted caseload per judgeship to what it was in 1967." (p. 132)

FIRST 9 MONTHS OF FISCAL YEAR 1970

The latest figures available from the Director, Administrative Office of the United States Courts, cover the first nine months of FY 1970 (period ending March 31, 1970), and reveal that the burden of the federal courts has steadily increased.

Appeals docketed during the third quarter, FY 1970 reached 2,990, an increase of 18.5% over the same period of the previous year.

Projecting these statistics to the end of fiscal year, the Directors' Report concludes that there will be 10,806 appeals docketed during FY 1970 and that on June 30, 1970, there will be 9,136 appeals pending, an increase of 16.4% over the previous year.

DISTRICT COURTS

In the third quarter of FY 1970, 21,280 civil cases were filed in the district courts, an increase of 12.3% of the same period of the previous year. On March 31, 1970, there were 91,308 civil cases pending in the district courts, an increase of 7.5% over the previous year. On March 31, 1970, for each of the 340 judgeships, there were 269 civil cases pending in the United States district courts.

On the criminal side of the docket, the increase in the court backlog was more acute. In the first nine months of fiscal 1970, there were 29,469 criminal cases filed, an increase of 15.1% over the previous year. On March 31, 1970, there were 21,449 criminal cases pending, an increase of 22.3% over the previous year.

In Bankruptcy cases, the trend towards decreased filings has reversed itself. In the first nine months of FY 1970, there was an increase of 3.1% in the cases filed, the cases terminated during that period decreased by 6.8%, resulting in an all time record of 187,537 cases pending on March 31, 1970.

Mr. HRUSKA. Mr. President, section 304(a)(1) provides that a lawsuit "may be brought by one or more persons on their own behalf. (A) Against any person, including, but not limited to, a governmental instrumentality or agency, where there is alleged a violation by such person of any such schedule, timetable, emission requirement, standard of performance, emission standard, or prohibition, or (B) against the Secretary where there is alleged a failure of the Secretary to exercise (i) his authority to enforce standards or orders established under this act; and (ii) any duty established by this act."

Mr. President, I ask unanimous consent that for continuity of the discussion in which I am engaged the complete text of section 304 be printed at this point in the RECORD.

There being no objection, the section 304 was ordered to be printed in the RECORD, as follows:

"CITIZEN SUITS

"SEC. 304. (a) (1) In furtherance of the purpose of this Act to protect the public health and welfare and control air pollution, the district courts of the United States shall have original jurisdiction, regardless of the amount in controversy or the citizenship of the parties, to enforce, or to require the enforcement of, any applicable schedule or timetable of compliance, emission requirement, standard of performance, emission standard, or prohibition established pursuant to this Act. Civil actions for such enforcement, or to require such enforcement, may be brought by one or more persons on their own behalf. (A) against any person including, but not limited to, a governmental instrumentality or agency, where there is alleged a violation by such person of any such schedule, timetable, emission requirement, standard of performance, emission standard, or prohibition, or (B) against the Secretary where there is alleged a failure of the Secretary to exercise (i) his authority to enforce standards or orders established under this Act; or (ii) any duty established by this Act.

"(2) Nothing in this section shall affect the right of such persons as a class or as individuals under any other law to seek enforcement of such standards or any other relief.

"(3) Prior to instituting any suit, under this subsection, such person or persons shall, by certified or registered mail or personal service, notify (A) the Secretary, (B) an authorized representative of the Secretary, if any, in the field office responsible for the area in which the alleged violation occurs, (C) an authorized representative of the air pollution control agency of the State in which the alleged violation occurs, and (D) the person, or persons alleged to be in violation of such alleged violation. Such notice shall be in accordance with regulations prescribed by the Secretary as to content and specificity. No such suit shall be filed unless such person or persons shall have afforded the Secretary, his representative, or such agency, at least thirty days from the receipt of such notice to institute enforcement proceedings under this Act to abate such alleged violation; except any action under this section to abate a violation of (i) an order issued by the Secretary pursuant to section 116, (ii) clause (A) or (B) of section 113 (h)(1), (iii) section 114(f)(1), or (iv) section 115, may be undertaken, after notice, without regard to the time limitations of this subsection. In any such action, the Secretary, if not a party, may intervene as a matter of right.

"(b) The court, in issuing any order in any action brought pursuant to subsection (a) of this section, may award costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines such action is in the public interest.

Mr. HRUSKA. Mr. President, it is not my purpose to get into any position that would be obstructive. Frankly, inasmuch as this matter came to my attention for the first time not more than 6 hours ago, it is a little difficult to order one's thoughts and to decide the best course of action to follow.

Had there been timely notice that this section was in the bill, perhaps some Senators would have asked that the bill be referred to the Committee on the Judiciary for consideration of the implications for our judicial system. As was the case in the consumers class action bill, this section deals with an area of governmental function which is under the jurisdiction of that committee.

I am aware of the situation which confronts us. We want to go home to campaign. We want to get out of the Senate and either adjourn sine die before the election or return after the election. I understand the emotional appeal of the bill. I know of its intent. I know all these things are true. But if in the process of taking action which might be ill advised and would result in some of the backlash, as we might call it, that was foretold and forecast for us in the case of S. 3201, I wonder if it would not be better to make haste slowly.

What is the matter with that section? I have here a memorandum that was handed to me by a member of my staff. It outlines some of the basic objections that lie as objections to section 304.

The memorandum starts out this way:

S. 4358—THE CLEAN AIR ACT

SECTION 304, CITIZENS SUITS

A. *The proposal is unprecedented in American history.*

1. The proposal is predicated on the erroneous assumption that officials of the Executive Branch of the United States Government will not perform and carry out their responsibilities and duties under the Clean Air Act. Never before in the history of the United States has the Congress proceeded on the assumption that the Executive Branch will not carry out the Congressional mandate, hence, private citizens shall be given specific statutory authority to compel such officials to do so.

2. The Hearings of the Public Works Committee do not provide either a factual or legal basis which would justify the adoption of this far-reaching and novel procedure wherein private citizens may challenge virtually every decision made by the officials of the Executive Branch in the carrying out of the numerous complex duties and responsibilities imposed by the Clean Air Act.

Mr. President, that involves not only every decision but also every lack of a decision, which the Secretary may engage in for the purpose of implementing this act.

The memorandum further states:

B. *The adoption of Section 304 will result in a multiplicity of suits which will interfere with the Executive's capability of carrying out its duties and responsibilities.*

1. The Clean Air Act provides the regulatory agencies with ample powers to formulate standards and to secure effective enforcement of the regulations. There is no need to delegate enforcement powers, direct or indirect, to private citizens.

2. Section 304 is an open invitation to the institution of Citizens Suits—encouraged by the awarding of litigation expense "including reasonable attorney and expert witness fees . . ." (Section 304(b)). This award may be granted even in a case where the actions "result in successful abatement but do not reach a verdict" (Report p. 38). A multiplicity of actions are sure to follow the enactment of Section 304 regardless of how well the regulatory agencies perform their duties and responsibilities.

Mr. President, I might add that the agency might not be at fault if it does not act promptly or does not enforce the act as comprehensively and as thoroughly as it would like to do. Some of its capabilities depend on the wisdom of the appropriations process of this Congress.

It would not be the first time that a regulatory act would not have been provided with sufficient funds and manpower to get the job done.

I need refer only to the very recent, classic example brought up in the case of the class action Packer Stockyard Act of 1940, where for decades the provisions of the act were not capable of enforcement, Congress—whether deliberately or not—continually and repeatedly refused to provide the funds and manpower necessary to enforce the provisions of that act.

Notwithstanding the lack of capability to enforce this act, suit after suit after suit could be brought. The functioning of the department could be interfered with, and its time and resources frittered away by responding to these lawsuits. The limited resources we can afford will be needed for the actual implementation of the act.

I continue to read from the memorandum:

3. A multiplicity of suits decided by the several courts will lead to a spate of conflicting decisions.

4. The public interest is not served by subjecting officials of the Executive Branch to harassing litigation. How can they perform the complex administrative and enforcement functions required under the Clean Air Act while simultaneously participating as defendants and/or witnesses in litigation? Instead of forcing such officials to act more effectively the institution of the Citizens Suits will more likely lead to paralysis within the regulatory agency.

Mr. President, I would like to dwell on this point. That is the backlash to which

we might be invited by reason of section 304.

I continue to read from the memorandum:

C. *The enactment of Section 304 would impose an impossible burden on the already burdened judicial system.*

1. Chief Justice Burger's recent ABA speech and the current hearings of the Judiciary Committee on S. 3201 have clearly demonstrated that the federal judicial system is presently faced with a ever-increasing work load of such a magnitude that Congress should not now extend the courts jurisdiction by the passage of new legislation.

2. Citizens Suits would be particularly burdensome upon the courts as they involve complex factual and legal issues in a new field of law, one in which the courts have thus far had only limited experience.

3. The Senate Committee on the Judiciary has jurisdiction over, among other things, "(1) Judicial proceedings, civil and criminal, generally. . . . (3) Federal court and judges. . . ." The Senate should suspend consideration of Section 304 pending a study by the Judiciary Committee of the section's probable impact on the integrity of the judicial system and the advisability of now opening the doors of the courts to inumerable Citizens Suits against officials charged with the duty of carrying out the Clean Air Act.

Mr. President, it is my hope that some consideration could be given to the withholding of this section so that it can be considered more thoroughly. It is very doubtful that it would be needed at the outset, before regulations had been completed and determinations made. It is doubtful that this provision is so necessary that we could not go forward with the body of the law without it.

It is my thought that this can be done without jeopardizing the administration of justice and that it can be done without imposing such a burden on the judicial court system. It already takes as long as 3 to 4 years to get to trial. How many more years will we add to this delay if we authorize legislation in section 304?

I recall again the language of the Chief Justice in St. Louis when he explained the load under which the courts are operating:

Editorials demand new laws to control pollution and change the environment, new laws allowing class actions by consumers to protect the public. The difficulty lies in our tendency to meet new and legitimate demands with new law but without consideration for the consequences on the courts.

He might add, the consequences to society of the inability of the courts to attend to the trial of civil cases.

Again, and for the third or fourth time, I want to say I am very concerned with problems of pollution, and with all the measures for this purpose that will be considered by this Congress. My record on that is clear. I cosponsored the administration bill; subscribe to the President's comprehensive plan and program in this field; I am personally convinced of the need.

At the same time, I want the RECORD clear that this Senator would very much regret the enactment into law of a section which would have an opposite effect to that which was intended instead of making progress, it would retard progress, taxing the time, resources, and manpower of the agency.

It is in that spirit that I engage in these remarks. I would like to extend such cooperation as this Senator can in his position on the Committee on the Judiciary or otherwise to get that kind of result and that kind of success.

I yield the floor.

Mr. MUSKIE. Mr. President, I think it might be helpful to Senators reading the RECORD tomorrow to make some observations with respect to section 304, the citizen suits provision, which the distinguished Senator from Nebraska discussed earlier this afternoon. So I ask unanimous consent that the section of the report beginning on page 36 and ending at the top of page 39, which covers the subject of section 304, be printed in the RECORD, at this point.

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

SECTION 304. CITIZEN SUITS

The Committee has established a provision in the bill that would provide citizen participation in the enforcement of standards and regulations established under this Act. The provision in the proposed bill is carefully restricted to actions where violations of standards and regulations or a failure on the part of officials to act are alleged.

Section 304 would not substitute a "common law" or court-developed definition of air quality. An alleged violation of an emission control standard, emission requirement, or a provision in an implementation plan, would not require reanalysis of technological or other considerations at the enforcement stage. These matters would have been settled in the administrative procedure leading to an implementation plan or emission control provision. Therefore, an objective evidentiary standard would have to be met by the citizen who brings an action under this section.

Government initiative in seeking enforcement under the Clean Air Act has been restrained. Authorizing citizens to bring suits for violations of standards should motivate governmental agencies charged with the responsibility to bring enforcement and abatement proceedings.

In order to further encourage and provide for agency enforcement, the Committee has added a requirement that prior to filing a petition with the court, a citizen or group of citizens would first have to serve notice of intent to file such action on the Federal and State air pollution control agency and the alleged pollutor. Each citizen or group would have to include facts in such notice in accordance with regulations prescribed by the Secretary. The Secretary should prescribe such regulations as soon as possible after enactment, and such regulations should reflect simplicity, clarity, and standardized form. The regulations should not require notice that places impossible or unnecessary burdens on citizens but rather should be confined to requiring information necessary to give a clear indication of the citizens' intent. These regulations might require information regarding the identity and location of alleged pollutor, a brief description of the activity alleged to be in violation, and the provision of law alleged to be violated.

The Committee has provided a period of time after notice before a citizen may file an action. The time between notice and filing of the action should give the administrative enforcement office an opportunity to act on the alleged violation.

It should be emphasized that if the agency had not initiated abatement proceedings following notice or if the citizen believed efforts initiated by the agency to be inadequate, the citizen might choose to file the action. In such case, the courts would be expected to consider the petition against the background of the agency action and could determine that such action would be adequate to justify suspension, dismissal, or consolidation of the citizen petition. On the other hand, if the court viewed the agency action as inadequate, it would have jurisdiction to consider the citizen action notwithstanding any pending agency action.

The Committee emphasizes that if the alleged violation is a failure to comply with an administrative enforcement order, a violation of a standard of performance, or a prohibition or emission standard, there would be no waiting period following notice. It is the Committee's intent that enforcement of these control provisions be immediate, that citizens should be unconstrained to bring these actions, and that the courts should not hesitate to consider them.

Section 304 would provide that a citizen enforcement action might be brought against and individual or a government agency. As recognized under section 118 of the bill, Federal facilities generate considerable air pollution. Since Federal agencies have been notoriously laggard in abating pollution and in requesting appropriations to develop control measures, it is important to provide that citizens can seek, through the courts, to expedite the government performance specifically directed under section 118.

The standards for which enforcement would be sought either under administrative enforcement or through citizen enforcement procedures are the same.

The participation of citizens in the courts seeking enforcement of air quality standards should not result in inconsistent policy. The Clean Air Act should achieve objective standards against which to measure air quality. There should be no inconsistency in the enforcement of such standards. Whether abatement were sought by an agency or by a citizen, there would be a considerable record available to the courts in any enforcement proceeding resulting from the Federal and State administrative standard-setting procedures. Consequently, the factual basis for enforcement of standards would be available at the time enforcement is sought, and the issue before the courts would be a factual one of whether there had been compliance.

The information and other disclosure obligations required throughout the bill are important to the operation of this provision. The Secretary would have a special duty to make meaningful information on emitting sources available to the public on a timely basis.

The provision is drawn to avoid problems raised by class action provisions of the Federal rules of civil procedure, specifically by Rule 23. Section 304 does not authorize a "class action." Instead, it would authorize a private action by any citizen or citizens acting on their own behalf. Questions with respect to traditional "class" actions often involve: (1) identifying a group of people whose interests have been damaged; (2) identifying the amount of total damage to determine jurisdiction qualification; and (3) allocating any damages recovered. None of these points is appropriate in citizen suits seeking abatement of violations of air quality standards. There would be no jurisdictional amount required in section 304 nor is there any provision for the recovery of property or personal damages. It should be noted, however, that the section would specifically preserve any rights or remedies under any other law. Thus, if damages could be shown, other remedies would remain available. Compliance with standards under this

Act would not be a defense to a common law action for pollution damages.

Concern was expressed that some lawyers would use section 304 to bring frivolous and harassing actions. The Committee has added a key element in providing that the courts may award costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines that such action is in the public interest. The court could thus award costs of litigation to defendants where the litigation was obviously frivolous or harassing. This should have the effect of discouraging abuse of this provision, while at the same time encouraging the quality of the actions that will be brought.

The Courts should recognize that in bringing legitimate actions under this section citizens would be performing a public service and in such instances the courts should award costs of litigation to such party. This should extend to plaintiffs in actions which result in successful abatement but do not reach a verdict. For instance, if as a result of a citizen proceeding and before a verdict is issued, a defendant abated a violation, the court may award litigation expenses borne by the plaintiffs in prosecuting such actions.

Enforcement of pollution regulations is not a technical matter beyond the competence of the courts. The citizen suit provision is consistent with principles underlying the Clean Air Act, that is the development of identifiable standards of air quality and control measures to implement such standards. Such standards provide manageable and precise benchmarks for enforcement.

The Committee bill would provide in the citizen suit provision that actions will lie against the Secretary for failure to exercise his duties under the Act, including his enforcement duties. The Committee expects that many citizens suits would be of this nature, since such suits would reduce the ultimate burden on the citizen of going forward with the entire action.

Mr. MUSKIE. Mr. President, I think it is important to note the limitations written into this provision of the bill by the committee that are noted in the section of the committee report which I have just inserted in the RECORD.

First of all, the section does not presume that there will be a lack of good will or good faith or dedication on the part of those administering the provisions of the law in doing so.

What we are seeking to establish is a nationwide policy. National ambient air standards implemented by plans developed at the State and local level create potentially enormous enforcement problems for State, local, and regional governments, as well as for the National Government. I think it is too much to presume that, however well staffed or well intentioned these enforcement agencies, they will be able to monitor the potential violations of the requirements contained in all the implementation plans that will be filed under this act, all the other requirements of the act, and the responses of the enforcement officers to their duties.

Citizens can be a useful instrument for detecting violations and bringing them to the attention of the enforcement agencies and courts alike. So we have provided this restrictive citizen suit provision for that purpose. We took testimony on this subject. It was strongly supported by legal scholars and several organizations. The provision, as finally written into the bill, is considerably cut down from some of the proposals that were advanced. It is not a class-action provision.

These features might be of interest:

First of all, a citizen suit can be brought only to enforce the provisions of the act or the requirements that are established as a result of the operations of the act. In other words, a citizen suit is limited to the right to seek the enforcement of the provisions of the act.

Second, before bring suit, there is a requirement in this provision that the citizen bring his intention to bring suit to the attention of the local enforcement agency, the thought being that he might trigger administrative action to get the relief that he might otherwise seek in the courts.

I think most citizens, if they were able to trigger such administrative action, would be satisfied with having done so. Thus, they would have done nothing more than the act anticipates—that is, the full and effective enforcement of the provisions of the law.

In those instances where enforcement was not triggered, that is, enforcement action by the administrative agency was not triggered, then it seemed to us the citizen ought to be able to pursue the judicial remedy.

The Senator from Nebraska raised the question of possible harassing suits by citizens. This the committee attempted to discourage by providing that the costs of litigation—including counsel fees—may be awarded by the courts to the defendants in such cases, so that the citizen who brings a harassing suit is subject not only to the loss of his own costs of litigation, but to the burden of bearing the costs of the parties against whom he has brought the suit in the first instance.

I doubt very much that individual citizens would lightly engage this possibility.

These are some of the points it seemed to me ought to be brought to the attention of the Senate, in the light of the remarks made by the distinguished Senator from Nebraska. Other points are covered by the section of the committee report which I have asked to be included in the RECORD.

Mr. BAKER. Mr. President, I call up my amendment which is pending at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 63 insert "(1)" after "(c)" on line 19 and on page 64 insert between lines 22 and 23 a new paragraph (2) as follows:

"(2) Nothing in this subsection shall be construed as imposing any cost obligation resulting from any warranty requirement imposed by this subsection on any dealer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

Mr. BAKER. Mr. President, I wish to amend the amendment by inserting after the word "obligation" in the second line, section (2), the words "on any dealer" before the word "resulting," and striking the words "on any dealer" from the third line.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 63 insert "(1)" after "(c)" on line 19 and on page 64 insert between lines 22 and 23 a new paragraph (2) as follows:

"(2) Nothing in this subsection shall be construed as imposing any cost obligation on any dealer resulting from any warranty requirement imposed by this subsection. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

Mr. BAKER. Mr. President, the amendment to S. 4358, to amend the Clean Air Act, and for other purposes, has the effect of excluding from the application of cost responsibility under the warranty section of dealers and distributors.

Although the subject matter of this amendment is addressed in the report on the bill and, therefore, conforms to the intent of the committee, I feel that the matter should be addressed explicitly in the bill.

Mr. President, often obligations and responsibilities under product warranties are assigned or otherwise transferred, to dealers and distributors by manufacturers, often through the leverage of franchise agreements.

Mr. President, the obligations of the manufacturer under this bill to produce a clean car should be borne by the manufacturer and the manufacturer alone. Such obligations should not be transferred to any dealer.

Thus, my amendment would make it clear that the cost obligations under the warranty required by the statute run against the manufacturer of the automobile and not against dealers and distributors.

Mr. President, it might be pointed out further, that while the amendment provides against the shifting of any cost obligation resulting from the warranty it does not mean the manufacturer could not call upon his dealer network to perform services or adjustments under the warranty. It does mean that the cost of those adjustments and services would be borne by the manufacturer and not the dealer, and that the franchise agreement could not be used as leverage to require the dealer to absorb any related costs.

Mr. MUSKIE. Mr. President, I have discussed this matter with the Senator from Tennessee. Because of the careful consideration he gives to legislation, I think his amendment is an accurate reflection of the intent of the committee. It is a point the committee overlooked in its consideration of the warranty. We focused entirely upon the responsibility of the manufacturer. It did not occur to us that we would be imposing an obligation on the dealer. It was not our intent to do so. I would be willing to accept his amendment, but before doing so I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I rise because I joined with the Senator from Tennessee in offering this amendment.

During the discussion of the bill in committee this issue was raised by the Senator from Tennessee. I join in this matter because of the many messages I was receiving from distributors and dealers of automobiles in my State ask-

ing if obligations under the warranty ran against the distributors and agencies.

I believe the committee agreed it was not so intended, and I think the Senator from Tennessee is right in offering this clarifying amendment.

It is well to have a provision to reassure many people and I am glad to join with the Senator from Tennessee in the amendment and I support it strongly.

Mr. MUSKIE. Mr. President, I did not realize that the Senator from Michigan wanted to be recognized.

Mr. GRIFFIN. Mr. President, it occurs to me that I had better get my 2 cents worth in here because it looks as if action is about to be taken on an amendment and, frankly, it had been my understanding that this bill will be laid down but no amendment would be acted upon.

I am not at all sure this amendment is all that noncontroversial. I wonder if the Senator from Maine expects to take action on the amendment this evening.

Mr. MUSKIE. Mr. President, I would yield to the desire of Senators. I think when I discussed it with the Senator from Tennessee we looked at this amendment as a clarification of the committee intent.

If it would be helpful to the Senator from Michigan to postpone action on the amendment, I yield to the Senator from Tennessee. We were trying to dispose of whatever we could this evening, not thinking that we were by this amendment getting involved in anything complicated.

Mr. BAKER. Mr. President, if the Senator will yield, I have no objection to putting the amendment over until tomorrow.

I have discussed the amendment with the Senator from Maine (Mr. MUSKIE) and the Senator from Kentucky (Mr. COOPER) on the basis that the amendment was a clarification of the committee's amendment. If we cannot dispose of it this afternoon, I am willing to put it over until tomorrow.

However, I point out that on page 81 of the bill it states that the provision shall not include any dealer, and the report language itself makes it clear. However, the Senator from Kentucky did not feel it was spelled out with particularity, and we introduced this amendment for the purpose of clarification.

If the Senator from Michigan wants to defer action on the amendment, I am certainly willing to defer it.

Mr. GRIFFIN. I think it would be well to study the effect of the amendment.

Mr. MUSKIE. I have no objection at all.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is it necessary for me to get unanimous consent to withdraw the amendment at this particular time?

The PRESIDING OFFICER. The Senator from Tennessee may withdraw his amendment or he may leave it as the pending question without any action being taken on it.

Mr. BAKER. Mr. President, I do not have any idea of discommoding the Senate for the transaction of other business it may have while it is waiting for us to act on this amendment, but if it is agreeable to all concerned, I prefer that the amendment remain as the pending business.

Mr. MUSKIE. Mr. President, reserving the right to object, I would like to suggest that I have some purely technical amendments which I would like to offer at this time.

The PRESIDING OFFICER. The Chair would suggest to the Senator from Maine that that might be accomplished with the unanimous consent of the Senate.

Mr. MUSKIE. Then I have no objection to leaving the amendment as the pending business tomorrow.

I ask unanimous consent that technical amendments I send to the desk be considered at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments offered by the Senator from Maine will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments are as follows:

On page 27, in line 16 change "(d)" to "(e)".

On page 34, in line 4 change "(d)" to "(e)".

On page 62, in line 3 change "(F)" to "(E)".

On page 77, in line 8 change "(2)" to "(4)" and "subsection" to "section".

On page 78, in line 11 change "subsection (a) or (b)" to "subsection (a), (b) or (c)".

On page 85, in line 17 change "its" to "the".

On page 86, in line 6 strike "under clause (1) of this subsection".

On page 91, in line 4 strike "patent application,".

On page 92, in line 8 strike "patent application,".

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc. Without objection, the amendments are agreed to en bloc.

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

Mr. MUSKIE. I yield.

AMENDMENT NO. 930

Mr. COOPER. Mr. President, I send to the desk an amendment, in which Senator BAKER and Senator GURNEY join as cosponsors. I do not intend to call it up this evening, but I ask that it be received and printed, and lie on the table.

The PRESIDING OFFICER. The amendment will be received, printed, and will lie on the table.

Mr. COOPER. I might give notice to the chairman of the subcommittee that it is similar in substance to the amendment I offered in the committee. As the Senator knows so well, the warranty provided for in the bill goes not only to the design and assembly of the automobile propulsion system as it affects emissions, but also to its performance over a period of service, 50,000 miles, under operation by various owners.

I intend to call the amendment up at some time and discuss it, to see if my conception is correct in the view of the committee and the chairman, and then I shall decide whether I shall ask for a vote on it.

Mr. President, I ask unanimous consent that the proposed amendment for myself, Senator BAKER and Senator GURNEY, be printed at this point in the RECORD, for the information of Members.

There being no objection, the amendment No. 930 was ordered to be printed in the RECORD, as follows:

On page 63, beginning on line 23, strike out all through line 4 on page 64, and insert in lieu thereof the following: "and shall be so warranted for the lifetime of such vehicle or engine. Fifty thousand miles shall be taken as the basis for the lifetime of a vehicle or engine under this section. As a condition to the obligation of manufacturers to correct defects in design, manufacture or assembly, manufacturers may require the ultimate purchaser and subsequent purchasers of such vehicle or engines".

On page 64, line 12, strike out the words "adjustment, operation".

Mr. MUSKIE. 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.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 41 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, September 22, 1970, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 21, 1970:

DIPLOMATIC AND FOREIGN SERVICE

Horace G. Torbert, Jr., of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bulgaria.

NATIONAL LABOR RELATIONS BOARD

Ralph E. Kennedy, of California, to be a member of the National Labor Relations Board for the term of 5 years expiring August 27, 1975, vice Frank W. McCulloch, term expired.

BOARD OF PAROLE

Curtis C. Crawford, of Missouri, to be a member of the Board of Parole for the term expiring September 30, 1976, vice Ziegel W. Neff, term expiring.

U.S. DISTRICT COURTS

L. Clure Morton, of Tennessee, to be U.S. district judge for the middle district of Tennessee, vice William E. Miller, elevated.