sincere desire to help persons less fortunate. His consideration for the children and people he serves is paramount. In every deliberation, Bud's primary concern is the effect that these deliberations will have upon the children who appear in his court or in any other court in our land. I have yet to feel that Bud has ever lost sight of his and our responsibility to the children who need our help and the help of all who serve the cause of juvenile justice.

In closing, may I say to you, Bud, and to your lovely wife that I hope and trust that you will enjoy your retirement and that you get to do all the things you thought and hoped you wanted to do but had little time to do. I hope and trust that we may enjoy the benefit of your continued counsel and advice.

All who know you love you, Bud, and I say with deepest affection, sincerity, and conviction that this world is a little better place because you walked by. God bless you and good night.

CIA IN CHILE

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 24, 1970

Mr. SCHMITZ. Mr. Speaker, an interesting letter appeared in the New York Times today counseling against CIA plotting in Chile. For my colleagues who are not familiar with the background of the author of this letter, I include at this point a short sketch drawn from a staff study prepared for the Senate Internal Security Committee entitled "the Anti-Vietnam Agitation and the Teach-In Movement," 89th Congress, first session, Document No. 72, printed in 1965. Letter and sketch follow:

CHOICE IN CHILE

To the EDITOR:

A proposed Marxist, Dr. Salvador Allende, has received the plurality of votes in the recent presidential election in Chile.

It would be fitting for all adherents of free democratic elections to see to it that the C.I.A. does not repeat its past performances in Guatemala, Santo Domingo and Bolivia by endeavoring through underground intrigue—or *coup d'etat*—to nullify the democratically expressed wishes of the people of Chile.

ANTON REFREGIER.

WOODSTOCK, N.Y.

ANTON REFREGIER

Under date of May 9, 1965, the pamphlet "National Teach-In on the Vietnam War," May 15, 1965, lists Anton Refregier, artist, as a supporter. His record follows:

Anton Refregier is listed as a sponsor of the American Peace Mobilization (official program of the American People's Meeting of the American Peace Mobilization, Apr. 5, 1941). The American Peace Mobilization has been cited as Communist by the Attorney General.

Anton Refregier is listed as a sponsor of the Arists' Front To Win the War and as a supporter of the American Artists' Congress (folder, Artists Front To Win the War, mass meeting Oct. 16, 1942, Carnegie Hall). The Artists' Front To Win the War has been cited as subversive by the House Committee on Un-American Activities.

The name of Anton Refregier appears on a list of persons affiliated with the John Reed Club who signed a protest against alleged anti-Communist propaganda (New York Times, May 19, 1930). The John Reed Club has been cited as subversive by the House Committee on Un-American Activities. John Reed was a founder of the American Communist Party.

The name of Anton Refregier appears in a list of artists calling for an American Artists' Congress (Art Front, November 1935, p. 6). The American Artists' Congress has been cited as subversive by the California Committee on Un-American Activities.

The name of Anton Refregier is listed as a sponsor of the National Council of American-Soviet Friendship, Inc. (undated leaflet). The National Council of American-Soviet Friendship, Inc., has been cited as subversive by the Attorney General and the House Committee on Un-American Activities.

The name of Anton Refregier appears on a letter to the President protesting what was described as "the badgering of Communist leaders" (New Masses, Apr. 2, 1940, p. 21). New Masses has been cited as a Communist periodical by the Attorney General.

Anton Refregier is listed as a contributor to a book of drawings under the title of "Winter Soldiers" in defense of certain Communist teachers then under charges of Communist activity ("Winter Soldiers," June 17, 1941).

Anton Refregier returned in May 1965 from a visit to the Soviet Union and Communist East Europe. The Worker of May 18, 1965, page 6, announced that he was to speak about his journey at the Philadelphia Social Science Forum, which is an adjunct of the Philadelphia School of Social Science and Art, which has been cited as subversive by the Attorney General.

The signature of Anton Refregier, member of the United American Artists, appears on a letter to FDR urging help to U.S.S.R. (Daily Worker, Sept. 16, 1941, p. 7.)

The name of Anton Refregier, mural painter, appears on a list of persons requesting the President to exert his influence to end an attack on the freedom of the press with specific reference to the New Masses. (New Masses, Apr. 2, 1940, p. 21.) New Masses has been cited as a Communist periodical by the Attorney General.

SENATE—*Friday, September 25, 1970*

The Senate met at 12 noon 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 Father, at this moment so turbulent without and tense within, we pause in this Chamber importuning Thy vivid presence to quiet our spirits, restore our souls, clarify our minds, and direct our energies toward the completion of our task.

O God, help us to stand here in the full stature of our manhood, men created in Thy image, vested with eternal value, and destined to serve Thee. In these strenuous, wearisome, and aggravating days deliver us from all pretense and posing, from all pettiness or littleness, from all rudeness or revenge—that we may quit ourselves as men of God—full of wisdom and faith—humble servants of that kingdom which is always coming but not yet here.

Receive us and use us this day and evermore.

Through Him whose love never ceases. Amen.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT ON RADIATION CONTROL—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

In accordance with Section 360D of the Radiation Control for Health and Safety Act of 1968 (Public Law 90–602), I am herewith transmitting to you the second annual report on the administration of this Act.

This report was prepared by the Environmental Health Service of the Department of Health, Education, and Welfare.

RICHARD NIXON.

THE WHITE HOUSE, *September 25, 1970.*

EXECUTIVE MESSAGE REFERRED

As in executive session, the President pro tempore laid before the Senate a message from the President of the United States submitting the nomination of Daniel H. Huyett III, of Pennsylvania, to be a U.S. district judge for the Eastern District of Pennsylvania, which was referred to the Committee on the Judiciary.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, September 24, 1970, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Public Works; the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs; the Subcommittee on Small Business of the Committee on Banking and Currency; and the Committee on Labor and Public Welfare all be authorized to meet during the session of the Senate today.

Mr. BAYH. Mr. President, pursuant to the rather extensive discussion of my reasons on yesterday, I respectfully and with great reluctance nevertheless am required to object to the requests of the distinguished Senator from Montana.

The PRESIDENT pro tempore. Objection is heard.

EXECUTIVE SESSION

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

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

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

U.S. ARMY

The assistant legislative clerk read the nomination of Maj. Gen. John Norton, to be a lieutenant general.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. NAVY

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

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

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE NAVY AND IN THE MARINE CORPS

The assistant legislative clerk proceeded to read sundry nominations in the Navy and in the Marine Corps which had been placed on the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

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

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

LEGISLATIVE SESSION

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

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

PERMISSION FOR SENATE EMPLOYEES TO TESTIFY IN FEDERAL COURT

Mr. MANSFIELD. Mr. President, on a most important and unusual matter, I send to the desk a resolution and ask for its immediate consideration.

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

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

Mr. MANSFIELD. Mr. President, I should like to call on the distinguished Senator from Arkansas (Mr. McCLELLAN) for an explanation of the resolution.

The PRESIDENT pro tempore. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, this resolution, which has been approved by a majority of both the Committee on Government Operations and the Senate Permanent Subcommittee on Investigations, would permit certain staff employees of the subcommittee to testify in pretrial proceedings and in the trial of a civil action in U.S. District Court for the District of Columbia.

The events which resulted in the preparation of this resolution are the following:

First. In the course of its investigation this year of bombing and terrorism in the United States, the subcommittee discovered that a man named Thomas W. Sanders, the business manager and a member of the editorial board of the radical magazine Black Politics was believed to possess significant information about certain written material on the procurement and use of bombs and other terroristic weapons. On July 1, 1970, I issued a subpena, which was subsequently duly served, requiring Sanders' appearance to testify before the subcommittee.

Second. On August 3, 1970, Thomas W. Sanders filed a civil action in U.S. District Court for the District of Columbia, listing as defendants the chairman of the subcommittee, all its members, and the general counsel. The complaint seeks temporary and permanent injunctions against enforcement of the subpena and a declaratory judgment that the subpena is null and void and that Senate Resolution 308, authorizing the subcommittee's activities, is void and illegal.

Third. Also on August 3, 1970, Sanders moved for a temporary restraining order, which motion was heard and denied on that date by U.S. District Court Judge William B. Jones.

Fourth. On August 4, 1970, after Sanders had appealed to the U.S. Court of Appeals for the District of Columbia, that court stayed compliance with and enforcement of the subcommittee's subpena, pending further order of the court of appeals to allow that court an opportunity to consider plaintiff's motion more fully and further ordered that the temporary stay should not prevent the Federal district court from proceeding expeditiously to hear Sanders' application for preliminary and permanent injunctions.

Fifth. Sanders' attorneys have requested pretrial interrogatories of certain staff employees of the subcommittee, scheduled for Monday, September 28, 1970, and have issued subpenas for the appearance of those staff employees.

Sixth. On Wednesday, September 30, 1970, a hearing on Sanders' motion for a preliminary injunction is scheduled by the U.S. district court, Judge Howard F. Corcoran presiding.

Mr. President, the resolution I have submitted is appropriate because the subcommittee has no authority to permit staff employees to testify or to disclose any information obtained in the course of investigations without the permission of the Senate.

However, Mr. President, the resolution is not a routine matter. The stay of enforcement granted by Judges Fahy and Wright of the U.S. court of appeals—Judge Tamm not participating—is the first such judicial action in the subcommittee's history of investigations, covering almost 24 years, and the subcommittee believes firmly that the order of the court represents an unwarranted abridgement of one of the basic principles of our governmental system—the separation of powers among the three branches of the Federal Government. As the resolution states, the right of the Congress to investigate for legislative purposes and to compel witnesses to appear and testify has always been upheld by the Nation's courts.

With that in mind, Mr. President, I would like to call attention to the final paragraph of the resolution, as follows:

Resolved, That it is the sense of the Senate that the power of inquiry with process to enforce it is an essential and appropriate auxiliary to the legislative function, and that action by the courts which anticipatorily infringes upon or impedes the right of Congress to require the appearance of witnesses pursuant to its legislative powers, and thus stays contemplated Congressional action to be taken pursuant to its investigative processes violates the doctrine of separation of powers and would be an illegal and unwarranted infringement by the judicial branch upon the powers, responsibilities and duties of the legislative branch.

Mr. President, as I have stated, this is a resolution dealing with a court action in which an effort is being made to secure files, records, and documents from the Committee on Government Operations, which have not been made public, and have not yet been used or become a part of the public record. It is unprecedented for a court to undertake to do this.

Mr. President, I ask that the resolution be agreed to.

The PRESIDING OFFICER (Mr. GRAVEL). The question is on agreeing to the resolution.

The resolution (S. Res. 471) was agreed to as follows:

S. RES. 471

Resolved, That neither the chairman of the Senate Permanent Subcommittee on Investigations, nor any of the subcommittee's members, nor the subcommittee's general council, nor any of its staff employees are to testify to or otherwise disclose in the aforementioned civil action any specific materials or information which may be in their possession which are not matters of public record; be it further

Resolved, That neither the said chairman, the said members, the said general counsel, nor any staff employees are to testify to or otherwise disclose any documents, records, correspondence, memoranda, and other written or verbal information in the possession of said individuals or of the subcommittee which are not matters of public record; be it further

Resolved, That the chairman of the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations may designate and authorize any staff employees of the said subcommittee to appear and testify at proceedings in connection with the aforementioned civil action, but that such appearance and testimony of any such

staff employees shall be limited to the contents of the public record of the open hearings of said subcommittee held in furtherance of the authority and direction given to the subcommittee under Senate Resolution 308 of the 91st Congress, second session, or to such matters relating to Senate Resolution 308 aforementioned which are matters of public record; be it further

Resolved, That it is the sense of the Senate that the power of inquiry with process to enforce it is an essential and appropriate auxiliary to the legislative function, and that action by the courts which anticipatorily infringes upon or impedes the right of Congress to require the appearance of witnesses pursuant to its legislative powers, and thus stays contemplated congressional action to be taken pursuant to its investigative processes violates the doctrine of separation of powers and would be an illegal and unwarranted infringement by the judicial branch upon the powers, responsibilities, and duties of the legislative branch.

The preamble was agreed to, as follows:

Whereas the case of Thomas W. Sanders versus John L. McClellan, et al., civil action numbered 2294–70, is pending in the United States District Court for the District of Columbia; and

Whereas the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations has in its possession by virtue of Senate Resolution 308 of the 91st Congress, second session, certain information and evidence relating to an investigation dealing with Thomas W. Sanders and other persons; and

Whereas the aforementioned civil action numbered 2294–70 was filed in the United States District Court for the District of Columbia on August 3, 1970, at which time the plaintiff, Thomas W. Sanders, moved for a temporary order restraining the subcommittee from enforcing a subpoena ad testificandum and duces tecum issued by the Chairman of the Subcommittee and duly served upon said Thomas W. Sanders, which motion for a temporary restraining order was heard and denied by the said court; and

Whereas the plaintiff, Thomas W. Sanders, thereupon appealed to the United States Court of Appeals for the District of Columbia, which court on August 4, 1970, stayed compliance with and enforcement of the said subpoena pending further order of the Court of Appeals to allow the Court of Appeals an opportunity to consider plaintiff's motion more fully, and the United States Court of Appeals further ordered that the temporary stay should not prevent the United States District Court for the District of Columbia from proceeding expeditiously to hear plaintiff's application for preliminary and permanent injunctions; and

Whereas a hearing on plaintiff's motion for a preliminary injunction is now scheduled by the said United States District Court for September 30, 1970; and

Whereas certain staff employees of the Senate Permanent Subcommittee on Investigations have been subpoenaed by the plaintiff, by his attorneys, to appear and testify in connection with the subpoena issued by the chairman of the said subcommittee and duly served upon Thomas W. Sanders; and

Whereas the plaintiff by his attorneys, requests the chairman of the subcommittee, Senator John L. McClellan, and the members of the subcommitee, Senators Henry M. Jackson, Sam J. Ervin, Jr., Abraham Ribicoff, Lee Metcalf, Karl E. Mundt, Jacob K. Javits, Charles H. Percy, and Edward J. Gurney, and General Counsel Jerome S. Adlerman, to make certain admissions including admissions relating to their individual thoughts and philosophies on the meaning and interpretation of the First Amendment to the Constitution of the United States and upon the subject of freedom of the press generally; and

Whereas certain interrogatories addressed by the plaintiff, by his attorneys, to the defendants the chairman of the subcommittee, Senator John L. McClellan, Senators Henry M. Jackson, Sam J. Ervin, Jr., Abraham Ribicoff, Lee Metcalf, Karl E. Mundt, Jacob K. Javits, Charles H. Percy, and Edward J. Gurney, and General Counsel Jerome S. Adlerman, would require the disclosure of certain information and evidence relating to an investigation of Thomas W. Sanders and others, which information and evidence, if any, are in the files and other official records of the subcommittee; and

Whereas, for the first time in the subcommitee's history of investigations, covering almost 24 years, a United States court has seen fit to stay the subcommitee from enforcing a subpoena duly and properly served; and

Whereas the order of the court represents an unwarranted abridgement of one of the basic principles of our governmental system, the separation of powers among the three branches of the Federal Government; and

Whereas the right of the Congress to investigate for legislative purposes and to compel witnesses to appear and testify has always been upheld by the nation's courts; and

Whereas by the privilege of the Senate and by rule XXX of the Standing Rules of the Senate, information secured by staff employees of the Senate pursuant to their official duties as employees may not be revealed without the consent of the Senate.

ORDER FOR ADJOURNMENT UNTIL 12 NOON ON MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this afternoon, it stand in adjournment until the hour of 12 o'clock noon on Monday next.

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

ORDER FOR ADJOURNMENT FROM MONDAY, SEPTEMBER 28, 1970, TO TUESDAY, SEPTEMBER 29, 1970, AT 12 NOON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday next, September 28, 1970, it stand in adjournment until noon on Tuesday, September 29, 1970.

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

Mr. MANSFIELD. Mr. President, it is my understanding that on Wednesday next, September 30, 1970, the Senate will convene at 10 a.m.

The PRESIDING OFFICER. The Senator is correct.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar to which there is no objection, beginning with Calendar No. 1224.

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

TEMPORARY EXTENSION OF FEDERAL HOUSING ADMINISTRATION'S INSURANCE AUTHORITY

The joint resolution (H.J. Res. 1366) to provide for the temporary extension of the Federal Housing Administration's insurance authority 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. 91–1206), explaining the purposes of the measure.

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

PURPOSE

The resolution would provide for a temporary extension of 30 days for certain Federal Housing Administration insurance programs, which are presently under existing law, due to expire on October 1, 1970. This resolution would provide for a temporary extension of these programs until November 1, 1970.

The FHA programs which would be extended by the resolution are:

FHA title I home improvement program.

FHA general mortgage insurance authorization covering section 203 (single family sales housing) and section 207 (multi-family rental housing) and so on.

FHA section 221 program (housing for moderate income and displaced families).

FHA section 809 program (single family housing for civilians employed at certain research and development installations).

FHA section 810 program (multifamily rental housing for civilians and armed service personnel at certain research and development installations).

FHA section 1002 insurance authorization for mortgages for land development.

FHA section 1101 insurance authorization for mortgages for group practice facilities.

AMENDMENT OF THE EXPEDITING ACT

The Senate proceeded to consider the bill (H.R. 12807) to amend the act of February 11, 1903, commonly known as the Expediting Act, and for other purposes which had been reported from the Committee on the Judiciary with amendments on page 3, line 11, after the word "of", strike out "justice; or" and insert "justice."; after line 11, strike out:

"(2) the Attorney General files in the district court a certificate stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice; or

"(3) the district judge who adjudicated the case, sua sponte, enters an order stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice.".

And in line 20, after "(1)", strike out "or (3) or a certificate pursuant to (2)".

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. 91–1214), explaining the purposes of the measure.

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

PURPOSE OF THE AMENDMENTS

The purpose of the amendments is to provide that appeal from a final judgment in a civil antitrust action brought by the United States shall lie directly to the Supreme Court on a finding that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice by order of the district judge upon application of a party.

PURPOSE

The purpose of the proposed legislation, as amended, is to amend the Expediting Act so as to require that final judgments and interlocutory orders in certain civil antitrust cases if appealed, be heard by the circuit courts of appeals.

The bill would amend section 1 of the Expediting Act (15 U.S.C. 28, 49 U.S.C. 44) providing for a three district judge court in civil actions wherein the United States is the plaintiff under the Sherman or Clayton Antitrust Acts or certain sections of the Interstate Commerce Act, upon the filing by the Attorney General with the district court of a certificate that the cases are of general public importance. The proposal would eliminate the provision that a three judge court be impaneled. It would however retain the expediting procedure in single judge district courts.

The proposal would amend section 2 of the Expediting Act (15 U.S.C. 29, 49 U.S.C. 45) providing that appeal from a final judgment of a district court in any civil action brought by the United States under any of the acts covered by section 1 of the Expediting Act will lie only in the Supreme Court. Under the proposal only those cases of general public importance would be appealable directly to the Supreme Court and normal appellate review through the courts of appeals with discretionary review by the Supreme Court would be substituted therefor. An appeal shall lie directly to the Supreme Court on a finding that immediate consideration of the appeal by the Supreme Court is of general importance in the administration of justice by order of the district judge upon application of a party. The proposal also would eliminate the reference in existing law to expedition of civil cases brought by the United States under the original Interstate Commerce Act and subsequent statutes of like purpose.

STATEMENT

The Expediting Act became law in 1903, a time when the Sherman Act was relatively new and an untried method of restraining combinations and trusts. There was apprehension that the newly created system of courts of appeals, because of their supposed unfamiliarity with the new law and because of the additional time required by their procedures, would delay and frustrate the efforts to control monopolies. Responding to that concern the Attorney General recommended the expediting legislation and it became law after Congress approved it without debate.

One of the principal arguments offered in support of the proposal is to relieve the Supreme Court of the burden of hearing the numerous cases coming to it under the Expediting Act. Many civil antitrust cases require the Supreme Court to read thousands of pages of transcript from the district court. A question arises as to the adequacy of the review the Supreme Court can give to those cases in which there are voluminous trial records. Almost all the present Justices have, both in and out of Court, asked that these cases go first to the court of appeals. Some of the Justices are of the opinion that adherence to the customary appellate procedure would benefit the Supreme Court by reducing the numbers of matters presented to it. Further, having the initial appellate review in the courts of appeals would be of benefit to the litigants by refining the issues presented to the Supreme Court and also give litigants an opportunity of review of the district court decrees which are seldom reviewed by the Supreme Court under existing practice.

It is generally conceded that the existing law has permitted more expeditious determinations of civil antitrust cases but the factual situation prevalent when the law was enacted no longer obtains: dilatory practices, such as protracted delays in filing appeals, are not now available. Additionally, by permitting appellate review of preliminary injunctions more expeditious treatment of merger cases should obtain since the trial court's decision would be subject to an immediate review prior to a full-blown trial on all the issues.

The committee is of the opinion that the proposed legislation provides a suitable means of meeting the problems arising from the Expediting Act and would assure that the interest of all parties would be protected. Accordingly the committee recommends favorable consideration of H.R. 12807 with amendments.

LAWRENCE J. NUNES

The bill (S. 708) for the relief of Lawrence J. Nunes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) Lawrence J. Nunes of Pearl City, Hawaii, shall be considered for purposes of pay and other benefits to have received a temporary promotion to the position of foreman (leadingman) electrician (powerplant) at the United States Navy Public Works Center, Pearl Harbor, Hawaii, for the period from May 26, 1968, through June 21, 1968; and (2) the Secretary of the Navy shall pay to the said Lawrence J. Nunes a sum equal to the difference between the amount of the pay he received for such period and the amount to which he would have been entitled had he received such temporary promotion.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1212), 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 that (1) Lawrence J. Nunes of Pearl City, Hawaii, shall be considered for purposes of pay and other benefits to have received a temporary promotion to the position of foreman (leadingman) electrician (powerplant) at the U.S. Navy Public Works Center, Pearl Harbor, Hawaii, for the period from May 26, 1968, through June 21, 1968; and (2) the Secretary of the Navy shall pay to the said Lawrence J. Nunes a sum equal to the difference between the amount of the pay he received for such period and the amount to which he would have been entitled had he received such temporary promotion.

STATEMENT

The facts of the case as contained in the report of the Department of the Navy are as follows:

The records of this Department show that Mr. Nunes is still an employee of the Navy Public Works Center, Pearl Harbor, Hawaii, and during the period from May 26, 1968, to June 21, 1968, he acted as foreman (leadingman) during the absence of the regularly assigned foreman. Through administrative error, the necessary documents to accomplish his temporary promotion for this period were not initiated and processed. Under decisions of the Comptroller General, it is not possible to retroactively promote an employee. For this reason, there is no corrective action available to the Department of the Navy. It should also be noted that Mr. Nunes had previously served and been paid as a foreman (leadingman) for service from August 6, 1967, to December 3, 1967.

The committee believes that the facts of this case are meritorious and accordingly recommends favorable enactment.

BILLS PASSED OVER

On request of Mr. MANSFIELD, and by unanimous consent, the following bills were passed over:

Calendar No. 1232, House Joint Resolution 1255, National Retailing Week; Calendar No. 1233, S. 3650, illegal transportation, use, or possession of explosives; Calendar No. 1236, S. 2348, Securities Investor Protection Act of 1970; and Calendar No. 1237, H.R. 17654, to improve operation of legislative branch.

VETERANS' HOUSING ACT OF 1970

The bill (H.R. 16710) to amend chapter 37 of title 38, United States Code, to remove the time limitations on the use of entitlement to loan benefits, to authorize guaranteed and direct loans for the purchase of mobile homes, to authorize direct loans for certain disabled veterans and for other purposes was announced as next in order.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all after the enacting clause of H.R. 16710 be stricken and that the text of S. 3656, the Senate companion bill as reported by the committee and which is on the calendar be substituted therefor.

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

The text of the amendment is as follows:

That this Act may be cited as the "Veterans' Housing Act of 1970".

SEC. 2. (a) Section 1802(b) of title 38, United States Code, is amended by striking out the last sentence thereof.

(b) Section 1803 of such title is amended by striking out subsection (a) and inserting in lieu thereof the following:

"(a)(1) Any loan to a World War II or Korean conflict veteran, if made for any of the purposes, and in compliance with the provisions, specified in this chapter is automatically guaranteed by the United States in an amount not more than 60 per centum of the loan if the loan is made for any of the purposes specified in section 1810 of this title and not more than 50 per centum of the loan if the loan is for any of the purposes specified in section 1812, 1813, or 1814 of this title.

"(2) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect prior to the date of enactment of the Vet-

erans' Housing Act of 1970 is hereby restored and shall not expire until used."

(c) Subsection (b) of such section 1803 is amended by striking out "1810 and 1811" and inserting in lieu thereof "1810, 1811, and 1819".

(d) Subsection (b) of section 1804 of such title is amended by striking out "The" and inserting in lieu thereof "Subject to notice and opportunity for a hearing, the"; and subsection (d) of such section is amended by striking out "Whenever" and inserting in lieu thereof "Subject to notice and opportunity for a hearing, wherever".

(e) Section 1818 of such title is amended by striking out subsections (c), (d), and (e) and inserting in lieu thereof the following:

"(c) Notwithstanding the exception in subsection (a) of this section, entitlement derived under such subsection (a) shall include eligibility for any of the purposes specified in sections 1813 and 1815, and business loans under section 1814 of this title, if (1) the veteran previously derived entitlement to the benefits of this chapter based on service during World War II or the Korean conflict, and (2) he has not used any of his entitlement derived from such service.

"(d) Any entitlement to the benefits of this section which had not expired as of the date of enactment of the Veterans' Housing Act of 1970 and any entitlement to such benefits accruing after such date shall not expire until used."

SEC. 3. Section 1810 of title 38, United States Code, is amended by—

(1) adding the following new clause after clause (4) of subsection (a):

"(5) To refinance an existing mortgage loan which is secured of record on a dwelling or farm residence owned and occupied by him as his home. Nothing in this chapter shall preclude a veteran from paying to a lender any discount required by such lender in connection with such refinancing."; and

(2) adding at the end of that section the following new subsection:

"(d) Nothing in this chapter shall be deemed to preclude the guaranty of a loan to an eligible veteran to purchase a one-family residential unit to be owned and occupied by him as a home in a condominium housing development or project as to which the Secretary of Housing and Urban Development has issued, under section 234 of the National Housing Act, as amended (12 U.S.C. 1715y), evidence of insurance on at least one loan for the purchase of a one-family unit. The Administrator shall guarantee loans to veterans on such residential units when such loans meet those requirements of this chapter which he shall, by regulation, determine to be applicable to such loans."

SEC. 4. Section 1811 of title 38, United States Code, is amended—

(1) by striking out "1810" in subsections (a) and (b) and inserting in lieu thereof: "1810 or 1819";

(2) by striking out the second sentence of subsection (b) and inserting in lieu thereof the following: "He shall, with respect to any such area, make, or enter into commitments to make, to any veteran eligible under this title, a loan for any or all of the purposes described in section 1810(a) or 1819 of this title.";

(3) by striking out "1810 of this title" in subsections (c)(1) and (g) and inserting in lieu thereof "1810 or 1819 of this title, as appropriate";

(4) by striking out "The" in subsection (d)(2) and inserting in lieu thereof "(A) Except for any loan made under this chapter for the purposes described in section 1819 of this title, the";

(5) by inserting immediately after subsection (d)(2) (as amended by clause (4) above) the following new paragraph:

"(B) The original principal amount of any loan made under this section for the purposes described in section 1819 of this title shall not exceed the amount specified by the Administrator pursuant to subsection (d) of such section."; and

(6) by striking out subsections (h), (i), and (j) and inserting in lieu thereof the following:

"(h) The Administrator may exempt dwellings constructed through assistance provided by this section from the minimum prescribed pursuant to subsection (a) of section 1804 of this title, and with respect to such dwellings may prescribe special minimum land planning and subdivision requirements which shall be in keeping with the general housing facilities in the locality but shall require that such dwellings meet minimum requirements of structural soundness and general acceptability.

"(i) The Administrator is authorized, without regard to the provisions of subsections (a), (b), and (c) of this section, to make or enter into a commitment to make a loan to any veteran to assist the veteran in acquiring a specially adapted housing unit authorized under chapter 21 of this title, if the veteran is determined to be eligible for the benefits of such chapter 21, and is eligible for loan guaranty benefits under this chapter.

"(j)(1) If any builder or sponsor proposes to construct one or more dwellings in a housing credit shortage area, or in any area for a veteran who is determined to be eligible for assistance in acquiring a specially adapted housing unit under chapter 21 of this title, the Administrator may enter into commitment with such builder or sponsor, under which funds available for loans under this section will be reserved for a period not in excess of three months, or such longer period as the Administrator may authorize to meet the needs in any particular case, for the purpose of making loans to veterans to purchase such dwellings. Such commitment may not 'be assigned or transferred except with the written approval of the Administrator. The Administrator shall not enter into any such commitment unless such builder or sponsor pays a nonrefundable commitment fee to the Administrator in an amount determined by the Administrator, not to exceed 2 per centum of the funds reserved for such builder or sponsor.

"(2) Whenever the Administrator finds that a dwelling with respect to which funds are being reserved under this subsection has been sold, or contracted to be sold, to a veteran eligible for a direct loan under this section, the Administrator shall enter into a commitment to make the veteran a loan for the purchase of such dwelling. With respect to any loan made to an eligible veteran under this subsection, the Administrator may make advances during the construction of the dwelling, up to a maximum in advances of (A) the cost of the land plus (B) 80 per centum of the value of the construction in place."

SEC. 5. (a) Subchapter II of chapter 37 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 1819. Loans to purchase mobile homes and mobile home lots

"Eligibility for Loan Guaranty

"(a) Notwithstanding any other provision of this chapter, any veteran eligible for loan guaranty benefits under this chapter who has maximum home loan guaranty entitlement available for use shall be eligible for the mobile home loan guaranty benefit under this section. Use of the mobile home loan guaranty benefit provided by this section shall preclude the use of any home loan guaranty entitlement under any other section of this chapter until the mobile home loan guaranteed under this section has been paid in full or the security has been disposed of to a transferee and the Administrator, after determining that such requirements of section 1817 of this title as he determines, by regulation, to be applicable have been met, has released the veteran from all further liability to the Administrator with respect to such loan.

"Lot and Site Preparation

"(b) Subject to the limitations in subsection (d) of this section, a loan to purchase a mobile home under this section may include (or be augmented by a separate loan for) (1) an amount to finance the acquisition of a lot on which to place such home; and (2) an additional amount to pay expenses reasonably necessary for the appropriate preparation of such a lot, including, but not limited to, the installation of utility connections, sanitary facilities and paying, and the construction of a suitable pad, provided a first lien on such lot is obtained for the total loan amount.

"Automatic Guarantee of Certain Loans

"(c)(1) Any loan made to a veteran eligible under subsection (a) of this section, if made pursuant to the provisions of this chapter, by a lender of a class specified in the first sentence of section 1802(d) of this title, shall be automatically guaranteed by the Administrator if the loan is for the purpose of purchasing a new mobile home or if the loan is for the purchase of a used mobile home and such used mobile home is the security for a prior loan guaranteed under this section or is the security for a loan guaranteed or insured by another Federal agency. Any loan to be made for such purpose by a lender not specified in the first sentence of section 1802(d) of this title shall be submitted to the Administrator for approval prior to loan closing.

"Prior Approval of Certain Loans

"(2) Upon determining that a loan submitted for prior approval is eligible for guaranty under this section, the Administrator shall issue a commitment to guarantee such loan and shall thereafter guarantee the loan when made if such loan qualifies therefor in all respects.

"Payment of loan guaranty

"(3) The Administrator's guaranty shall not exceed 30 per centum of the loan, including any amount for lot acquisition and site preparation, and payment of such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator. In such accounting the Administrator shall allow the holder of the loan to charge against the liquidation or resale proceeds accrued unpaid interest to such cutoff date as the Administrator may establish and such costs and expenses as he determines to be reasonable and proper.

"Loan guaranty limitations

"(d)(1) The Administrator shall establish a loan maximum for each type of loan authorized by this section. In the case of a new mobile home, the Administrator may establish a maximum loan amount based on the manufacturer's invoice cost to the dealer and such other cost factors as the Administrator considers proper to take into account. In the case of a used mobile home, the Administrator shall establish a maximum loan amount based on his determination of the reasonable value of the property. In the case of any lot on which to place a mobile home financed through the assistance of this section and for the necessary site preparation, the loan amount shall not be increased by an amount in excess of the reasonable value of such lot or site preparation or both, as determined by the Administrator.

"(2) The maximum permissible loan

amount and the term for which the loan is made shall not exceed—

"(A) $10,000 for twelve years and thirty-two days in the case of a loan covering the purchase of a mobile home only, or

"(B) $15,000 (but not to exceed $5,000 for lot acquisition) for fifteen years and thirty-two days in the case of a loan covering the purchase of a mobile home and a suitable lot on which to place such home, and

such additional amount as is determined by the Administrator to be appropriate to cover the cost of necessary site preparation. Such limitations on the amount and term of any loan, however, shall not be deemed to preclude the Administrator, under regulations which he shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, or to a reasonable extension of the term or reamortization of a loan.

"Loan guaranty requirements

"(e) No loan shall be guaranteed under this section unless—

"(1) the loan is repayable in approximately equal monthly installments;

"(2) the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings;

"(3) the loan is secured by a first lien on the mobile home and any lot acquired or improved with the proceeds of the loan;

"(4) the amount of the loan, subject to the maximums established in subparagraph (d) of this section, is not in excess of the maximum amount prescribed by the Administrator;

"(5) the veteran certifies, in such form as the Administrator shall prescribe, that he will personally occupy the property as his home;

"(6) the mobile home is or will be placed on a site which meets specifications which the Administrator shall establish by regulation; and

"(7) the interest rate to be charged on the loan does not exceed the permissible rate established by the Administrator;

"Interest Rate

"(f) The Administrator shall establish such rate of interest for mobile home loans as he determines to be necessary in order to assure a reasonable supply of mobile home loan financing for veterans under this section.

"Restoration of Entitlement

"(g) Entitlement to the loan guaranty benefit used under this section may be restored a single time for any veteran by the Administrator provided the first loan has been repaid in full or the security has been disposed of to a transferee and the Administrator, after determining that such requirements of section 1817 of this title as he determines, by regulation, to be applicable have been met, has released the veteran from all further liability to the Administrator.

"Regulations

"(h) The Administrator shall promulgate such regulations as he determines to be necessary or appropriate in order to fully implement the provisions of this section, and such regulations shall specify which provisions in other sections of this chapter he determines should be applicable to loans guaranteed under this section. The Administrator shall have such powers and responsibilities in respect to matters arising under this section as he has in respect to loans made or guaranteed under other sections of this chapter.

"Quality Standards

"(i) No loan for the purchase of a mobile home shall be financed through the assistance of this section unless the mobile home and lot, if any, meet or exceed standards for planning, construction, and general acceptability as prescribed by the Administrator. Such standards shall be designed to encourage the maintenance and development of sites for mobile homes which will be attractive residential areas and which will be free from, and not substantially contribute to, adverse scenic or environmental conditions. Standards prescribed by the Administrator relating to scenic and environmental conditions shall be developed by the Administrator in consultation with the Secretary of Housing and Urban Development and with representatives of other appropriate Federal, State, and local agencies or instrumentalities, taking into consideration the particular or unique conditions or physical characteristics which may exist in any geographic or local area. For the purpose of assuring compliance with such standards, the Administrator shall from time to time inspect the manufacturing process of mobile homes to be sold to veterans and shall submit questionnaires to veteran owners and conduct random onsite inspections of mobile homes purchased with assistance under this chapter.

"Warranty Requirement

"(j) The Administrator shall require the manufacturer to become a warrantor of any new mobile home which is approved for purchase with financing through the assistance of this chapter and to furnish to the purchaser a written warranty in such form as the Administrator shall require. Such warranty shall include (1) a specific statement that the mobile home meets the standards prescribed by the Administrator pursuant to the provisions of subsection (i) of this section; and (2) a provision that the warrantor's liability to the purchaser or owner is limited under the warranty to instances of substantial nonconformity to such standards which become evident within one year from date of purchase and as to which the purchaser or owner gives written notice to the warrantor not later than ten days after the end of the warranty period. The warranty prescribed herein shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument and shall so provide in the warranty document.

"Authority To Deny Guaranteed or Direct Loan Financing

"(k) Subject to notice and opportunity for a hearing, the Administrator is authorized to deny guaranteed or direct loan financing in the case of mobile homes constructed by any manufacturer who refuses to permit the inspections provided for in subsection (i) of this section; or in the case of mobile homes which are determined by the Administrator not to conform to the aforesaid standards; or where the manufacturer of mobile homes fails or is unable to discharge his obligations under the warranty.

"Authority To Disapprove Mobile Homes Sites or Purchases From Certain Dealers

"(l) Subject to notice and opportunity for a hearing, the Administrator may refuse to approve as acceptable any site in a mobile home park or subdivision owned or operated by any person whose rental or sale methods, procedures, requirements, or practices are determined by the Administrator to be unfair or prejudicial to veterans renting or purchasing such sites. The Administrator may also refuse to guarantee or make direct loans for veterans to purchase mobile homes offered for sale by any dealer if substantial deficiencies have been discovered in such homes, or if he determines that there has been a failure or indicated inability of the dealer to discharge contractual liabilities to veterans, or that the type of contract of sale or methods, procedures, or practices pursued by the dealer in the marketing of such properties have been unfair or prejudicial to veterans purchasers.

"Annual Reports to Congress

"(m) The Administrator shall submit to the Congress, no later than one year after the date of enactment of the Veterans' Housing Act of 1970 and annually thereafter, a report on operations under this section, including the results of inspections and questionnaires required by subsection (i) of this section and experience with compliance with the warranty required by subsection (j) of this section.

"Applicability of Certain Provisions of Law

"(n) The provisions of section 1804(d) and section 1821 of this chapter shall be fully applicable to lenders making mobile home loans guaranteed under this section and to holders of such loans.

"Termination Date for Mobile Home Loan Program

"(o) No loans shall be guaranteed or made by the Administrator for the purposes described in the provisions of this section on and after July 1, 1975, except pursuant to commitments issued prior to such date."

(b) The table of sections at the beginning of chapter 37 of such title is amended by inserting immediately after

"1818. Veterans who serve after January 31, 1955."

the following:

"1819. Loans to purchase mobile homes and mobile home lots."

SEC. 6. Section 5 of this Act shall become effective sixty days following the date of enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

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

The bill was read a third time and was passed.

The PRESIDING OFFICER. Without objection, the title will be appropriately amended.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that S. 3656 be indefinitely postponed.

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

HISTORY OF THE COMMITTEE ON AGRICULTURE AND FORESTRY

The resolution (S. Res. 458) authorizing the printing of a history of the Committee on Agriculture and Forestry as a Senate document was considered, and agreed to, as follows:

Resolved, That a brief history of the United States Senate Committee on Agriculture and Forestry and landmark agricultural legislation 1825–1970 be printed as a Senate document, and that there be printed nine thousand additional copies of such document for the use of the Committee on Agriculture and Forestry.

Mr. MANSFIELD. Mr. President, I ask

unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1222), explaining the purposes of the measure.

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

Senate Resolution 458 would provide (1) that a brief history of the U.S. Senate Committee on Agriculture and Forestry and landmark agricultural legislation, 1825–1970, be printed as a Senate document, and (2) that there be printed 9,000 additional copies of such document for the use of that committee.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

To print as a document (1,500 copies)	$1,290.45
9,000 additional copies, at $128 per thousand	1,152.00
Total estimated cost, Senate Resolution 458	2,442.45

ADDITIONAL FUNDS FOR THE COMMITTEE ON BANKING AND CURRENCY

The resolution (S. Res. 460) authorizing the Committee on Banking and Currency to expend additional funds from the contingent fund of the Senate was considered and agreed to, as follows:

Resolved, That the Committee on Banking and Currency is hereby authorized to expend, from the contingent fund of the Senate, during the Ninety-first Congress, $5,000 in addition to the amount, and for the same purpose, specified in section 134(a) of the Legislative Reorganization Act approved August 2, 1946.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

The resolution (S. Res. 465) authorizing additional expenditures by the Committee on the Judiciary for a study of matters pertaining to improvements in judicial machinery was considered, and agreed to, as follows:

Resolved, That the Committee on the Judiciary is authorized to expend from the contingent fund of the Senate $10,000, in addition to the amount, and for the same purposes and during the same period, specified in Senate Resolution 340, Ninety-first Congress, agreed to February 16, 1970, authorizing a study of matters pertaining to improvements in judicial machinery.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1223), explaining the purposes of the measure.

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

Senate Resolution 465 would increase by $10,000, from $220,200 to $230,200, the limitation on expenditures by the Committee on the Judiciary for the study of matters pertaining to improvements in judicial machinery it is currently engaged in pursuant to Senate Resolution 340 of the present Congress.

Senate Resolution 340 as agreed to by the Senate on February 16, 1970, authorized the Committee on the Judiciary, or any duly authorized subcommittee thereof, to expend not to exceed $220,200 from February 1, 1970, through January 31, 1971, to examine, investigate and make a complete study of any and all matters pertaining to improvements in judiciary machinery.

The additional funds which would be authorized by Senate Resolution 465 are requested by the Committee on the Judiciary to enable it to meet the costs of the salary increase granted by Public Law 91–231, approved April 15, 1970.

ADDITIONAL EXPENDITURE BY THE COMMITTEE ON THE JUDICIARY

The resolution (S. Res. 466) authorizing additional expenditures by the Committee on the Judiciary for a study of matters pertaining to refugees and escapees was considered and agreed to, as follows:

Resolved, That the Committee on the Judiciary is authorized to expend from the contingent fund of the Senate $6,000, in addition to the amount, and for the same purposes and during the same period, specified in Senate Resolution 345, Ninety-first Congress, agreed to February 16, 1970, authorizing a study of matters pertaining to refugees and escapees.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1224), explaining the purposes of the measure.

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

Senate Resolution 466 would increase by $6,000, from $128,900 to $134,900, the limitation on expenditures by the Committee on the Judiciary for the study of matters pertaining to refugees and escapees it is currently engaged in pursuant to Senate Resolution 345 of the present Congress.

Senate Resolution 345 as agreed to by the Senate on February 16, 1970, authorized the Committee on the Judiciary, or any duly authorized subcommittee thereof, to expend not to exceed $128,900 from February 1, 1970, through January 31, 1971, to examine, investigate and make a complete study of any and all matters pertaining to the problems created by the flow of refugees and escapees.

The additional funds which would be authorized by Senate Resolution 466 are requested by the Committee on the Judiciary to enable it to meet the costs of the salary increase granted by Public Law 91–231, approved April 15, 1970.

AUTHORIZATION FOR THE PRINTING OF SENATE HEARINGS ON NATIONAL SCIENCE FOUNDATION AUTHORIZATION, 1971

The resolution (S. Res. 467) authorizing the printing of additional copies of Senate hearings on National Science Foundation Authorization, 1971 was considered, and agreed to, as follows:

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).

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1225), explaining the purposes of the measure.

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

Senate Resolution 467 would provide that there be printed for the use of the Committee on Labor and Public Welfare 1,000 additional copies of its hearings of the current Congress on National Science Foundation Authorization, 1971 (S. 3412, S. 3700).

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

Back to press, 1,000 copies	$800.80

ADDITIONAL EXPENDITURES BY COMMITTEE ON COMMERCE

The resolution (S. Res. 468) authorizing additional expenditures by the Committee on Commerce was considered and agreed to, as follows:

Resolved, That the Committee on Commerce is hereby authorized to expend, from the contingent of the Senate, $100,000, in addition to the amount, and for the same purposes and during the same period, specified in Senate Resolution 324, Ninety-first Congress, agreed to February 16, 1970.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1226), explaining the purposes of the measure.

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

Senate Resolution 468 would increase by $100,000, from $759,000 to $859,000, the limitation on expenditures by the Committee on Commerce for the study of various matters within its jurisdiction it is currently engaged in pursuant to Senate Resolution 324 of the present Congress.

Senate Resolution 324, as agreed to by the Senate on February 16, 1970, authorized the expenditure of not to exceed $759,000 by the Committee on Commerce, or any duly authorized subcommittee thereof, from February 1, 1970, through January 31, 1971, to examine, investigate, and make a complete study of any and all matters pertaining to—

(1) Interstate commerce generally, including consumer protection;
(2) Foreign commerce generally;
(3) Transportation generally;
(4) Maritime matters;
(5) Interoceanic canals;
(6) Domestic surface transportation, including pipelines and highway safety;
(7) Communications, including a complete review of national and international telecommunications and the use of communications satellites;
(8) Federal power matters;
(9) Civil aeronautics;
(10) Fisheries and wildlife;
(11) Marine sciences; and
(12) Weather services and modification, including the use of weather satellites.

PROPOSED ADDITION TO RULE XVI OF THE STANDING RULES OF THE SENATE

The Senate proceeded to consider the resolution (S. Res. 413) proposing an addition to rule XVI of the Standing Rules of the Senate which had been reported from the Committee on Rules and Administration with an amendment on page 1, line 4, after the figure "8.", strike out "Every general appropriation bill reported by the Committee on Appropriations during any session of the Congress shall be accompanied by a report which shall identify with particularity each item of appropriation contained therein" and insert "Every report on general ap-

propriation bills filed by the Committee on Appropriations shall identify with particularity each recommended amendment which proposes an item of appropriation"; so as to make the resolution read:

S. RES. 413

Resolved, That Rule XVI of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"8. Every report on general appropriation bills filed by the Committee on Appropriations shall identify with particularity each recommended amendment which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session."

The amendment was agreed to.

Mr. RUSSELL. Mr. President, before the resolution is agreed to, I would like to have a brief explanation of what effect this measure has on rule XVI.

Mr. MANSFIELD. Mr. President, the Senator from Georgia will recall that we discussed this matter and that the Senator made certain suggestions that were considered by the Committee on Rules and Administration. The Senator's suggestions were incorporated in the resolution pending before the Senate.

Senate Resolution 413, as agreed to by the Committee on Rules and Administration, would amend rule XVI of the Standing Rules by adding at the end thereof the following new paragraph:

8. Every general appropriation bill reported by the Committee on Appropriations during any session of the Congress shall be accompanied by a report which shall identify with particularly each item of appropriation contained therein which is not made to carry out the provisions of an existing law. . . .

Mr. RUSSELL. Mr. President, the Senator need not read further unless he desires to. I recall the history and background.

Mr. MANSFIELD. Mr. President, this is the handiwork of the Senator from Georgia.

Mr. RUSSELL. It is a needed addition to the rules.

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

Mr. MANSFIELD. I yield.

Mr. CURTIS. Mr. President, the Committee on Rules and Administration considered this matter and not only adopted the recommendations of the distinguished Senator from Georgia, but was also very grateful for it.

Had he not made these recommendations for the change, I am afraid that the rule would be a little cumbersome because we would have been called upon to incorporate matters in the reports that are entirely within the jurisdiction of the House of Representatives.

Mr. MANSFIELD. Mr. President, the Senator made a very pertinent observation. That is why, as always, we seek the advice and the counsel of the distinguished Senator from Georgia, the President pro tempore of this body. Because of the Senator's suggestions, the Committee on Rules and Administration agreed to them, and justifiably so.

Mr. RUSSELL. Mr. President, I am greatly flattered by the remarks of the distinguished leader, the Senator from Montana. I can assure the Senator that I did not raise this query regarding the resolution to invite any lavish praise.

Mr. MANSFIELD. The Senator is correct. He did it deliberately so that the Senate would know what it was doing so far as this aspect of its rules is concerned.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution, as amended, was agreed to.

The title was amended so as to read:

Resolution amending rule XVI of the Standing Rules of the Senate to provide that reports on appropriation bills shall identify amendments proposing appropriations not specifically authorized by law.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1228), explaining the purposes of the measure.

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

Senate Resolution 413 as referred to the Committee on Rules and Administration would amend rule XVI of the Standing Rules of the Senate by adding at the end thereof the following new paragraph:

8. Every general appropriation bill reported by the Committee on Appropriations during any session of the Congress shall be accompanied by a report which shall identify with particularity each item of appropriation contained therein which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passsed by the Senate during that session.

The purpose of Senate Resolution 413 is explained by its author, Senate Majority Leader Mike Mansfield, as follows:

I have enclosed a copy of a resolution to amend rule XVI of the Standing Rules of the Senate. It was considered a preferable course to follow rather than taking the action proposed in the Foreign Military Sales Act to prohibit expenditure of funds unless specifically authorized by law.

As you will recall during last year's debate on the Foreign Aid Appropriations Act, the question arose concerning the wisdom of appropriating funds in excess of the amount authorized in the annual authorization. The proposal contained in the Military Sales Act goes well beyond the field of foreign aid or foreign military sales. It would prohibit the expenditure of any funds that were not specifically authorized by law. That would terminate many hundreds of items that are regularly passed based upon resolution (as the gratuity to survivors of Senate employees and funds for staffs of subcommittees in the legislative branch) or by direct appropriation such as the salaries of teachers on military bases around the world.

The proposed rules change would simply amend the Senate rules to specify that the Appropriations Committee would specifically identify with particularity in its report accompanying each appropriations bill each item contained in the bill which does not have a previous authorization. This would would be a most satisfactory solution to this issue. It would be similar to the purposes of the Cordon rule that presently prescribes a more ready review to every Senator of proposed changes in law.

Upon the recommendation of Senator Richard B. Russell, chairman of the Committee on Appropriations, the Committee on Rules and Administration has amended Senate Resolution 413 to limit to amendments alone the requirement to identify with particularity in Appropriations Committee reports any items for which there are no authorization. The Rules Committee agrees as to the impracticality of embracing House items within the stipulation, especially since major House items without authorization are identified in House Appropriation Committee reports. Also, the Rules Committee points out that by its approval of Senate Resolution 413 in the amended form, it is merely seeking to formalize a procedure which has already been instituted in the Committee on Appropriations. In the judgment of the Rules Committee, however, the value to Members of the Senate of the information to be gained by such procedure warrants its formal incorporation into the standing rules.

The new paragraph which would be added to rule XVI, incorporating the amendment to Senate Resolution 413 proposed by the Committee on Rules and Administration, is as follows:

8. Every report on general appropriation bills filed by the Committee on Appropriations shall identify with particularity each recommended amendment which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session.

The Committee on Rules and Administration has also amended the title of the resolution to reflect its amendment of the text.

ADDITIONAL COPIES OF HEARINGS ON COPYRIGHT LAW REVISION

The concurrent resolution (S. Con. Res. 81) authorizing the printing of additional copies of Senate hearings on Copyright Law Revision (S. 597, 90th Congress) was considered, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on the Judiciary two thousand additional copies of parts 1, 2, 3, 4, and index of the hearings before its Subcommittee on Patents, Trademarks, and Copyrights during the Ninetieth Congress on Copyright Law Revision (S. 597).

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1227), explaining the purposes of the measure.

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

Senate Concurrent Resolution 81 would provide that there be printed for the use of the Senate Committee on the Judiciary 2,000 additional copies of parts 1, 2, 3, 4, and index of the hearings before its Subcommittee on Patents, Trademarks, and Copyrights during the 90th Congress on copyright law revision (S. 597).

The printing-cost estimate, supplied by the Public Printer, is as follows:

PRINTING-COST ESTIMATE

	Back to press, first 1,000 copies	1,000 additional copies	Subtotal
Pt. 1	$1,796.86	$370.29	$2,167.15
Pt. 2	1,681.30	334.72	2,016.02
Pt. 3	2,167.72	419.57	2,587.29
Pt. 4	1,912.99	398.43	2,311.42
Index	526.64	109.89	636.53
Total estimated cost, Senate Concurrent Resolution 81			9,718.41

PREPARATION AND PRINTING OF REVISED EDITION OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA

The joint resolution (S.J. Res. 236) authorizing the preparation and printing of a revised edition of the Constitution of the United States of America—Analysis and Interpretation, of decennial revised editions thereof, and of biennial cumulative supplements to such revised editions was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Librarian of Congress shall have prepared—

(1) a hardbound revised edition of the Constitution of the United States of America—Analysis and Interpretation, published as Senate Document Numbered 39, Eighty-eighth Congress (referred to hereinafter as the "Constitution Annotated"), which shall contain annotations of decisions of the Supreme Court of the United States through the end of the October 1971 term of the Supreme Court construing provisions of the Constitution;

(2) upon the completion of each of the October 1973, October 1975, October 1977, and October 1979 terms of the Supreme Court, a cumulative pocket-part supplement to the hardbound revised edition of the Constitution Annotated prepared pursuant to clause (1), which shall contain cumulative annotations of all such decisions rendered by the Supreme Court after the end of the October 1971 term;

(3) upon the completion of the October 1981 term of the Supreme Court, and upon the completion of each tenth October term of the Supreme Court thereafter, a hardbound decennial revised edition of the Constitution Annotated, which shall contain annotations of all decisions theretofore rendered by the Supreme Court construing provisions of the Constitution; and

(4) upon the completion of the October 1983 term of the Supreme Court, and upon the completion of each subsequent October term of the Supreme Court beginning in an odd-numbered year (the final digit of which is not a 1), a cumulative pocket-part supplement to the most recent hardbound decennial revised edition of the Constitution Annotated, which shall contain cumulative annotations of all such decisions rendered by the Supreme Court which were not included in that hardbound decennial revised edition of the Constitution Annotated.

SEC. 2. All hardbound revised editions and all cumulative pocket-part supplements shall be printed as Senate documents.

SEC. 3. There shall be printed four thousand eight hundred and seventy additional copies of the hardbound revised editions prepared pursuant to clause (1) of the first edition and of all cumulative pocket-part supplements thereto, of which two thousand six hundred and thirty-four copies shall be for the use of the House of Representatives, one thousand two hundred and thirty-six copies shall be for the use of the Senate, and one thousand copies shall be for the use of the Joint Committee on Printing. All Members of the Congress, Vice Presidents of the United States, and Delegates and Resident Commissioners, newly elected subsequent to the issuance of the hardbound revised edition prepared pursuant to such clause and prior to the first hardbound decennial revised edition, who did not receive a copy of the edition prepared pursuant to such clause shall, upon timely request, receive one copy of such edition and the then current cumulative pocket-part supplement and any further supplements thereto. All Members of the Congress, Vice Presidents of the United States, and Delegates and Resident Commissioners, no longer serving after the issuance of the hardbound revised edition prepared pursuant to such clause and who received such edition, may receive one copy of each cumulative pocket-part supplement thereto upon timely request.

SEC. 4. Additional copies of each hardbound decennial revised edition and of the cumulative pocket-part supplements thereto shall be printed and distributed in accordance with the provisions of any concurrent resolution hereafter adopted with respect thereto.

SEC. 5. There are authorized to be appropriated such sums, to remain available until expended, as may be necessary to carry out the provisions of this joint resolution.

The preamble was agreed to, as follows:

Whereas the Constitution of the United States of America—Analysis and Interpretation, published in 1964 as Senate Document Numbered 39, Eighty-eighth Congress, serves a very useful purpose by supplying essential information, not only to the Members of Congress but also to the public at large;

Whereas such document contains annotations of cases decided by the Supreme Court of the United States to June 22, 1964;

Whereas many cases bearing significantly upon the analysis and interpretation of the Constitution have been decided by the Supreme Court since June 22, 1964;

Whereas the Congress, in recognition of the usefulness of this type of document, has in the last half century since 1913, ordered the preparation and printing of revised editions of such a document on six occasions at intervals of from ten to fourteen years; and

Whereas the continuing usefulness and importance of such a document will be greatly enhanced by revision at shorter intervals on a regular schedule and thus made more readily available to Members and Committees by means of pocket-part supplements: Now, therefore, be it

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1229), explaining the purposes of the measure.

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

Senate Joint Resolution 236 would authorize the preparation and printing of a revised edition of The Constitution of the United States—Analysis and Interpretation (S. Doc. 39, 88th Cong.), popularly known as The Constitution Annotated, as a Senate document. Moreover, the joint resolution would establish a permanent authority for the preparation and printing of subsequent decennial revised editions thereof, and of biennial cumulative supplements to each such revised edition.

Commencing in 1913, six such compilations of annotations of decisions rendered by the Supreme Court of the United States interpreting the provisions of the Constitution have been printed, at intervals of 10 to 13 years, as Senate documents. An interesting and informative background statement relative to those publications supplied by the Legislative Reference Service of the Library of Congress, is included at the end of this report.

The Committee on Rules and Administration, which compiles and publishes the Senate Manual, is pleased to note in that statement the fact that the Manual prior to 1915 carried citations to Supreme Court decisions following the sections of the Constitution to which they related. Only when the volume of such decisions had increased considerably, and the desirability of distinguishing by annotation the points decided by the Court was raised, did the Senate issue a separate annotated volume for the purpose.

The present edition of The Constitution Annotated, printed as Senate Document 39 of the 88th Congress, contains annotations of cases decided by the Supreme Court through June 22, 1964. Because of the importance—not only to Congress, but to all citizens—of the Supreme Court decisions since that date, the desirability of incorporating the same into a new revision of The Constitution Annotated is quite incontestable. On this point, the Committee on Rules and Administration concurs wholeheartedly with Lester S. Jayson, Director of the Legislative Reference Service, Library of Congress when he states—

"The years since 1964 have witnessed a series of Supreme Court decisions, which, because of their impact on prior constitutional interpretations, Federal-State relations, and many other areas of unusual importance, may fairly be compared to the landmark decisions of the earliest Supreme Court days."

The relevance of Mr. Jayson's observation becomes apparent when it is considered that the text of the last three revisions of The Constitution Annotated have been prepared in the department he presently heads in the Library of Congress. Moreover, he was coeditor of the present edition.

Specifically, Senate Joint Resolution would provide that the Librarian of Congress shall have prepared a revised edition of The Constitution of the United States of America—Analysis and Interpretation, published as Senate Document 39, 88th Congress, which shall contain annotations of decisions of the Supreme Court of the United States through the end of its October 1971 term, construing provisions of the Constitution. Every 10 years thence the Librarian would prepare a new revised edition of the publication incorporating the decisions rendered during that period, together with appropriate annotations.

At 2-year intervals between the revised editions the Librarian would prepare cumulative pocket-part supplements containing decisions and annotations covering such intervals.

The revised or decennial editions would be hardbound, and the cumulative supplements would be paperbound, designed to fit in a pocket in the back of the hardbound volume.

Each hardbound revised edition of the Constitution Annotated and each paperbound supplement thereto would be printed as Senate documents. By virtue of this provision, the revised editions and the supplements would be available upon request to any of the more than 1,000 libraries in the United States under the depository library system.

There would be printed 4,870 additional copies of each revised edition and of the supplements thereto, of which 2,634 copies would be for the use of the House of Representatives (six per Member), 1,236 copies for the use of the Senate (12 per Member), and 1,000 copies for the use of the Joint Committee on Printing.

Newly elected Members of Congress, upon timely request, would be supplied with one copy of the most recent decennial edition and the most recent supplement thereto. When the next decennial edition is printed they would receive the normal allotment if they are still Members. Former Members, upon timely request, would receive one copy of each cumulative supplement to the most recent revised edition they had received while still a Member.

The cost of the preparation of the first revised edition of the Constitution Annotated has been estimated by the Library

of Congress to be $110,000. The cost they supply for the first supplement thereto is estimated to be $23,000.

The Public Printer has supplied the Committee on Rules and Administration with a printing-cost estimate of $68,877.91 for production of the first revised edition. The first biennial supplement thereto is estimated to cost $2,976.66.

On the basis of the estimates supplied by the Library of Congress and the Government Printing Office the total expenditure involved in this joint resolution would amount to $178,878 for the first fully revised edition of The Constitution Annotated, and $25,976 for the first biennial supplement thereto.

The Superintendent of Documents has advised that as of June 30, 1970, his office had sold 18,516 copies of the present Constitution Annotated (S. Doc. 39, 88th Cong.) at a price of $15.50 each. His remaining stock of the document on that date amounted to 1,296 copies.

CONSIDERATION OF FOUR VETERANS BILLS: S. 3656; S. 3657; S. 3785; AND H.R. 370 ON THE CALL OF THE CALENDAR

Mr. CRANSTON. Mr. President, I understand that upon the call of the calendar, the Senate is about to consider a series of veterans' bills. On September 23, I reported these bills—S. 3656, S. 3657, S. 3785, and H.R. 370—from the Committee on Labor and Public Welfare, each of them with a committee amendment in the nature of a substitute and a title amendment. Before I describe briefly the purposes of these bills, I want to express my thanks to the distinguished majority and minority leaders for their great dedication to the veterans of our Nation as shown by the speedy floor action which they have scheduled on these bills.

I also wish to thank for his great assistance and cooperation the outstanding chairman of the Committee on Labor and Public Welfare, the distinguished Senator from Texas (Mr. YARBOROUGH). Senator YARBOROUGH also serves as the ranking majority member of the Veterans' Affairs Subcommittee, which I have been privileged to chair for the last 18 months. As every Senator knows, RALPH YARBOROUGH has been a dedicated and tireless fighter for veterans' benefits. He has established a momentous record of achievement for our Nation's veterans, and those of us who have followed in his footsteps as chairman of the Veterans' Affairs Subcommittee have, indeed, been greatly challenged to live up to the example of leadership he provided as subcommittee chairman and has continued to provide as chairman of the full Labor and Public Welfare Committee.

I know that all of my colleagues on the subcommittee will miss his great energy and wisdom and that, most of all, his magnificent efforts will be missed by the 28 million veterans and their families in our Nation today.

Also most deserving of special thanks is the ranking majority member of the full Labor and Public Welfare Committee, the distinguished Senator from West Virginia (Mr. RANDOLPH). Senator RANDOLPH served as chairman of this subcommittee for almost 2 years and has always been most generous with his time and counsel in full committee consideration of our veterans legislation, as well as in consideration in the subcommittee, on which he has continued to serve.

I also wish to express my personal gratitude to the ranking minority member of the subcommittee, my fellow freshman colleague from Pennsylvania (Mr. SCHWEIKER). Senator SCHWEIKER ably assisted by the minority staff of the committee as well as his own staff, has, from the very start of our partnership on this subcommittee established a bipartisan theme. It is a great tribute to him that the four bills under consideration today now join the eight other veterans bills previously reported from the Committee on Labor and Public Welfare and unanimously passed by the Senate during this Congress in having been unanimously approved in subcommittee and unanimously approved in full committee. The four bills under consideration today were unanimously approved in subcommittee on September 15 and in full committee on September 16, and I urge that they be passed unanimously by the Senate.

I am extremely proud of this bipartisan and unanimous record, and I plan to do everything I possibly can to continue to see that the business of caring for our Nation's veterans and providing appropriate benefits for them does not become mired in partisan politics. I am confident that Senator SCHWEIKER shares my strong conviction in this regard and will continue his outstanding leadership toward the same goal.

Mr. President, I would like to briefly outline the purposes of the bills under consideration by the Senate.

S. 3656—VETERANS HOUSING ACT OF 1970

Mr. President, I introduced S. 3656 on March 31, was honored to have been able to report it to the Senate on September 23, and very pleased to urge its passage today. The committee amendment in the nature of a substitute has been inserted in place of the original bill text to amend chapter 37 of title 38 of the United States Code to achieve the following six basic purposes:

First. To restore to World War II and Korean conflict veterans all entitlements to home loan benefits which were unused and have expired—all outstanding World War II veterans entitlements expired on July 25, 1970.

Second. To remove the future expiration dates for the guaranteed and direct home loan program for all eligible war veterans—World War II, Korean conflict, and post-Korean.

Third. To establish a guaranteed and direct loan program for mobile homes and lots to place them on.

Fourth. To eliminate the fee—one-half of 1 percent of the total loan amount—now collected only from post-Korean veterans on VA direct and guaranteed home loans.

Fifth. To extend regular guaranteed and direct home loan entitlement to refinancing of existing mortgage loans made on regular houses.

Sixth. To extend regular guaranteed and direct home loan entitlement to loans for the purchase of single family residential units in condominiums approved by FHA.

The committee substitute also repeals a few obsolete provisions of chapter 37, title 38.

Mr. President, the two main features of this bill will provide substantial assistance to Vietnam veterans, as well as all post-Korean, Korean conflict, and World War II veterans in obtaining suitable housing during this time of highest interest rates and low availability of adequate living facilities. Restoration of the home loan entitlements of more than 10.3 million World War II and Korean conflict veterans, to the extent that they had not used their entitlements before they expired, should provide them with the opportunity to select the most appropriate time for them to use their entitlements to purchase a residence. Of at least equal importance, I believe that the new mobile home loan program will be of great assistance to our returning Vietnam veterans who have been experiencing great difficulty in securing suitable living arrangements. I also wish to point out that this new mobile home loan program would, by virtue of a provision in S. 3657, as reported, be available to servicemen after 180 days of active duty service.

The committee recognized that the mobile home program would be a new one for the Veterans' Administration and that mobile homes are generally a relatively phenomenon in our society. The committee substitute, therefore, imposes very specific and major responsibilities upon the Veterans' Administration to protect the veteran purchaser, as well as the interests of the U.S. Government.

Mr. President, I ask unanimous consent that the appropriate passages of the committee report, No. 91–1230, be set forth in the RECORD at this point in order to explain in detail the purposes of S. 3656 as reported, and I urge all of my colleagues to support the bill as reported.

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

EXCERPT FROM REPORT NO. 91–1230

The committee substitute does not include two rather costly (total $93.2 million first full year cost) subsidy provisions (for closing costs and one point of interest for five years) which were contained in S. 3656 (section 4(b)), because the Congress has recently expressly mandated the VA, along with the FHA, to study the possibility of achieving uniformity and a reduction of closing costs and report to Congress by July 1, 1971 (P.L. 91–351, the "Emergency Home Finance Act of 1970") and in that Act also established an interest subsidy for low and middle income purchases under both FHA and VA programs.

REMOVAL OF HOME LOAN EXPIRATION DATES AND RESTORATION OF UNUSED EXPIRED ENTITLEMENTS

Provisions to accomplish these purposes were proposed by the administration in an April 16, 1970, transmission to the President of the Senate. These provisions were introduced on June 2, 1970, as amendment No. 672 to S. 3683 and are contained in sections 2(a), (b), and (c) of the committee substitute. In his transmittal letter, the Administrator of Veterans' Affairs supported the proposal as follows:

"Prior to July 6, 1961, World War II veterans, as well as Korean veterans, were limited in their use of VA loans benefits to a

period terminated by a fixed date. This terminal date had been extended several times so that as to World War II veterans it was then fixed at July 25, 1962, and as to Korean conflict veterans at January 31, 1965.

"Public Law 87–84, approved July 6, 1961, established a phase-out formula, gearing the entitlement period to the length of the veteran's war service and the date of his discharge, with emphasis on those who served longest and were most recently discharged. Under the formula, each veteran was given entitlement of ten years from date of separation from his last period of duty which included service in the war period, plus an additional period of one year from each three months of active duty performed during the war or conflict. Under current law (38 U.S.C. 1803), the eligibility of World War II and Korean conflict veterans cannot extend beyond July 25, 1970, and January 31, 1975, respectively.

"The foregoing entitlement formula applies also to veterans of the post-Korean period having loan entitlement under section 1818 of title 38, except that the final date within which the phase-out formula operates for that group is twenty years from the date of the veteran's separation from his last period of active duty.

"Terminal dates for the eligibility of World War II veterans have been extended several times. Extensions have been made at or just prior to the statutory cut-off dates which has created a strong climate of uncertainty for veterans and other program participants. Removal of the phase-out criteria and the group cut-off dates would eliminate the element of urgency by veterans in using their eligibility, which becomes critical in periods of credit stringency.

"Elimination of the delimiting dates on eligibility for the GI loan program would be in line with the eligibility criteria for the FHA veterans' loan program. Such a change would also simplify the administration of the VA loan programs. Further, veterans could adjust the timing of their home purchases and mortgage credit needs to coincide with favorable private market conditions, when sellers and lenders are willing to participate in the loan guaranty program. No veteran would be denied use of his entitlement because it had expired at a time when guaranteed loans were unavailable. * * *"

With respect to restoration of unused expired entitlements of World War II and Korean conflict veterans, although neither the legislation proposed by the administration nor its transmittal letter, quoted above, specifically refers to such restoration, the Administrator stated in his June 9, 1970, testimony: "We believe that the amendment removing the phasing-out and program termination provisions will have this result [restoration] without such a provision." The committee substitute spells out this restoration of entitlements in the new subsection (a)(2) added to present section 1803 by section 2(b) of the substitute. This provision would restore lost unused entitlements of more than 10.3 million WWII and Korean conflict veterans who, for various reasons, may not have been able to use their entitlements or use them fully before they expired (including the 2.1 million remaining World War II veterans whose entitlements expired on July 25, 1970). Restoration is justified to provide these veterans with equitable treatment in light of the removal of expiration dates for veterans whose entitlements have not yet expired.

GUARANTEED AND DIRECT VA LOANS FOR PURCHASE OF MOBILE HOMES AND LOTS AND SITE PREPARATION EXPENSES

A new section 1819 would be added to chapter 37 of title 38, United States Code, by sections 4(4) and 5 of the committee substitute in order to authorize the Administrator of Veterans' Affairs to guarantee or make loans for veterans to purchase mobile homes and lots to place them on as well as to pay for necessary site preparations. The addition of section 1819 would be another step by the Congress in recognizing that mobile home financing offers an effective means to meet the urgent housing needs of the Nation. About two years ago, the Congress, in the Housing and Urban Development Act of 1968 (PL 90–448), authorized Federal savings and loan associations to make mobile home loans. Last year, in the Housing and Urban Development Act of 1969 (PL 91–152), the Congress authorized the Federal Housing Administration to insure loans made on mobile homes. Thus, the new section 1819 would complement those earlier acts by the Congress.

Generally, housing for low to moderate income families is critically needed in the Nation today. Such need is especially acute in respect to young veterans of the Vietnam Era. By now there are 4.2 million such veterans in civil life, with the number projected to increase by 800,000 in the current fiscal year. In five years, the number of such veterans in civil life will be nearly 7.5 million. In late March 1970, the Committee on the Vietnam Veterans, created by the President on June 5, 1969, pointed to the urgency of finding some way to enable these veterans to acquire suitable homes on terms within their payment ability and recommended that authority be granted to VA to underwrite loans on mobile homes. The report stated:

"Cost of single family home and mortgage financing have increased in recent years to the point that low and moderate income veterans are priced out of the housing market for all practical purposes. Some way must be found to enable these veterans to purchase suitable housing on terms that are within their payment ability.

"The mobile home represents an enormous potential in meeting the housing needs of many veterans with low to moderate incomes. The increasingly higher construction cost of conventional homes is a principal factor in the sudden popularity of mobile homes. Manufacturers are able to produce these homes at relatively low price.

"Existing provisions of the VA home loan guaranty law were designed to promote real estate mortgage loans to purchase conventional type housing and do not contemplate the purchase of mobile home structures on a chattel mortgage loan basis which is the customary type of loan made to individuals purchasing mobile homes. The 30 year, 100% real estate first mortgage GI loan vehicle is not a suitable mobile home financing vehicle.

"To induce lenders to make loans available to veterans on liberal terms for the purchase of mobile homes, a special type of loan guaranty or insurance underwriting vehicle should be designed which will be attractive to lenders in terms of investment return and loss exposure. At the same time, it is essential that the Government's exposure be limited to the minimum required in order to insure an adequate supply of mobile home financing for veterans in the low and moderate income brackets."

Because of a persistent, and at times rapid, escalation of the selling prices of residential properties, especially in recent years, coupled with rates of interest on loans, the VA guaranteed home loan program now primarily serves veterans who have become well established in their working careers and have moved up the income ladder into the upper middle level or beyond. This is amply demonstrated by the $21,000 average purchase price on homes recently financed with VA guaranteed loans, entailing an average loan amount of approximately $20,500. The costs associated with the amortization of such loans, interest expense thereon, and other recurring items for taxes and insurance effectively limit the benefit to veterans who are better situated financially than most Vietnam veterans.

To redress this situation, the committee has fashioned new section 1819 so as to provide a workable plan of credit assistance for veterans whose immediate housing needs can be satisfied by the purchase of mobile homes, in respect to which associated costs average substantially less than those for conventional type housing.

The salient feature of such plan are—

The mobile home must be for permanent occupancy by the veteran as his home.

A veteran who purchases a mobile home with a VA loan under this plan will not lose his basic $12,500 guaranty entitlement for a conventional type home, which will be available to him when the mobile home loan has been paid in full, or when he sells to a purchaser acceptable to the Administrator and the purchaser assumes the mortgage obligation.

The maximum loan amount will be $10,000 for a mobile home, with an extra allowance up to $5,000 for the purchase of land on which to place the unit. The maximum loan may also be increased for the cost of reasonable and accessory site preparation.

The maximum maturity will be 12 years and 32 days, except that if the loan also will finance the purchase of real estate the maximum maturity may be 15 years and 32 days.

The Administrator will be authorized to establish an interest rate for mobile home loans at such level as will assure a reasonable supply of private credit for guaranteed loans.

The Administrator's liability under the guaranty will be limited to 30% of the loan amount, a guaranty considered consistent with the prevailing practice among private lenders as to the amount of down payment required on conventional mobile home loans.

Direct VA loans will be made in towns and rural areas determined to be mobile housing credit shortage areas.

No loans will be made after July 1, 1975.

Recognizing that mobile home financing within the VA system of credit assistance for veterans will constitute a substantial residential properties, the Committee has drawn on many of the safeguards heretofore built into the existing VA loan program and provided for their application to this new mobile homes program. For example—

The site where the mobile home will be located must be acceptable to the Administrator, including specific requirements for considering scenic and environmental factors.

The Administrator will be required to prescribe standards for planning, construction, and general acceptability of mobile homes and to inspect the manufacturing processes of mobile homes to be sold to veterans, and to make site inspections and conduct surveys of purchasers of mobile homes financed under this program.

The manufacturer will become the warrantor (for a year) to the veteran or subsequent purchaser of any new mobile home financed under this plan, with such warranty specifically providing that the mobile home meets the standards prescribed by the Administrator.

The Administrator will be authorized to suspend any manufacturer who declines to permit inspections or who produces mobile homes not in conformity with prescribed standards, and the Administrator will be authorized to suspend any person or entity whose rental or sales methods, procedures, requirements, or practices in connection with a mobile home park or subdivision are determined to be unfair or prejudicial to veterans.

There may be several parties to the transaction involving a mobile home purchase particularly where there is also a site involved. These parties may be the manufacturer of the mobile home unit, the distributor of the mobile home unit, the retailer of the mobile home unit, the rental park op-

erator, and the veteran purchaser. In addition, land may be acquired in the form of a developed site from another party or raw land may be obtained from one party with the necessary site improvements being arranged through another individual. In addition to these parties there will be the institutions and intermediaries providing or arranging the necessary financing.

The committee expects the VA to consider carefully the roles of the various parties involved in the transaction and to define clearly the nature and the proper extent of the responsibilities of each party to the veteran purchaser concerning the manufacture and construction specifications and minimum property requirements established by the VA for the protection of veteran purchasers.

The committee has provided for a July 1, 1975, program termination date in order to afford a definite time for a comprehensive review and evaluation before there is any long term commitment made by the Congress for this novel program. For the same reason, annual reports to Congress about program experience are required.

ELIMINATION OF POST-KOREAN LOAN FEE

The committee proposes (in section 2(e) of the committee substitute by repeal of subsection (d) of present section 1818) to eliminate the loan fee (set at ½ of one percent of the total loan amount) collected only from post-Korean conflict veterans. Such a fee was never and is not presently collected from World War II or Korean conflict veterans and is not considered necessary to the solvency of the loan guaranty revolving fund (under section 1824) into which it is paid. In fact, recent VA experience under that fund shows that total defaults on VA guaranteed loans have dropped by 25 percent since FY 1967, and the fund as of June 30, 1970, contained $458,981,458. In FY 1969 total receipts exceeded total payments from the fund by $1,226,503 and in FY 1970 by $16,509,662. Historically, the average net loss to the fund per year has been about $4 million per year, and, as noted above, the fund has shown a profit for the last two fiscal years. Thus, removing this discriminatory feature against Vietnam and other post-Korean veterans is a fiscally, as well as morally, sound policy.

MISCELLANEOUS

The basis for the three other substantive provisions of the committee substitute—adding to the regular VA home loan program loans for refinancing existing mortgage loans and for purchase of single-family condominiums (section 3(1) and (2) of the committee substitute) and the provision for direct VA home loans to paraplegic and quadriplegic service-connected veterans eligible for specially adapted housing assistance under chapter 21 (new subsection (i) added by section 4(6) of the committee substitute)—are adequately summarized in the Section-by-Section Analysis.

SECTION-BY-SECTION ANALYSIS

Section 1. Establishes the Act title as "The Veterans' Housing Act of 1970."

Section 2. Subsections (a) and (b). (1) Strike loan eligibility expiration dates for World War II and Korean conflict veterans in sections 1802(d) and 1803(a) of title 38, United States Code, relating to basic loan guaranty entitlement; and (2) Add (as a new paragraph (2) in subsection (a) of section 1803) a specific provision restoring expired entitlements of World War II and Korean conflict veterans and providing that such entitlements shall not expire until used.

Subsection (c). Adds an exception to section 1803(b) of title 38, United States Code, which establishes loan guaranty maximums for non-real estate loans, so that the guarantee maximum contained in the new mobile home program will apply (new section 1819 of title 38 to be added by section 5 of the committee substitute).

Subsection (d). Adds to present subsections (b) and (d) of section 1804, relating to builder and lender disqualifications, a requirement that such disqualifications shall be made only after notice and an opportunity for a hearing, except that suspensions can be made prior to hearing. This requirement accords with present VA regulations and conforms to a requirement in subsections (k) and (l) in the new section 1819 which section 5 of the committee substitute would add. (See analysis under those subsections, below.)

Subsection (e). (1) Strikes expiration of eligibility provisions for post-Korean veterans in section 1818(c) of title 38, relating to guaranteed and direct home loan entitlements of veterans serving after January 31, 1955 (also see analysis of clause (6) of section 4 of the committee substitute); (2) repeals the authority for collecting the ½-percent fee only from such post-Korean veterans (in section 1818(d) and part of 1818(e) of title 38); (3) preserves (in a new subsection (c) of present section 1818) the savings provision of section 1818(e) of title 38, which saves for World War II and Korean conflict veterans who are also post-Korean veterans the privilege of obtaining business loans and insured loans (not available to post-Korean veterans) which they would otherwise lose (4) adds (as a new subsection (d) of present section 1818) a specific provision that post-Korean veterans' entitlements shall not expire until used.

Section 3. Makes several amendments to section 1810 of title 38, relating to guaranteed loans for the purchase or construction of homes.

Clause (1). Adds a new subsection (a)(5) to permit a veteran to use his loan guaranty eligibility to refinance existing mortgage loans on dwellings or farm residences he occupies and provides that veterans using loan guarantees for such refinancing may pay points demanded by a lender which is the universal practice in refinancing. This provision will be of particular assistance to any veteran who has lost his entitlement (especially World War II veterans whose eligibility expired on July 25, 1970) and who before enactment of this bill acquired a conventional loan the terms of which permit refinancing. It will also permit a veteran to obtain a loan in excess of the existing mortgage balance, but not in excess of the reasonable value of the property as determined by the V.A.; *e.g.*, a veteran with the necessary entitlement would be able to refinance his existing mortgage loan to obtain funds for educational purposes.

Clause (2). Adds (in a new subsection (d)) authority for the VA to guarantee loans on condominium one-family residential units (already covered under the FHA program) once the HUD secretary has issued evidence of insurance on at least one such loan in a particular development. In recent years there have been some events bearing on the availability of housing units on the market which have tended to bring condominium apartments into greater supply: growing scarcity of land suitable for preparation as subdivisions at reasonable cost and in close proximity to central cities; rapid appreciation in the cost of building single family residences; investor emphasis on equity investment over fixed-dollar investments; changes in the preferences of prospective purchasers from single family units to apartments, probably reflecting reactions against high prices, commuting distances, and maintenance expenses.

Section 4. Makes several amendments to section 1811 of title 38, relating to direct VA loans to veterans in rural areas or small towns or cities where private capital is not generally available—so-called "housing credit shortage areas", to provide for direct loans for mobile homes in areas where private capital is not available.

Clauses (1), (2) and (3). Add to subsections (a), (b), (c) and (g) of section 1811 appropriate cross references (subsection (b) is partially rewritten) to the new section 1819 which would be added by section 5 of the committee substitute to establish the guaranteed loan program for mobile homes. The effect of these amendments and those in clauses (4) and (5), below, is to establish a direct loan program for mobile homes (and lots) in those areas where mobile home housing credit is not generally available; in effect, this would mean the Administrator's designating such an area as a "mobile housing credit shortage area."

Clause (4). Renders the maximum amounts for a direct loan for a regular house in subparagraph (d)(2) inapplicable to mobile home direct loans because the maximum permissible loan for a mobile home and lot for guaranty purposes is limited in the new section 1819(d)—$15,000 plus necessary site preparation expenses—to an amount which will be less than the $21,000 maximum ordinarily permitted for a veteran with full loan guaranty entitlement remaining for a regular house. The new section 1819 requires in subsection (a) that to be eligible for a mobile home loan guaranty a veteran must have maximum entitlement available, so the special formula (in subsection (d)(2) of present section 1811) for computing the maximum direct loan for a veteran with partial entitlement remaining for a regular home loan need not be made applicable to direct mobile home loans.

Clause (5). Establishes the mobile home direct VA loan maximum at the maximum permissible loan level in the new section 1819 (see analysis under clause (4), directly above).

Clause (6). Strikes subsections (h), (i), and (j) of section 1811 and inserts new subsections (h), (i), and (j). Present subsection (h) establishes a direct loan expiration date by reference to those for guaranteed loans which would be struck by section 2 of the committee substitute. In coordination with the Banking and Currency Committee which has jurisdiction over the VA direct loan program, the expiration date for the direct loan program is eliminated for World War II and Korean conflict veterans (see Banking and Currency Committee letter at the end of "Introduction"). The expiration date is eliminated for post-Korean veterans by section 2(d) of the committee substitute in striking out subsection (c) of section 1818 of title 38, in which paragraph (1)(C) contains the direct loan expiration date for post-Korean veterans.

Subsections (i)(3) and (j) of section 1811 are struck, at the request of the Veterans' Administration, since the VA terminated in 1959 its prior referral of direct loan applications to the Voluntary Home Mortgage Credit Committee (VHMCC) under paragraph (3) of subsection (i), and the existing requirement in section 1811(c)(1) that the veteran applicant show he is unable to obtain a loan from private lenders obviate the need for any such referrals. Subsection (a)(3) was added by PL 85-364 (April 1, 1958) as an amendment of section 512 of the Servicemen's Readjustment Act of 1944. Subsection (j) was added about four years after installation of the procedure involving prior VHMCC referrals of direct loan applications. The language of present subsecton (j) makes clear that its only purpose was to require timely processing of direct loan applications by VA, notwithstanding VHMCC referral of such applications.

The new subsection (h) retains the present paragraph (4) of present section (i). New subsection (i) was previously approved by the Senate on August 28, 1970, in S. 3775, reported from the Banking and Currency

Committee. It is included here, with that Committee's approval, to simplify the revisions made in section 1811 by the committee substitute (see Banking and Currency Committee letter at the end of "INTRODUCTION"). The new subsection (j) retains in pargraphs (1) and (2) the present paragraphs (1) and (2) of present subsection (i).

Section 5. Establishes a mobile home loan guaranty program in a new section 1819 to be added to title 38. The committee substitute provision combines features of S. 3656 and S. 3683. Generally, the program provides for a 30 percent VA guaranty on loans up to $10,000 for new or used (VA or FHA already guaranteed) mobile homes for a term of 12 years and 32 days (and $15,000 for a term of 15 years and 32 days for such loans when a lot is also purchased) plus an additional amount to cover necessary site preparation expenses to all eligible veterans with full loan entitlements, and establishes some very strong acceptability standards for construction, placement, lot condition, warranties and marketing practices, as well as responsibilities on the part of the VA to oversee the program very closely.

Subsection (a) of new section 1819. Provides for loan guaranty benefits for eligible veterans (World War II, Korean conflict and post-Korean) who have maximum loan guaranty entitlements available ($12,500), and permits the restoration of entitlement used for a mobile home guaranteed loan to be restored not only upon payment in full but when another purchaser acceptable to the Administrator assumes the mortgage liability. This latter restoration feature, which does not exist under the regular VA loan guaranty program, is included here because the basic purpose of the mobile home program is to provide transitional housing to a veteran unable to afford current financing terms for regular houses, or who is generally in low or lower income groups. Permitting the veteran to sell the mobile home, if he can, to a purchaser with credit satisfactory to the Administrator, who assumes mortgage liability provides some flexibility for the veteran to purchase a conventional house in several years rather than being locked in for 12 or 15 years unless he could pay off his mobile home in full. Since the VA's maximum guaranty liability for mobile homes will generally be $4500, its overall liability assumption for (or on behalf of) one veteran would be increased by a relatively small amount, and even then, the new primary debtor is subject to VA pre-approval.

Subsection (b) of the new section 1819. Provides for the guaranteed loan also to cover the mobile home lot, when it is being purchased rather than leased, and necessary site preparations (*e.g.*, installation of utility connections, sanitary facilities and paving and construction of a suitable pad) for a lot purchased or otherwise acquired or owned.

Subsection (c) of the new section 1819. (1) Provides for automatic VA guarantee of loans to be made by any Federal land bank, national bank, state bank, private bank, building and loan association, credit union, or mortgage and loan company, that is subject to examination and supervision by an agency of the United States or of any state, to be made by any state itself, or to be made by any mortgagee approved by the Secretary of HUD and designated by him as a certified agent and which is acceptable to the Administrator. This automatic guaranty means that such organizations act, in effect, as agents of the Administrator in carrying out the requirements of the new section 1819 and need not submit such loans for prior VA approval. Prior VA approval is required, however, for lenders not of the type specified above. This is the same scheme which currently obtains with respect to regular home loans (present section 1810), purchase of farm and farm equipment loans (present section 1812), purchase of business property loans (present section 1813), and loans to refinance delinquent indebtedness (present section 1814). (2) Provides for loans for used, as well as new, mobile homes when such used homes are the security for a prior VA loan guaranty or a loan guaranteed or insured by any other Federal agency. (3) Establishes a maximum loan guaranty of 30 percentum of the loan, including any amount for lot acquisition and site preparation, and a procedure for payment of such guaranty which accords with VA regulations governing other loan programs under chapter 37 of title 38.

Subsection (d) of the new section 1819. Establishes overall maximum loan amounts and bases for determining reasonable value of the property involved.

Paragraph (1). Provides for the Administrator to establish maximum loan amounts for individual loans: For a new mobile home, generally to be based on the manufacturer's invoice costs to the dealer and such other cost factors as the Administrator determines; for a used mobile home, and for any lot and necessary site preparation, to be based on the reasonable value of the property as determined by the Administrator. The authority to the Administrator to consider "other cost factors" in establishing loan amounts for new mobile homes is intended to permit the Administrator to (1) include such additional costs as dealer preparation, overhead and profit, delivery and placement, and state sales taxes, but (2) also permit the Administrator to require a modest downpayment on the part of the veteran. Such a downpayment—which would generally not exceed 10 percent—would be required by the VA for mobile homes in order to provide the veteran with some incentive to make the best bargain possible for purchase of the home and to discourage unreasonable inflation of dealer costs. The language "based on his determination of the reasonable value of the property" with respect to establishing the maximum loan amount for a used mobile home would also permit the Administrator to require such a downpayment for a used home.

Paragraph (2). Establishes the maximum permissible loan amount and term as $10,000 for 12 years and 32 days for purchase of a mobile home alone or $15,000 (no more than $5,000 of which is for lot acquisition) for 15 years and 32 days when purchase includes a lot, plus additional amounts as approved by the Administrator for necessary site preparation. The above maximum would not preclude the Administrator from consenting to necessary advances by the lender to the veteran for the protection of the holder's lien or to a reasonable extension of the term or reamortization of the loan. This would include, among other things, advances to permit necessary repair and improvements. The maximum would not permit the guaranteed financing of most double-wides (two attached mobile home units) which generally cost about $12,000 and up or houseboats which generally cost about $17,000. The committee suggests, however, that the VA consider the appropriateness of, first revising its regulations for the regular home loan program so as to cover appropriately constructed double-wides and, second, including permanent residence houseboats under the new mobile home program's provisions.

Subsection (e) of the new section 1819. Establishes seven enumerated conditions which must be satisfied before a mobile home loan can be guaranteed. These conditions, which are based in part, on those conditions established for regular home loans in present section 1810(b), are as follows:

(1) The loan provides for repayment in approximately equal monthly installments;

(2) The terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, taking into account the purpose of the program to make available lower cost housing to low and lower income veterans, especially those recently returned from service who may not have previously established credit ratings. The latter phrase, which is not contained in present section 1810(b)(3), is designed to make clear Congress purpose to make the mobile home program a source of decent lower cost housing for recently returned veterans without much credit experience, so that such veterans will be afforded every benefit of the doubt in determining whether they are satisfactory credit risks;

(3) The loan is secured by a first lien on the home and any lot acquired with the loan;

(4) The loan amount does not exceed the prescribed maximums;

(5) The veteran certifies that he will personally occupy the property as his home;

(6) The home site meets specifications established by the Administrator; and

(7) The interest rate does not exceed the permissible rate established by the Administrator.

Subsection (f) of the new section 1819, Permits the Administrator to establish an interest rate for mobile home loans as he determines necessary to assure a reasonable supply of such loan financing for veterans. The committee recognizes that in order to attract lender participation in a mobile home loan program, an interest rate—probably substantially in excess of the current maximum 8½ per cent rate applicable to the regular home loan program—must be established which is competitive with the rate prevailing in the conventional mobile home loan market.

Subsection (g) of the new section 1819. Permits restoration of mobile home guaranty entitlement by the Administrator if the veteran has repaid the loan in full or sold the property to a transferee acceptable to the Administrator and the transferee has assumed mortgage liability. However, such restoration of mobile home loan entitlement would be permitted only one time. The veteran is given the opportunity of transferring his liability once in order to permit him maximum flexibility to purchase a more expensive mobile home. Although restoration of entitlement under the regular home loan program is not permitted on the basis of such transfers of liability, a one-time restoration is provided for the mobile home veteran purchaser because the government's total mobile homes guaranty liability could, for all practical purposes, not exceed the maximum of $12,500 if applied to two mobile home purchases.

Subsection (h) of the new section 1819. Mandates the Administrator to establish regulations to implement the mobile home loan program and to specify in such regulations which of the other provisions of chapter 37 he determines to be applicable for mobile home loans. The subsection also makes clear that the Administrator possesses such powers and responsibilities with respect to the mobile home program as he has with respect to all other loans made or guaranteed under chapter 37. At the committee's request, the VA advised tentatively that if section 5 of the committee substitute is enacted as reported, the VA would likely adopt by regulations the following portions of chapter 37 of title 38, United States Code, as the committee substitute proposes to amend it:

Portions to be adopted

1. Section 1801.
2. Section 1802 (a), (c) through (f).
3. Section 1803(b).
4. Section 1804(d).
5. Section 1806(a).
6. Section 1811 (as applicable).
7. Section 1816(a) (except for first sentence).
8. Section 1817 (in substance).
9. Section 1818 (a) and (d).

10. Section 1820 (as applicable).
11. Section 1821.
12. Section 1823.
13. Section 1824.
14. Section 1825.
15. Section 1826.
16. Section 1827.

Portions not to be adopted

1. Section 1802(b).
2. Section 1803 (a), (c), and (d).
3. Section 1804 (a), (b), (c), and (e).
4. Section 1805.
5. Section 1806(b).
6. Section 1810.
7. Section 1812.
8. Section 1813.
9. Section 1814.
10. Section 1815.
11. Section 1816(a) (first sentence only) and (b).
12. Section 1818 (b) and (c).
13. Section 1822.

Subsection (i) of the new section 1819. Establishes the responsibility of the Administrator to prescribe minimum standards for planning, construction and general acceptability for mobile homes and lots, and specifies that such standards should encourage the development of attractive residential areas free from adverse scenic and environmental conditions and which will not substantially detract from scenic or environmental conditions in the general community. VA scenic and environmental condition regulations are required to be coordinated with those for the FHA mobile home program (and be adopted in consultation with other appropriate governmental representatives) and to provide for consideration of the variations of geographic areas insofar as environmental needs are concerned. The Committee recognizes that in rural areas veterans may wish to purchase mobile homes to be placed on lots owned or to be acquired by them and which are not part of a mobile park or subdivision. In such instances the committee does not expect the VA to require the same standards relating to scenic and environmental conditions as would be applicable to mobile home parks or developments. In cases in which such lots are within a political subdivision, local zoning ordinances may substantially accomplish the committee's objective. In cases where lots are not subject to such zoning criteria applicable to scattered lots when conventional type houses are to be constructed on such lots.

Subsection (h) also charges the Administrator with the responsibility of conducting periodic inspections of mobile home manufacturing processes and the circulation of questionnaires to veteran owners and the conduct of random on-site inspections of mobile homes purchased under this program.

Subsection (j) of the new section 1819. Requires the manufacturer of a new mobile home approved for purchase under this program to become a warrantor of such home and to furnish a written warranty to the veteran purchaser. The warranty must include a statement that the home meets the Administrator's minimum standards and a provision that the manufacturer's liability to the purchaser (or subsequent owner) is limited to instances of substantial non-conformity to such standards becoming evident within one year of purchase after notice by the purchaser (or subsequent owner) not later than ten days after the end of the warranty period. The subsection also continues in full force and effect any other warranties, rights and privileges established under any other law or instrument, and specifically requires the warranty document to so provide.

Subsection (k) of the new section 1819. Authorizes the Administrator subject to notice and an opportunity for a hearing to deny guaranteed or direct financing for mobile homes constructed by any manufacturer who declines to permit the inspections provided for in subsection (j); which the Administrator determines do not conform to his minimum standards; or where the manufacturer does not discharge his warranty obligations.

Subsection (l) of the new section 1819. Authorizes the Administrator, subject to notice and an opportunity for a hearing, to refuse to approve loans when marketing practices are determined to be unfair or prejudicial to veterans or with respect to dealers who have sold homes with substantial deficiencies or who have failed to discharge contractual liabilities to veterans or who have generally conducted themselves in an unfair or prejudicial way with respect to veteran purchasers. This section is generally modeled upon present section 1804(b). Further, with respect to the dealers' operations, the committee report urges the VA to disclose in its informational literature about the program, the substantial financial advantages of lot purchase rather than lot rental and to encourage dealers to point this out as well.

The notice and hearing requirements in both subsections (k) and (l) in the new section 1819, relating, respectively, to authority to deny financing with respect to certain manufacturers' homes, and to authority to disapprove certain sites and dealers because of unfair and prejudicial selling practices, accord with the Administrative Procedure Act, are probably required by the Constitution, and are consistent with VA regulations already in effect for the regular loan program—38 C.F.R. §§ 36.4331 (Disqualification of Lenders) and 36.4361 (Right of the Administrator to Refuse to Appraise Residential Properties). These amendments do not require a hearing prior to a suspension. A conforming change has been made in section 2(d) of the committee substitute to add the same language to subsections (b) and (d) of present section 1804, on which those regulations are based and which contain counterpart authorities with respect to builders and lenders in the regular program.

Subsection (m) of the new section 1819. Requires an annual report to the Congress on operations of the mobile home program and specifically regarding results of inspections and questionnaires and compliance with the required warranty.

Subsection (n) of the new section 1819. Specifically incorporates by reference the provisions of present section 1804(d) relating to the withholding of guaranteed loans to certain misfeasing lenders or holders under either this chapter or as determined by the Secretary of HUD under the National Housing Act; and present section 1821, relating to the incontestability of evidence of guarantees issued by the Administrator.

Subsection (o) of the new section 1819. Establishes a closing date of July 1, 1975, for this new program. It is felt that this should permit sufficient experience to make an evaluation after a little more than four years of operation.

Section 6. Provides that the mobile home loan program shall become effective sixty days after enactment. Other provisions of the committee substitute would be effective upon enactment.

TITLE AMENDMENT

The title is amended to account for the elimination of the closing costs and interest subsidy provisions.

COST ESTIMATE

The administration estimate for the first full year cost of the provisions in the committee substitute is $22.05 million ($3.15 million under item 2, below, has already been approved by the Senate in passing S. 3775 on August 28), broken down as follows:

1. Removal of expiration dates and restoration of entitlements.—It is estimated that in the first year there would be 35,000 loans closed which otherwise would not be made under the VA loan program. In 5 years, the cumulative additional loans would be 179,000. It is further estimated that the additional cost for the first year, including both administrative expenses and operational losses, would be $1.6 million, and for 5 years the additional cost would be $24 million, covering both administrative expenses and operational losses.

2. Direct loans to veterans eligible for assistance under chapter 21.—It is estimated that approximately 150 eligible veterans would obtain direct loans each year, at an annual administrative cost of approximately $17,500. Outlays for making such loans would be approximately $3,150,000, which would be funded from the direct loan revolving fund and subsequently recovered through loan payments.

3. Elimination of funding fee.—It is estimated that in the first year revenues incoming to the loan guarantee revolving fund would be reduced by $17.3 million. In 5 years, the loss of revenue is estimated at $109 million.

4. Mobile homes.—The cost would be minimal.

S. 3657—VETERANS' ADVANCE EDUCATIONAL ASSISTANCE ALLOWANCE AND WORK STUDY PROGRAM ACT OF 1970

Mr. CRANSTON. Mr. President, I introduced S. 3657 on March 31, 1970, with the strong bipartisan support of 10 members of the Labor and Public Welfare Committee. Thus, I am particularly delighted to have been successful in seeing this bill through subcommittee and full committee to the point of consideration by the Senate today.

In the course of committee consideration, a committee amendment in the nature of a substitute, has been adopted in lieu of the original text of the bill as introduced. The committee substitute amends chapters 31, 34, 35, and 36 of title 38 of the United States Code to achieve the following seven purposes:

First. To provide for advance payment of the GI bill educational assistance allowance at the start of a school term and prepayment on the first of the month thereafter.

Second. To establish a student-veterans work-study program whereby needy GI bill trainees would receive a $250 advance work-study allowance for performing various services in Veterans' Administration programs.

Third. To provide that servicemen may begin to use GI bill benefits for postsecondary education and training after 180 days of active duty—they may already do so for precollege work—and to make clear that the GI bill covers courses required by the Small Business Administration in connection with minority enterprise loans.

Fourth. To correct certain provisions enacted last March in Public Law 91-219, relating to measurement of college courses for GI bill purposes, in light of information developed only after that law was enacted.

Fifth. To combine basic provisions relating to payment of allowances and general administration of the GI bill program, and contained in chapter 34, "Veterans' Educational Assistance," and chapter 35, "War Orphans' and Widows'

Educational Assistance." as applicable to both chapters 34 and 35.

Sixth. To clarify and expand action taken by the Congress on April 13, 1970, in enacting Public Law 91–230—the Elementary and Secondary Education Act Amendments of 1970—to provide for NDEA student loan cancellation based on military service; by permitting GI bill entitlement to be applied to repay prior Federal direct or guaranteed education loans, and repealing the NDEA provision.

Seventh. To accelerate the date on which GI bill allowances are increased for acquisition of dependents (originally proposed in S. 3907).

The two most significant new programs in the committee substitute are the new GI bill advance payment and prepayment systems and the new work-study program for veterans pursuing postsecondary education under the GI bill. I believe that these two new GI bill programs will offer great assistance to all veterans studying under the GI bill and also complement the new programs which were added to the GI bill in Public Law 91–219 on March 26, 1970. These two programs together should insure that GI bill trainees receive their initial educational assistance allowances at the start of the school year when their expenses are the greatest, rather than 2 or 3 months later, and that such trainees will have the opportunity to supplement their regular allowance entitlements by the $250 work-study allowance.

Mr. President, I ask unanimous consent that appropriate passages of the committee report, No. 91–1231, be set forth in the RECORD at this point in order to explain in detail the purposes of S. 3657 as reported, and I urge all of my colleagues to support the bill as reported.

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

ADVANCE EDUCATION ASSISTANCE ALLOWANCE

The present system of assisting veterans who are attending school operates as follows:

In order to establish eligibility for GI bill benefits under title 38, United States Code, a veteran must first submit an application together with proof of separation from the armed services—form DD–214—and, when dependencies are claimed, other supporting documents, to the Veterans' Administration. If these papers are in order, the VA mails the veteran a certificate of eligibility.

The veteran presents the certificate of eligibility to his college or university registrar, who verifies the veteran's actual enrollment and provides details regarding it, so certifies on the certificate of eligibility, and mails it to the VA. Upon receipt of that certification, the VA is then authorized to issue an educational assistance allowance payment to the eligible veteran, and an account for him is then established at the VA's computerized payment center in Hines, Illinois. From this point, the check should reach him within 10 to 15 days.

There are two points at which the system may in many cases break down, causing financial and emotional hardship for the veteran and his family. One is during the processing of enrollment certificates at colleges and universities, which occurs during the first month of school when the school administration has an unusually heavy registration workload anyway.

The second difficulty may occur when the Veterans' Administration receives these hundreds of thousands of enrollment certificates in the space of a few weeks. Using maximum authorized overtime—because of inadequate augmentations of staff over the last three years—the VA must process these certificates and authorize the release of the first month's educational assistance allowance payment. Prior to this past fall, it was not all uncommon for the first check to reach the collegiate veteran in mid- or late November, or even December.

In testimony in the summer of 1969 before the Veterans' Affairs Subcommittee, the VA announced the initiation of an accelerated payment procedure increasing from five to nine per month the number of check processing cycles at the Hines Data Processing Center. It was hoped that this procedure would approximately halve the timelag in getting checks out to veterans.

Unfortunately, the new system, helpful as it has been in expediting the issuance of checks by the computer, cannot rectify delays which arise before an authorization for payment can be relayed to the Hines Center. And under that system the earliest that the first check reaches the veteran in mid- or late October; and it may well not arrive until November. Even then, the first check generally covers only a partial month's payment, since the first college month is usually abbreviated. For veterans beginning a new school year, this is too little, too late.

The committee substitute seeks to overcome the delay in receipt of GI bill payments by providing (in the new section 1780(b) added by section 201 of the committee substitute) for payment of the first and second months' allowances in one lump sum in advance and prepayment on the first of the month for months thereafter (new section 1780(c)). This advance system would apply to all post-secondary courses other than those on less-than-half-time basis or by correspondence. Thus far, this is essentially the system proposed in S. 3683.

However, as proposed in S. 3657, advance payment would be made to a veteran, without any action by his educational institution, based upon receipt of evidence of eligibility, as defined in section 1652(a)(1) of title 38, United States Code (a discharge paper—form DD–214—showing that he served for at least 180 days of active duty and was discharged under conditions other than dishonorable or that he was discharged for a service-connected disability), and certification by the veteran of the basic prerequisites to eligibility under the GI bill. He would certify that he intends to enroll and has been accepted for enrollment, or has enrolled, in a specified educational institution to pursue a specified approved course of education during that school year, and the number of semester hours or equivalent he intends to pursue. Unless the local office files contain conclusive evidence contradicting the facts so certified, the VA would not be authorized to examine into the veteran's actual GI bill eligibility. Notwithstanding the advance payment made on the eligible veteran's certification, the Veterans' Administration would, as it now does, develop each case to assure entitlement and the marital and dependency status of each payee. Upon receipt of the enrollment papers from the educational institution, any necessary adjustments would be made in the educational allowance payment.

Thus, an eligible veteran would be given the advance on the basis of his good faith in truthfully certifying the above facts and intentions. There would be no time-consuming processing by the educational institutions, which is now responsible for much of the delay in processing regular GI bill payments.

The committee recognizes that this good faith certification procedure may be subject to some abuse, and that some payments may thus be made to ineligible recipients. But it is satisfied that any abuses would be small, and notes that the VA has a 95-percent record of collecting regular GI bill overpayments.

This program of advance payments at the beginning of a school year should provide a vital source of funds, at a time, when none are now available under the GI bill and when the veteran-student's needs are probably the greatest, to meet the many expenses involved in beginning a school year, as well as such living expenses and initial charges as deposits and initial payments for rent, heat or telephone. This system should thus help prevent a veteran from being placed in a precarious financial situation vis-a-vis his schooling or his personal life as a result of a delay, justified or not, in receipt of the first regular educational assistance allowance check.

And the prepayment system in new subsection 1780(c) should continue the veteran's solvency. Under the new system a veteran enrolling in college on September 15 could expect to receive by November 1 two and one-half months' allowance (one and one-half months' payment on September 1—if he applied about August 15—and one month's payment on November 1).

Although neither S. 3657 or S. 3683 originally contemplated application of the advance and prepayment of allowance procedures to war orphans, wives, and widows training under chapter 35, of title 38, United States Code, the committee substitute would make the same payment system uniformly applicable to both chapters 34 and 35 of that title.

These provisions have been closely coordinated with the Veterans' Administration which advises that they can be programmed into the computer within about 60 days of enactment. This program was generally endorsed (with a somewhat different mechanism) by the President's Committee on the Vietnam Veteran in its report submitted in late March. The report stated:

"The GI Bill provides monthly allowances for veterans enrolled in and attending approved programs of education. These payments do not begin, however, until after the veteran has enrolled, and completed each month of training. The effect of this after-the-fact method of payment can be to discourage program participation by the veteran who cannot afford the initial outlay required by most schools for prepayment of fees, tuition, books, and the necessary money for subsistence for himself and his family until the first payment is received. The intent of the program is thus jeopardized. Even for the financially more fortunate veteran, the prepayment of tuition and other costs constitutes a burden since the educational allowance is partial assistance rather than a full subsidy.

"The proposal would authorize an advance payment to help the veteran enroll in school. This would be done on an individual application basis. The amount advanced can be gradually recouped over the whole period of enrollment."

VETERANS' WORK-STUDY PROGRAM

The proposed work-study program (new section 1687 added by section 203 of the committee substitute) would enable full-time GI bill post-secondary trainees with a financial need to perform 100 hours of services needed by the VA (on campuses or at VA regional offices or medical facilities) pursuant to agreement with the VA under which the veteran then becomes entitled to receive, in advance, a work-study educational assistance allowance of $250. The committee believes that this program will be of substantial benefit to individual veterans and their families, while at the same time contributing to the improvement of the entire GI bill program through increased efficiency and speed in certificate and claims

processing and through outreach work performed by these student veterans. Work-study trainees could also perform various non-professional, badly-needed tasks in VA hospitals, especially assisting the most severely disabled patients and cleanup and general maintenance work. There seems little doubt that such services could be very effectively used in many VA medical facilities. Students would be limited to performing 100 hours of services over a semester or other enrollment period.

This program should be particularly helpful for the almost 50 percent of GI bill post-Korean trainees with families and for the 27 percent who enroll in nonpublic schools. The rate increase recently enacted in Public Law 91–219 would provide $1,575 over a full nine-month period. Although this is sufficient to cover average tuition, room and board charges at a public institution, it is far less adequate in meeting the average costs at nonpublic institutions.

One key aspect of the work-study program would be veterans performing outreach services under subchapter IV or chapter 3 of title 38 also enacted in P.L. 91–219. Using GS–12's or 13's to "pound the pavement" in search of educationally disadvantaged veterans is highly questionable on a cost-effectiveness basis. But this provision would make it possible and very economical for the VA to improve substantially its existing program of contact and outreach.

The present outreach program has not done the necessary job to reach the large numbers of high school dropouts and other educationally disadvantaged veterans who are separated from service each year. Whereas 20 percent of those separated during fiscal year 1970 were high school dropouts, only about 8 percent of that target population have been taking advantage of their education and training entitlements. In many cases, this serious lack of participation by those who desperately need to take advantage of their GI bill benefits can be remedied through more effective dissemination of information and more personalized and intensive counseling of potential trainees about the great advantages of the benefits available to them.

As was stressed in section 241(c) of the outreach services program originally passed by the Senate on October 23 (H.R. 11959), the most effective outreach worker is one with whom the potential trainee can identify most immediately and fully. Veterans who are themselves pursuing an education should fit this prescription perfectly.

In carrying out this new work-study program, the VA would be expected to establish guidelines for determining financial need and need for the services and for selecting and using the services of veterans. Appropriate guidance for determining financial need should be sought in the Office of Education's regulations for its work-study program under the Higher Education Act of 1965, as amended.

Veterans would perform such services under agreements with the Veterans' Administration. They would not be considered VA employees for purposes of Federal employment laws administered by the Civil Service Commission—such as those governing application and selection for Federal employment, retirement and other length-of-service Federal employment benefits, and Federal employment fringe benefits such as group health and life insurance programs. Also, work-study allowances, as all other GI bill allowances, would be exempt from taxation as a "payment of a benefit under any law administered by the Veterans' Administration," as provided in section 3101(a), of title 38, United States Code.

It should also be noted that several witnesses at the hearings referred to the desirability of permitting the VA to contract with colleges and universities (under its general contract authority in section 213 of title 38) to supervise veteran work-study trainees in carrying out outreach activities in a particular locale. The committee strongly endorses this idea, which would be particularly useful if applied in areas where there is no Veterans Administration Regional Office or Veterans Assistance Center.

This program differs somewhat in detail from that proposed in S. 3657 but retains the same basic concept which was endorsed by the VA. At the hearing, the Administrator of Veterans' Affairs in support in principle of the desirability of a veterans' work-study program, agreed to staff discussions to iron out program details. Those discussions produced the provisions in the committee substitute which the VA has advised is administrable for a relatively small administrative cost ($250,000). It is estimated that the services of 56,000 student-veterans might be effectively utilized in the program in the first full year of its operation.

POST-SECONDARY IN-SERVICE EDUCATION AND SBA-TRAINING UNDER GI BILL

These two new provisions (in section 301 of the committee substitute) were contained in S. 3683 and were recommended by the President's Committee on the Vietnam Veteran. They are described in the Section-by-Section Analysis which follows.

REVISION OF MEASUREMENT OF COURSES PROVISIONS ADDED BY P.L. 91–219

The basis for these provisions (in section 303 of the committee substitute) is described in the Section-by-Section Analysis and a July 17, 1970, letter from the Administrator of Veterans' Affairs to Senator Cranston, the Chairman of the Veterans' Affairs Subcommittee, which is set forth in the Appendix to this report.

EXPEDITING INCREASE OF GI BILL ALLOWANCE BASED ON ACQUISITION OF DEPENDENTS

This provision (in section 305 of the committee substitute) incorporates the provisions of S. 3907. The purpose of the amendment is more fully to effectuate Congressional intent under chapters 31 and 34 with respect to the increase of an eligible veteran's GI bill allowance—either vocational rehabilitation subsistence allowance under chapter 31 or educational assistance allowance under chapter 34—by virtue of changes in dependency status. Presently, under section 3013 of title 38, United States Code, effective dates of such increases are to correspond, to the extent feasible, to those relating to awards of disability compensation under chapter 11 of that title. And section 3010(a) of title 38 provides that such claims for increased dependency compensation shall be payable no earlier than the date of application therefor. By regulation, the Veterans' Administration has required—by analogy to section 3010(b)—that proof of the dependency status be received within one year of acquisition of the dependent.

Application of this disability compensation rule deprives a veteran of receiving the increase in his GI bill allowance, which Congress intended to help him meet the additional costs of maintaining a household with a wife or child, until such time as his application for such an increase is received. If, for example, a veteran is unaware of that requirement and delays a few months in filing an application for increased allowance, he will lose the amount Congress intended him to have to meet those additional dependency expenses. Since he is burdened with those expenses from the time he actually acquires the dependents—the date of marriage, birth, or adoption generally—not from the date he applies to the VA, it seems far more reasonable in effectuating the purpose of the dependency augmentation of GI bill allowance for such increases to be payable from the date the dependency status and expenses therefor actually arise, as long as he files timely notice of such status. Timely notice of such status under the provision in the committee substitute retains the VA's regulatory determination that applications must be received within one year from the acquisition of the dependency status.

Further evidence of the illogic of the present effective date provision is a ruling of the General Counsel's office of the Veterans' Administration that if a veteran, even casually, mentions in writing to the VA before he acquires a dependent, that he plans to do so in the future, his allowance will be increased for the change in dependency status from the time it actually occurs. Although this ruling is laudable in giving the veteran every benefit of the doubt, there would seem to be no reason for distinguishing between such an advance notice case and the case in which notification is given and proof submitted two months after the dependent is acquired. In neither case can the VA take any action to increase the allowance until it receives the actual proof of dependency—the copy of birth certificate, adoption decree, or marriage certificate.

The new effective date would also more nearly accord with a number of other effective date provisions for disability compensation which yield retroactive results. For example, the effective date of an award of disability compenstaion filed to begin from the date of discharge would be retroactive to that date as long as received within one year of discharge. The same retroactive treatment is accorded a person disabled by VA medical treatment or while pursuing vocational rehabilitation under chapter 31; it is the date of the disablement or injury, not of the application, that governs in those instances. The same is generally true with respect to death compensation and dependency and indemnity compensation which are effective on the first of the month in which death occurs if application therefor is received within one year of death.

The Veterans' Administration supports this provision, although it favors extending the new effective date to increases in payments of disability compensation and pensions based on acquisition of dependents, under chapters 11 and 15 of title 38, United States Code. These programs are under the jurisdiction of the Senate Finance Committee and the VA's position has been called to that committee's attention.

REPAYMENT OF FEDERAL EDUCATION LOANS USING GI BILL ENTITLEMENT

Under this new provision (in a new section 1688 which would be added to title 38 by section 203 of the committee substitute), a veteran would be given the option of using GI bill entitlement (earned by service after July 1, 1970) to repay, in whole or in part, an education loan—taken (after April 13, 1970) in connection with education prior to his military service—which was made or guaranteed by the Federal Government. This provision arises out the the NDEA loan cancellation provision based on military service enacted in the ESEA expansion act on April 13, 1970 (P.L. 91–230). The new provision is substantially broader in scope than the loan cancellation provision it would replace in the NDEA (see section 306 of the committee substitute). There would be no GI bill cost under this provision until at least FY 1973, and then that cost would be partially offset by NDSL loan funds not being depleted and Federal interest subsidies not paid. It is very difficult to estimate the precise cost of this provision because of the uncertainty about whether a veteran would otherwise use his full GI bill entitlement on post-service education rather than to repay a pre-service loan. However, potential repayments for the major Federal education loan programs are provided under "COST ESTIMATE," below.

To understand the genesis of this new program more fully, especially the effective

dates, it is necessary to explain in more detail the amendment in section 501 of P.L. 91–230 to provide for loan cancellation at a 12½ percent rate per year for up to four years of consecutive active military service after June 30, 1970 (that is, up to 50 percent of the total loan amount) for NDEA loans made after the date of enactment of that act, which was April 13, 1970. After this provision was enacted, considerable disenchantment with it was brought to the subcommittee's attention, principally by education groups. The two basic objections were: (1) that, in time, the cancellation provisions promised a substantial depletion of the NDSL students loan fund, and thus a reduction in NDEA loans, without a commensurate fulfillment of any of the purposes of the original loan cancellation provision— developing teachers for our country, especially for poverty areas; and (2) it unfairly discriminated against veterans who had not taken education loans or pursued education prior to service since a veteran who did take an NDEA loan could use *both* NDEA loan cancellation and GI bill entitlement earned by the same period of military service. The argument was forcefully presented: if this is really a veterans' benefit, it should be part of the GI bill.

The committee believes that no adequate basis exists for permitting acceleration of allowance to repay only loans made under the NDEA program; thus, the provision covers all Federal direct or guaranteed loans, as to which approval criteria regarding the institutions and loan terms involved have already been applied by the government. The new GI bill program effective dates are geared to those governing the NDEA cancellation provision which would be repealed retroactively by section 306 of the committee substitute so that it never really became effective (see discussion under *"Section 306."* below).

Here is how the new program would work as compared with the present NDEA loan cancellation provision (added by P.L. 91–230). Given the average NDEA total loan of about $1400, a veteran with qualifying service could, under the present provision, cancel $700 worth of such a loan after *four* years of military service. Under the proposed new section 1688 in title 38, United States Code, he could repay the full $1400, using up, at a maximum, only eight of his 36 months' GI bill entitlement ($8 \times \$175 = \$1400$), or less than one school year's entitlement. (For Higher Education Act loans, the average is $2100, so the same general analysis would apply for such loans.)

The maximum NDEA loan that any one student can receive is $10,000 (for graduate students), so that under the present loan cancellation provision, he would be able to cancel only a maximum of $5000 (for four years' service) whereas, at a minimum (if he has no dependents) GI bill accelerated entitlement could be used to pay off $6300 of the loan amount; and if he had, for example four dependents ($256 per month), he could pay off almost the full loan—$9216 ($256 \times 36$).

It thus becomes clear that virtually any veteran who took an NDEA loan after April 13, 1970, and served after July 1, 1970, would be substantially more benefited by the proposed new repayment provision than the existing loan cancellation provision; to say nothing of all those veterans with Higher Education Act loans and all other Federal direct or guaranteed education loans, which are not now eligible for similar cancellation based on military service. The only instance where a veteran with qualifying service and a qualifying NDEA loan might be somewhat worse off under the new program would be a person who had received a very high NDEA loan ($10,000), then served four consecutive years of active duty in the military and then wanted to undertake substantially more schooling (four years) for which he would like to use his full GI bill entitlement. But such a situation demonstrates very clearly the very inequity, which the new provision is designed to correct, of the NDEA loan cancellation provision based on military service: for these seems virtually no justification for the government's paying one veteran for four years of education ($6300) and and another veteran with the same service for eight year ($11,300; $6300 plus cancellation of half of a $10,000 NDEA loan).

SECTION-BY-SECTION ANALYSIS

Section 1. Establishes the Act title as the "Veterans' Advance Educational Assistance Allowance and Work-Study Program Act of 1970."

TITLE I

Section 101. Adds to the Vocational Rehabilitation program (section 1502 in chapter 31 of title 38), which is a special education and training program for veterans with 30 percent or more service-connected disability, a cross reference to the work-study program (which would be added in a new section 1687 in chapter 34 by section 304 of the committee substitute) for which "voc rehab" trainees would also be eligible.

Section 102. Increases the "voc rehab" loan to trainees from $100, established in 1943, to $200. Most trainees take advantage of this loan and increasing it is appropriate in light of the advance payment system being developed for regular GI bill trainees and the doubling of the cost of living since its enactment.

TITLE II

Section 201. Adds to chapter 36, "Administration of Educational Benefits," a new section 1780 dealing with payment of educational assistance allowance which applies to both chapters 34 and 35 of title 38. (References to "eligible person" in this Analysis mean an "eligible veteran" under chapter 34 and an "eligible person" under chapter 35.)

Subsection (a) of the new section 1780. Incorporates present sections 1681(b)(1) and (2) and 1731(b)(1) and (2), which new section 1780 is designed to replace in part, and provides the basic enrollment period for which educational assistance allowances may be paid for all programs other than correspondence and flight training.

Subsection (b) of the new section 1780. Blends together features of S. 3657 (section 2) and S. 3683 (section 3) to establish a new GI bill educational assistance allowance payment system under which the initial payment for an enrollment period would be made in advance. Such advances would be made generally no later than 15 days after application (but no earlier than 30 days before the term is to begin) and would be based on a good faith certificate and a discharge paper provided by the eligible person. The advance amount would be for the first full month's allowance entitlement plus the applicable fraction thereof for the first month of the enrollment period. Although the original advance payment provisions in S. 3657 and S. 3683 were not applicable to chapter 35, it has been agreed informally with the VA that the advance system should also apply to allowance payments to war orphans, wives and widows. The advance payment provisions in subsection (b) of the new section 1780 are described below:

Paragraph (1). States the purposes of the advance payment and the Congressional finding of the need to provide an eligible person with funds at the outset of a school term for the many expenses that conglomerate at that time.

Paragraph (2). Provides the timing and amount of the advance payment, as described under *"Subsection (b)"*, above. Advance payments are excluded for persons pursuing study on less than a half-time basis. (Such "less-than-half-time" veterans, by virtue of an amendment, contained in P.L. 91–219, to present section 1682(b)(2) are now eligible for a lump-sum payment in the month following the month in which the VA receives certification of enrollment. This new provision was put into effect in September, 1970. It would be extended by subsection (e) of the new section 1780, to "less-than-half-time" war orphans, wives and widows training under chapter 35.)

Paragraph (3). Sets forth the contents of the application for advance payments as follows:

(A) evidence of basic entitlement for the eligible person. In the case of a veteran, this is generally the DD–214 discharge certificate. For a widow or war orphan, it would be evidence of the service-connected death of the veteran. For a wife or a child, it would be evidence of the veteran's permanent and total service-connected disablement.

(B) a certificate (i) stating that the person is enrolled in (or has applied for, been accepted by and intends to enroll in) a specified school and is pursuing (or plans to pursue) a specified approved course during the school year at such school and (ii) specifying the expected enrollment date and number of semester hours (or the equivalent) to be taken.

(C) for veterans, information as to the number of dependents (as defined in present section 1652(d) of title 38) claimed. Although the VA could request submission of evidence (birth or adoption certificates) of dependency in order to have it on file and make a final dependency determination, it could not *require* submission of such evidence at the time of application for the advance. (Also see discussion under *"Subsection (c)"*, below.)

Paragraph (4). Provides that the information and certificate submitted by the person shall establish his eligibility for the advance unless evidence in the processing office files (including that on the computer) establishes that he is *not* eligible. In determining whether the veteran is entitled to a full-time or part-time allowance advance payment, the VA will determine whether the school in question has been certified for full- or part-time under the new measurement provision in section 1684(a) of title 38 (see discussion of the amendment to that provision discussed under *"Section 303."*, below.)

Subsection (c) of the new section 1780. Provides a system of prepayment of allowance after the initial advance payment, that is, on the first of the month for that month. This would mean that there might be a gap of two months from the initial payment to the second payment (e.g., if the advance payment were received on September 2, covering September and October, November's allowance would not be received until around November 1). The Administrator is also authorized to withhold the final payment in an enrollment period until he has received satisfactory proof of entitlement, enrollment, satisfactory pursuit of program, etc. Also, the last sentence of the subsection provides that a veteran who has claimed dependents for advance payment purposes shall receive an allowance, based on the number of dependents claimed, for up to sixty days or the end of the enrollment period, whichever is earlier, while he submits proof and it is adjudicated.

Subsection (d) of the new section 1780. Provides a system for recovery of erroneous payments of educational assistance allowances which are due to an erroneous advance allowance certificate filed with the application.

Subsection (e) of the new section 1780. Incorporates present section 1682(b)(2) regarding less-than-half-time veteran training and extends this lump-sum payment system to chapter 35 eligible persons also. (Also see

the discussion "*Paragraph* (2)" of subsection (b), above.)

Subsection (f) of the new section 1780. Incorporates present subsection (c) in both present sections 1681 (chapter 34) and 1731 (chapter 35), relating to the Administrator's authority to determine enrollment, attendance and pursuit of program.

Section 202. Revises section 1681 to take account of the new section 1780 and to cover directly veteran correspondence and flight training programs. The revised 1681 is described as follows:

Subsection (a) of the revised section 1681. Incorporates present subsection (a) with a cross reference to new section 1780 added.

Subsection (b) of the revised section 1681. Makes cross reference to new section 1780 for institutional (non-correspondence or flight program) training.

Subsection (c) of the revised section 1681. Incorporates present subsection (d)(2) insofar as it regards correspondence course training.

Subsection (d) of the revised section 1681. Incorporates present subsection (d)(2) insofar as it regards apprenticeship or other on-the-job training.

Subsection (e) of the revised section 1681. Incorporates present subsection (d)(2) insofar as it regards flight training.

Section 203. Establishes new sections 1687 and 1688 in chapter 34 to create two new programs: a veterans' work-study program and a repayment of prior federal education loans option under the GI bill.

WORK-STUDY PROGRAM

Subsection (a) of the new section 1687. Requires the payment of work-study additional educational assistance allowances to veterans pursuing on a full-time basis a "voc rehab" or regular GI bill education program when such veterans enter into a work-study agreement with the Administrator. In such an agreement the veteran undertakes to perform 100 hours of services during an enrollment period, which services are required in connection with VA preparation of papers and documents at schools or regional offices, with the outreach services program (probably performing direct contact work with eligible veterans), with provision of medical treatment in VA facilities (reading to blind or other disabled veterans, engaging in clean-up, fix-up efforts, etc.), or with any other appropriate VA activities. Advances of less than $250 are permissible for proportionately fewer hours to be worked. Also permitted are agreements for services during a period between enrollments (vacations) if the veteran has already completed one enrollment period and certifies his intention to continue during the next. The "Notwithstanding any other provision of law" provision at the outset of subsection (a) is intended to exempt work-study veterans from the strictures of federal employment laws and regulations; however, as persons performing services for the federal government, such veterans would be covered by the Federal Employees' Compensation Act for injuries or death occurring while in the performance of such services.

Subsection (b) of the new section 1687. Provides a system for the Administrator's collecting (or deducting from subsequent VA benefits) pro-rata amounts of the $250 work-study allowance if the Administrator determines that the veteran has not completed his work obligation by the end of the enrollment period (or earlier if the Administrator determines that the obligation will not be completed by such time).

Subsection (c) of the new section 1687. Requires the Administrator to conduct at least annually surveys in each geographic area in the country to determine the numbers of veteran-students whose services can be effectively utilized in the work-study program in each such area during an enrollment period. The Administrator is then charged with allocating to each VA Regional Office (VARO) a number of potential agreements which the VARO Director shall attempt to make during the enrollment period or vacation period. Each VARO is then charged with further allocating to each school in its area, at which GI bill trainees are enrolled, a pro-rata number of potential agreements based upon the total number of veterans enrolled in all such schools in that area. However, the subsection also provides that, to the maximum extent feasible, 20 percent of the allotted number of agreements in each area shall be reserved for special allotment to those schools with disproportionately high numbers of needy veteran-students. Finally, the subsection provides that if the number of allotted agreements cannot be filled by a particular school, the number of unmade potential agreements shall be reallocated to such other schools as the Administrator determines under the program regulations.

Subsection (d) of the new section 1687. Provides the procedure and criteria for determining which veteran-students shall be offered work-study agreements.

Paragraph (1). Requires the Administrator, to the maximum extent feasible, to contract with schools for them to make recommendations, within their allotted number of agreements, as to which of their student-veterans should be offered agreements. Although the final determination would be made by the VARO Director in accordance with regulations prescribed by the Administrator, it is expected that the schools' recommendations would be given great weight. It is also expected that the Administrator in issuing regulations would be guided by those of the Office of Education for its work-study program under the Higher Education Act of 1965, as amended. Paragraph (1) also specifies that the VA regulations are to include the following criteria: (A) the veteran's need to augment his allowance; (B) the availability to the veteran of transportation to the work site; (C) the veteran's motivation; (D) the particular disadvantages of veterans who are minority group members; and (E) for "voc rehab" trainees, their physical condition.

Subsection (e) of the new section 1687. Was added in subcommittee by an amendment proposed by Senator Schweiker to prohibit work-study agreements which would displace workers or impair existing services contracts or which would involve activities in connection with a facility used for sectarian purposes. The identical language is contained in section 444(a)(1) (A) and (C) of the Higher Education Act of 1965, as amended (42 U.S.C. 2754), and applies to the Office of Education's work-study program.

REPAYMENT OF FEDERAL EDUCATION LOANS

Subsection (a) of the new section 1688. Offers veterans with GI bill entitlement a new option: namely, to use accelerated GI bill allowance (earned by service after July 1, 1970, to repay, in whole or in part, Federal direct or guaranteed education loans taken prior to military service but after April 13, 1970. (The reason for these dates is explained in the discussion of this new provision under "EXPLANATION OF THE BILL," above.) Examples of the loans which could be repaid would be those under the National Defense Education Act of 1958, the Higher Education Act of 1965, the Public Health Service Act (doctors, nurses, allied health professionals), the Omnibus Crime Control and Safe Street Act (to pursue law enforcement careers), the Migration and Refugee Assistance Act (mainly to Cuban refugees), and those made from a revolving fund for individual assistance to certain American Indians. Upon application from the veteran to exercise this repayment option, his entitlement would be based on his educational assistance entitlement (under section 1661(a) of title 38) unused as of the application date.

Subsection (b) of the new section 1688. Clause (1). Limits applications for accelerated educational asisstance allowance to four times per veteran per loan. The four is based on the fact that under section 1672 of title 38 up to two program changes after the first program are permissible—that is, three different attempts to find the right education course. The amount of the accelerated allowance payment is also limited to that which the veteran requests; i.e., he cannot be compelled to apply for some or all his allowance entitlement to repay a loan.

Clause (2). Provides that the repayment amount is to be applied to unpaid principal as well as unpaid interest (which protects the veteran).

Clause (3). Provides that computation of the amount available for loan repayment be based on unused entitlement to which the veteran would be entitled at the time of application for a full-time course; that is, his monthly allowance (including increases for the number of dependents he has at that time) multiplied by his unused months of entitlement. For example, a veteran who completes 18 months of service and thereby fulfills his active duty military obligation, would be entitled to 36 months of GI bill entitlement, pursuant to section 1661(a) of title 38. If he had one dependent, his monthly allowance would be $205 under section 1682(a); thus his total dollar entitlement available for education loan repayment purposes would be $7,380 ($205 x 36). Any amount left over could be applied to regular GI bill monthly payments for approved courses of education.

Subsection (c) of the new section 1688. Requires the Administrator upon receipt of an acceleration of allowance application, to obtain from the head of the Federal department or agency involved in making or guaranteeing that loan, a certificate showing the total loan amount then outstanding. Upon approving the application, the Administrator is required to transfer to that agency head the amount requested by the veteran (up to the amount certified as outstanding). For direct loans, that agency head would transfer the repayment amount directly to the loan fund. For guaranteed loans, he would make immediate payment to the lender in question and immediately notify the school in question or any other guarantors or endorsers on the loan, of the payment.

TITLE III

Section 301. Adds two provisions included in S. 3683.

Clause (1). Provides that a serviceman may after more than 180 days of active duty service begin to use his GI bill entitlement for post-secondary training; presently, he must wait until he has served at least two years to do so. This change complements the PREP program established in P.L. 91–219, which permits a serviceman to use his GI bill entitlement for *pre*-college level study after more than 180 days of active duty. Unlike PREP, however, use of chapter 34 educational assistance entitlement to pursue post-secondary education and training would reduce overall GI bill educational assistance entitlement. The special supplementary assistance allowance in present section 1692 of title 38, United States Code (also added by P.L. 91–219), for individualized tutorial services, would be available for such active duty servicemen pursuing post-secondary education or training.

An additional effect of this amendment to section 1652(a)(2) is to make the direct and guaranteed loan entitlement in chapter 37 of title 38 available to servicemen after more than 180 days of active duty service. This new entitlement may be of particular assistance to servicemen if a mobile home

loan program is incorporated in chapter 37 as is proposed in S. 3656, being reported from the Labor and Public Welfare Committee at the same time as S. 3657.

Clause (2). Makes clear that a course at an educational institution required by the SBA for minority group entrepreneurs is covered under the GI bill as an approvable "program of education." Financial institutions require some training and expertise on the part of the borrower before lending money for business purposes, and the borrower's background and experience are important considerations in determining the risk involved in making the loan. Many small business ventures fail because of lack of business training. Coordinated training programs can provide the veteran with the knowledge necessary to carry on the bookkeeping, managerial, personnel, and other business functions. The new provision makes clear that a program structured to this need is to be considered a program leading to an acceptable objective under the GI bill.

Section 302. Amends section 1731(a) of chapter 35 in light of the new section 1780 that section 201 of the committee substitute would add. The amendment is substantially similar to that which would be made to present section 1681 by section 202 of the committee substitute.

Section 303. Adds a number of new provisions to chapter 36, based on present chapters 34 and 35 provisions.

Clause (1). Strikes present section 1786, relating to examination of records (which clause (2) would make subsection (b) of the new section 1787 which section 203 of the committee substitute would add) and adds a measurement of courses provision which incorporates present sections 1684 and 1733 with three changes: (1) The full-time college (including junior college) definition, revised in P.L. 91–219 (found after clause (3) of the present subsection (a)) is further revised so that even if a college charges full-time tuition for fewer than 12 semester hours (or the equivalent thereof), the veteran must take at least 12 such hours (or the equivalent thereof) to receive a full-time allowance. The P.L. 91–219 amendment left the minimum number of hours open-ended in such a situation. However, in a July 17, 1970, letter to the Chairman of the Subcommittee, the Administrator of Veterans Affairs advised that a nationwide survey conducted after enactment of P.L. 91–219 had indicated that, contrary to advice previously given (see page 53 of S. Rep. No. 91–487), there were very many schools charging full-time tuition for less than 12 hours, quite a few for only 7 or 8 hours per semester. (The letter and survey are set forth in the appendix to this report.) This would have had the effect of reducing part-time requirements to extremely low levels. The proposed revision would correct this.

(2) The credit/non-credit provision in the "Notwithstanding" clause in the present section 1684(a), also added by P.L. 91–219, is revised to permit any number of non-credit courses to be counted toward full- and part-time minimum requirements as long as such courses are required by the school to be taken. (This new provision is simplified and inserted at the start of clause (3) of the proposed new section 1786 in a parenthetical rather than in the same form as the present "Notwithstanding" provision.) The P.L. 91–219 amendment permitted such non-credit hours to be counted up to a number equal to the number of credit hours taken. The Administrator's July 17, 1970, letter, referred to in (1) above, also noted that the survey had discovered that many schools gave full non-credit programs and that under VA regulations in effect prior to enactment of P.L. 91–219, veterans enrolled in such programs would be able to use their full GI bill entitlement. This regulation (38 C.F.R. 21.4272(f)) had not been pointed out to the Subcommittee prior to enactment of this provision, which was intended to be a liberalization not a tightening of then present requirements regarding non-credit deficiency courses. The proposed revision would embody the VA regulation.

(3) The non-credit/credit provision is made applicable to chapter 35. The VA supports this extension of the statutory provision to reflect its practice already with respect to war orphans, wives and widows training under chapter 35.

Clause (2). Strikes the present section 1787, relating to false or misleading statements (which would be made subsection (d) in the new subsection), and incorporates a number of existing chapter 34, 35 and 36 provisions in this new section 1787 as follows:

Subsection (a) of the new section 1787. Clause (1). Incorporates clause (1) of the present sections 1685 and 1734, relating to overcharges by educational institutions.

Clause (2). Provides that the Administrator may disapprove a school for GI bill purposes in the future if he finds that it has altered its tuition and fee policy for veterans so substantially as to deny the benefit of the advance and prepayment of allowances system which the new section 1780 would establish. The purpose of this provision is to preserve the value of the initial advance payment for the benefit of the veteran and to discourage schools from demanding earlier payment of any substantially greater amount of tuition after the new system is enacted. (Clause (2) in present sections 1687 and 1736 is rendered unnecessary by virtue of the combination provision in chapter 36.)

Subsection (c) of the new section 1787. Incorporates present section 1786, relating to examination of records.

Subsection (d) of the new section 1787. Incorporates present section 1787, relating to false or misleading statements.

Section 304. Strikes out various provisions, redesignates others and amends the table of sections in present chapters 34 and 35, all necessary as a result of incorporation of provisions from these chapters in chapter 36 by other provisions of the committee substitute.

Section 305. Incorporates the provisions of S. 3907 to amend section 3013 of title 38, United States Code, relating to effective dates of educational benefits, to provide that a "voc rehab" or GI bill trainee who acquires a dependent shall have his GI bill allowance increased from the date he legally acquires that dependent, not when the VA receives notice of such acquisition (the present rule), as long as he gives notice within one year thereof. This new provision would be generally consistent with a number of other effective date provisions, which take effect on the happening of the event in question, for payment of disability compensation under chapter 11 of title 38.

Section 306. As a companion to the new section 1688, which would be added by section 203 of the committee substitute, repeals the NDEA loan cancellation-for-military-service provision added in P.L. 91–230 (see discussion of new section 1688 under "explanation of the bill", above). The effective date of the repealer is July 1, 1970, which would have the effect of precluding anyone from having acquired any benefit under that provision.

TITLE IV

Section 401. Establishes an effective date for the bill of the first day of the second calendar month following the month of enactment.

Title Amendment. The title would be amended to be more descriptive of the provisions included in the committee substitute.

COST ESTIMATE

The Veterans' Administration estimates the first full-year cost of the provisions of the committee substitute to be $31.25 million, broken down as follows:

Work-Study Program Provision: It is estimated that no more than 56,000 student veterans could be engaged annually under work-study agreements to serve in VA programs, resulting in a full-year cost of $14,000,000 in direct work-study allowance payments (with no adjustment for overpayments recovered because of unfulfilled agreements) and $250,000 in administrative costs.

Active-Duty Post-Secondary Education Provision: It is estimated that the first full-year cost would be $17,000,000 covering 39,000 servicemen using GI bill entitlements after 180 days of active duty service. Much of this initial cost would be cancelled out by commensurate reductions in use of entitlement by these servicemen after two years of active-duty service or after their discharge.

Repayment of Education Loan Provision: It is estimated that costs will not be entailed until the third year of operation, FY 1973, during which year they will approximate $14.7 million. Thereafter they increase yearly, and those estimates and the bases for them are set forth in the September 23, 1970, Veterans' Administration memorandum from the Chief Benefits Director to the General Counsel, which is included in the Appendix to this report.

S. 3785—GI BILL BENEFITS FOR FAMILIES OF SERVICEMEN MISSING, CAPTURED, OR INTERNED

Mr. CRANSTON. Mr. President, this bill was introduced on April 30, 1970, by Mr. DOMINICK—for himself, Mr. COTTON, Mr. GRIFFIN, Mr. HRUSKA, and Mr. SMITH. I reported it with a committee amendment in the nature of a substitute from the Committee on Labor and Public Welfare on September 23, 1970. I regret that on the reported bill, Calendar No. 1250, the name of the Senator from Illinois (Mr. SMITH) was inadvertently omitted as a cosponsor of this bill and want to make perfectly clear for the record that Senator SMITH is a cosponsor of S. 3785 and that his name should have appeared as such on the bill as reported.

Mr. President, the committee substitute amends chapters 35 and 37 of title 38 of the United States Code to accomplish the following seven basic purposes:

First. To authorize educational benefits for children and wives of members missing or captured who are so listed for more than 90 days.

Second. To authorize home loan benefits—guaranteed or direct—to wives of such members.

Third. To terminate the entitlement to both educational and home loan benefits when the member is no longer so listed but still allow completion of the current semester or other period in an educational program.

Fourth. To deduct any educational entitlement used from any subsequent entitlement of the wife or child under chapter 35.

Fifth. To limit the period of eligibility for educational benefits to the standard GI bill 8-year period.

Sixth. To limit the wife's home loan entitlement to one loan.

Seventh. To provide that the wife's entitlement does not reduce the husband's entitlement to a home loan under chapter 37.

Mr. President, I believe that the benefits that this bill would provide to the wives and children of servicemen captured or missing would be small recompense for the grief and uncertainty that have befallen these unfortunate families. What the committee substitute does, in effect, is to give the wives and children the benefit of the doubt and not force them to defer utilization of GI bill benefits to which they would, in many instances, become entitled if their husbands or fathers were determined to be deceased. Otherwise, they are in the position of having to go on waiting and hoping and not being eligible for these benefits.

Mr. President, I ask unanimous consent that appropriate passages of the committee report, No. 91–1232, be set forth in the RECORD at this point in order to explain in detail the purposes of S. 3785 as reported, and I urge all of my colleagues to support the bill as reported.

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

EXPLANATION OF BILL

The bill as introduced provided educational assistance for the children and home loan benefits for the wives of members of the Armed Forces who are missing in action, captured by a hostile force, or detained or interned by a foreign government or power (hereinafter referred to as members missing or captured).

The purpose of the committee substitute, which was developed in agreement with the bill's sponsor, Senator Dominick, and after technical consultation with the Veterans' Administration, is to provide educational benefits for the wives as well as children of members missing or captured and to make other changes along lines suggested by the Veterans' Administration in its report.

* * * * *

At the present time, there are approximately 1472 United States servicemen listed as missing in action, captured or interned in Southeast Asia. About 150 of these men have been missing or captured for more than four years, and more than 300 of them have been missing or captured for three and one-half years. That is longer than any U.S. serviceman was held prisoner during World War II. Because hostile forces recently generally have refused to provide information on those persons whom they hold as prisoners, the uncertainty of the fate of members listed as missing or captured is greater for longer periods of time than in prior conflicts.

Meanwhile, the families of these servicemen anxiously await to hear whether their missing father or husband is dead or captured. Many of these servicemen have sons or daughters who would be eligible for educational benefits under the War Orphans' Educational Assistance Act if it could be determined that their father was killed in action or died while being held as a prisoner by enemy forces. Without this determination they must go on waiting and hoping, and they are not eligible for these benefits. Similarly, their wives would be eligible for educational and home loan benefits as war widows, if it could be determined that their husbands were deceased.

The committee considers it unfair that these benefits are denied to these children and wives of our servicemen whose service to their country has certainly cost them their freedom and perhaps their lives. The refusal of the enemy to provide information on the fate of members missing or captured makes the uncertainty faced by these dependents particularly acute, often for long periods of time.

The educational benefits proposed to be extended to the wives and children are those presently contained in chapter 35 of title 38, "War Orphans' and Widows' Educational Assistance." The home loan benefits for wives are those of chapter 37 of title 38, United States Code. In the case of education, the benefits are those to which the children or wife would be entitled under present law if the husband/parent were deceased as a result of a service-connected condition or 100 percent service-connected disabled. The home loan benefits are those now provided widows of veterans or servicemen whose death was service-connected.

Except for extending educational benefits to children of members missing or captured, the provisions of the committee substitute are generally supported by the administration. The administration suggested extending educational benefits to the wife in order to give her a head start as head of the family toward a career in the event her husband is determined to be deceased.

The most current tabulation of the numbers of members missing or captured, their wives and children is as follows:

ARMED SERVICES MEMBERS AND THEIR DEPENDENTS WHO ARE ELIGIBLE FOR VETERANS BENEFITS UNDER S. 3785 AS OF SEPT. 14, 1970

Service	Missing in action	Captured	Detained or interned	Total
Air Force	543	231	3	777
Army	266	58	0	324
Marines	93	22	0	115
Navy	111	144	1	256
Total	1,013	455	4	1,472
Wives of members:				
Air Force	412	196	3	611
Army	113	20	0	133
Marines	42	12	0	54
Navy	76	99	1	176
Total wives	643	327	4	974
Children of members:				
Air Force	877	379	10	1,266
Army	122	38	0	160
Marines	82	26	0	108
Navy	118	232	1	351
Total children	1,199	675	11	1,885
Total dependents	1,842	1,002	15	2,859

SECTION-BY-SECTION ANALYSIS

Section 1.—Adds children and wives of members missing or captured to the definition of "eligible person" in section 1701(a)(1), relating to educational benefits under chapter 35 of title 38, United States Code.

Clauses (1), (2) and (3).—Add, as a new subclause (iii) of section 1701(a)(1)(A), a child of a member missing or captured as an eligible person for chapter 35 benefits. For purposes of this new provision, the specification of the member's status as missing in action, captured by a hostile force, or forcibly detained or interned by a foreign government or power would be based on the listing by the Secretary concerned for purposes of pay and allowances under sections 551 and 556 of title 37, United States Code. This terminology is used throughout the committee amendment. The Veterans' Administration suggested that the waiting period be consistent for all categories, rather than none for "prisoners of war" (changed to "members captured by a hostile force") and one year for the other two categories. The committee agreed that the waiting period should be the same for all three categories, and adopted a 90-day rather than a one-year waiting period, on which the administration has not commented. The committee considered a one-year waiting period unnecessarily lengthy, and believed that 90 days was a reasonable period after which it may be assumed that the member's status will not change or be determined with certainty for a considerable length of time.

Clauses (4), (5) and (6).—Add, as a new clause (C) of section 1701(a)(1), a wife of a member missing or captured as an eligible person for chapter 35 benefits.

Section 2.—Extends through the end of the current semester or like period an entitlement to education benefits which is terminated by a change in the entitling status of the member missing or captured. Another entitlement may, of course, arise automatically under a separate provision, *e.g.*, for the now widow of a member who is determined to have died from a service-connected condition.

Clauses (1), (2) and (3).—Add to subsection (b) of section 1711, relating to termination of eligibility, a new clause (2), which permits wives and children of members missing or captured to complete the semester or other period when the member's status changes. Present subsection (b)(2) is redesignated as (b)(3).

Clause (4).—Conforms a cross reference in redesignated subsection (b)(3) of section 1711, which deals with disabled persons, to the appropriate entitling provision which has been redesignated (a)(1)(D) of section 1701.

Section 3.—Amends section 1712 to set limits on duration of entitlement and eligibility for wives and children.

Clause (1).—Conforms a cross reference in subsection (b) of section 1712 to the redesignated appropriate entitling provision in section 1701(a)(1), relating to widows and wives of the disabled.

Clause (2).—Adds new subsections to section 1712 as follows:

New Subsection (f).—Establishes an eight-year limit on eligibility for educational benefits for wives of members missing or captured comparable to the limit for other eligible wives or widows in present section 1712(b).

New Subsection (g).—Deducts from future entitlements any entitlement used under the new entitlements so that the duration of benefits under more than one entitlement does not exceed the present 36-month limit in section 1711(a) for a wife, widow, or child.

Section 4.—Expands a cross reference (to the applicable entitling provision) in section 1720(b) to include the new clause (C) in subsection (a)(1) of section 1701. This permits the provision of the same educational counseling for wives of members missing or captured that other eligible wives or widows presently receive.

Section 5.—Extends to wives of members missing or captured the home loan benefits of chapter 37 of title 38, United States Code, as follows:

Subsection (a).—Adds a new paragraph (3) to subsection (a) of section 1801 in order to include such wives within the definition of "veteran." The new provision is similar to present paragraph (2) making certain widows eligible. The wife would be limited to one loan, and her unused entitlement would terminate if her husband's entitling status changed.

Subsection (b).—Preserves the husband's home loan entitlement under chapter 37 even if his wife uses hers while he is missing or captured. The administration suggested that the bill as introduced be changed so as not to deprive the husband of his entitlement since his needs upon return may well be very different from those of his wife before, and since he was not in any way a party to the

prior loan and thus should not himself lose benefits as a result of his wife's usage. The effect is that one family might possibly obtain three benefits under chapter 37: (1) wife obtains loan while husband is missing in action; (2) husband obtains loan upon his return, and (3) husband dies of service-connected condition and widow obtains loan.

Title Amendment.—Reflects the extension of educational benefits to wives, and the change in terminology from "prisoner of war" to "captured by a hostile force."

COST ESTIMATE

The administration estimates that the annual full year cost of the provisions in the committee substitute would not exceed $500,000. The educational benefits for children and for wives are each estimated at not more than $250,000 per year. The home loan provision only creates a potential liability, and would not result in any substantial increase in cost to the government.

H.R. 370—THE DISABLED VETERANS AUTOMOBILE ASSISTANCE AND VETERANS FLIGHT TRAINING AND FARM COOPERATIVE PROGRAMS

Mr. CRANSTON. Mr. President, the committee substitute for this House-passed bill was reported unanimously from the Veterans' Affairs Subcommittee, and was unanimously ordered reported by the full Labor and Public Welfare Committee.

As passed by the House of Representatives, H.R. 370 would have amended chapter 39 of title 38, United States Code, by raising the disabled veterans automobile allowance from $1,600 to $2,500 and by extending the benefits of the chapter to certain disabled persons on active duty.

Title I of the committee substitute improves and expands the provisions of the House-passed bill in three respects: First, the automobile allowance is raised from $1,600 to $3,000, rather than $2,500; second, the Administrator is required to provide the necessary adaptive equipment in addition to the automobile allowance, and to continue to repair and replace such adaptive devices on one car at a time for the eligible person; and, third, veterans disabled during the Vietnam era are made subject to the same service-connection standard as is applied to veterans of World War II or the Korean conflict, rather than the more stringent so-called peacetime standard now applied for all post-Korean service. The House bill would have extended the automobile allowance to the disabled person on active duty, using the World War II-Korean conflict standard for service connection. The committee substitute incorporates a similar extension of the benefit but would base the eligibility of the disabled active duty person on the same service-connection standard as would apply to him as a veteran.

Title II of the committee substitute incorporates the provisions of S. 3689, which was introduced on April 7, 1970, by Senator YARBOROUGH, and which I was privileged to cosponsor along with seven other of our colleagues, to establish a new veterans flight training loan and farm cooperative program. Both of these new programs were adopted by the Senate on October 23, 1969, as a part of H.R. 11959—which became Public Law 91-219, the Veterans Education and Training Assistance Amendment Act of 1970—but were deleted at the insistence of the House conferees on that bill. The loan program will assist veterans in obtaining a private pilot's license in order to qualify to pursue further flight training, and improves the present farm cooperative program to stress onfarm training rather than institutional instruction. The farm program is similar to the ones previously in effect under the World War II and the Korean conflict GI bills.

Mr. President, I ask unanimous consent that the appropriate passage of the committee report, No. 91-1233, be set forth in the RECORD at this point in order to explain in detail the purposes of H.R. 370 as reported, and I urge all of my colleagues to support the bill as reported.

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

TITLE I

* * * * *

The Veterans' Administration supported the concept of the House-passed bill and specifically endorsed the allowance increase to $2,500. It suggested and the committee agreed to the revision in the House-passed bill to remove the discrimination against veterans of the Vietnam era by applying the same service-connection standard to them as is applicable to World War II and Korean conflict veterans from the same service period. The Veterans' Administration also suggested and the committee agreed that the service-connection standards applicable for active duty personnel should be made consistent with those for veterans. The Veterans' Administration pointed out that the provision for extending the benefit to disabled persons on active duty as passed by the House could yield discriminatory results. A serviceman who accidentally incurred the qualifying disability as a result of military service after January 31, 1955, but whose disability was not incurred as the direct result of the performance of military duty, would be entitled to automobile assistance if his claim was paid prior to his release or discharge from service. However, if the processing of his claim were delayed until after his discharge, the more restrictive criteria of the so-called peace-time standard would be applicable and he would no longer be eligible for the benefit. The committee substitute was prepared after technical consultation with the Veterans' Administration, although the Veterans' Administration did not take positions on the committee substitute automobile allowance increase to $3,000, or on the provision of adaptive equipment in addition to the automobile allowance.

The increase in the automobile allowance to $3,000 is strongly supported by the American Legion, AMVETS, the Disabled American Veterans, the Disabled Officers Association, the Paralyzed Veterans of America, and the Veterans of Foreign Wars of the United States. Their letters of support are set forth in an appendix to this report.

When the automobile assistance program was established on August 8, 1946, the $1,600 maximum payment approximated the actual cost of many automobiles then available together with the necessary adaptive devices. The subsequent increase in the cost of living and the cost of automobiles has been considerable. Figures comparing cost of automobiles in 1946 to the cost in 1970 are not readily available. However, the National Automobile Dealers' Association has calculated the average retail selling price of new cars in 1949 as $2,080 and the average for the first 6 months of 1970 as $3,470. This is a 67 percent increase over the past 21 years, or an average annual increase of 3.2 percent. By using this average annual increase, a comparable 1946 average new car retail selling price of $1,876 is obtained. The ratio of this figure to the 1946 allowance of $1,600 calls for a current allowance equivalent of $2,965. compared to the current average retail selling price of $3,470. The committee substitute thus proposes a 1970 allowance figure rounded off to the nearest 100 at $3,000.

The committee substitute reflects the thought that adaptive equipment on automobiles for disabled veterans are in the nature of prosthetic devices, which are now provided on a continuing basis to service-connected disabled veterans as part of medical treatment. A one-time allowance for adaptive automobile equipment does not meet the continuing need of the disabled veteran (or serviceman). Thus, the committee substitute requires that such devices shall be provided on a continuing basis.

The provision of adaptive equipment and its maintenance, repair, replacement and reinstallation is strongly endorsed by the Paralyzed Veterans of America. In addition to relieving the economic burden on persons who require such equipment to operate a vehicle, another important purpose is served. The Administrator would, under the provisions of the committee substitute, establish safety and quality standards for adaptive equipment. Such safety and quality standards are already established for prosthetic devices provided by the Administrator as part of medical treatment under chapter 17, section 612(d) of title 38 United States Code. It is believed that the same capability within the Veterans' Administration Department of Medicine and Surgery can be effectively employed, with the addition of a few personnel positions, which the committee recommends, to carry out a similar quality control program for the automobile adaptive devices which the Administrator would provide under the revised chapter 39 contained in the committee substitute.

In the oversight hearings of the Subcommittee on Veterans' Affairs, regarding medical care in VA hospitals for Vietnam veterans, from November 21, 1969, to April 28, 1970, the importance of achieving mobility for the paralyzed, or otherwise seriously disabled, veteran was referred to repeatedly by representatives of the Paralyzed Veterans of America, the Blinded Veterans' Association, and by paralyzed and seriously disabled veterans themselves. A paraplegic's continuing and secure access to an automobile is very often the indispensable factor affording him an opportunity for a productive life. Public transportation is not appropriate for him in most instances. The committee strongly believes that providing this kind of assistance for veterans so seriously disabled by service-connected conditions should be considered a vital part of the Government's obligation for their rehabilitation.

The present chapter 39 is a short chapter consisting of five sections. Since the proposed changes required substantial amendment of each section, the committee substitute contains an entirely new chapter.

TITLE II

Title II of the committee substitute contains the flight training loan and farm cooperative training provisions of S. 3689, which in turn were substantially the same as those included as part of title I (sections 102(c) and 103(d)) of H.R. 11959 as passed by the Senate on October 23, 1969, but not accepted by the House conferees and originally contained in subsection (b) of section 1 of S. 338 (flight training) and S. 1998 (farm training).

The loan program which section 1 of title II would establish would give needed assistance to veterans who wish to obtain a commercial license but who are unable to pay

the approximately $1,000 cost of flight-training instruction necessary to secure a private pilot's license, possession of which is a prerequisite to pursuit of flight training under the GI bill. This is a limited loan program, and contains no cancellation or forgiveness provisions.

The beneficial features of the loan are: (1) The veteran could obtain a loan of up to $1,000 or 90 percent of the established tuition charges for a private pilot's license, at a reasonable interest rate; (2) repayment of the loan is deferred until the educational objective is attained and (3) no security is required for the loan. All of these features would encourage and assist the veteran who desires to pursue advanced flight training but is deterred from doing so because of the difficulty of securing commercial financing for the preparatory flight training. GI bill benefits are presently available under section 1677 of title 38, United States Code, for flight training, and this loan program would provide substantial assistance to a veteran who seeks a career as a commercial pilot, but does not have the resources to support private pilot training.

The farm cooperative program is similar to the one previously in effect under the Korean conflict GI bill, and stresses on-farm training rather than institutional instruction. The purpose of returning to the type of farm cooperative program which was successful in attracting 785,000 trainees under the two prior GI bill programs is to attract more veterans to farm cooperative training under the current program. Since the time when the present farm cooperative program was instituted in 1967, only 836 trainees have participated, less than one-twentieth of 1 percent of the total number of trainees under the present GI bill. The attractiveness of the prior programs is demonstrated by the much higher percentage of participation in the two prior programs—7.7 percent of the total number of trainees in those two programs.

Testimony before the subcommittee on S. 1998 indicated that there is an unmet need for young farmers, growing especially acute in light of the average high age of present farmers. For example, in Minnesota, with a projected need of 3,375 farm replacements each year, only about 1,000 students graduate yearly from agricultural schools in the State and only part of those graduates enter full-time farming. A survey by the American Vocational Association of 22 States showed unanimity for return to the World War II and Korean conflict form of farm cooperative program with combined classroom and on-farm instruction.

The new farm program proposed in the committee substitute is endorsed by the National Vocational Agricultural Teachers' Association, the National Farmers Union, and the National Grange. In addition, the State supervisors of vocational education of the following 26 States have written letters endorsing the proposed new farm program: Alabama, California, Colorado, Delaware, Florida, Georgia, Hawaii, Illinois, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, New Mexico, Pennsylvania, South Dakota, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

The administration opposed the flight-training loan program when it commented on S. 338, and when it commented on S. 1998, recommended that consideration of the farm cooperative program be deferred pending the completion of a study by the President's Committee on the Vietnam Veteran. However, the study, published in late March 1970, did not speak to farm cooperative training.

SECTION-BY-SECTION ANALYSIS

TITLE I

Section 101. Establishes the title of title I of H.R. 370 as the "Disabled Veterans' and Servicemen's Automobile Assistance Act of 1970."

Section 102. Reenacts a revised chapter 39 of title 38, United States Code, with a new chapter heading and table of sections, and the following new sections:

New Section 1901. Establishes applicable definitions for the chapter as follows:

Subsection (1) of new section 1901. Defines "eligible person" to include (1) persons on active duty with the same disabilities as those disabled veterans presently covered in the chapter, (2) those disabled veterans presently covered, and (3) Vietnam era veterans under the so-called "war-time" standard of service connection. The so-called "peace-time" standard of service connection is left open-ended, as it is in subsection (b) of present section 1901, and upon termination of the Vietnam era the more stringent standard would be applicable.

Clause (a).—Combines the periods of service, applicable standards of service connection for each, and the degree of disability now covered in subsections (a) and (b) of present section 1901.

Clause (b).—Includes within the definition of "eligible person" a person on active duty who is suffering from one of the disabilities specified for veterans. This is substantially the House provision (added as a new section 1906), but the committee substitute makes the service-connection standards for active duty personnel consistent with those for veterans for the same service period.

Subsection (2) of new section 1901. Restates the definition of "World War II" contained in present section 1901(c) in terms of an eligible person rather than a veteran.

New section 1902.—Establishes the type of assistance to be provided under the chapter.

Subsection (a) of new section 1902. (1) Restates the entitlement to an automobile allowance contained in the first clause of present section 1901(a); (2) raises the maximum allowance from $1,600 to $3,000; and (3) deletes the present language which provides that the allowance is to cover both the automobile and adaptive devices. The method of payment—to the seller under a sales contract—is derived from present section 1903.

Subsection (b) of new section 1902. Requires, in a new provision, the Administrator to provide eligible persons with adaptive equipment necessary for them to operate the vehicle. The standard of safety to which the automobile is to be adapted is derived from the standard now contained in the second clause of present section 1902. Rather than requiring the Administrator to insure that the person "will be licensed" to operate the vehicle, the standard is rephrased to provide that the equipment should enable the person to "satisfy applicable standards of licensure established by the State. . . ."

Subsection (c) of new section 1902; Clause (1).—Requires, in a new provision, the Administrator to repair, replace, or reinstall adaptive equipment for eligible persons on the automobile acquired under this chapter.

Clause 2.—Requires that equipment be provided, repaired, replaced, or reinstalled for any eligible person in any vehicle he may subsequently acquire. This entitles all persons who have previously obtained a vehicle under this chapter to obtain the necessary adaptive equipment and service therefor with respect to the vehicle they presently operate or may subsequently purchase.

Subsection (d) of new section 1902. Restates the provision contained in the last proviso of present section 1902 entitling an eligible person who cannot himself qualify to operate a vehicle to receive the allowance toward an automobile to be operated for him by another person. The reorganization of the chapter makes clear that this entitlement extends only to the automobile and not to adaptive equipment, which would obviously not be necessary in this situation.

New section 1903. Restates general limitations on providing assistance now contained in the present chapter.

Subsection (a) of new section 1903. Restates the prohibition, contained in present section 1904, against providing more than one automobile to an eligible person, and the prohibition, contained in the first clause of present section 1902, against repair, maintenance, or replacement of the automobile.

Subsection (b) of new section 1903. Restates the prohibition, contained in the second clause of the present section 1902, against a veteran being provided an automobile if he cannot qualify to operate it (except in cases where it is to be operated by another under subsection (d) of new section 1902).

Subsection (c) of new section 1903. Establishes, in a new provision, the limitation on the new entitlement to adaptive equipment that an eligible person may obtain the adaptive equipment for only one car at a time.

Subsection (d) of new section 1903. Requires, in a new provision, that adaptive equipment provided under this chapter must meet standards of safety and quality prescribed by the Administrator.

Deletion of present section 1905. Existing section 1905 states that the benefits of the chapter shall be made available to those who are eligible and who apply for the benefits in accordance with regulations prescribed by the Administrator. This section is no longer necessary, and its deletion will not affect the administration of the chapter.

TITLE II

Section 201.—Adds to section 1677 of chapter 34 of title 38, United States Code, a new subsection (c) containing a new private pilot's license loan program. The loan program would assist veterans who wish to pursue flight training under the GI bill but who are unable to pay the up-to-$1,000 cost of flight training necessary to secure the private pilot's license, which under section 1677 (a)(1) is a prerequisite to qualifying for flight training educational assistance under chapter 34.

Paragraph (1) of new subsection (c). Authorizes direct loans to veterans wishing to obtain training for a private pilot's license with a view toward pursuing flight training under the GI bill (section 1677 of chapter 34) such as training for a commercial pilot's license.

Paragraph (2) of new subsection (c). Limits the loan to $1,000 or 90 percent of the established tuition charges for the flight training course, and provides that the interest rate shall be established by the Administrator at not to exceed 6 percent per year.

Paragraph (3) of new subsection (c). Requires repayment of the loan within 3 years after certain dates set as follows: (A) 1 year after the loan is made if the veteran does not obtain a private pilot's license; (B) 1 year after obtaining a private pilot's license if he fails to undertake commercial pilot's training; (C) immediately upon his failure to complete commercial training within 18 months; or (D) 1 year after he has completed commercial training. This provision is modified to correct an omission in the version in H.R. 11959 as it passed the Senate.

Section 202.—Subsection (a). Establishes the new farm cooperative program as a substitute for the present program in subsection (d) of section 1682.

New subsection (d). Replaces the present highly academically oriented farm cooperative program with a program similar to that existing under the Korean conflict GI bill. The new farm cooperative program would stress supervised work experience on a farm or other agricultural establishment and require less classwork. Presently, full-time farm cooperative training requires a minimum of 12 clock hours of classwork a week for 44 weeks of any period of 12 consecutive months. The new program would lower the requirement to a minimum of 200 hours per year, with at least 8 hours each month.

Paragraph (1) of new subsection (d). Establishes the basic farm cooperative education assistance allowance, now contained in paragraph (2) of the present subsection, eliminating allowances for part-time training which would no longer be necessary under the new type of program. The allowance for farm cooperative training would be established at the same level as is presently provided for other types of cooperative training under paragraph (1) of subsection (a) of the present section. The new farm cooperative rates for veterans with dependents would be $2 higher than presently in the farm cooperative program in paragraph (2) of the present subsection.

Paragraph (2) of new subsection (d). Establishes standards for approval of a farm cooperative training program by State approving agencies.

Subsection (b).—Establishes the effective date of the farm cooperative training program and contains a saving provision for those enrolled in existing farm training programs.

TITLE AMENDMENT

Reflects the changes in H.R. 370 made by the committee substitute: title I—extension of benefits to certain Vietnam veterans and provision of a continuing entitlement to receive adaptive equipment—and by title II—addition of the flight training loan and farm cooperative programs to the bill.

COST ESTIMATE

The first full year cost of the provisions of the committee substitute is $20 million, including $6.8 million for the automobile assistance in title I, $11.4 million for the flight training loan program, and $1.8 million for the farm cooperative program of title II.

Mr. CRANSTON. Mr. President, I very much hope that we will be able to iron out whatever differences may exist between us and the House Committee on Veterans' Affairs with respect to these bills and secure the enactment of all of them before the adjournment of this Congress. In closing, I wish to note my appreciation for the special contribution made to the work of the Veterans' Affairs Subcommittee in preparing the amendments to these four bills by Hugh Evans of the Office of Legislative Counsel and by all of those in the Veterans' Administration who so graciously offered their time and expertise in providing technical assistance to us.

VETERANS' ADVANCE EDUCATIONAL ASSISTANCE ALLOWANCE AND WORK-STUDY PROGRAM ACT OF 1970

The Senate proceeded to consider the bill (S. 3657) to amend chapter 34 of title 38, United States Code, to authorize advance educational assistance allowance payments to eligible veterans at the beginning of any school year to assist such veterans in meeting educational and living expenses during the first 2 months of school, and to establish a veterans' work-study program through cancellation of such advance payment repayment obligations under certain circumstances 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 "Veterans' Advance Educational Assistance Allowance and Work-Study Program Act of 1970".

TITLE I—INCREASE IN THE AMOUNTS OF LOANS TO AND ELIGIBILITY FOR WORK-STUDY PROGRAM OF DISABLED VETERANS ENROLLED IN VOCATIONAL REHABILITATION

SEC. 101. Section 1502 of title 38, United States Code, is amended by adding at the end thereof a new subsection (d) as follows:

"(d) Veterans pursuing a program of vocational rehabilitation training under the provisions of this chapter shall also be eligible, where feasible, for participation in the work-study program provided by section 1687 of this title."

SEC. 102. Section 1507 of title 38, United States Code, is amended by striking out "$100" in the first sentence thereof and inserting in lieu thereof "$200".

TITLE II—ADVANCE PAYMENT OF EDUCATIONAL ASSISTANCE ALLOWANCE AND WORK-STUDY PROGRAM

SEC. 201. Subchapter II of chapter 36 of title 38, United States Code, is amended by inserting immediately before section 1781 the following new section:

"§ 1780. Payment of educational assistance allowances

"Period for Which Payment May Be Made

"(a) Payment of educational assistance allowances to eligible veterans or persons pursuing a program of education, other than correspondence or flight, in an educational institution under chapter 34 or 35 of this title shall be paid as provided in this section and, as applicable, in section 1682 or section 1732 of this title. Such payments shall be paid only for the period of such veterans' or persons' enrollment, but no amount shall be paid—

"(1) to any eligible veteran or person enrolled in a course which leads to a standard college degree for any period when such veteran or person is not pursuing his course in accordance with the regularly established policies and regulations of the educational institution and the requirements of this chapter or of chapter 34 or 35 of this title; or

"(2) to any eligible veteran or person enrolled in a course which does not lead to a standard college degree for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays established by Federal or State law (or in the case of the Republic of the Philippines law) during which the institution is not regularly in session.

"Advanced Payment of Initial Educational Assistance Allowance

"(b)(1) The authorization of an educational assistance allowance advance payment provided in this subsection is based upon a finding by the Congress that eligible veterans and persons need additional funds at the beginning of a school term to meet the expenses of books, travel, deposits and payments for living quarters, the initial installment of tuition, and other special expenses which are concentrated at the beginning of a school term.

"(2) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, an eligible veteran or person shall be paid an educational assistance allowance advance payment. Such advance payment, except in unusual or extraordinary cases, shall be made within fifteen days after receipt of application therefor submitted by the eligible veteran or person pursuant to paragraph (3) of this subsection, but in no event earlier than thirty days prior to the date on which pursuit of his program of education is to commence and shall be made in an amount equivalent to the educational assistance allowance for the month or fraction thereof in which pursuit of the program will commence, plus the educational assistance allowance for the succeeding month. In no event shall an educational assistance allowance advance payment be made under this subsection to an eligible veteran or person intending to pursue a program of education on less than a half-time basis.

"(3) The application to the Administrator for advance payment shall include—

"(A) evidence showing (i) such veteran to be an 'eligible veteran' as defined in section 1652(a)(1) of chapter 34 of this title, or (ii) such person to be an 'eligible person' as defined in section 1701(a)(1) of chapter 35 of this title,

"(B) a certificate by the eligible veteran or person (i) stating that he is enrolled, or has applied for, been accepted by and intends to enroll, in a specified educational institution and is pursuing, or plans to pursue, a specified approved course of education during such school year at such educational institution, (ii) specifying the expected date of enrollment if he has not yet enrolled in an educational institution, and (iii) specifying the number of semester hours (or equivalent) or clock hours he is pursuing, or intends to pursue, and

"(C) in the case of an eligible veteran, information as to the number of persons he claims as dependents (as defined in section 1652(d) of this title).

"(4) For purposes of the Administrator's determination whether any veteran or person is eligible for an advance payment under this section, the evidence and information submitted by such veteran or person pursuant to paragraph (3) of this subsection shall establish his eligibility unless there is evidence in his file in the processing office establishing that he is ineligible for such advance payment.

"Prepayment of Subsequent Educational Assistance Allowance

"(c) Except as provided in subsection (e) of this section, subsequent payments of educational assistance allowance to an eligible veteran or person shall be prepaid each month, subject to such reports and proof of enrollment in and satisfactory pursuit of such programs as the Administrator may require. The Administrator may withhold the final payment of a period of enrollment until such proof is received and the amount of the final payment appropriately adjusted. In the case of an eligible veteran who submitted an application showing one or more dependents, but who does not submit evidence, acceptable to the Administrator pursuant to regulations he shall prescribe, of such dependents, the amount of the educational assistance allowance shall reflect the assumed existence of such dependents during a reasonable period to allow the veteran to furnish such proof, but such period shall not extend beyond sixty days or the end of the enrollment period, whichever is the earlier.

"Recovery of Erroneous Payments

"(d) If an eligible veteran or person fails to enroll in a course for which an educational assistance allowance advance payment is made, the amount of such payment and any amount of subsequent payments which, in whole or in part, are due to erroneous information furnished in the certificate referred to in subsection (b)(3)(B) of this section, shall become an overpayment and shall constitute a liability of such veteran or person to the United States and may be recovered, unless waived pursuant to section

3102 of this title, from any benefit otherwise due him under any law administered by the Veterans' Administration or may be recovered in the same manner as any other debt due the United States.

"Payments for 'Less Than Half-Time' Training

"(e) Payment of the educational assistance allowance computed under section 1682(b)(1) of this title for an individual pursuing a program of education while on active duty, or under section 1682(b)(2) or 1732(a)(2) of this title for an individual pursuing a program of education on a less than half-time basis may, and the educational assistance allowance computed under section 1696(b) of this title shall, be made in an amount computed for the entire quarter, semester, or term during the month immediately following the month in which certification is received from the educational institution that such individual has enrolled in and is pursuing a program at such institution.

"Determination of Enrollment, Pursuit, and Attendance

"(f) The Administrator may, pursuant to regulations which he shall prescribe, determine enrollment in, pursuit of, and attendance at, any program of education or course by an eligible veteran or person for any period for which he receives an educational assistance allowance under this chapter for pursuing such program or course."

SEC. 202. Section 1681 of title 38, United States Code, is amended to read as follows:

"§ 1681. Educational assistance allowance

"General

"(a) The Administrator shall, in accordance with the applicable provisions of this section and section 1780 of this title, pay to each eligible veteran who is pursuing a program of education under this chapter an educational assistance allowance to meet, in part, the expenses of his subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

"Institutional Training

"(b) The educational assistance allowance of an eligible veteran pursuing a program of education, other than correspondence or flight, at an educational institution shall be paid as provided in section 1780 of this title.

"Correspondence Training Certifications

"(c) No educational assistance allowance shall be paid to an eligible veteran enrolled in and pursuing a program of education exclusively by correspondence until the Administrator shall have received—

"(1) from the eligible veteran a certificate as to the number of lessons actually completed by the veteran and serviced by the educational institution; and

"(2) from the educational institution, a certification, or an endorsement on the veteran's certificate, as to the number of lessons completed by the veteran and serviced by the institution.

"Apprenticeship and Other On-Job Training

"(d) No educational assistance allowance shall be paid to an eligible veteran enrolled in and pursuing a program of apprenticeship or other training on the job until the Administrator shall have received—

"(1) from the eligible veteran a certification as to his actual attendance during such period; and

"(2) from the educational institution, a certification, or an endorsement on the veteran's certificate, that such veteran was enrolled in and pursuing a program of apprenticeship or other training on the job during such period.

"Flight Training

"(e) No educational assistance allowance for any month shall be paid to an eligible veteran who is pursuing a program of education consisting exclusively of flight training until the Administrator shall have received a certification from the eligible veteran and the institution as to actual flight training received by, and the cost thereof, to the veteran during that month."

SEC. 203. Subchapter IV of chapter 34 of title 38, United States Code, is amended by deleting section 1687 in its entirety and inserting in lieu thereof the following:

"WORK-STUDY PROGRAM

"§ 1687. Work-study additional educational assistance allowance; advances to eligible veterans

"(a) Notwithstanding any other provision of law, the Administrator shall pay a work-study additional educational assistance allowance (hereafter referred to as 'work-study allowance') to any veteran pursuing on a full-time basis a course of vocational rehabilitation under chapter 31 of this title, or a program of education under this chapter, who enters into an agreement with the Administrator to perform services under the work-study program established by this section. Such allowance shall be paid in advance in the amount of $250 in return for such veteran's agreement to perform services, aggregating one hundred hours during a semester or other applicable enrollment period, required in connection with (1) the preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Veterans' Administration, (2) the outreach services program under subchapter IV of chapter 3 of this title, (3) the provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, or (4) any other activity of the Veterans' Administration as the Administrator shall determine appropriate. Advances of lesser amounts may be made in return for agreements to perform services for periods of less than one hundred hours, the amount of such advance to be prorated on the basis of the amount of a full advance. The Administrator may enter into a work-study agreement with a veteran who has satisfactorily pursued his courses during at least one enrollment period for the performance of services during a period between enrollments if such veteran certifies his intention to continue the pursuit of the program during the next enrollment period.

"(b) If an eligible veteran, after having received in advance a work-study allowance under subsection (a) of this section, fails to fulfill his work obligation under the agreement for any reason, the amount due (based upon the pro rata portion of the work obligation which the veteran did not complete) as computed by the Administrator shall be considered an overpayment and shall become due and payable at the end of the enrollment period or at such time prior thereto when the Administrator determines that such obligation will not be completed prior to the end of the enrollment period. Any such amount due may be recovered from any benefit otherwise due the veteran under any law administered by the Veterans' Administration or shall, unless waived pursuant to section 3102 of this title, constitute a liability of such veteran to the United States and be recovered in the same manner as any other debt due the United States.

"(c) In order to carry out the purposes of this section and to determine the number of veterans whose services the Veterans' Administration can effectively utilize and the types of services required to be performed by such veterans, the Administrator shall, at least once each year, conduct a survey to determine the numbers of veteran-students whose services under the work-study program can effectively be utilized during an enrollment period in each geographic area where Veterans' Administration activities are conducted. Based upon the results of such survey, the Administrator shall allocate to each Veterans' Administration regional office the number of agreements under subsection (a) of this section which the head of that office shall attempt to make during such enrollment period or periods prior to the next such survey. Each regional office shall further allocate to each educational institution, at which eligible veterans are enrolled pursuant to this chapter, within its area the number of such potential agreements based upon the ratio of the number of veterans enrolled in such institution to the total number of veterans enrolled in all such institutions in the regional area, except that, to the maximum extent feasible, 20 per centum of the allocated number of agreements shall be reserved for special allocation to those institutions with a substantially higher proportion of needy veteran-students than generally prevails at other institutions within such area. If the total number of agreements allocated to any educational institution cannot be filled by such institution, the number of such unmade potential agreements shall be reallocated to such other educational institution or institutions in the regional office area as the Administrator shall determine in accordance with regulations he shall prescribe.

"(d)(1) The Administrator shall, to the maximum extent feasible, enter into agreements with educational institutions under which such institutions will recommend, within their number of allocated agreements, which particular veteran-students enrolled in such institutions should be offered work-study agreements under this section.

"(2) The determination of which eligible veteran-students shall be offered work-study agreements shall be made in accordance with regulations prescribed by the Administrator. Such regulations shall include, but not be limited to, the following criteria—

"(A) the need of the veteran to augment his educational assistance allowance;

"(B) the availability to the veteran of transportation to the place where his services are to be performed;

"(C) the motivation of the veteran;

"(D) in the case of veterans who are members of a minority group, the disadvantages incurred by members of such group, and

"(E) in the case of a disabled veteran pursuing a course of vocational rehabilitation under chapter 31 of this title, the compatability of the work assignment to the veteran's physical condition.

"(e) No work-study agreement shall be entered into under this section which would—

"(1) result in the displacement of employed workers or impair existing contracts for services, or

"(2) involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship.

"§ 1688. Repayment of Federal education loan

"(a) An eligible veteran who is obligated to repay an education loan made on or after April 13, 1970, pursuant to title II of the National Defense Education Act of 1958, part B of title IV of the Higher Education Act of 1965, part C of title VII and part B of title VIII of the Public Health Service Act, the Omnibus Crime Control and Safe Streets Act of 1968, the Migration and Refugee Assistance Act, or from the revolving fund established by section 10 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 470), or any other education loan made, insured, or guaranteed on or after April 13, 1970, under any Federal program, for education pursued prior to his performance of active duty service, may make application to the Administrator to accelerate payment of the educational assistance allowance for the pur-

pose of paying off or reducing his indebtedness for such loan. Accelerated payment of educational assistance allowance under this section shall be made on the basis of unused educational entitlement, determined in accordance with section 1661(a) of this title, earned for the performance of active duty performed after June 30, 1970. The application shall contain such information as the Administrator may by regulation prescribe.

"(b) Any payment of an accelerated allowance shall—

"(1) be made no more than four times per veteran for each loan made or guaranteed under any provision of law referred to in subsection (a) of this section, and be made in an amount which the eligible veteran, within the educational benefits available to him, determines is most advantageous to him;

"(2) be applied to both principal and interest remaining unpaid at the time the payment is made; and

"(3) be charged to any unused entitlement which the eligible veteran has remaining under section 1661(a) of this title for active duty performed after June 30, 1970, at the rate of educational assistance allowance to which he would be entitled, as computed under section 1682(a) of this title, at the time of application if he were pursuing an approved course of education on a full-time basis.

"(c) The Administrator, upon receipt of an application made pursuant to subsection (a) of this section, shall obtain a certification from the head of the Federal department or agency involved in making or guaranteeing the loan in question as to the total amount of the principal and interest outstanding on the loan. Upon approval of the application, the Administrator shall transfer to such department or agency head the amount determined by the eligible veteran under subsection (b) of this section and still outstanding on the loan or loans in question. In the case of loans federally guaranteed, directly or indirectly, the agency or department head in question shall make immediate payment to the lender of the full amount transferred to him and shall immediately send notice of such payment to the educational institution in question and other guarantors or endorsers on the loan."

TITLE III—MISCELLANEOUS AMENDMENTS TO THE VETERANS AND WAR ORPHANS AND WIDOWS EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 301. Section 1652 of title 38, United States Code, is amended by—

(1) striking out "at least two years" in subsection (a)(2) and inserting in lieu thereof "more than one hundred and eighty days"; and

(2) by adding at the end of subsection (b) a new sentence as follows: "Such term also means any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of 402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))."

SEC. 302. (a) Section 1731 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) immediately after the word "shall" the following: ", in accordance with the provisions of section 1780 of this title,";

(2) deleting subsections (b), (c), and (e) in their entirety; and

(3) redesignating subsection (d) as subsection (b).

(b) Section 1735 (hereinafter redesignated as section 1733) is amended by striking out "1737" where it appears therein and inserting in lieu thereof "1734".

SEC. 303. Subchapter II of chapter 36 of title 38, United States Code, is amended by—

(1) striking out section 1786 in its entirety and inserting in lieu thereof the following:

"§ 1786. Measurement of courses

"(a) For the purposes of this chapter, chapter 34, and chapter 35 of this title—

"(1) an institutional trade or technical course offered on a clock-hour basis below the college level, involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods per week allowed;

"(2) an institutional course offered on a clock-hour basis below the college level in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction (which may include customary intervals not to exceed ten minutes between hours of instruction) is required; and

"(3) an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis shall be considered a full-time course when a minimum of fourteen semester hours or the equivalent thereof, for which credit is granted toward a standard college degree (including those for which no credit is granted but which are required to be taken to correct an educational deficiency), is required, except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than twelve semester hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course.

"(b) For the purpose of this chapter and chapter 34 of this title, an academic high school course requiring sixteen units for a full course shall be considered a full-time course when a minimum of four units per year is required. For the purpose of this subsection, a unit is defined to be not less than one hundred and twenty sixty-minute hours or their equivalent of study in any subject in one academic year.

"(c) The Administrator shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the case of all other types of courses pursued under chapter 34 or 35 of this title."

(2) striking out section 1787 in its entirety and inserting in lieu thereof the following:

"§ 1787. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

"Overcharges by Educational Institutions

"(a) If the Administrator finds that an educational institution has—

"(1) charged or received from any eligible veteran or person pursuing a program of education under chapter 34 or 35 of this title any amount for any course in excess of the charges for tuition and fees which such institution requires similarly circumstanced students not receiving assistance under such chapters who are enrolled in the same course to pay, or

"(2) instituted, after the effective date of section 1780 of this title, a policy or practice with respect to the payment of tuition, fees, or other charges in the case of eligible veterans and the Administrator finds that the effect of such policy or practice substantially denies to veterans the benefits of the advance and prepayment allowances under such section,

he may disapprove such educational institution for the enrollment of any eligible veteran or person not already enrolled therein under chapter 31, 34, or 35 of this title.

"Discontinuance of Allowances

"(b) The Administrator may discontinue the educational assistance allowance of any eligible veteran or person if he finds that the program of education or any course in which the eligible veteran or person is enrolled fails to meet any of the requirements of this chapter or chapter 34 or 35 of this title, or if he finds that the educational institution offering such program or course has violated any provision of this chapter or chapter 34 or 35, or fails to meet any of the requirements of such chapters.

"Examination of Records

"(c) The records and accounts of educational institutions pertaining to eligible veterans or persons who received educational assistance under chapter 31, 34, or 35 of this title shall be available for examination by duly authorized representatives of the Government.

"False or Misleading Statements

"(d) Whenever the Administrator finds that an educational claim, or that a veteran or person, with the complicity of an educational institution, has submitted such a claim, he shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the Attorney General of the United States for appropriate action."

SEC. 304. (a) Chapter 34 of title 38, United States Code, is amended by—

(1) striking out in section 1677(b) in the second sentence thereof all after "certification" down to the period at the end thereof and inserting in lieu thereof "as required by section 1681(e) of this title";

(2) striking out in section 1682(b)(2) the last sentence in its entirety; and

(3) striking out section 1684 and 1685 in their entirety.

(b) Chapter 35 of title 38, United States Code, is amended by—

(1) striking out sections 1733, 1734, and 1736 in their entirety;

(2) redesignating section 1735 as section 1733; and

(3) redesignating section 1737 as section 1734.

(c) The table of sections at the beginning of chapter 34 is amended by—

(1) striking out:

"1684. Measurement of courses.
"1685. Overcharges by educational institutions.";

(2) striking out:

"1687. Discontinuance of allowances.";

and inserting in lieu thereof

"WORK-STUDY PROGRAM

"1687. Work-study additional assistance allowance; advances to eligible veterans.
"1688. Repayment of Federal education loans.".

(d) The table of sections at the beginning of chapter 35 is amended by—

(1) striking out:

"1733. Measurement of courses.
"1734. Overcharges by educational institutions.
"1736. Discontinuance of allowances.";

(2) redesignating

"1735. Approval of courses."

as

"1733. Approval of courses.";

and

(3) redesignating

"1737. Specialized vocational training courses."

as

"1734. Specialized vocational training courses.".

(e) The table of sections at the beginning of chapter 36 is amended by—

(1) inserting immediately before

"1781. Limitations on educational assistance."

the following:

"1780. Payment of educational assistance allowances.";

and

(2) striking out:

"1786. Examination of records.
"1787. False and misleading statements.";

and inserting in lieu thereof

"1786. Measurements of courses.
"1787. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements.";

SEC. 305. Section 3013 of title 38, United States Code, is amended by deleting the period at the end thereof and inserting the following: "; except that the effective date of an increase in the award of subsistence allowance under chapter 31 of this title, or of educational assistance allowance or training assistance allowance under chapter 34 of this title, by reason of marriage or the birth or adoption of a child, shall be the date of such event if proof thereof is received within one year from the date of such marriage, birth, or adoption."

SEC. 306. (a) Section 501(a) of Public Law 91–230 (84 Stat. 174) is amended by striking out "Section 205(a)(3)" and inserting in lieu thereof "Section 205(b)(3)".

(b) Effective June 30, 1970, section 205(b)(3) of the National Defense Education Act of 1958 (20 U.S.C. 425(b)(3)) (as amended by subsection (a) of this section) is amended—

(1) by striking out "(A)" where it appears after "(plus interest)";

(2) by striking out "(i)", "(ii)", and "(iii)" wherever they appear therein and inserting in lieu thereof "(A)", "(B)", and "(C)", respectively; and

(3) by striking out ", and (B) shall be canceled for service after June 30, 1970, as a member of the Armed Forces of the United States at the rate of 12½ per centum of the total amount of such loan plus interest thereon for each year of consecutive service".

TITLE IV—EFFECTIVE DATE

SEC. 401. This Act shall become effective on the first day of the second calendar month following the month in which enacted.

The amendment was agreed to.

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

The title was amended so as to read: "A bill to amend chapters 31, 34, 35, and 36 of title 38, United States Code, in order to make improvements in the vocational rehabilitation and educational programs under such chapters; to authorize an advance initial payment and prepayment of the educational assistance allowance to eligible veterans and persons pursuing a program of education under chapters 34 and 35 of such title; to establish a work-study program and work-study additional educational assistance allowance for certain eligible veterans; and for other purposes."

BENEFITS TO WIVES OF MEMBERS OF THE ARMED FORCES WHO ARE MISSING IN ACTION OR PRISONERS OF WAR

The Senate proceeded to consider the bill (S. 3785) to amend title 38, United States Code, to authorize educational assistance and home loan benefits to wives of members of the Armed Forces who are missing in action or prisoners of war 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 section 1701(a)(1) of title 38, United States Code, is amended by—

(1) striking out the word "or" at the end of subclause (i) of clause (A);

(2) striking out the period at the end of subclause (ii) of clause (A) and inserting in lieu thereof ", or"; and

(3) inserting a new subclause (iii) at the end of clause (A) to read as follows:

"(iii) at the time of application for benefits under this chapter is a member of the Armed Forces serving on active duty listed, pursuant to section 556 of title 37, United States Code, and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (A) missing in action, (B) captured in line of duty by a hostile force, or (C) forcibly detained or interned in line of duty by a foreign government or power.";

(4) striking out the word "or" at the end of clause "(B)";

(5) redesignating clause "(C)" as clause "(D)"; and

(6) inserting a new clause "(C)" to read as follows:

"(C) the wife of any member of the Armed Forces serving on active duty who, at the time of application for benefits under this chapter is listed, pursuant to section 556 of title 37, United States Code, and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power; or".

SEC. 2. Section 1711(b) of title 38, United States Code, is amended by—

(1) striking out the word "or" at the end of paragraph (1);

(2) redesignating paragraph "(2) as paragraph "(3)"; and

(3) inserting a new paragraph (2) to read as follows:

"(2) the parent or spouse from whom eligibility is derived based upon the provisions of section 1701(a)(1)(A)(iii) or 1701(a)(1)(C) of this title is no longer listed in one of the categories specified therein, or"; and

(4) striking out "1701(a)(1)(C)" in redesignated paragraph (3) and inserting in lieu thereof "1701(a)(1)(D)".

SEC. 3. Section 1712 of title 38, United States Code, is amended by—

(1) striking out "1701(a)(1)(B) or (C)" in subsection (b) and inserting in lieu thereof "1701(a)(1)(B) or (D)"; and

(2) adding at the end thereof the following new subsections:

"(f) No person made eligible by section 1701(a)(1)(C) of this title may be afforded educational assistance under this chapter beyond eight years after the date on which her spouse was listed by the Secretary concerned in one of the categories referred to in such section or the date of enactment of this subsection, whichever last occurs.

"(g) Any entitlement used by any eligible person as a result of eligibility under the provisions of section 1701(a)(1)(A)(iii) or 1701(a)(1)(C) of this title shall be deducted from any entitlement to which they may subsequently become entitled under the provisions of this chapter."

SEC. 4. Section 1720(b) of title 38, United States Code, is amended by striking out "section 1701(a)(1)(B) or (C)" and inserting in lieu thereof "section 1701(a)(1)(B), (C), or (D)".

SEC. 5. (a) Section 1801(a) of title 38, United States Code, is amended by adding a new paragraph as follows:

"(3) The term 'veteran' also includes, for purposes of home loans, the wife of any member of the Armed Forces serving on active duty who is listed, pursuant to section 556 of title 37, United States Code, and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (A) missing in action, (B) captured in line of duty by a hostile force, or (C) forcibly detained or interned in line of duty by a foreign government or power. The active duty of her husband shall be deemed to have been active duty by such wife for the purposes of this chapter. The loan eligibility of such wife under this paragraph shall be limited to one loan guaranteed or made for the acquisition of a home, and entitlement to such loan shall terminate automatically, if not used, upon receipt by such wife of official notice that her husband is no longer listed in one of the categories specified in the first sentence of this paragraph."

(b) Section 1802 of such title is amended by adding at the end thereof a new subsection as follows:

"(g) A veteran's entitlement under this chapter shall not be reduced by any entitlement used by his wife which was based upon the provisions of paragraph (3) of section 1801(a) of this title."

The amendment was agreed to.

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

The title was amended so as to read: "A bill to amend title 38, United States Code, to authorize educational assistance to wives and children, and home loan benefits to wives, of members of the Armed Forces who are missing in action, captured by a hostile force, or interned by a foreign government or power."

ASSISTANCE FOR DISABLED VETERANS

The Senate proceeded to consider the bill (H.R. 370) to amend chapter 39 of title 38, United States Code, to increase the amounts allowed for the purchase of specially equipped automobiles for disabled veterans, and to extend benefits under such chapter to certain persons on active duty which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

TITLE I—AUTOMOBILE ASSISTANCE FOR DISABLED VETERANS AND SERVICEMEN

SEC. 101. This title may be cited as the "Disabled Veterans' and Servicemen's Automobile Assistance Act of 1970".

SEC. 102. Chapter 39 of title 38, United States Code, is amended to read as follows:

"Chapter 39.—AUTOMOBILES AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES

"Sec.
"1901. Definitions.
"1902. Assistance for providing automobile and adaptive equipment.
"1903. Limitations on assistance.

"§ 1901. Definitions

"For purposes of this chapter—

"(1) The term 'eligible person' means—

"(A) any veteran entitled to compensation under chapter 11 of this title for any of the disabilities described in subclause (i), (ii), or

(iii) below, if the disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service during World War II, the Korean conflict, or the Vietnam era; or if the disability is the result of an injury incurred or disease contracted in or aggravated by any other active military, naval, or air service performed after January 31, 1955, and the injury was incurred or the disease was contracted in line of duty as a direct result of the performance of military duty:

"(i) The loss or permanent loss of use of one or both feet;

"(ii) The loss or permanent loss of use of one or both hands;

"(iii) The permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees in the better eye; or

"(B) any member of the Armed Forces serving on active duty who is suffering from any disability described in subclause (i), (ii), or (iii) of clause (A) of this paragraph if such disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service during World War II, the Korean conflict, or the Vietnam era; or if such disability is the result of an injury incurred or disease contracted in or aggravated by any other active military, naval, or air service performed after January 31, 1955, and the injury was incurred or the disease was contracted in line of duty as a direct result of the performance of military duty.

"(2) The term 'World War II' includes, in the case of any eligible person, any period of continuous service performed by him after December 31, 1946, and before July 26, 1947, if such period began before January 1, 1947.

"§ 1902. Assistance for providing automobile and adaptive equipment

"(a) The Administrator, under regulations which he shall prescribe, shall provide or assist in providing an automobile or other conveyance to each eligible person by paying the total purchase price of the automobile or other conveyance or $3,000, whichever is the lesser, to the seller from whom the eligible person is purchasing under a sales agreement between the seller and the eligible person.

"(b) The Administrator, under regulations which he shall prescribe, shall provide each eligible person the adaptive equipment deemed necessary to insure that the eligible person will be able to operate the automobile or other conveyance in a manner consistent with his own safety and the safety of others and so as to satisfy the applicable standards of licensure established by the State of his residency or other proper licensing authority.

"(c) In accordance with regulations which he shall prescribe, the Administrator shall (1) repair, replace, or reinstall adaptive equipment deemed necessary for the operation of an automobile or other conveyance acquired in accordance with the provisions of this chapter, and (2) provide, repair, replace, or reinstall such adaptive equipment for any automobile or other conveyance which an eligible person may subsequently have acquired.

"(d) If an eligible person cannot qualify to operate an automobile or other conveyance, the Administrator shall provide or assist in providing an automobile or other conveyance to such a person, as provided in subsection (a) of this section, if the automobile or other conveyance is to be operated for the eligible person by another person.

"§ 1903. Limitations on assistance

"(a) No eligible person shall be entitled to receive more than one automobile or other conveyance under the provisions of this chapter, and no payment shall be made under this chapter for the repair, maintenance, or replacement of an automobile or other conveyance.

"(b) Except as provided in subsection (d) of section 1902 of this title, no eligible person shall be provided an automobile or other conveyance under this chapter until it is established to the satisfaction of the Administrator, in accordance with regulations he shall prescribe, that the eligible person will be able to operate the automobile or other conveyance in a manner consistent with his own safety and the safety of others and will satisfy the applicable standards of licensure to operate the automobile or other conveyance established by the State of his residency or other proper licensing authority.

"(c) An eligible person shall not be entitled to adaptive equipment under this chapter for more than one automobile or other conveyance at any one time.

"(d) Adaptive equipment shall not be provided under this chapter unless it conforms to minimum standards of safety and quality prescribed by the Administrator."

TITLE II—FLIGHT TRAINING AND FARM COOPERATIVE TRAINING

SEC. 201. Section 1677 of title 38, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(c)(1) In any case in which a veteran wishes to pursue a course in flight training under this section but does not possess a valid private pilot's license and has not satisfactorily completed the number of hours of flight instruction required for a private pilot's license, the Administrator is authorized to make a direct loan to such veteran to pursue the flight training required for a private pilot's license.

"(2) Loans made under this subsection may be made in any amount not exceeding $1,000 or 90 per centum of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight training course are required to pay, whichever amount is less; and such loans shall bear interest at a rate determined by the Administrator, but not to exceed 6 per centum per annum.

"(3) Loans made under this section shall be repayable in equal monthly installments over a period of time not to exceed three years commencing—

"(A) upon the failure of the eligible veteran to obtain a private pilot's license within one year after the loan is made,

"(B) upon the failure of the eligible veteran to enter upon a course of training under subsection (a) of this section within one year after obtaining a private pilot's license,

"(C) upon failure to complete satisfactorily such a course of training within eighteen months after enrollment in a course of training under subsection (a) of this section, or

"(D) one year after the veteran has completed his course of training under subsection (a) of this section.

"(4) Loans made under this section shall be made upon such other terms and conditions as may be prescribed by the Administrator."

SEC. 202. (a) Section 1682(d) of title 38, United States Code is amended to read as follows:

"(d)(1) An eligible veteran who is enrolled in a 'farm cooperative' training program which provides for institutional and on-farm training and which has been approved by the appropriate State approving agency in accordance with the provisions of paragraph (2) of this subsection shall be eligible to receive an educational assistance allowance as follows: $141 per month if he has no dependents; $167 per month if he has one dependent; $192 per month if he has two dependents; and $10 per month for each dependent in excess of two.

"(2) The State approving agency may approve a farm cooperative training course when it satisfies the following requirements:

"(A) The course combines organized group instruction in agricultural and related subjects of at least two hundred hours per year (and of at least eight hours each month) at an educational institution, with supervised work experience on a farm or other agricultural establishment; and the course provides for not less than one hundred hours of individual instruction per year, at least fifty hours of which shall be on a farm or other agricultural establishment (with at least two visits by the instructor to such farm or establishment each month). Such individual instruction shall be given by the instructor responsible for the veterans' institutional instruction and shall include instruction and home study assignments in the preparation of budgets, inventories, and statements showing the production, use on the farm, and sale of crops, livestock, and livestock products.

"(B) The course is developed with due consideration to the size and character of the farm or other agricultural establishment on which the eligible veteran will receive his supervised work experience and to the need of such eligible veteran, in the type of farming for which he is training for proficiency in planning, producing, marketing, farm mechanics, conservation of resources, food conservation, farm financing, farming management, and the keeping of farm and home accounts.

"(C) The farm or other agricultural establishment on which the veteran is to receive his supervised work experience shall be of a size and character which will permit instruction in all aspects of the management of the farm or other agricultural establishment of the type for which the eligible veteran is being trained, and will provide the eligible veteran an opportunity to apply the major portion of the farm practices taught in the group instruction part of the course.

"(D) Provision shall be made for certification by the institution and the veteran that the training offered does not repeat or duplicate training previously received by the veteran.

"(E) The institutional on-farm training meets such other fair and reasonable standards as may be established by the State approving agency."

(b) The amendments made by subsection (a) of this section shall become effective on the first day of the second calendar month following the month in which this Act is enacted; but any veteran enrolled in a farm cooperative course under section 1682(d) of title 38, United States Code, prior to such effective date may continue in such course to the end of the current academic year under the same terms and conditions that were in effect prior to the effective date of the amendments made by subsection (a) of this section.

Mr. YARBOROUGH. Mr. President, the bill that we are considering today, H.R. 370, incorporates in title II my bill, S. 3689, which establishes two new veterans' education programs which are designed to expand the benefits and opportunities for veterans to participate in flight training and farm cooperative training under the cold war GI Bill. Both of these programs are urgently needed if veterans are to have the opportunity to pursue careers in agriculture and commercial flying.

I. LOAN PROGRAM TO ASSIST VETERANS IN OBTAINING A PRIVATE PILOTS LICENSE

Mr. President, with the ever-increasing volume of air travel in the world, there is a pressing need for commercial pilots.

There are many veterans who are interested in pursuing a career in commercial aviation but are unable to finance the cost of obtaining a private pilot's license which is a necessary prerequisite to obtaining a commercial license. Under the present flight training program, a veteran can receive financial assistance in obtaining his commercial license; however, it is up to him to pay the cost of his private license. Many veterans simply cannot afford private pilot's license training. Furthermore, the high interest rates that banks presently charge make it practically impossible for a veteran to obtain a loan to pay for this training.

The bill that we have before us today will provide a way for veterans who are seriously interested in flying to finance their private pilot's training. This bill establishes a low-interest loan program, the principal features of which are:

First, a veteran wishing to pursue a course in flight training could obtain from the Veterans' Administration a direct loan in an amount not to exceed $1,000 or 90 percent of the cost of tuition and fees of a private pilot's license training program;

Second, such loans shall bear interest at the rate of 6 percent per year; and

Third, such loans shall be repayable in equal monthly installments over a period not to exceed 3 years. These payments shall commence within 1 year after the veteran obtains his private pilot's license. In the event the veteran, after receiving the loan, fails to enroll in a flight training program or fails to satisfactorily complete his training, the payments shall begin immediately.

This loan program is designed to aid the young veteran who is serious about flying. It is not a giveaway program which would encourage the taking of flight training for amusement. It is a serious decision for a young man to undertake a $1,000 obligation, and I frankly believe that only serious young men will use this program.

II. VETERANS FARM COOPERATIVE TRAINING PROGRAM

Mr. President, the second program established in title II of H.R. 370 was also part of my bill, S. 3689. This portion of the bill establishes a farm cooperative training program for veterans similar to the one created by the Korean GI bill. Instead of emphasizing only classroom work, this new program strikes a proper balance between classroom instruction and on-the-farm training and will be a more attractive and workable program than the one presently in operation.

Experience during the last few years has clearly demonstrated that the present veterans farm training program has failed to encourage young veterans to pursue a career in farming. Since the enactment of the present program in 1967, only approximately 400 veterans have taken farm training in contrast to 785,000 veterans who participated in the farm training programs provided under the World War II and Korean conflict GI bill.

The causes of the poor participation by veterans in farm training are: First, the low allowance rates, and second, the unrealistic requirements of the present program. With the passage in this Congress of H.R. 11959, as amended by the Senate, Congress made substantial progress toward eliminating the first cause by raising the allowance rates by 35 percent. However, this is only a partial solution. For this program to be successful, it is essential that the farm training program be revised to meet the needs of the young veteran who is struggling to start his farm and support his family. The present farm training program does meet these needs.

The most objectionable feature of the present farm training program is that it put too much emphasis on classroom work and not enough on actual on-the-farm training. Under the present program, a veteran is required to take a minimum of 12 classroom hours of instruction each week for 44 weeks of any 12-month period. There is no provision for on-the-farm training. It is almost impossible for a veteran who is trying to work and support his family to carry this heavy a weekly classroom workload.

To correct the objectionable features of the present veterans farm training program, this bill makes the following significant changes:

First, the classroom instruction requirement is lowered to a minimum of 200 hours per year, with a minimum of 8 classroom hours each month;

Second, the individual on-the-farm instruction which was a major part of the farm training program under the Korean conflict GI bill is reinstated. The bill would require not less than 100 hours of individual instruction each year, at least 50 hours of such shall actually be on the farm; and

Third, it eliminates the onerous requirement of the Korean program that the veterans own or control a farm to take the training.

Mr. President, this new farm training program has gained the strong support of such respected farm organizations as the National Farmers Union, the National Grange, and also is supported by the American Vocation Association and the National Vocational Agricultural Teachers Association. In addition to the support this program which I have worked for has received from these farm organizations and vocational groups, it has also received the support of State agricultural education experts in 26 States. These authorities in the field of agricultural training are all united in their belief that, first, the present farm training program is not effective; second, the farm training program that I have proposed is a practical and workable program; and third, there are many veterans who would take training under a new practical program. Mr. President, I ask unanimous consent that the letters of support I received from these State agricultural education authorities be printed in the RECORD.

Mr. President, the future of farming as a vocation in the United States is dependent on whether young men choose to make it their life's work. Unless we have strong farm-training programs such as the one before us today, farming as a family vocation is doomed to fade into history. This bill will be a great step forward toward revitalizing rural America.

In conclusion, Mr. President, I wish to commend the able junior Senator from California (Senator CRANSTON), for his work as chairman of the Veterans Affairs Subcommittee for his work on this bill. I urge all of my colleagues to give this bill their full support.

I ask unanimous consent that the attached letters from State vocational educational agencies be printed in the RECORD.

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

DEPARTMENT OF EDUCATION,
Montgomery, Ala., July 14, 1970.

HON. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Thank you for your recent letter concerning your proposed Legislation for the veterans farm training program. I appreciate the opportunity to give you our views on the needs for such Legislation.

First, may I say that it has been most unfortunate that recent Legislation has been such that it has not been at all practical for our farm veterans to participate in additional programs. We feel that the rural veterans deserve a practical program and one that they can profit from just as much as those in other areas. I would also like to make the following comments concerning veterans' education:

1. Too much emphasis has been placed on classroom instruction and not enough on farm instruction. We believe that 200 hours of classroom instruction and 100 hours on farm instruction per year is sufficient for any young man who wants to farm.

2. It is a definite need for a practical farm training program of this type in Alabama.

3. I would estimate that from 10 to 15 per cent of the young men being drafted into service would enroll in the farm training program provided the requirements are practical for the situation.

4. We do not feel that the present farm training program is practical in any way, form or fashion. Too much time is required for classroom instruction and, therefore, not enough time is left for him to farm or make a living.

We all appreciate your efforts in providing Legislation for our farm veterans and you have our full support.

Sincerely yours,

T. L. FAULKNER,
State Supervisor, Vocational Agricultural Education.

DEPARTMENT OF EDUCATION,
Sacramento, Calif., July 3, 1970.

HON. RALPH W. YARBOROUGH,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR YARBOROUGH: I have your letter of June 22 concerning the veterans' farm training program.

I concur with your judgment that the current lack of interest is a result of too much emphasis on classroom work. I also agree that there is need for a comprehensive and workable program. The present one is of no value because it is just a regular junior college or four-year college program.

I have reviewed S. 3689 and the testimony in the *Congressional Record* and believe the bill is sufficiently broad to allow us to provide practical on-the-job training in agricultural and agriculturally-related occupations. A conservative estimate of the California veterans who might participate would be 2,500 to 3,000.

If I may provide additional information or assistance, please let me know.

Sincerely your,

DONALD E. WILSON,
Chief, Bureau of Agricultural Education.

STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION,
Denver, Colo., July 29, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I appreciate your interest and concern for the veterans farm training program. In answer to your questions:

1. I believe that a program should be available for a veteran who wishes to receive training.

2. The veteran's approving is also housed with the State Board for Occupational Education and they have had about six inquiries in the past year from veterans who desire training, but none are in training.

3. I do not believe that the present program is effective because the arrangements for cooperative training were unrealistic due to too much institutional time and not enough on-the-job management training.

It is quite evident that the bill is unsatisfactory if we only have interest in the training from six veterans in Colorado.

I believe that S. 3689 will reinstate the on-the-farm training and offer a quality program.

Thank you for your support of vocational education.

Sincerely,

DARRELL ANDERSON,
Supervisor, Agriculture Education.

DEPARTMENT OF PUBLIC INSTRUCTION,
Dover, Del., July 16, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Responding to the questions in your letter, I have the following comments:

(1) I do feel that there is a need for a Veterans' Training Program in the agricultural field. I believe that this should cover more than production farming. As the wording of the bill does stipulate either a farm or other agricultural establishment, it is clear that this stipulation is met.

(2) I have no real basis on which to answer your second question. I do feel that there will be the possibility of organizing on a county basis, at least two, and possibly three, Veteran Training Centers, each of which should anticipate an enrollment of not less than twenty-five to thirty veterans.

(3) The present Veterans' Training Program has not been given an opportunity for any experience here in Delaware. There have been no programs operated. I do agree with you, though, that under the present legislation, the number of class hours would not have permitted satisfactory enrollments. Consequently, I feel that the present program would not be effective. My last direct contact with veterans' training programs was early in the '50's, at which time I was very much impressed with the results obtained in the several programs which I directed.

(4) A copy of the Bill, which you have sent to me, seems to cover the situation very well. I am concerned with the stipulations which you have made on page 4, lines 11, 12, and 13. I feel that these stipulations are probably excessively restrictive. I would suggest that, at least in our part of the country, agriculture has so changed that many services, without which the farms cannot operate, are being provided by off-the-farm related agricultural businesses. Many of the job opportunities for veterans, would therefore be in such of these businesses as might deal with services which the specific veteran either has experience in, or would wish to be trained in. I would, therefore, like to see the stipulations as to what would be included in the proposed instruction, broadened to provide for the types of activities which would be inherrent in related agricultural business services.

I thank you very much for your interest in this area of instruction, and hope that if I may be of further service, you will advise me as to what is needed.

Sincerely,

FREDRIC E. MYER,
State Supervisor, Agricultural Education.

DEPARTMENT OF EDUCATION,
Tallahassee, Fla., June 29, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: This will reply to your letter of June 17, 1970 concerning the veterans farm training program.

I have discussed this matter with G. C. Norman, a member of our staff who was state supervisor of a large veterans on-the-farm training program following World War II, and the ideas expressed below represent our best judgment.

We agree with your reasoning as to why participation in the present program is small and that there is a need for the type of program described in S. 3689. As to the number of veterans who would participate in this program in Florida, we hesitate to give a definite figure. Our considered estimate is about one-thousand.

We feel that the present program is too institutionalized and that having the veteran pay the training agency out of his allowance is one of the main causes of low enrollment. We believe that it would improve your bill to spell out the amount and the manner in which the training agency will be reimbursed.

Please let me know if further assistance or information is needed from this office.

Sincerely yours,

T. L. BARRINEAU,
Administrator, Agricultural Education.

DEPARTMENT OF EDUCATION,
Atlanta, Ga., July 20, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: May I apologize for having waited this late to answer your letter concerning the Bill which you have submitted—"S. 3689" projecting a practical farm training program for veterans. I had delayed answering in order that I might talk with the district supervisors concerning this matter.

After having discussed the matter, it is our considered opinion that your Bill does spell out a more practical type of training program for veterans interested in farming. After World War II, I worked for several years with the Veterans Farm Training Program. I am impressed that what you are spelling out in your Bill somewhat parallels what we agreed on in the program back then. We feel this is a sound approach. As a matter of fact, we feel this is the only approach to a veterans on-farm training program.

I am sorry that we are not able to give you specific information concerning demand and interest for this program in our state. We do feel there are a good number of veterans, if such a program were offered, who would be interested. We hope to make a little survey with reference to this in the better agricultural sections of our state. We definitely feel there is a need for such a program.

We thank you very much for your interest in this type of practical training for young veterans in agriculture. If we can be of service to you, please call on us.

Sincerely,

J. L. BRANCH,
State Supervisor, Agricultural Education.

DEPARTMENT OF EDUCATION,
Honolulu, Hawaii, July 1, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Receipt of your letter dated June 16, 1970 concerning Senate Bill 3689 is acknowledged.

We have made available through our Young Farmer Program provisions for training veterans but have not had any request for training by veterans from the Veterans' Administration Office in Honolulu.

The following are my *personal views* on your four questions:

1. There is a need for agriculture and related field training for returning veterans. The Bill should cover more than farming per se—agribusiness, ornamental horticulture farm services and supplies, and some areas of occupations in which veterans might be interested.

2. The construction and tourist industries of Hawaii have influenced both high school students and veterans to seek training in these fields. As stated earlier, there has been no request for agriculture training by the Veterans' Administration.

3. It is only six months since I took on this assignment as Program Specialist. I have no comments on this question.

4. S.B. 3689 could be strengthened by including more coverage of related fields of agriculture. The number of farmers each year is decreasing while related fields of agriculture are expanding.

The proposed elimination of the requirement that a veteran own or control the farm on which training is taken may be a boost to those who wish to farm but not meet the stipulations in the existing law.

Your interest in improving agriculture is appreciated.

With kindest regards,

Sincerely yours,

THOMAS G. HATAKEYAMA,
Program Specialist Agricultural Education.

BOARD OF VOCATIONAL EDUCATION AND REHABILITATION,
Springfield, Ill., June 30, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Thank you for your letter concerning the need for farm training as proposed in S. 3689.

There is a need for farm training that includes classroom instruction of 200 hours per year coupled with an individual on-farm instruction. In response to an earlier request we estimated that 1500 men would avail themselves of such a program in Illinois this year.

The present veterans farm training program is not meeting the needs of the young men on the farm which I believe has too much class work and not enough on-farm laboratory experience.

There is need for such a program that would have similar hours for off-farm agriculture training. Those young people involved in the feed, fertilizer, seed and other jobs related to farming need such practical instruction. Also statistics show that three out of four of those involved in agriculture are engaged in the off-farm jobs. They need help also.

May I compliment you for your interest in the welfare of this important segment of our economy.

Sincerely,

G. DONAVON COIL,
Advisor, Illinois Association FFA.

KANSAS STATE EDUCATION BUILDING,
Topeka, Kans., July 2, 1970.

RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: This is in regard to your letter of June 16 in regard to the

veterans farm training bill. I have suggested change for this bill already several times but it had no effect. Now in answer to your questions.

Number one: There is a need for a farm training program such as the one proposed in S. 3689.

Number two: In my opinion there would be two or three thousand veterans in our state who would participate in such a program as the one proposed in S. 3689. We had over 15 thousand veterans in the institutional on-farm-training program following world war II. Two years after the program was closed out 85% of the veterans were still on their farms. We considered that an excellent record.

In answer to question three: Do I believe that the present veterans farm program is effective? The answer is, "no, as we do not have a single program in operation in the state." The reason is largely because of the highly academic type of program, which requires entirely too much time in the classroom. It looks as though we didn't learn a thing from the good experience we went through in the late forty's and fifty's.

As to question four: S. 3689 looks better to me than anything I've seen proposed since the institutional on-farm-program.

Sincerely yours,

C. C. EUSTACE,
State Supervisor, Agricultural Education.

MARYLAND STATE DEPARTMENT OF EDUCATION,
Baltimore, Md. June 26, 1970.

Senator RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

TO THE HONORABLE SENATOR YARBOROUGH: I am very pleased to hear that you have a keen interest in improving the agricultural veterans work training program. The original bill was written so that it required, as you suggested, too much inclass training and consumed too much time of an individual for the amount of assistance he received for his efforts.

There is no doubt in my mind that there is a need for an agricultural training program for returning soldiers from Viet Nam. I personally would liked to have seen not only an aspect of farm training in agriculture, but included training for technical agriculturalists in the area of agri-business, agri-services, and horticultural endeavors.

In Maryland, we are finding keen interest of our youth in this area since employment opportunities are great in rural and semi-rural areas. This facet of agri-business and service program would be conducted very similar to the 1945 on-the-job training bill and would work most efficiently. After all, these particular people support the man who is in the process of producing our food and fiber within our country.

Whoever wrote the original bill, I believe had in mind that it would not be a successful program and as a result it did fail. The image of agriculture by some people appears to be that agriculture is a thing of the past and has very little employment significance.

As a supervisor of Vocational Agricultural Education, I can see that some of the legislation of HEW has done to many programs of vocational agriculture within many states. Perhaps these people think that other programs will feed our population in the future.

Again I repeat, I appreciate your sincere efforts and would be delighted to answer any further questions relative to this bill.

Sincerely,

GLENN W. LEWIS,
State Supervisor of Agricultural Education.

DEPARTMENT OF EDUCATION,
Lansing, Mich., June 26, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I appreciated very much receiving your letter pertaining to proposed legislation for an educational program for veterans planning to farm.

Senate Bill No. 3689 which you enclosed with your letter, is very similar to the Veterans' On-Farm Bill passed following World War II and the Korean War. We had several thousand veterans trained under this Bill and felt it was rather satisfactory.

In answer to the questions you have raised, I wish to offer the following:

1. There is a definite need for a farm training program such as the one you propose in Senate Bill No. 3689 in Michigan. It is estimated there is a need for replacements of fifteen hundred farm operators per year. The average age of our present farm operators is fifty-six and it is anticipated many of those will retire by the time they reach sixty-five or earlier. The above figures are based on the anticipated number of full-time farm operators expected in Michigan by 1980.

2. I am not certain how many veterans in Michigan would participate in the program as outlined in Senate Bill 3689, however you can see from my above statement that there is an opportunity for persons employed as farmers in Michigan. I checked with our branch of the Educational Services dealing with veterans and find that at the present time we have no veterans who are enrolled in a farm program seeking qualifications for a high school diploma. We have only twenty-one veterans who are enrolled in our community colleges under a farm program and only three of these are actually planning to farm. The other seventeen are involved in preparing for agricultural occupations other than farming.

3. I think it is obvious from the few number of veterans on agricultural training programs in Michigan that the current legislation is not effective. There are a number of reasons for this.

(a) Under the present farm training veterans are required to attend 528 hours of classroom instruction covering a period of forty-four weeks of each year. This amount of classroom instruction is not compatible with the operation of a farm and, therefore, is impossible for veterans interested to enroll in this type of a program.

(b) There is no provision for on-the-job instruction. This is an essential part of the program and under the present legislation helps to make the veterans' on-farm training program less attractive.

(c) Michigan institutions for providing veterans' training in farming are somewhat limited and the distance which veterans must travel to avail themselves of the training is quite often too great to interest them.

4. In the way of suggestions for strengthening Senate Bill No. 3689, I would like to have you consider:

(a) The need to provide finances for setting up training programs within reasonable driving distance of the veteran's farm operation in order that he may more readily participate in the program.

(b) In view of the opportunities for increasing employment in off-farm occupations, you might consider the possibility of broadening Senate Bill No. 3689 to include training in this important area.

We are very much interested in the veterans' program as it relates to agriculture and will appreciate being kept informed as to any new developments.

Sincerely,

CLIFFORD G. HASLICK,
Acting Supervisor, Agricultural Education.

DEPARTMENT OF AGRICULTURAL EDUCATION,
St. Paul, Minn., July 21, 1970.

Senator RALPH W. YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I read with interest Senate file 3689 which you introduced on April 7 to the Senate. The amendments which you suggest should make it possible for veterans to actively engage in education for farming.

Provisions for on-farm instruction and the reduction in the amount of classroom instruction required per week are two key features. The previous provision of twelve hours of classroom instruction was simply not compatible with active engagement in farming. Having taught in the I.O.F.T. program following WWII and the Korean conflict, the similar provisions which your bill provides appear to me to be highly desirable and workable in local programs.

Studies of our farm management education program have shown on-farm instruction to be of high value to the participants. Farmers consider it one of the most valuable features of instruction since it allows them to carry classroom and group instruction to the application phase on their own farm. Instructors who have attempted to operate programs with very limited on-farm instruction have, for the most part, been unsuccessful.

If veterans have not shown a high interest in the present veterans training programs for farmers, I suggest that it is not a lack of interest in education, but rather an incompatibility with the organization of the program. Several surveys in Minnesota communities have revealed large numbers of veterans (40–80 men in some counties) who are anxious to participate in programs such as those described in your bill, but have been reluctant to participate under the present provisions.

We are convinced that the form of education provided by your bill pays big dividends. Under separate cover is a copy of a USOE supported research study on the investment effects of education in agriculture. I think the benefit-cost ratio of this type of instruction is worthy of consideration.

Sincerely,

EDGAR PERSONS,
Associate Professor, Agricultural Education Department.

DEPARTMENT OF EDUCATION,
St. Paul, Minn., June 26, 1970.

Hon. RALPH YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Mr. Barduson has given me your letter relative to the Veterans Training Act. I will comment on the major features of your bill.

We are in agreement with your first point on lowering the classroom requirement to 200 hours per year or a minimum of 8 classroom hours per month. We heartily endorse point 2 on the reinstatement of individual on-farm instruction.

We do not agree with point 3. We feel that to be effective and avoid criticism of training more farmers than are needed, the trainee must have control of, or own the farm.

In answer to question #1, there were in Minnesota on January 1, 1969, 5,286 veterans wanting farm cooperative training. We have one program in operation, with 2 others approved. The only limiting factor is the lack of qualified teaching personnel. I am enclosing a copy of a report compiled by the late G. R. Cochran, State Supervisor, Agriculture Education, which answers questions 1 and 2.

I submit the following in answer to question 3. First, we do not feel the program is effective because of the unrealistic classroom requirements, the lack of supervised

on-farm instruction which is the guts of any program of vocational education in agriculture. Another lack of effectiveness is that the program does not require farm management records and a business analysis and, this is not a comprehensive program.

With these changes, I would heartily endorse the immediate passage of 3689.

Our Minnesota Ag Unit and Mr. Robert Van Tries, Assistant Commissioner, have worked hard with our own Minnesota people involved and have met several times with our Minnesota Congressmen in Washington on this very matter. Thus we sincerely appreciate your efforts.

My sincere thanks to you and your co-colleagues for sponsoring this important and much needed legislation. If additional information is needed, we shall attempt to supply it.

Sincerely,

PAUL M. DAY,
State Supervisor, Agriculture Education.

FARM COOPERATIVE TRAINING

*1. Minnesota has a potential of 5,286+ veterans that want farm cooperative training as soon as the law is modified to permit a workable program.

2. The Alexandria Area Vocational-Technical School now has 23 students enrolled in an operating program.

*3. We have specific requests from 11 other schools with enrollments of 35+ veterans in each school.

4. Farmers are older today in proportion to 10 years ago. Therefore, training replacements today is more urgent than it was during the Korean War.

5. Veterans with entitlement who wish to farm (backbone of free enterprise) should have the opportunity of participating in an effective, workable program of class, laboratory and on-farm instruction.

*6. An effective "on-the-farm training" program could be modeled after the proven and successful Minnesota Farm Management Program that has been in operation for over 10 years and the U.S. Office of Education uses it as the model for the Nation. This is a combination of class, group and individual on-farm instruction.

*7. Earlier veterans farm training programs were successful. A comprehensive study was made of 2,286 Korean veterans enrolled for 2 years in 1954–56. This study concerned itself with *tenure, financial status,* and *social outcomes* of the I.O.F.T. program under Public Law 550. In 1960 a follow-up study of 3,179 veterans was made of those who completed I.O.F. training. These studies indicate the following significant:

(1) *83.77%* of trainees were farming in 1960.

(2) *3.4%* were in agriculture related occupations.

(3) The gain in net worth from 1954 to 1956 was from *$15,183.00* to *$24,106.00,* a gain of *58.7%*. (per farm)

(4) The gain in farm capital from 1954 to 1956 was from *$18,676.00* to *$28,693.00*. (per farm)

(5) The veterans indicated in many instances that their training was responsible for their rapid financial progress.

(6) These studies show that there is a real financial return from farm training and that the trainees remain in the occupation.

(7) One of the many favorable social outcomes was that the veterans gained a favorable impression of the value of an education and became better supporters of education for their children.

REFERENCES

*1. The number of 5,286+ veterans was secured and substantiated from the records of the following departments:

(a) Minnesota Selective Service

(b) Veterans Affairs

(c) Vocational Division of State Department of Education.

*3. Requests from these 11 schools:

Middle River, Willmar, Montevideo, Madison, Worthington, Jordan, Blue Earth, Waterville, St. James, Hayfield, Detroit Lakes.

*6. (a) *Vocational Agriculture Farm Management Program,* by Area Vocational-Technical School and Vocational Division of Minnesota State Department of Education.

(b) *Investments in Education for Farmers,* by Dr. Persons, University of Minnesota, U. S. O. E. Project No. 472–65.

*7. *General Survey Report Public Law 550 and Public Law 894, Institutional On-Farm Training in Minnesota 1959,* by Dr. A. M. Field, State Department of Education Consultant.

After Institutional On-Farm Training—What Then? 1960, by Stanley Novlan, Assistant State Supervisor, Agriculture Education, Minnesota Department of Education.

TOTAL NUMBER OF VETERANS RETURNED TO MINNESOTA

	Number	Approximately 50 percent returned to metropolitan areas	Approximately 25 percent returned to rural towns	Approximately 10 percent returned to farms (O.E. Code) (eligible for farm training)
Korean (1955–61)	92,179	46,089	23,044	9,218
Vietnam (1961–68)	105,012	52,506	26,253	10,501

Source: Vocational education, State Approving Agency, Veterans Training, Centennial building, St. Paul, Minn.

REFERENCES

These totals were obtained from the records of:

1. Minnesota Selective Service Headquarters.

2. Veterans Affairs' Office.

3. Minnesota State Department of Education.

STATE DEPARTMENT OF EDUCATION,
Jefferson City, Mo., June 25, 1970.

Sen. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I received your letter of June 16 relative to the Farm Veterans Training Program. Let me express to you our sincere appreciation for the interest which you have in and the work which you have done to develop a workable and a sound program for the farm veterans who have returned and who will be returning from the Vietnam War.

The three provisions which you have mentioned in your letter which are included in Senate Bill 3689 would certainly provide for a sound educational program for the farm veterans. The law under which these programs are now operated limits the attendance by virtue of the twelve hours per week in class requirement. It is impossible to develop an effective program without on-farm supervision and instruction.

I am sure that those of us in Missouri who have worked with a farm training program and who are now working in the field of vocational agriculture would agree that it should not be necessary for the veteran to own or have the farm under his control for him to benefit from the program. We would, of course, hope most of these men would have the opportunity to manage their own operation but feel sure this may be physically impossible in some cases.

The bill which you have introduced would certainly receive support from the vocational agriculture people in Missouri and I am sure it would receive the support of all agricultural people in the AVA. We would be glad to support this bill and certainly hope it receives the attention of the entire Congress.

Very truly yours,

CARL M. HUMPHREY,
Director, Agricultural Education.

OFFICE OF THE STATE SUPERINTENDENT,
Helena, Mont., July 1, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Your letter about your efforts to improve the lot of the veteran who is interested in agricultural education is appreciated. I hope the legislation you are sponsoring will become a law. For too long the young man who would like to enter the field of agriculture has been discriminated against in his efforts to obtain equal training opportunity with the veteran who goes on to college or into other types of training.

To be eligible the requirements under the present law of farm ownership or control, an unrealistic number of classroom hours of instruction which is virtually the same as for full time college training makes it completely impractical for these young men to get into a training program.

The veteran who may inquire is told of the requirements and he immediately sees how impossible the prospects are.

There is, I believe, a need for this type of training program in Montana as I've had a number of inquiries from veterans. The V.A. regional office at Fort Harrison indicates their enquiries have been relatively few and attribute this to the unrealistic eligibility requirements.

If the program would be closely patterned after the IOFT program following WWII I would expect several hundred trainees to be enrolled.

The present program is completely ineffective.

As I read S. 3689 it would overcome the objections to the present law, many veterans would be eligible for a realistic training program, and many of the present inequities would be remedied.

Thank you, Senator, for your efforts on behalf of veterans and agriculture education.

Sincerely,

BASIL C. ASHCRAFT,
Supervisor, Agriculture Education.

DEPARTMENT OF EDUCATION,
Lincoln, Nebr., July 2, 1970.

Hon. RALPH YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Your letter and information concerning the Veterans' On-farm program was received on June 29, and in reply to your questions, the following statements have been prepared.

1. There is a need for the farm training program such as you have proposed in S–3689.

2. How many veterans would participate? We have 8,608 veterans from the Vietnam war in agricultural employment here in Nebraska. The discharge rate is about 4,000 per year for Nebraska. It has been estimated that approximately 8% of our labor force here in Nebraska is composed of Vietnam veterans. A sizable percent of these would be young men hoping and planning to farm or ranch.

3. The present Farm Veterans' program is not practical in terms of time requirements. It lacks flexibility and creates hardships during certain times of the year.

4. S–3689 would be satisfactory as written and an improvement over the present plan, and would aid in followup and instruction geared to the individual needs.

Sincerely,

B. E. GINGERY,
Administrative Director Agricultural Education.

DEPARTMENT OF EDUCATION,
Trenton, N.J., July 28, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR YARBOROUGH: Thank you for seeking my opinion on Senate Bill 3689.

I shall give you my personal opinions. I have also spoken to two of my excellent instructors and suggested that they also write to you. Both are World War II veterans and both taught veteran classes under P.L. 346. Mr. Louis Gombosi and Mr. John Stump, both of Newton, can give you a viewpoint from the instructors stand point as well as a veterans'.

I am in complete agreement with you. A full college program would indeed take so much of the trainees time that full time active participation in farm management and operations would be impossible. Most of the agricultural college graduates in New Jersey do not return to farming.

What is true in New Jersey is true in other States as evidenced by their testimony.

After World War II hundreds of students were enrolled in G.I. "Institutional on the Farm Training". It was impossible to get enough certified agricultural instructors. Retired *successful* farmers were employed as teachers' aids to help with visitation and individual on farm instruction. They attended all classes so that they were informed and participated in class discussions.

These older *successful* men contributed stability to the young and impetuous recently released veterans. Two of my aids were directors in their local bank and knew farm finance and credit. Others were connected with Production Credit. In some cases it was almost a father and son relationship.

The World War II G.I. Bill (P.L. 346) was good legislation—it worked and produced results. Its greatest fault was many veterans became farm owners before they were enrolled for training. We could have helped them to secure better farms or a better price had we been permitted to help them before they became owners. Some acquired poor farms.

Being from New Jersey, the most populous state, I cannot close without saying "Farm Training" should be interpreted to include agricultural education in a broad sense. Nursery work, floriculture, recreational conservation and other agriculturally related jobs should be covered in the new bill.

I hope I have contributed to your efforts and look forward to your success.

Respectfully yours,

GEORGE W. LANGE,
Director, Agricultural Education.

P.S.—I am sorry that you had to wait so long for my reply, but this is a one-man operation (we are understaffed), and your letter arrived at the end of the fiscal year approvals.

THE STATE EDUCATION DEPARTMENT,
Albany, N.Y., June 29, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: This is to answer your recent letter addressed to Dr. Noakes, Chief of this bureau. As I have been delegated the direct responsibility for adult programs in agriculture, I will try to answer your letter to the best of my ability.

To answer your questions directly:

1. We definitely believe there is a need for such a program as proposed in S–3689.

2. It is only an opinion, but I believe there would be in the neighborhood of 200 to 500 young men interested in such a training program in this state. This admittedly is considerable less than were enrolled for the on farm program following World War 2, but I believe it is realistic.

3. We believe that the present veterans farm training program is completely ineffective. To our knowledge, not a single person is enrolled in any such program in this state and we have no indication that any will be started. Two years ago we had a number of inquiries regarding such courses but apparently the current program fails completely to meet the needs of this group. We have had no inquiries whatsoever for such a program for at least a year. None of our teachers of agriculture are interested in participating under the current law.

4. I have one very definite opinion as to how S–3689 could be strengthened. I taught a full-time advanced veteran class for two years and the beginning class part-time for two years following World War 2. While the results were excellent, there was general agreement by all concerned that time requirements were excessive and resulted in a considerable waste of time and money. My suggestion would be that the time allocation for on-farm instruction be made quite flexible. Some veterans need considerable such instruction and some need relatively little. I see no objection to a maximum and minimum, but it is unrealistic to think that each person has the same needs. I know of no reason why the allowance to the veterans could not be made flexible on the basis of his actual hours of instruction both class and individual. I do add that it is our belief that on-farm instruction is most important as a part of this course and support wholeheartedly your view that ownership of a farm should not be a requirement for enrollment.

It is most gratifying to know that you have such an active interest in the welfare of these young men. So far, we have seen very little concern for them.

Furthermore, I again express what I am sure is the feeling of all vocational teachers, the very great appreciation for the continued active support you have given all phases of vocational education.

Sincerely,

FRANK T. VAUGHN,
Associate in Agricultural Education.

DEPARTMENT OF EDUCATION,
Santa Fe, N. Mex., June 30, 1970.

Sen. RALPH W. YARBOROUGH,
U.S. Senate, Washington, D.C.

DEAR SENATOR YARBOROUGH: This will acknowledge receipt of your letter in regard to my opinion of Senate Bill 3689.

(1) in sparsely populated areas like New Mexico there is not enough concentration of trainees in one area to warrant a class for farm training, unless there were two or more in an area in which we had a Vocational Agriculture Department where the teacher could spend extra time in the training program at night, after school and on Saturday. I think the amendments to the act are an improvement in the program and will make it more practical than it was before.

(2) we would possibly have somewhere in the neighborhood of 150 to 200 students in New Mexico who would participate in such a program in which they would not have to own or operate the farm or ranch, but could have a cooperative work agreement for placement on a farm or ranch.

(3) the present farm training program is so rigid in the number of hours that have to be spent in the institutional classroom that a trainee could not work on a farm and make a living as we would like for them to do.

(4) I think you have done an excellent job of improving the Veterans Farm Training Program through the amendments in Senate Bill 3689. I hope that you will be able to get the amendments passed in this session of Congress.

I was really shocked to hear of the death of your friend and my friend, George Hurt, longtime Vocational Agriculture Educator from Texas.

Sincerely yours,

L. C. DALTON, *State Supervisor,*
Agriculture Education.

DEPARTMENT OF PUBLIC INSTRUCTION,
Raleigh, N.C., July 7, 1970.

Hon. RALPH W. YARBOROUGH,
Senator, U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I have your recent letter relative to the Veterans Farm Training Program. May I say in the beginning I appreciate your interest and efforts in behalf of this program.

Listed below are the questions which you raised and my answers based upon observations and visits with teachers of agriculture and others concerned with the program.

Question: Do you think there is a need for a training program such as the one proposed in S. 3689?

Answer: I feel there is a definite need for this type program. Many veterans in North Carolina have expressed an interest and desire an opportunity to enroll in a program of this nature. Unfortunately, at the present time we have only four schools conducting a program.

Question: In your opinion, how many veterans in your state would participate in a program such as the one proposed in S. 3689?

Answer: Soon after Public Law 90–77 was enacted, we conducted a survey among the teachers of agriculture in the State to determine the possible number of eligible veterans who might be interested in enrolling in the program. Information which we received indicated there might be approximately 3000 eligible and interested veterans. We have not conducted a more recent survey; therefore, we are not familiar as to what the situation is at this time.

Question: Do you feel that the present veterans farm training program is effective? If not, could you explain why.

Answer: I do not feel that the present program is designed to be as effective as it could be for those eligible, or those enrolled. The requirements that an enrollee must attain class for a minimum of twelve hours per week is the major problem. Also no provision is made in Public Law 90–77 for on-the-job instruction which is contrary to our philosophy in vocational education. I think the provisions contained in S. 3689 will make a much more effective program and will involve many times as many veterans as are currently enrolled.

Question: Do you have any suggestions as to how S. 3689 can be strengthened or do you have any criticism of it?

Answer: It appears to me that S. 3689 will provide for an effective program. I do not have any criticism of its provisions.

I trust that something will be done in the near future to change the program so that more veterans will take advantage of this opportunity.

Again, your interest and efforts are appreciated.

Sincerely,

V. B. HAIRR,
Chief Consultant Occupational Programs.

DEPARTMENT OF PUBLIC INSTRUCTION,
Harrisburg, Pa., June 25, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Your letter of June 16, 1970, with Bill S. 3689 and the Congressional Record of April 7, 1970, reached me today.

I thank you for sending this material to me and for drawing the whole matter to my attention. Pennsylvania had tremendous success with Institutional On-Farm Training following World War II. We were most proud of what we had accomplished.

I am going to write you again after I have had a chance to study S. 3689. At that time I will answer the four questions which you have raised.

The present veterans farm training program in our state is not as effective as it used to be. The biggest reason for this has been that the program was taken completely out of the hands of Vocational Agriculture.

Sincerely yours,

JAMES C. FINK,
State Supervisor,
Agricultural Education.

DIVISION OF VOCATIONAL AND TECHNICAL EDUCATION,
Pierre, S. Dak., June 30, 1970

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I very much appreciate your letter concerning Senate Bill 3689 whereby it is the intent to provide on-farm instruction as well as classroom instruction for veterans who wish to take this type of training.

I am convinced that in South Dakota this would mean a greater number of veterans would be able to take and benefit by this instruction who otherwise cannot find the time to do so. It is my opinion that about 1,000 veterans would take advantage of the opportunity. This is an estimate of about 25 per class with about forty programs.

The problem with the present farm training program is that these are young men who are getting established in farming and cannot find the means or time to devote to twelve hours classroom instruction per week and still operate the farm efficiently.

I am in agreement that Senate Bill 3689 would do much to make the program more popular and beneficial. Thank you again for your interest in Vocational Agriculture.

Sincerely yours,

E. W. GUSTAFSON,
State Supervisor, Agricultural Education.

DEPARTMENT OF EDUCATION,
Montpelier, Vt., July 6, 1970.

Hon. RALPH W. YARBOROUGH,
Member of the Senate,
Washington, D.C.

MY DEAR MR. YARBOROUGH: I wish to thank you for your recent letter and concur with your statements therein. The people in Agriculture Education have been trying for a number of years to have the laws changed or amended to allow veterans farm training programs. What is needed is a program similar to the one established after the Korean War.

I understand in the present G.I. bill a veteran must sign up with an on-going program. I do not believe any state has a program in Agriculture Education in operation that will allow veterans to pursue a career in agriculture and continue his present job status.

I commend you for your stand in this regard and urge you to continue to have the present law changed or amended.

I have had a few requests for Veteran Farm-Training Programs for Vermont. Undoubtedly several others would be interested if the program could be offered similar to the one after the Korean War.

Sincerely yours,

JULIAN M. CARTER,
State Consultant, Agricultural Education.

STATE BOARD OF EDUCATION,
Richmond, Va., July 6, 1970.

Hon. RALPH YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR MR. YARBOROUGH: Thank you for your letter of June 16 and a copy of Senate Bill S. 3689 relating to the Veterans Farm Cooperative Training Program.

We, too, have been disturbed by the lack of participation of veterans in the farm cooperative training program. We also believe that the lack of interest in the present program is due primarily to the great amount of emphasis placed on classroom work and not enough on actual on-farm instruction. We believe there will be more intrest in the program as you have outlined in the provisions of S. 3689.

We, therefore, hope to give you our responses to the four questions asked in your letter.

1. Yes—We believe that the program proposed in S. 3689 will provide much more flexibility to the program. We particularly like the provision for minimum monthly requirements rather than weekly. Under the old bill the required hours of instruction by the week made it difficult for young farmers to carry on a farming program and meet the minimum requirements for weekly class instructions.

2. In our opinion, a large number of veterans in our state, perhaps 1,000, would participate in the farm training program if appropriate modifications are made as proposed in S 3689.

3. As stated above we do not believe that the present veterans farm training program is effective. The main reason being the twelve hours requirement per week for classroom instruction.

4. We believe that the farm training program proposed in S 3689 is a good one. The main problem as we see it is the need for sufficient number of veterans to be enrolled in order to justify the employment of a full-time instructor. This will not be a problem in localities having a large number of veterans interested in the cooperative farm training program. It may be a problem in localities where there are only a few interested veterans.

We greatly appreciate the interest and support you have given to the veterans training program. Kindly let us know if we can be of further assistance to you.

Sincerely yours,

JULIAN M. CAMPBELL,
Supervisor, Agricultural Education.

COORDINATING COUNCIL FOR OCCUPATIONAL EDUCATION,
Olympia, Wash., June 30, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Thank you for your interest in agriculture. Those of us who work in the field of agriculture truly appreciate the support, work and efforts that people like yourself devote to our business.

In response to your letter of June 16 pertaining to veterans training programs in agriculture, I have consulted the Director of our Veterans program and obtained the policies which it operates under in the State of Washington. Your first question pertaining to need for farm training programs could be answered, I think, by saying yes. At the present time we do not have anyone enrolled in such a program and I feel the main reason is because of the nature of the policy regulating this type of activity. If you will note page 3 of the materials that I am including, you will see that it states the veteran must be directly involved with agriculture which relates to cultivating the soil. This is only a small part of agriculture today, and for a program to be successful it must include agribusiness and let farm experience be replaced by an approved agribusiness establishment. In our vocational agriculture secondary program we are witnessing good growth in the agribusiness area. Our program would be "dead on the vine" if we still had it related only to the farm. I would encourage you to work towards getting changes made in this part of the control of this program.

I think your proposal for S. 3689 is a good one and is heading in the right direction. I would give my support for it.

I will look forward to hearing more about changes that take place in relation to the veterans' program. Best wishes.

Sincerely,

JAY WOOD,
Program Director, Agricultural Education.

BOARD OF VOCATIONAL, TECHNICAL AND ADULT EDUCATION,
Madison, Wis., June 29, 1970.

Senator RALPH W. YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Mr. Aebischer referred your letter to me. I am Chairman of the Committee on Veteran Farm Training so far as the National Association of Vocational Agriculture Teachers is concerned.

Your thinking that veterans are not receiving a realistic type of training is shared by myself. We do not have a large number participating in the program which has been initiated in Wisconsin. Although two of these programs are in existence, we expect to be operating in three additional districts by January 1, 1970.

Difficulties encountered in trying to initiate a program under the current law include a lack of interest on the part of veterans in attending class 12 hours a week. There is also difficulty in hiring competent instructors. It requires a great deal more finesse to conduct a 528 hour per year program than it does to conduct a 200 hour per year program of classroom instruction. For this reason we have gone so far as to hire men with a PhD degree to offer courses in sufficient depth to attract veterans.

There are concerns regarding your proposed bill. While I am very much in favor of this bill, and have supported a similar proposal for the last several years, it is expensive. I am not sure how many districts could afford the cost of hiring one instructor to offer 50 hours of individual on-the-farm instruction per trainee per year. This would probably mean 30–35 enrollees in this person's class. We have a program involving on-the-farm instruction, however we say the instructors should enroll a maximum of 90 people and offer considerable less on-the-farm instruction. Probably an additional factor must be considered in developing support for this bill from administrators. The Veterans Administration will of necessity need to subsidize the instructor's salary in order to develop enthusiasm among administrators for initiating such a program. It costs us approximately $14,000 per year, in addition to mileage, to employ one instructor. If the mileage is figured at $1,000 we would have a training program costing $15,000 for 35 farmers. This cost per enrollee is not out of line, however our formula for reimbursement of costs to districts would make this program more expensive than if a district hired a man to teach in a classroom. Our reimbursement policy is such that we reimburse for individual on-the-farm instruction at a rate of 10 hours for one hour of instruction. It requires 620 hours to equal one full-time student equivalency. We would reimburse at the rate of approximately $175 for this one full-time student equivalency. If an instructor teaches one student in a class for 22.5 hours per week for two semesters, 34 weeks, it is counted as a full-time student equivalent and because it is full-time training the reimbursement from state funds is approximately $350.

I believe there is a need for farm training such as the one proposed in S. 3689. My basis for believing there is a need is based on the rapidity with which our full-time young and adult farmer program is growing in Wisconsin. We have hired as many men as were qualified and who indicated an interest in teaching in this program the last two years. Our teaching staff has gone from 23 to

about 45. Our enrollment increased from 1,300 to 2,400 and we expect it to be nearly 3,500 during the 1970–71 school year. Our program does not require nearly as much classroom instruction, but it does indicate that farmers are interested in improving their education.

My estimate of veterans in the state who would participate in the program such as the one proposed in S. 3689 is possibly more valid than it was a year ago. I believe the number would be somewhere between 900 and 1000. This is based on the number who have enrolled in our programs, the number the veterans services officers have indicated were veterans, and the number who have indicated an interest in enrolling in programs yet to be established.

The present Veteran's Farm Training program is effective. The veterans who are enrolled in it indicate enthusiasm for this type of training, however it is difficult to sell this program to many veterans. For example, we have 83 veterans enrolled in District 3. During the early talking stages of this program the Veterans Service Officers estimated there were at least 150 veterans who would avail themselves to this type of training. Either the veterans were not interested in this training, or the veterans simply did not exist in the community. Their reason for non-existence may very well have been due to off farm migration.

The present S. 3689 could be strengthened by a provision for subsidizing the instructor's salary. I believe this made the training program after World War II effective. The instructors were paid a flat salary, and were encouraged to maintain relatively low enrollments per instructor. This allowed the instructor to spend considerable time in individual on-the-farm instruction. The Korean conflict veterans paid their instructor's salary out of their benefits. Speaking only for Wisconsin, this is not possible under our Vocational laws. We cannot charge excess registration fees. Our only charges above a standard registration fee are for consumable materials. For this reason a veteran may enroll for 528 hours of classroom instruction at the very modest figure of $10 per year.

Please keep me informed as to the progress of this bill. In my travels throughout Wisconsin, I have seen much benefit from the World War II bill and the Korean bill. Agriculture is our largest income producer in Wisconsin, and it is my hope we can keep it viable for many years to come.

I, and I am sure I speak for the rest of the committee, very much appreciate your efforts on our behalf.

Sincerely,

DOYLE BEYL,
Supervisor, Vocational Agriculture.

WYOMING STATE APPROVAL AGENCY,
July 7, 1970.

Sen. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: Following are answers to questions in your letter of June 16, 1970, to Mr. Percy Kirk, State Director, Agricultural Education:

(1) Yes, there is a need for farm training programs as proposed in S. 3689.

(2) I have been in this position since December of 1969 and there has been only one veteran who participated in the farm cooperative training program.

(3) No, I do not feel this training program is effective. It might be helpful to have a provision to pay instructors for night classes. This might alleviate getting to day classes for the trainee and the instructor could adapt advanced courses that might not fit his regular day time students. Also, I wonder if it is pointed out to the returning veteran the availability of this particular program upon release from the armed service.

(4) See Number 3 above.

Very truly yours,

LYLE S. MCIRVIN,
Consultant, Veterans Education.

The amendment was agreed to.

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

The bill was read the third time, and passed.

The title was amended so as to read: "An act to amend chapter 39 of title 38, United States Code, to increase the amount allowed for the purchase of specially equipped automobiles for disabled veterans, to extend benefits under such chapter to certain persons on active duty and to Vietnam era veterans, and to provide for provision and replacement of adaptive equipment and continuing repair, maintenance, and installation thereof, and to amend chapter 34 of such title to authorize the Administrator of Veterans' Affairs to make loans to veterans to help meet the expenses of obtaining a private pilot's license where such veterans intend to pursue a flight training program under such chapter, and to improve the farm cooperative training program authorized under such chapter, and for other purposes."

NATIONAL CLOWN WEEK

Mr. MANSFIELD. Mr. President, I understand it is appropriate at this time to call up Calendar No. 1133, House Joint Resolution 236, having to do with the designation of the week of August 1 through August 7 as "National Clown Week."

I ask unanimous consent that the Senate proceed to the consideration of the joint resolution.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The LEGISLATIVE CLERK. A joint resolution (H.J. Res. 236) authorizing and requesting the President of the United States to issue a proclamation designating the week of August 1 through August 7 as "National Clown Week."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on the Judiciary with an amendment: On page 1, line 5, after "August 7,", insert "1971".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

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

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

The joint resolution (H.J. Res. 236) was read the third time and passed.

The title was amended, so as to read: "Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the week of August 1 through August 7, 1971 as 'National Clown Week'."

Mr. MANSFIELD. Mr. President, I thank the Senate for the consideration of the measures on the calendar and I thank the Senator from Indiana for his understanding.

CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a cloture motion and ask that it be read.

The PRESIDING OFFICER. Under rule XXII, the clerk will state the motion.

The legislative clerk read the cloture motion, as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending resolution of the Senator from Indiana (Mr. BAYH)—proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

Mike Mansfield, Clifford P. Case, Charles McC. Mathias, Jr., Charles H. Percy, Edmund S. Muskie, George D. Aiken, Lee Metcalf, Walter F. Mondale, Edward M. Kennedy, Joseph D. Tydings, William Proxmire, Birch Bayh, Hugh Scott, Philip A. Hart, Fred Harris, Richard S. Schweiker, Mike Gravel.

Mr. MANSFIELD. Mr. President, for the information of the Senate, and especially the Democratic Members of the Senate, it is the intention of the majority leader to send out telegrams today to all Democratic Members and to ask them to be present at 1 o'clock on Tuesday. Hopefully, they will be here on Monday as well. This will be a telltale vote.

I think that every Member of the Senate, regardless of their feelings on this subject, should be on hand. Every Mem of the Senate on this side of the aisle will be notified and hopefully, unless they are physically incapacitated, will be present at that time to vote on this momentous occasion.

Mr. SCOTT. Mr. President, if the Senator will yield, I will undertake to notify, either by wire or by inside mail, all Senators of the pendency of the vote on cloture at 1 o'clock next Tuesday.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, may I inquire of the distinguished majority leader what he has in mind with respect to the business before the Senate following the vote on cloture.

Mr. MANSFIELD. Mr. President, we have a number of matters which will be taken up, but the decision on what to do following the vote on cloture will not be made until after the vote is announced. At that time I intend to consult with the distinguished minority leader, so that an agreed upon course of action may be adopted.

Mr. SCOTT. Mr. President, I thank the Senator.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Mr. President, according to the rules of the Senate, after the cloture vote is taken perhaps it would be helpful to the Senate to define the rules at this time as to what happens if the vote succeeds and what happens if the vote fails as far as the pending order of business is concerned.

The PRESIDING OFFICER. If the cloture vote succeeds, the Senate will then proceed under the cloture rule. If the cloture motion fails, it will then be up to the Senate to decide what it wants to do relative to the resolution.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, to clear the record, I ask unanimous consent that, at the conclusion of the 15 minutes allocated to the distinguished Senator from Pennsylvania—and he shall have the full 15 minutes if he needs it—there be a period for the transaction of routine morning business with a time limitation on statements not to exceed 3 minutes on each.

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

Mr. BAYH. Mr. President, I do not wish to detract from the statement of the Senator from Pennsylvania or to diminish his time, but from the standpoint of consistency the Senator from Indiana would like to observe that the majority leader had suggested to the Senator from Indiana before the session that certain items on the unanimous-consent calendar were going to be considered. I think inasmuch as the Senator from Indiana only yesterday prohibited the consideration of other business, I should make the record unequivocally clear that the Senator from Indiana is not trying to play favorites or discriminate against some of his colleagues. For a clear distinction can be made between legislation that has the unanimous consent of the Senate and the general agreement of all parties, and on which there would be no debate under the Senate rules. The Senator from Indiana feels we should dispose of the pending order of business. That is why I did not object to the request of the Senator from Montana.

I thank the Senator for yielding.

SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENT

AMENDMENT NO. 949

Mr. SCHWEIKER. Mr. President, I submit an amendment to H.R. 17550, a bill to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disability insurance system, and for other purposes, and ask that it be appropriately referred.

The PRESIDING OFFICER. The amendment will be received and printed, and will be appropriately referred.

The amendment was referred to the Committee on Finance.

Mr. SCHWEIKER. Mr. President, I have long felt that our social security system should be reformed, and an amendment be added which would give an exemption from the social security employment tax on wages for religious groups opposed to insurance.

I cite the Amish as an example of people who desire and should be afforded this social security exemption.

In 1965, the first form of relief was granted the Amish. Although the Internal Revenue Code was amended to provide an exemption from self-employment tax, if a person could show he is a member of a recognized religious sect which follows the practice of making provisions for its dependent members; I now ask that this exemption be extended from self-employment tax to those who work for others and oppose for religious reasons, payment of social security employment tax on wages.

As part of their religion, the Amish refuse any form of relief or what they call government handouts. They oppose all forms of social security, including old-age pensions.

Regarding it not as a tax but rather as a policy premium in a national insurance system, the Amish are opposed to participation, because of their conscientious objection to all forms of insurance. This belief is embodied in the Dordrecht confessions, which predates our Constitution. Its doctrine of the church as the visible communion of the saints may be taken as the implicit ground for rejection of insurance in the sense that the Congregation of God's people are expected to live by faith and trust in providence. Otherwise it counsels obedience to the state which is why the Amish have no objection to the payment of taxes.

Forcing people such as the Amish to pay tax which is a form of insurance, directly opposed by the tenets of their faith is an impingement on the religious rights of any group, no matter how small.

It is difficult for me to understand why we have not been ready to permit religious groups to conscientiously object to economic regulations when we rightfully recognize their right to object to the military service.

I feel strongly that this Government must not ride roughshod over the religious rights of a minority. Such is the case under present law.

In 1961, the Federal Government seized three horses belonging to an Amish farmer in Pennsylvania and sold them at public auction to obtain money for social security payments which the man refused to make because of his religious convictions.

It was about this time that I began my effort to assist the Amish people to get relief for participating in the social security program to which they are opposed on religious grounds. In 1961 and again in 1963, I introduced a bill in the House which would have provided an exemption from participation in the Federal old-age and survivors insurance program for those whose religious doctrines forbid participation in such a program.

In 1964, there was social security legislation in Congress. Since the House was operating under a closed rule, I was unable to introduce an amendment to the 1964 social security law. However, the Senate version of the bill contained such an amendment. The House-Senate conference committee then had to decide whether to use the House version of the bill which had no provision for the Amish exemption or the Senate version which included the Senate amendment. I wrote letters to all Congressmen and personally talked to the House members of the conference committee, urging them to accept the Senate version for the Amish. Fortunately, the Treasury Department as well as the Justice Department rendered legal opinions saying that the old order Amish exemption met all constitutional requirements and was a matter of legislative policy.

Finally, the conferees agreed to accept the Senate Amish amendment for which I was very pleased.

Unfortunately, the bill died in the conference committee because of the dispute over medicare. It did, however, lay the groundwork for the first relief granted to the Amish.

On July 30, 1965, Congress amended the Internal Revenue Code allowing a person to apply for exemption from self-employment tax if he is a member of a recognized religious sect which follows the practice of making reasonable provision for its dependent members.

We must now take this one step further. I ask that we extend the provision allowing an exemption from social security tax on wages, when they work for others, not just from self-employment tax for those religiously opposed to insurance.

Specifically, my amendment provides that any member of a recognized religious sect—and there are other sects which have the same objection, such as the Amish, which I might mention specifically—in existence since at least 1950, who can show that he is an adherent of established teachings which cause him to be conscientiously opposed to acceptance of social security benefits, may file an application to waive such benefits and be exempt from social security tax.

The applicant would submit evidence to substantiate his membership in the sect and his adherence to its teachings, and would be asked to show that it has been the practice of the sect to make provision for the care of its elderly or dependent members.

In addition, the employer would continue to pay into the social security fund. Thus, eliminating any chance that such an amendment would make one employee more desirable than another. The objective here obviously, is not to make one group of people more desirable employees than another, but instead to assist those who object to social security coverage because it directly

opposes the basic religious tenets of their faith. Since the employer would continue to pay into the social security fund, the exempted employee would offer no financial advantage over the nonexempted employee.

In this way my amendment would not discriminate against one person or another and make it more advantageous for one employer to hire one person as against another employee.

I ask unanimous consent that this amendment be printed in the RECORD and that additional material regarding the beliefs of the Amish people on social security and a letter I received in 1965 from the Treasury Department on the constitutionality of this exemption be printed at this point in the RECORD.

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

AMENDMENT NO. 949

On page 73, after line 22, insert the following:

"EXEMPTION FROM TAX ON WAGES FOR RELIGIOUS GROUPS OPPOSED TO INSURANCE

"SEC. 126. (a) Section 3121 of the Internal Revenue Code of 1954 (relating to definitions under the Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"'(r) SERVICE EXCLUDED UNDER ELECTION MADE BY MEMBERS OF CERTAIN RELIGIOUS FAITHS.—

"(1) EXEMPTION.—Any individual may file an application (in such form and manner, and with such official, as may be prescribed by regulations under this chapter) for an exemption from the tax imposed by section 3101 if he is a member of a recognized religious sect or division thereof and is an adherent of established tenets or teachings of such sect or division by reason of which he is conscientiously opposed to acceptance of the benefits of any private or public insurance which makes payments in the event of death, disability, old-age, retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act). Such exemption may be granted only if the application contains or is accompanied by—

"'(A) such evidence of suoh individual's membership in, and adherence to the tenets or teachings of, the sect or division thereof as the Secretary or his delegate may require for purposes of determining such individual's compliance with the preceding sentence, and

"'(B) his waiver of all benefits and other payments under titles II and XVIII of the Social Security Act on the basis of his wages and self-employment income as well as all such benefits and other payments to him on the basis of the wages and self-employment income of any other person,

and only if the Secretary of Health, Education, and Welfare finds that—

"'(C) such sect or division thereof has the established tenets or teachings referred to in the preceding sentence,

"'(D) it is the practice, and has been for a period of time which he deems to be substantial, for members of such sect or division thereof to make provision for their dependent members which in his judgment is reasonable in view of their general level of living, and

"'(E) such sect or division thereof has been in existence at all times since December 31, 1950.

An exemption may not be granted to any individual if any benefit or other payment referred to in subparagraph (B) became payable (or, but for section 203 or 222(b) of the Social Security Act, would have become payable) at or before the time of the filing of such waiver.

"'(2) Time for filing application.—An application under this subsection may be filed at any time.

"'(3) Period for which exemption effective.—An exemption granted to any individual pursuant to this subsection shall apply with respect to service performed by such individual during the period—

"'(A) commencing with the first day of the calendar year in which such exemption is granted; and

"'(B) ending at the end of the calendar year in which the Secretary determines that (i) such individual has ceased to meet the requirements of the first sentence of paragraph (1), or (ii) the sect or division thereof of which such individual is a member has ceased to meet the requirements of subparagraph (C) or (D) of paragraph (1).

"'(4) Application by fiduciaries or survivors.— If an individual, who has received wages with respect to employment during any calendar year, dies prior to the end of such year without having filed application for exemption pursuant to this subsection, such an application may be filed with respect to such individual not later than April 15 of the following calendar year by a fiduciary acting for such individual's estate or by such individual's survivor (within the meaning of section 205(c)(1)(C) of the Social Security Act). Any exemption granted as a result of any such application shall be effective only for the calendar year in which such individual died.'

"(b) Section 202(v) of the Social Security Act is amended to read as follows:

"'(v) (1) Notwithstanding any other provisions of this title (other than paragraph (2) of this subsection), in the case of any individual who files a waiver pursuant to section 1402(h) or 3121(r) of the Internal Revenue Code of 1954, and is granted a tax exemption thereunder, no benefits or other payments shall be payable under this title to him, no payments shall be made on his behalf under part A of title XVIII, and no benefits or other payments under this title shall be payable on the basis of his wages and self-employment income to any other person, after the filing of such waiver.

"'(2) If, in the case of any individual who has filed a waiver pursuant to section 1402(h) or 3121(r) of the Internal Revenue Code of 1954, on and after the date that there is no longer a tax exemption effective with respect to such individual as a result of any such waiver, any such waiver shall cease to be applicable in the case of benefits and other payments under this title and part A of title XVIII to the extent based on his wages and self-employment for periods after which any such tax exemption ceases to be effective with respect to him.'

"(c) Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"'EXEMPTION FROM EMPLOYMENT OF SERVICE PERFORMED BY MEMBERS OF CERTAIN RELIGIOUS FAITHS

"'(p) Notwithstanding the provisions of subsection (a), the term "employment" shall not include any service performed by any individual during a period with respect to which a tax exemption granted under section 3121(r) of the Internal Revenue Code of 1954 is applicable to such individual.'"

REQUEST OF THE OLD ORDER AMISH FOR EXEMPTION FROM THE SOCIAL SECURITY SELF-EMPLOYMENT TAX

BACKGROUND OF THE PROBLEM

The following background information indicates the basic nature of the social security program, the general character of religious objections to participation in social security, and the present situation of the Old Order Amish in relation to social security.

Compulsory nature of social security

The social security program is designed to provide old-age, survivors, and disability insurance protection for American families, regardless of family size, income, or other factors. Under this program workers (and their employers) and the self-employed contribute while working so that the contributor and his family may have a continuing income when earnings cease or are greatly reduced because of retirement in old-age, long-term disability, or death. About 9 out of 10 working people and their families are covered under the program.

Social security can carry out its purpose only under conditions of compulsory coverage. Compulsory coverage assures that there will be a given distribution of what might be called poor risks—those who will get considerably more than they pay in—and good risks. Under a voluntary program, there would be an unduly high proportion of poor risks. Many people could predict with reasonable certainty whether or not they would get a large return on their contributions and those choosing coverage would generally be the ones who could expect to receive benefit bargains. This would increase the cost of the program for all who participate. Those given a choice as to coverage would have an unfair advantage over those workers and employers whose coverage would continue to be on a compulsory basis and who would have to help bear the increased cost arising from the individual voluntary coverage. Moreover, under individual voluntary coverage, many who need social security protection most would not participate. Many low income workers would choose not to pay the contributions because of the press of day-to-day financial problems, although in the long run social security protection would be especially valuable to such workers and their families.

Individual voluntary coverage is now provided under social security only in respect to services performed in the exercise of the ministry (including the performance of the duties of a Christian Science practitioner). The exclusion from coverage of such services (where coverage is not elected) is not a personal exclusion but an occupational exclusion. Thus, a minister who engages in any employment or self-employment other than the exercise of the ministry—whether or not he elects coverage of his ministerial services—is covered on the same basis as all other persons. Once a minister elects coverage of his services in the ministry, the election is irrevocable and, once the time for election passes, a minister who has not elected coverage may no longer do so.

Religious objections to coverage under social security

Representatives of those divisions of the Amish Mennonites generally classed as Old Order Amish (with some 19,000 adult members) have objected to social security taxes on grounds that social security is a form of insurance, and that their participation in an insurance program would show mistrust in the providence and care of God to meet future needs. This basis for objection is shared by the Old Order Mennonites (about 5,000 members) by at least some of the followers of Father Divine (some 300,000 members), and by an unknown number of small sects, such as the Hutterites (a Mennonite group with 2,300 members, who practice communal living) and the division of the Plymouth Brethren known as Exclusives.

Another religious basis for opposing participation in social security is adherence to a principle of separatism—the belief that one's

sect or group should keep apart from all other persons. The Old Order Amish, for example, place great importance on the scriptural admonition: "Be ye not unequally yoked together with unbelievers: for what fellowship hath righteousness with unrighteousness? and what communion hath light with darkness?" Separatism is also a cardinal principle of some groups which have not indicated their attitudes toward social security: for example, the Black Muslims, perhaps the prime exponents of separatism, and Jehovah's Witnesses, with 287,000 members in the United States, all of whom are held by the sect to be ministers. There would seem to be considerable doubt that participation in social security is compatible with the belief of Jehovah's Witnesses that the end of the world is close at hand—1984, at latest—and objections to social security have been received from individual members from time to time.

Each of the above-mentioned groups has come into conflict with Federal or State law on questions other than social security. All oppose compulsory military service, and there have been various other conflicts with State or local laws, such as the refusal of the Old Order Amish to permit their children to attend school beyond the 8th grade, and the refusal of Jehovah's Witnesses and the Black Muslims to salute the flag.

The Christian Science Church opposed provision of disability benefits under social security on religious grounds.

Old Order Amish

The 19,000 Old Order Amish Mennonites live in about 270 communities in 19 States. The communities are known as church districts; however, there are no meeting houses and worship is conducted in private homes. Each community is headed by a bishop. There is no hierarchy above the bishops and no formal organization among the various communities. Thus each bishop is able to interpret doctrine independently of views held in other communities.

Amish who do not belong to old order groups—e.g., a category known as Beachy Amish—have adopted relatively modern ways of living, and are apparently not opposed to social security. There continue to be cleavages in which Old Order Amish communities, or segments of communities, split off to adopt more modern ways of living. One-third or more of the offspring of Old Order Amish parents do not continue in the sect. As in virtually any group there are marginal members, some of whom eventually become separated from the sect. The Amish strive continually to maintain their communities against worldly temptations; an effective means of maintenance has been their stand against high school education and their doctrine of shunning,[1] with its grave economic implications for individuals who are so ill equipped to prosper outside the community.

The Old Order Amish relate practically every detail of their way of living to religious beliefs, which in turn are based on literal interpretation of scriptural texts. The Old Order Amish attempt to pursue a life similar in its course to that of the German peasant of perhaps the 17th or 18th century. The farm way of life is justified on religious grounds because being "in the country" separates the group from more worldly, less firm followers of Scripture. Consideration has been given to the use of nonmechanized farming methods as one way of differentiating (in proposed legislation) the Old Order Amish from other religious objectors to social security. But even among the Old Order Amish there have been various concessions to the changing times. For example, though a tractor may not be used in the field, it is permissible to use a tractor to furnish belt power. The Old Order Amish farmer is generally allowed to have one- or two-cylinder gasoline motors for his farm operations. The Old Order Amish make a significant distinction between owning and merely using modern conveniences. For example, in some communities it is permissible to have electric current and appliances in a mortgaged home but not after the mortgage is paid off. A significant distinction is also made between members of the sect and those who are members of the Amish community but not members of the sect—for example, Amish youngsters, who do not become members of the Old Order Amish until they are baptized (which usually occurs in their later teens). A case has been described in which a young man deferred baptism for a period of time so as to enable continued ownership of an automobile and a tractor, with which he not only provides transportation for his numerous family and neighbors but also works his father's large farm and many of his neighbors.[2]

History of the problem

The problem of the Old Order Amish with social security dates mainly from 1955 when coverage of self-employed farm operators began. (However, some members of the sect who take employment in town have been covered as far back as 1937.) Although the law does not require that social security benefits must be accepted, the Old Order Amish bishops assert that required payment of social security taxes obliges their members to participate in the social security program—an insurance program—and thus to act contrary to their religious beliefs. Though the social security tax provisions are not included with the benefit provisions in the Social Security Act, but are part of the Internal Revenue Code, the bishops seem to look upon the social security taxes as in the nature of a personal premium paid for insurance. The bishops believe that their members should pay other types of taxes, pursuant to the scriptural admonition to "render unto Caesar the things that are Caesar's." In general, the creed of the sect (also held by some other groups) dictates that members should obey civil laws except where they "militate against the law, will, and commandments of God."[3]

The religious objection to the insurance principle is not clear cut. For example, the Old Order Amish make systematic arrangements for protection against property loss from fire, storm, and other causes, under which, after a loss occurs, members contribute labor and make a monetary contribution related to their net worth. One such group arrangement, known as the Amish Mutual Fire Insurance Association of Atglen, Pa., was organized by the Old Order Amish of Lancaster County in 1875 and was licensed as an insurance company in Maryland and Pennsylvania. The Old Order Amish do not consider this type of arrangement to be insurance because there is no advance funding. Liability insurance is apparently not considered to be contrary to their religious beliefs—a conclusion based on the view that liability insurance provides indemnity not to the insured but to the party suffering damages. It seems clear, however, that the Old Order Amish are strongly opposed to life insurance even though the survivors, not the insured, are protected under it.[4]

There is no question, of course, as to the sincerity of the assertion of the Old Order Amish bishops that participation in social security is contrary to their religious beliefs, and a number of the Amish farmers carry out this objection to the point of open refusal to pay social security taxes and active resistance to the execution by the Government of liens on their bank account to satisfy unpaid taxes. During many discussions with representatives of the Social Security Administration, the bishops have consistently refused to consider any compromise solution short of exclusion from social security coverage. On the other hand, a number of individual members of the sect have claimed old-age insurance benefits under social security when they became eligible for such benefits. It appears that at least some of the Old Order Amish—particularly, younger members—are undergoing a change in attitude toward social security and are coming to regard it as a good thing. This is quite consistent with their increasing acceptance of various innovations of the 20th century.

As noted, the problem of those Old Order Amish who actively resist social security coverage is related mainly (though not entirely) to the social security self-employment tax.[5] The enforcement problem was thrust on the national scene when one Amishman, Valentine Y. Byler, of New Wilmington, Pa., who had no bank account, could not be persuaded to pay his tax for the years 1956–59. In the spring of 1961 the Government seized three of his six plow horses, sold them at public auction, and applied the proceeds against his outstanding liability. After consultation with an attorney who had become interested in civil liberties cases, Mr. Byler brought suit on the grounds of infringement of the freedom of religion guaranteed under the first amendment.

Given assurance that the constitutionality of the tax would be tested in court, and that the statute of limitations on collection of taxes would be waived by the Amish, the Commissioner of Internal Revenue agreed in October 1961, to suspend all forceful collection of tax until the issue was resolved in court. On January 21, 1963, the suit was dismissed with prejudice on motion of the plaintiffs, Mr. and Mrs. Byler. (This action was apparently based on religious objections to participating in litigation, and was taken without consultation with the plaintiff's attorney.) As an alternative course, Old Order Amish bishops appealed to the Congress and

[1] "Amish Society," by John A. Hostetler, p. 144.

[2] "Our Amish Neighbors," by William I. Schreiber, p. 77.

[3] "The Dordrecht Confession (1632)." In reference to civil government, this confession also directs believers "faithfully to pay it custom, tax, and tribute." One article of the confession forbids defense by force.

[4] The first reference to insurance in basic documents related to Amish religious background appears in "Christian Fundamentals," adopted by the Mennonite General Conference in 1921, which states that "life insurance is inconsistent with filial trust in the providence and care of our heavenly Father." A more recent commentary, in "The Mennonite Encyclopedia," explains: "This refers to commercial life insurance only. The (Mennonite) brotherhood has a growing awareness of its obligation to make systematic provision for the economic needs of its members including financial assistance for the widows and orphans in event of serious incapacity or death."

[5] The self-employment tax rate is now 5.4 percent, and is applicable to the first $4,800 of annual net earnings from self-employment. Virtually all self-employment, except self-employment as a doctor of medicine, is compulsorily covered under social security for any year in which an individual has annual net earnings of at least $400 from self-employment. The current social security tax rate for employers and employees is 3⅝ percent each.

bills were introduced during the 87th Congress to exempt them from the tax. The Treasury Department and the Department of Health, Education, and Welfare pointed out objections to these bills on administrative and precedent grounds. During consideration by the 87th Congress of H.R. 10606, the Public Welfare Amendments of 1962, one of these bills (S. 2031) was adopted as a Senate amendment but was dropped in conference. Appended is a list of bills which have been introduced in the 88th Congress for the purpose of permitting exclusion from social security on grounds of religion or conscience, or to make coverage voluntary for self-employed farmers.

Although the suit to test the constitutionality of the self-employment tax as it applies to the Old Order Amish was never tried, the moratorium on the collection of tax has not been terminated by the Internal Revenue Service. According to the most recent report of the Service, there are some 1,500 delinquent Amish accounts, the delinquencies ranging for the most part for periods from 1 to 3 years and involving nearly $250,000 in tax liabilities.

The moratorium was intended as a temporary measure. Since tax liabilities are not satisfied but only postponed by this moratorium, it cannot be extended for too long a period of time. The 6-year period of limitation on collection of tax will expire this year in some cases. Some Old Order Amish have already indicated that they would not sign waivers to extend the collection period. The Government, therefore, in these cases soon will be forced to take action for the collection of taxes due from these individuals or else allow its collection rights to lapse.

TREASURY DEPARTMENT,
Washington, August 12, 1964.

HON. RICHARD S. SCHWEIKER,
House of Representatives,
Washington, D.C.

DEAR MR. SCHWEIKER: I am enclosing herewith the opinion of Mr. Berlin, the General Counsel of the Treasury Department, relating to the constitutionality of optional exemption of members of a certain religious faith from the social security self-employment tax or optional recovery of the tax paid.

Sincerely yours,

STANLEY S. SURREY,
Assistant Secretary.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., August 6, 1964.

CONSTITUTIONALITY OF OPTIONAL EXEMPTION OF MEMBERS OF A CERTAIN RELIGIOUS FAITH FROM THE SOCIAL SECURITY SELF-EMPLOYMENT TAX OR OPTIONAL RECOVERY OF THE TAX PAID

Legislation has been proposed in the present and the previous Congress to provide optional exemption from the social security self-employment tax for "a member or adherent of a recognized religious faith whose established tenets or teachings are such that he cannot in good conscience without violating his faith accept the benefits of insurance," upon a finding by the Secretary of Health, Education, and Welfare that his application for exemption was made in good faith and that the members of such religious faith make adequate provision for elderly members to prevent their becoming public wards.[1] Senators CLARK and SCOTT, among the chief proponents of this legislation, have explained that the faith in question is that of those Amish Mennonites who are known as the plain people or Old Order Amish who live in relative independence and isolation in rural communities and adhere strictly to many literal biblical injunctions, including reliance on divine providence for their care. The consistency and sincerity of the sect is attested to by the refusal of most of their members to accept social security benefits or pay the self-employment tax.

In the consideration of these bills in Congress the question was raised as to whether the proposed exemption would be constitutional and the views of the Treasury Department were requested. This opinion is in response to that request. Since then, additional leigslative proposals, including an alternative proposal of relief for the Amish in the form of tax recovery in place of tax exemption, have been discussed in a joint statement by the Treasury Department and the Department of Health, Education and Welfare, entitled "Request of the Old Order Amish for Exemption from the Social Security Self-Employment Tax," which was transmitted to interested Members of Congress by a joint letter dated July 20, 1964. In connection with the earlier request, it is also appropriate to consider the constitutionality of these proposals, as well as the constitutionality of the various limitations included, or suggested for inclusion, in the definition of the faith whose members or adherents would be eligible for exemption. The joint statement referred to above reviews the religious tenets and modes of life of these Amish and provides an extended analysis of the social security system and the possible effects of an exemption. I will not, therefore, in this opinion cover any of this factual material. A copy of this joint statement is attached hereto.

Conclusion on tax exemption and tax recovery

My conclusion, based upon a review of the principles of constitutional law, is that there is no valid constitutional objection to the proposed exemption and that the question of exemption is one of public policy for Congress to determine. After discussion of the grounds for this conclusion I will review in the latter part of this opinion the constitutionality of various proposed additional limitations upon the exemption.

This conclusion concerning tax exemption comprehends any provision by Congress for tax recovery, since tax exemption is the most complete relief that could be given. In the subsequent discussion, therefore, the constitutional conclusions with respect to the requirements of uniformity, of the first amendment, and of due process should be read as also extending to a provision for tax recovery.

Congress and the States have provided for the recovery of taxes in various situations where for reasons of public policy the legislature has determined this to be appropriate. I have found no constitutional challenge of these provisions. For example, 26 U.S.C. 6420 provides for refund of the gasoline taxes paid for gasoline used for farming purposes. A similar provision in the Virginia Code, section 58–715 (Supp. 1964), includes refunds for gasoline used for public or nonsectarian school buses. Title 26 U.S.C. 6418 provides for refund of the Federal tax on sugar manufactured in the United States to those who use such sugar as livestock feed or in the distillation of alcohol.

If members of the designated religious faith were permitted to choose to recover in monthly installments the amount, and only the amount, of the social security taxes they have paid, they would be under a limitation which operated to their disadvantage as compared with other social security taxpayers to whom an indefinite amount of social security recovery would be available in the form of insurance. Consequently, it would seem that no other social security taxpayer would be in a position to claim that the tax recovery allowed to the Amish in any way discriminated against his or added to his tax burden.

1. The requirement of uniformity: The Constitution provides in article I, section 8, clause 1: "The Congress shall have power to lay and collect taxes, duties, imposts, and excise, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excise shall be uniform throughout the United States; * * *." This canon of uniformity has been long established to be a requirement of geographical uniformity only *Knowlton* v. *Moore,* 178 U.S. 41 (1900); *Brushaber* v. *Union P. Co.,* 240 U.S. 1 (1916); *Fernandez* v. *Wiener,* 326 U.S. 340 (1945). Insofar as uniformity may be required as an element of reasonableness under the due process clause, the problems are dealt with in my discussion of the application of that clause.

2. The first amendment: The proposed exemption, if allowed, would represent a determination by Congress that an accommodation of the self-employment tax law to prevent offense to religious scruples against insurance would not be contrary to public policy. The first amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; * * *." The question is whether an exemption from the social security tax would be constitutional as an accommodation or mitigation of a general requirement in order to permit the free exercise of a religion or whether it would be an "aid" to the specified religion at the expense of other religions and therefore be an unconstitutional establishment of religion.

It is my conclusion that the proposed exemption would in all probability be held to be a valid accommodation of the general law to permit religious liberty under the free exercise clause. The subsidiary question whether the definition of the persons exempted may be a reasonable classification under the due process clause is discussed in a subsequent part of this opinion. I base my conclusion on the following decisions of Federal and State course, particularly the Supreme Court, which interpret the first amendment to permit accommodations to religious beliefs. This discussion will be followed by an analysis of those cases which hold that certain government action is a violation of the establishment clause, in order to make clear that this exemption would not be an establishment of religion.

The classic example of the application of the free exercise clause is the series of cases which have upheld congressional exemption of conscientious objectors from military service. The validity of this exemption was first established by the *Selective Draft Law Cases,* 245 U.S. 366 (1919) upholding the exemption in the draft law of members of religious sects "whose tenets prohibited the moral right to engage in war." The Solicitor General had argued (p. 374) that this exemption did not establish such religions but simply aided their free exercise. The court considered that the Congressional authority to provide such exemption was so obvious that it need not argue the point (p. 389–390).

The present Universal Military Training and Service Act enacted June 24, 1948, c. 625, 62 Stat. 604, as amended, in section 6(j), 50 U.S.C. App. 456(j), exempts from combatant training and service in the Armed Forces a person "who by reason of religious training and belief, is conscientiously opposed to participation in war in any form." This exemption continues to be recognized as constitutional under the free exercise clause. *Clark* v. *United States,* 236 F. 2d 13 (9th Cir. 1956), cert. denied, 352 U.S. 882 (1956); *United States* v. *Jakobson,* 325 F. 2d

[1] S. 294, 88th Cong.; H.R. 10606, 87th Cong., among others.

409 (2d Cir. 1963), cert, granted 32 L.W. 3385, May 5, 1964. Certiorari was granted in the Jakobson case and in two other conscientious objector cases,[2] apparently in order to reconcile the conflict between the second and ninth circuits as to whether the statutory definition of "religious training and belief" as being a "belief in a relation to a Supreme Being" may constitutionally be applied to exclude a conscientious objector whose belief is based on humanistic principles. This conflict is one essentially concerned with reasonable classification of an exemption under the due process clause, discussed below. It does not concern the constitutional right of Congress to exempt conscientious ojectors under the free exercise clause.

In the Jakobson case the second circuit faced the problem whether "making exemption from military service turn on religious training and belief as stated in section 6(j) aids religions, and more particularly religions based on a belief in the existence of God" (p. 414) and thereby conflicts with the holding in *Torcaso* v. *Watkins*, 367 U.S. 488 (1961). There it was determined that Maryland could not require an oath affirming a belief in God as a prerequisite to becoming a notary public. The Jakobson court concluded that "the important distinction seems to us to be that, in contrast to Maryland's notary public oath, Congress enacted this statute, in mitigation of what we assume to be the constitutionally permissible course of denying exemptions to all objectors, for the very purpose of protecting 'the free exercise' of religion by those whose religious beliefs were incompatible with military service which Congress had the right to require" (pp. 414–415).

An exemption identical with that in the 1948 military training act was specifically included in section 387(a) of the Immigration and Naturalization Act of June 27, 1952, c. 477, 66 Stat. 163, 258, 8 U.S.C. 1448(a). This statutory exemption followed the decision of the Supreme Court in *Girouard* v. *United States*, 328 U.S. 61 (1946) ruling that the naturalization law need not be, and should not be, interpreted to exclude an alien who would not promise to bear arms because of religious scruples. Justice Douglas, for the majority, reaffirming principles enunciated in earlier dissents by Justices Hughes and Holmes, said, "The struggle for religious liberty has through the centuries been an effort to accommodate the demands of the state to the conscience of the individual" (p. 68).

The general exemption from taxation of religious groups, activities and property is another example of the exercise by legislatures of the constitutional authority to make exemptions to aid in the free exercise of religion, which continues to be upheld against contentions that the exemption operates to establish the religions thus benefitted.[3] Under this exemption a unique religious doctrine may make an activity of one religious group exempt as having a religious purpose which would not be exempt when carried on by other groups not holding to that doctrine.[4] The exemption from taxation of religious activities and occupations is incorporated into the Social Security Act itself which provides optional exemptions for ministers, Christian Science practitioners, employees of religious organizations and members of religious orders (26 U.S.C. 1402 (c) and (e) and 3121(b)(8)).

A further illustration of the principle that a legislature may accommodate particular religious beliefs without violating the first amendment is the case of *Zorach* v. *Clauson* 343 U.S. 306 (1952). Here the Supreme Court held that the New York Legislature did not violate the establishment clause by authorizing public schools to release children 1 hour early every week for religious instruction off the school grounds. It said:

"When the State encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs" (pp. 313–314).

The distinction between *Zorach and McCollum* v. *Board of Education*, 333 U.S. 203 (1948) well illustrates the distinction between the two first amendment clauses for in McCollum the released time plan was held unconstitutional as an establishment of religion as classrooms and the force of the school were used in that plan.

The most important case, for our purposes, is the recent Supreme Court decision in *Sherbert* v. *Verner*, 374 U.S. 398 (1963). In this case the Court required South Carolina to accommodate the requirements of its unemployment compensation law to the religious scruples of an adherent of a particular sect, the Seventh-day Adventists. In three separate opinions the members of the Court balanced the demands of the free exercise clause against the prohibitions of the establishment clause. The opinion and the concurring opinion determined that the denial of unemployment benefits to a person unavailable for suitable work on Saturday because, being an Adventist she could not for religious beliefs work on Saturday, was a restriction on the free exercise of her religion and, therefore, unconstitutional. The dissenting opinion contended that the accommodation of Adventists was a question of policy for the legislature and that while the legislature could constitutionally exempt the Adventist from the requirements for eligibility placed upon all other persons the legislature was not required to do so. Consequently, the full Court apparently would agree that Congress could constitutionally make an exemption from the general requirements of taxation and compulsory insurance of persons who because of religious scruples are unwilling to accept social security insurance. It is solely the constitutional ability of Congress to make this exemption to which this opinion is addressed.

The reasoning in the Sherbert case needs to be examined as it bears upon the power of Congress in this area. The principle of accommodation of a general law to a particular religious scruple is the same in this situation as in Sherbert though the facts differ in that in the Sherbert case the accommodation was for the purpose of enabling the Adventist to receive welfare benefits and in the Amish situation the accommodation would be for the purpose of exempting the Amish from benefits as well as from taxation for these benefits.

First, the Court says that while "the consequences of such a disqualification to religious principles and practices may be only an indirect result of welfare legislation" and that no criminal sanctions compel work on Saturday, the indirect discrimination is nevertheless a burden on the free exercise of the Adventist's religion. It requires her to abandon her religious precept or forgo a welfare benefit generally available (pp. 403, 404). In the social security situation the employment tax is supported by civil and criminal sanctions of assessed penalties and fine, imprisonment and forfeiture, so that the justification for congressional relief is even clearer.

Second, the court points out that while the State may not discriminate invidiously between religions the accommodations required to be allowed to the Adventist would not be discriminatory but rather would remove a discrimination based upon her religion, since the law does not disqualify persons who do not work on Sundays (at 406). An exemption for those sects which cannot in good conscience accept the insurance for which they are taxed would not be an invidious discrimination against other religions which have no such scruple and whose members are therefore able to accept the insurance for which they are taxed.

Third, the court points out that the administrative problems concerned and the possibility of spurious claims do not justify a restriction on the free exercise of religion (at 407).

Then the court concludes (at 409) that its holding does not foster the "establishment" of the Seventh-day Adventist religion in South Carolina for the extension of unemployment benefits to Adventists is not like the involvement of religions with secular institutions which the establishment clause is designed to forestall as shown in its decision announced the same day, *School District of Abington Township* v. *Schempp*, 374 U.S. 203 (June 17, 1963). In fact the Sherbert ruling reversed the State court ruling that allowance for the religious obligation of the Adventist would be an unconstitutional discrimination in her favor. See *Sherbert* v. *Verner*, 240 S.C. 286, 125 S.E. 2d 737, 746 (1962).

In the Schempp and its companion case, *Murray* v. *Curlett*, decided with the same opinion, the court found that the States were establishing religion in their public schools by requiring Bible reading and the recitation of prayers therein. These decisions are developments of the prior term's opinion in *Engel* v. *Vitale*, 370 U.S. 421 (1962) holding that the requirement of recitation in the public schools of a State-authored prayer was a violation of the establishment clause which prohibits Government from placing its "power, prestige, and financial support * * * behind a particular religious belief" (p. 431). In the Schempp case the court develops the idea that Government must remain "neutral," a term derived from the 5-to-4 decision in *Everson* v. *Board of Education*, 330 U.S. 1 (1947). In its context in the several Establishment cases this term means an inability of the State to use its powers to require religious observances or to use public funds for the support of religious institutions. None of the holdings applies the establishment clause to forbid the granting of an exemption from Government coercion of a secular action to accommodate religious scruples under the free exercise clause. The latter clause is predicated, says the Schempp court, on Government coercion which impinges on religious practice, 374 U.S. at 223. The distinction between these two historic lines of decisions has permitted the Schempp case to be decided consistently with the Sherbert case on the same day.

In sum, then, an exemption removes a handicap to the free exercise of a particular religion placed upon it by force of Government; it is not a requirement by the Government that the particular religion be prac-

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[2] *United States* v. *Seeger*, 326 F. 2d 846 (2d Cir. 1964), and the *Jakobson* case, compared with *Peter* v. *United States*, 324 F. 2d 173 (9th Cir. 1963). The *Peter* case followed *Etcheverry* v. *United States*, 320 F. 2d 873 (9th Cir. 1963) on which certiorari was denied, 375 U.S. 320 (1963). The influence of the 2d circuit against the definition is shown in *MacMurray* v. *United States*, 330, F. 2d 928 (9th Cir. 1964).

[3] *Swallow* v. *United States*, 325 F. 2d 97 (10th cir. 1963); *General Finance Corp.* v. *Archetto* (R.I. 1961) 176 A. 2d 73, appeal dismissed, 369 U.S. 423 (1962); *Fellowship of Humanity* v. *County of Alameda*, 315 P. 2d 394 (Cal. Dist. Ct. App. 1957); *Lundberg* v. *County of Alameda*, 298 P. 2d 1(Cal. 1956), appeal dismissed, sub. nom., *Heisey* v. *County of Alameda*, 352 U.S. 921 (1956).

[4] "Golden Rule Church Association," 41 T.C. 719 (1964), (Nonacq. May 19, 1964).

ticed or observed or supported by nonadherents.

The meaning of the Sherbert case is made unmistakable in its application by the court in the recent case. *In re Jension,* 375 U.S. 14 (1963). Here the court "in the light of *Sherbert* v. *Verner*" vacated the judgment of the Minnesota Supreme Court in *In re Jenison,* 265 Minn. 96, 120 N.W. 2d 515 (1963). The Minnesota court had held a person selected for jury duty in contempt of court for refusing to serve on the jury because of a religious belief based upon the biblical injunction against judging other persons. The Minnesota court had reasoned that jury duty, being a primary duty of all citizens, was superior to a religious belief deemed by the court contrary to public order, citing *Reynolds* v. *United States,* 98 U.S. 145 (1878) which held that Congress could prohibit polygamy as a violation of the social order.

Since the Supreme Court has now held that Government must accommodate even the highest duties of citizens to sincere religious scruples, it is probable that it would hold that Congress may accommodate the religious scruple against insurance by allowing for such a scruple an optional exemption, or a lesser form of relief, from social security taxation and benefits.

3. The due process clause: Under the due process clause of the fifth amendment tax statutes must provide reasonable classifications of the subjects taxed or regulated and reasonable exemptions, if exemptions are provided. But, as has been firmly established by the Supreme Court, particularly in cases upholding the various exemptions provided in the Social Security Act and State unemployment compensation acts (*Carmichael* v. *Southern Coal Co.,* 301 U.S. 495 (1937); *Steward Machine Company* v. *Davis,* 301 U.S. 543 (1937); *Helvering* v. *Davis,* 301 U.S. 619 (1937)), the outer bounds of what is a reasonable tax or exemption classification allow a wider play of legislative judgment than many other areas of the law where the "reasonable" standard is applied. In these cases the court assured legislatures that they had the widest powers of selection and classification in taxing some at one rate, others at another and exempting others altogether, where distinctions were based upon "considerations of policy and practical convenience."

Claims of discriminatory treatment under social security continue to be rejected as not "patently arbitrary." *Flemming* v. *Nestor,* 363 U.S. 603, 611 (1960). Recently, *Smart* v. *United States,* 222 F. Supp. 65 (S.D.N.Y. 1963), upheld a higher tax on (American) employees of the United Nations, as the means employed bore a substantial and logical relation to the objective; and *Lesson* v. *Celebreze,* 225 F. Supp. 527 (E.D.N.Y. 1963), accepted differences in dependency determination for children of a deceased mother from that for children of a deceased father, based on family support experience. See also *Cape Shore Fish Co.* v. *United States,* 330 F. 2d 961 (Ct. Cl. 1964), and *Abney* v. *Campbell,* 206 F. 2d 836 (5th Cir. 1953) on fishing vessel employment differences and on domestic service differences respectively.

The requirement that exemptions have a reasonable basis applies as well to exemptions based upon religious scruples provided by Congress in conformity with the first amendment. In a nontax area this requirement has been recently reviewed in the second circuit decisions, pending review in the Supreme Court, on the reasonableness of the selective service definition of religious training and belief as being confined to belief in a Supreme Being. *United States* v. *Jakobson,* 325 F. 2d 409 (2d Cir. 1963) and *United States* v. *Seeger,* 326 F. 2d 846 (2d Cir. 1964); certiorari granted in both cases, 32 L.W. 3385, May 5, 1964. In these cases the court determined that an exemption from bearing arms based on religious belief was a constitutional accommodation of religion, but that a restriction of the definition of religion to a Supreme Being was too narrow in view of its conclusion that a conscience sincerely compelled to refrain from bearing arms because of a "mystical force of 'Godness'" or a "compulsion to follow the paths of 'goodness'" might be religious in nature (Seeger, p. 853). In other words, at least in the second circuit, the exemption on the grounds of religious objection must reach all who have sincere objections which could be interpreted as religious in nature.

In the social security situation, however, a classification may be as limited as circumstances require, as indicated in the Smart and other cases, supra.

In fact the Social Security Act and its amendments have characteristically carved out exemptions which are as narrow as required by the sociological facts, including differences among vocations and religious attitudes. Thus, for example, lawyers are covered by the self-employment tax, ministers, including Christian Science practitioners, are optionally covered, but doctors and persons who have taken the vow of poverty as a member of a religious order are completely exempted (26 U.S.C. 1402 (c) and (e), and 42 U.S.C. 411(c) (4) and (5)). When the self-employment tax was passed in 1950 the act excluded the performance of service by a minister of a church or a member of a religious order or by a Christian Science practitioner in the exercise of their callings, in order to avoid impairment of religious liberty (Senate Finance Committee hearings on H.R. 6000, 81st Cong., Jan. 17, 1950, pt. 1, pp. 1 and 3). The exemption was made optional in the 1954 amendment of the act for these classes of persons except the mendicant orders. These exemptions have not been challenged.

The reason for the present proposal to exempt members of religious sects, as such, is solely that they have a religious objection to receiving insurance. Accordingly, a classification of such sects for exemption purposes, with appropriate safeguards, would reach all those whom Congress would have a reasonable ground to exempt and would, therefore, not be arbitrary nor violative of due process.

This conclusion is the basis of the opinion of the staff of the Joint Committee on Internal Revenue Taxation and that of the American Law Division of the Library of Congress provided to Senator CLARK under dates of November 9, 1962, and September 19, 1962, respectively. These opinions conclude that the proposed exemption would be constitutional as it would apply to all those who fall within the classification and that the classification is reasonable, 109 CONGRESSIONAL RECORD, 463, 464 (1963). A copy of these opinions as reproduced in the CONGRESSIONAL RECORD is attached.

Since, therefore, Congress may exempt those members of a religious faith who have scruples against receiving insurance, the next question is what practical safeguards Congress may designate to assure that only those who come within the policy of the exemption obtain the exemption, without imposing arbitrary limitations.

Limitations on the exemption

The joint statement by the Treasury Department and the Department of Health, Education, and Welfare reviewing the problems created by the proposed exemption for the Amish contains in section 3 suggested additional limitations upon the exemption. These limitations are proposed as possible means to protect the social security system from an unintended extension of exemptions from compulsory insurance which would weaken and dilute it. The extensions of the exemption might occur, according to this joint statement, either through the formation of additional faiths claiming opposition to acceptance of benefits as one of their tenets or through the redefinition by various existing separatist groups of their tenets to include such opposition.

I shall consider each of these proposed additional limitations, designated "a" through "e," to determine whether the limitation may be considered by the courts to be a reasonable classification and consistent with the due process clause. I shall also suggest a limitation, designated "f," which was not among those proposed but which may be found to limit the exemption reasonably and realistically to the groups which Congress intends to accommodate by this exemption.

(a) An explicit limitation of the exemption to the old order Amish: This limitation would probably be considered arbitrary since the designation of one sect to the exclusion of other sects having the same scruple would be inconsistent with the congressional policy of removing the Government coercion of belief which constitutes the denial of the free exercise of religion. It would also probably constitute an invalid preference of one particular faith over those which were similarly situated. The facts presented to Congress indicate that they may be certain other sects of the Amish and possibly other religious groups who have the same religious scruple which is now being coerced. Furthermore, the exemption of a single named group will be held to be arbitrary [5] unless the relation to the public good is clearly demonstrable.[6]

(b) Limitation to members of a sect, excluding adherents who are not members; and (c) limitation to members of sects who "take care of their own": These limitations are being considered together since at least some of the bills before Congress provide that a necessary condition of exemption is a finding by the Secretary of Health, Education, and Welfare that the sect makes provision for its elderly "members." This condition would probably be considered a necessary and proper public policy consideration and, therefore, a reasonable condition upon which to base eligibility for exemption. The purpose of Congress in this legislation would be to assure the fulfillment of the welfare purpose of social security while relaxing that feature of social security which impinges on the free exercise of religion. Moreover, since individuals can seldom guarantee their own future against deprivation and need, it would be reasonable for Congress to provide that to qualify for an exemption a person must be a member of a sect which shares the religious commitment, both with respect to refusing State insurance and providing for that sect's welfare. Consequently, since the sect aspect is essential, it would seem reasonable to limit the qualification for exemption to persons who are members of a qualifying sect. As said by Justices Black and Douglas in *Board of Education* v. *Barnette,* 319 U.S. 624, 643 (1943): "No well-ordered society can leave to the individuals an absolute right to make final decisions, unassailable by the State, as to everything they will or will not do."

(d) Limitation to sects which require members to follow the occupation of farming as a matter of religious principle: This limitation, as phrased, would not be appro-

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[5] *Eyers Woolen Co.* v. *Gilsum,* 84 N.H. 1, 146 *Baltimore,* 289 U.S. 36 (1933).

[6] *William* v. *Mayor and City Council of* Atl. 511 (1929); *Baltimore* v. *Starr Methodist Protestant Church,* 106 Md. 281, 67 Atl. 261 (1907). Cf. *United States* v. *Department of Revenue of Illinois,* 191 F. Supp. 723 (N.D. Ill. 1961) invalidating a retail tax on sales to the Federal but not to the State government.

priate on the basis of the facts given in the joint statement. It is there stated that "most old-order Amish communities permit members to make their living as self-employed carpenters or masons" (p. 9). The possibility of limiting the exemption to sects which are established in farming communities for religious reasons is suggested and discussed below.

(e) Limitation to religious groups which were established before 1935: Any limitation which designates a cutoff date would generally be less reasonable than one which on its face shows some relationship to the public purpose of the statute. For example, a requirement that the sect shall have demonstrated over a period of years its ability to take care of its own members would probably be more acceptable as a classification. The text of certain of the legislative proposals already contain this principle in that they refer to the sect to be exempted as one which is "established." I would see no reason why the extent or the test of establishment might not be specifically spelled out. There is some authority that a "classification which draws a line in favor of existing businesses as against those later entering the field will be upheld if any reasonable and substantial basis can be found to justify the classification." *Del Mar Canning Co.* v. *Payne*, 29 Cal. 2d 380, 175 P. 2d 231, 232 (1946). The circumstances justifying such a discrimination must provide substantial reason. *Mayflower Farms* v. *Ten Eyck*, 297 U.S. 266 (1936). It is probable that the unusual situation of the Amish with respect to social security would be considered a substantial reason for a limitation of the classification to established sects.

(f) Limitation to sect established in farming communities for religious reasons: The faith, the members of which are to be exempted, might be described not only as one whose established tenets would be violated by the acceptance of insurance, and one which provides for elderly and dependent members, but as one which for religious reasons is established in farming communities. These limitations might be reasonable if Congress found after sufficient inquiry that they were necessary to assure that the exemption would be confined to sects which were religiously motivated and responsible, and to assure that the welfare purpose of social security would be fulfilled. Congress might reasonably find that the restriction of the exemption to those sects established in farming communities would be justified on the ground that such a sect could be more certainly relied upon to identify and provide for its dependent and elderly members than those in the mobile and transient urban environment. Conversely, the limitation would have the effect of excluding sects which subsequently organize for the purpose of exemption from social security, as it is unlikely that these would or could establish themselves in farming communities for religious or other reasons. The limitation would exclude other present separatist groups whose principles might, but do not specifically, include refusal of social security benefits. Legislation which distinguishes farming situations from others because of sociological and economic differences has taken many forms and has been accepted by the courts. See, for example, *Tigner* v. *Texas*, 310 U.S. 141 (1940), rehearing denied, 310 U.S. 659 (1940).

G. D'ANDELOT BELIN,
General Counsel.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time and suggest the absence of a quorum——

Mr. MANSFIELD. Mr. President, will the Senator withhold that request?

Mr. SCHWEIKER. Yes.

ART ON THE FLATHEAD RESERVATION, MONT.

Mr. MANSFIELD. Mr. President, I had the privilege this morning of meeting in my office with Thomas J. Collins, director of the University of Montana Foundation, which has with it a Divison of Indian Services, and Michele de Santene, who did some work as a member of the faculty at the University of Montana among the Flathead Indians; to be more accurate, the Salish and the Kootenais.

During the course of this she came into contact with the Flathead people, found that there was a great reservoir of artistic talent, recognized, of course, the relationship between the Flatheads and the French of an earlier day, the voyageurs, the traders, and the coming of the Jesuit priests who did so much good not only up in what is now the Flathead country but what was originally the Flathead country down in the Bitter Root Valley south of Missoula.

Because of the interest shown by Miss de Santene, because of the talents which she unearthed among the Flathead people, I ask unanimous consent that a story entitled "Indian Art—Signed Big and Bold," by Jessie Ash Arndt, in the Christian Science Monitor of February 17, 1970, be incorporated at this point in the RECORD.

Mr. President, before permission is granted to have the story printed, let me say I understand some of these young people, such as Alameda Addison, have extremely fine talent, if not outstanding capability.

May I say that I am personally pleased that such consideration is being given to the Flatheads. I would hope that the same type of interest would be displayed for the Crows, the Northern Cheyennes, the Assiniboines, the Sioux, the Gros-Ventres, the Chippewa-Crees, and the Blackfeet.

The PRESIDING OFFICER. Without objection, the request of the Senator from Montana is granted.

The article is as follows:

INDIAN ART—SIGNED BIG AND BOLD

(By Jessie Ash Arndt)

Michèle de Santène was conscious of an oppressive silence, except for the sound of her own voice and an occasional giggle, half-stifled behind a hand.

It was the first day of an art course for the Salish-Kootenai Indians of the Flathead Reservation near Missoula, Mont. As she met their silent, curious gaze and knew how carefully she was being measured, she thought of the warning that she might not find it easy to communicate with these shy, rather aloof people.

She told them she had come because painting gave her an inner joy and she wanted to share it with them. No response.

This class, she explained, was not like one in accounting or a scientific subject, where you always had to be on hand; they were free to come and go. More than half sauntered out. They stayed away for about 10 minutes, then cautiously returned. She made no comment. They were satisfied.

By the end of the first three hours, they had accepted her.

From childhood Miss de Santène, a native of Nice, France, had loved Indian lore. When her husband, Dr. Oscar Sachs, of New York, was invited to do research last summer at the Pharmaceutical Laboratory of the University of Montana Foundation at Deerlodge she was invited, as an artist of international note, to teach art at the university.

As in the days of her childhood when she wouldn't play "cowboys and Indians" unless she could be the Indian, she declined, but said she would like to teach at the Flathead Reservation. Her only stipulation was that talented students be chosen for the course.

Thomas J. Collins, director of the University of Montana Foundation, with its Division of Indian Services, welcomed the idea. With the cooperation of the Billings area office of the Bureau of Indian Affairs (BIA) the 30 talented students were selected from villages all across the reservation, covering nearly a 200-mile area. Miss de Santène found them all above average in creative ability, but not necessarily in educational background. Their ages ranged from five years to 30, but most were teenagers.

Money from the foundation bought art supplies which she selected: oil pastel, magic markers, oil paint, canvases, and an abundance of paper. The students were free to choose whichever they wanted to use, and to take home with them a good two-months supply at the close of the course.

Although Miss de Santène could have returned each evening to the resort hotel where her husband and daughters, Carina and Tammy, were staying, she chose instead to occupy a crude cabin adjacent to the lodge which served as dormitory, dining hall, and art studio for the students, "so they would feel I was one of them."

The lodge, located and rented by the foundation, was one enormous room, where all but four or five of the young artists bedded down in sleeping bags at night. The others, living near enough, went home to sleep. In the morning the floor was cleared, art materials came out, and the class was under way.

On the second morning she was greeted by the blare of rock 'n' roll from the record player when she entered the lodge, but she made no comment. As she worked with the students as individuals, the noise would not prevent communication. When she wanted to speak to the class briefly, they willingly turned it off for a minute or two.

But she noted that after an hour there would be an interval when no one stopped work long enough to put on another record. The second hour found students so absorbed it was forgotten and quiet prevailed for the rest of the day's class. Although part of the afternoon was for swimming and other recreation, many returned to their painting.

She provided nothing for them to sketch. There were no assignments. She was there to encourage their own creative talent. Their first work for her she called "please-the-teacher" efforts. Then subjects from their own environment began to appear: an Indian head, a tepee, a totem (not native to them, but of which they knew). This was what she wanted.

An exhibition of their first pictures showed shy, small signatures.

"If you're part of something, you sign it big and bold," she told them.

Big, bold names identified their later work.

Through the foundation, the three adults in the class have been accepted for an art course at the university and special provision has been made for Saturday instruction for Alameda Addison, still in grammar school, whom Miss de Santène regards as having "not mere talent, but genius."

Some of Alameda's pictures, which she sent to the Galerie Duncan in Paris, where her own work is exhibited, received special note in an article by Claire Alma, well-known Paris art critic. Miss de Santène hopes later to bring Alameda to New York

to be with her own two daughters and pursue her art.

Miss de Santène continues to criticize the work of all of the students who send it to her, and at Christmas she replenished art supplies for all of them. She and her husband and daughters expect to return to Montana next summer, and she hopes to conduct another course on the reservation, where she can now count on friends to welcome her.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON MOBILE TRADE FAIR ACTIVITIES

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on mobile trade fair activities, for the fiscal year ended June 30, 1970 (with an accompanying report); to the Committee on Commerce.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on management of federally financed research by the University of Michigan—A Case Study, dated September 25, 1970 (with an accompanying report); to the Committee on Government Operations.

EXECUTIVE REPORT OF A COMMITTEE

As in executive session, the following favorable report of a nomination was submitted:

By Mr. YARBOROUGH, from the committee on Labor and Public Welfare:

Malcolm R. Lovell, Jr., of Michigan, to be an Assistant Secretary of Labor.

BILLS INTRODUCED

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

By Mr. YARBOROUGH:

S. 4397. A bill authorizing the Secretary of Agriculture to carry out a program for flood prevention and other purposes in the Lower Rio Grande Basin, Texas, to enhance and stabilize the agricultural economy of the area; to the Committee on Agriculture and Forestry.

S. 4398. A bill to authorize a program providing two academic years of post-secondary education for all citizens of the United States prior to reaching the age of 26; to the Committee on Labor and Public Welfare.

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

By Mr. BAYH:

S. 4399. A bill for the relief of Maria Grazia Iaccarino; to the Committee on the Judiciary.

S. 4397—INTRODUCTION OF A BILL PERTAINING TO FLOOD PREVENTION IN THE LOWER RIO GRANDE BASIN OF TEXAS

Mr. YARBOROUGH. Mr. President, I introduce, for appropriate reference a bill authorizing the Secretary of Agriculture to carry out a program for flood prevention and other purposes in the Lower Rio Grande Basin of Texas, to enhance and stabilize the agricultural economy of the area.

This bill would provide for the implementation of recommendations contained in a report prepared by the Soil Conservation Service made in July of 1969. This report entitled "Comprehensive Study and Plan of Development—Lower Rio Grande Basin, Texas" is the product of an intensive 4-year examination of the Rio Grande Valley's serious flooding and drainage problems.

The people of south Texas, and particularly those engaged in trying to make a living off the land have always been at the mercy of natural disasters. It seems that every year we hear that another devastating hurricane has destroyed the life and livelihood of many of these hardy people. The winds wreak unimaginable havoc, but the aftermath of severe flooding ususally poses a threat of equal magnitude to the farms and communities of the Rio Grande Basin. Perhaps we do not yet possess the technology to control or harness the winds of a full-blown hurricane, but we do have the ability and responsiblity to do something about the flooding whether it is generated by a hurricane or not.

For example, the implementation of the provisions contained in this bill would have prevented the severe flood damages which occurred early this past summer in Willacy County located at the southern tip of Texas. Between 14 and 17 inches of rain fell on the county during a single 2-week period. It is estimated that 13,000 acres of grain sorghum and cotton were completely destroyed, and another 10,000 acres suffered at least a 50-percent loss. Altogether, 23,000 acres of crops in the county were either severely damaged or destroyed, and the local economy experienced a loss of over $3 million.

This bill would authorize $84,805,000 to be appropriated for the purpose of watershed protection and flood prevention in Willacy, Hidalgo, and Cameron Counties. We cannot continue to ignore the severity of the problem in this area through an inadequate, piecemeal program. The agricultural economy of the Rio Grande Basin requires that we implement a concerted, comprehensive attack on the problems of flooding.

My bill is a companion to a similar measure offered in the House by Congressman DE LA GARZA.

Mr. President, I ask unanimous consent that the bill which I have introduced be printed at this point in the RECORD.

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

The bill (S. 4397) authorizing the Secretary of Agriculture to carry out a program for flood prevention and other purposes in the Lower Rio Grande Basin, Tex., to enhance and stabilize the agricultural economy of the area, introduced by Mr. YARBOROUGH, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S. 4397

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress recognizes that flood problems of the Lower Rio Grande Basin, in Willacy, Hidalgo, and Cameron Counties, Texas, are of such a magnitude and interdependence that such problems must be treated on a basin-wide basis and such area exceeds that authorized to be treated under the Watershed Protection and Flood Prevention Act (Public Law 83–566), hereinafter referred to as Public Law 83–566, and it is the intent of Congress to provide with respect to such area for the cooperation by the United States with the State of Texas and its political subdivisions, soil and water conservation districts, flood prevention and control districts, and other local public agencies, for the purpose of preventing erosion, floodwater and sediment damages, and to provide for the conservation, development, utilization, and disposal of water, and thereby preserve, protect, and enhance the Nation's soil and water resources, the quality of the environment, and provide for the general welfare.

SEC. 2. The Secretary of Agriculture is hereby authorized and directed to carry out the plan for flood prevention, and the conservation, development, utilization and disposal of water (Phases I, II, III) substantially in accordance with the recommendations therefore contained in the Comprehensive Study and Plan of Development, Lower Rio Grande Basin, Texas, dated July 1969, prepared by the United States Department of Agriculture in cooperation with the Texas Water Development Board, the Texas State Soil and Water Conservation Board, and the Texas Water Rights Commission, a copy of which is on file with the appropriate Committee of the House of Representatives and the Library of Congress, at an estimated Federal cost hereunder of $84,805,000, which amount is hereby authorized to be appropriated.

SEC. 3. The Secretary of Agriculture is directed to utilize, to the extent feasible, ongoing programs in the carrying out of Phase III of the plan herein authorized: *Provided,* That the Secretary shall be authorized to provide financial and other assistance for accelerating the installation of land treatment measures for runoff and waterflow retardation and the control and prevention of erosion, floodwater, and sediment damages, and to cooperate with farmers and ranchers, and other landowners, operators, and occupiers in the installation of soil and water conservation practices and measures, including changes in cropping systems and land uses, needed to conserve and develop the soil, water, woodland, wildlife, and recreation resources of farm and other lands within the area included in subwatershed plans and as provided in such subwatershed plans, such assistance to be comparable to the assistance provided for planning and installing similar practices and measures under Public Law 83–566, as amended, or as may hereafter be amended, and other existing national programs: *Provided further,* That the portion of the costs of such practices and measures needed to protect structural works of improvement installed with Federal assistance

should be that part determined by the Secretary to be necessary and appropriate to effectuate the timely installation of such practices and measures.

SEC. 4. Prior to participation in the installation of the structural works of improvement on non-Federal lands, cooperating non-Federal entities shall furnish assurances satisfactory to the Secretary of Agriculture that an adequate land treatment program is being or will be installed to provide necessary protection to the watershed lands and planned structural measures; that such entities will acquire all land rights needed in connection with the installation of such works of improvement and in such acquisition there may be used such Federal cost-sharing assistance as may be available under other Federal programs; and that such entities will operate and maintain all upstream structural works of improvement on non-Federal lands, after installation, in accordance with the provisions for non-Federal participation described herein or as may be required under other similar Federal programs.

SEC. 5. Except as herein otherwise provided, the provisions of the Watershed Protection and Flood Prevention Act (Public Law 83–566) shall apply to the furnishing of assistance hereunder.

S. 4398—INTRODUCTION OF POST-SECONDARY ACT OF 1970

Mr. YARBOROUGH. Mr. President, I introduce, for appropriate reference, a bill entitled "The Postsecondary Act of 1970," to extend the concept of free public education in America beyond the high school years to embrace 2 additional years of postsecondary education. This bill provides for a system of educational assistance allowances to be paid directly to eligible students, amounting to $2,000 for each academic year of full-time study for maximum of 2 years. It also provides for cost-of-instruction allowances to be paid to the institutions involved. Eligible persons would be those legally authorized and accredited institutions offering not less than 2 years of postsecondary work. These would include not only academic institutions, per se, but also technical institutes and vocational schools.

Mr. President, we have come a long way in our efforts as a nation to give each individual an equal chance when it comes to educational opportunity, but we have not progressed far enough along that road. Thomas Jefferson believed that a free and prosperous people must be intelligent and educated, but he was unable to demand more than 3 years of free schooling for the people of his day and age, though he believed more was needed. Jefferson also thought that basic free education was the means to discover the finest talent in the general population, rich and poor, that might be drawn out for professional education and leadership positions.

By 1850, the battle for acceptance of the idea of free public education through the elementary grades had been won. By 1900, free public education through high school years was generally accepted by our citizens. These two steps in educating all of our youth were regarded as a natural right, a provision of society made in the interest of an enlightened citizenship and a more economically efficient and productive working force. This type of education was accepted because society itself demanded it for its protection and stability. Youth received this social opportunity so that youth might in turn render a greater social obligation.

Now I ask that this same general principle be extended to the 14th year as the new minimum level of free public education as the right of all citizens who can accept it with profit. This right to a free publicly supported education through the 14th year already exists in one of our States, California, and it is provided for in the original constitution of another State, Indiana. It is time now, I suggest, to extend this principle across the country on a nationwide basis, on the ground that it is in the interest of the public welfare of this country to provide higher educational opportunities for every citizen, to the extent of his capacity.

The need for this extended educational opportunity is virtually self-evident in our society. We are in a situation where less than half—46 percent, according to the U.S. Office of Education—of our young people of college age are receiving any postsecondary education. Of those who do attend college, 50 percent drop out and do not obtain degrees. Most of this attrition comes in the critical first 2 years, and it is well known that one of the major reasons for dropping out of college, or for the failure of many qualified high school graduates to attend college in the first place, is the lack of adequate financial resources on the part of the potential student. This bill would answer that need, by making funds available for all students, however disadvantaged, to support those first 2 years.

Who would benefit from this legislation? The most disadvantaged group, the young, poor, unskilled, undereducated residents of our rural areas and our urban slums and ghettos would have new doors of opportunity opened to them, to obtain the skill, training, or education needed to pursue worthwhile, meaningful careers in life. We are beset with a strange paradox in our present-day society, Mr. President, wherein we have widespread unemployment on the part of the poor, unskilled, undereducated youth while at the same time there are unfilled jobs in many of our professions.

It is also pertinent to note that the latest report of the President's Commission on Violence in America attributes the highest incidence of crime to the young, poor, unskilled, undereducated persons in our big-city ghettos; those for whom life seems to hold no promise, even at an early age. This bill, then, holds promise to fulfill both the needs of our youth, the most valuable commodity we have, and of society itself, which is badly in need of trained, skilled, educated people. Mr. President, I would like to offer this quote from Thomas Wolfe as a concluding thought: "So then, to every man his chance." Can we do less than to give to these young people their chance in life, and also benefit our society greatly at the same time?

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

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

The bill (S. 4398) to authorize a program providing 2 academic years of post-secondary education for all citizens of the United States prior to reaching the age of 26, introduced by Mr. YARBOROUGH, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 4398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Post Secondary Education Act of 1970."

STATEMENT OF PURPOSE

SEC. 2. The purpose of this Act is to extend the concept of the free public school system to two years of post-secondary education.

DEFINITIONS

SEC. 3. For the purpose of this Act the term—

(1) "Commissioner" means the United States Commissioner of Education;

(2) "eligible person" means a citizen of the United States.

(3) "eligible institution" means an education institution, whether or not such institution is a nonprofit institution, which (a) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (b) is legally authorized to provide a program of education beyond secondary education, (c) provides an education program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, and (d) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, in an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, or which is a business or trade school or technical or vocational institution which meets the provisions of clauses (a), (b), and (d), except that if the Commissioner determines there is no nationally recognized accrediting agency or association qualified to accredit any category of such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions as meeting this definition and shall also determine whether particular institutions meet such standards;

(4) "program of education" means any curriculum or any combination of unit courses or subjects pursued at an eligible institution which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective, and includes any curriculum of unit courses or subjects pursued at an eligible institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field.

AUTHORIZATION

SEC. 4. (a) The Commissioner is authorized to pay an education assistance allowance

determined pursuant to subsection (b) to an eligible person who (1) has been accepted for enrollment in a program of education at an eligible institution, or, in the case of an eligible person already attending a program of education at such institution, is in good standing there as determined by the institution, and (2) is carrying at least one-half of the normal full-time course of study, as determined by the institution.

(b) An education assistance allowance for the purpose of this Act shall be paid at the rate of $2,000 for each complete academic year of full-time study, and—

(1) shall not be paid for more than two such years or an equivalent thereof in part-time study;

(2) shall be ratably reduced in the case of less than full-time study;

(3) shall be terminated on the date on which the recipient completes two such academic years of study;

(4) shall be paid only if the recipient is maintaining good standing in the program of education which he is pursuing, according to the regularly prescribed standards and practices of the institution which he is attending; and

(5) may be paid in such installments and may be subject to such adjustments (including withholding) as the Commissioner deems necessary for the purpose of this Act.

APPLICATIONS

SEC. 5. Applications for education assistance allowances pursuant to this Act shall be made at such time and in such manner, and shall contain or be supported by such information, as may be prescribed by the Commissioner.

COST OF INSTRUCTION ALLOWANCES

SEC. 6. The Commissioner shall pay a cost of instruction allowance to each eligible institution on account of the attendance at such institution of an eligible person while receiving an education assistance allowance pursuant to this Act. Such cost of instruction allowance shall be paid at the rate per academic year of full-time instruction of an amount equal to $1,000 less the tuition charge for such year, adjusted for less than full-time attendance.

PROHIBITION

SEC. 7. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution.

AUTHORIZATION

SEC. 8. There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this Act.

ADDITIONAL COSPONSORS OF BILLS

S. 4039

At the request of the Senator from Nevada (Mr. BIBLE), the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 4039, to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business.

S. 4348

At the request of the Senator from Pennsylvania (Mr. SCHWEIKER) the names of the Senator from Connecticut (Mr. DODD), the Senator from Wyoming (Mr. HANSEN), the Senator from Vermont (Mr. PROUTY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 4348, to make assaults on policemen, judges, and firemen a Federal crime.

SENATE RESOLUTION 471—ORIGINAL RESOLUTION REPORTED RELATING TO PERMISSION FOR SENATE EMPLOYEES TO TESTIFY IN FEDERAL COURT

Mr. McCLELLAN, from the Committee on Government Operations, reported an original resolution (S. Res. 471) relating to permission for Senate employees to testify in Federal Court, which was considered and agreed to.

(The remarks of Mr. MCCLELLAN when the resolution was agreed to appear earlier in the RECORD under the appropriate heading.)

SENATE RESOLUTION 472—SUBMISSION OF A RESOLUTION TO PROVIDE ADDITIONAL FUNDS FOR THE COMMITTEE ON PUBLIC WORKS

Mr. BYRD of West Virginia (for Mr. RANDOLPH) submitted a resolution (S. Res. 472); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 472

Resolved, That the Committee on Public Works is hereby authorized to expend, from the contingent fund of the Senate, $60,000, in addition to the amount, and for the same purposes and during the same period, specified in Senate Resolution 326, Ninety-first Congress, agreed to February 16, 1970.

AMENDMENT OF OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968—AMENDMENT

AMENDMENT NO. 948

Mr. KENNEDY. Mr. President, I am today submitting the Urban Crime Amendment to H.R. 17825 which will be considered by the Senate on Tuesday.

This amendment would add a new section to the Safe Streets Act which would leave the present State block grant and Federal discretionary grant provisions intact, but would authorize, in addition, a system of block grants to urban areas. The need for this provision is clear. The testimony in our hearings showed that despite the fact that Congress was prepared to authorize and appropriate an amount around the $1 billion level for Law Enforcement Assistance Activities and despite the urgent need for, and ability of the high crime urban areas to expand effectively such an amount, neither the Federal Office of Law Enforcement Assistance nor the State planning agencies, which distribute the block grants, were adequately geared up to handle that level of funding. Thus the request was only for $480 million and the House authorization was for only $650 million.

My amendment provides the urban areas with significant additional funds based on a population formula, without adding substantially to the administrative burden of the State or Federal agencies. It assumes that we can have the same kind of faith in the local governments as the act places in the State governments, and thus it allows the funds to be used at the discretion of the grantee for a long and broad—although not unlimited—list of proven and urgently needed innovations or improvements in law enforcement and criminal justice. After suitable opportunity for public and SPA consideration and comment, the urban jurisdiction would merely file its plans for making eligible expenditures from its block grants, and it then would receive an amount of $5 per capita if adequate appropriations are provided. Based on the 1960 census, this would provide some $260 million to about 140 cities in 50 States, District of Columbia, and Puerto Rico, covering the 52 million people, one-fourth of our population, who live in the highest crime areas. The authorization in the amendment is set at $290 million to allow additional amounts for eligible counties and for population growth.

If we are to take the war on crime seriously, then we cannot ask our cities to wait another 2 or 3 years until the Federal and State bureaucracies are ready to handle the amounts Congress is prepared to invest in crime control. This amendment will avoid that delay by providing for a 3-year interim alternate route for the funds to get directly to the urban areas, after which time this route can be terminated if the other routes become adequate.

The PRESIDING OFFICER (Mr. GRAVEL). The amendment will be received and printed, and will lie on the table.

SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENT

AMENDMENT NO. 949

Mr. SCHWEIKER submitted an amendment, intended to be proposed by him, to the bill (H.R. 17550) to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disability insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes, which was referred to the Committee on Finance and ordered to be printed.

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

FAMILY ASSISTANCE ACT OF 1970—AMENDMENTS

AMENDMENT NO. 950

Mr. ANDERSON. Mr. President, I am submitting an amendment today to H.R. 16311, designed to restrict the scope of the welfare bill presently before the Committee on Finance.

Mr. President, on June 30, the chairman of the House Appropriations Committee, the Honorable GEORGE MAHON, informed the House of Representatives that our Federal budgetary situation is deteriorating. The administration estimates that in the fiscal year which just

ended, there was a deficit of $11 billion in the Federal fund budget. During the current fiscal year, a further deficit of $10 billion is expected. This means a 2-year deficit of $21 billion. It is little wonder that Mr. MAHON characterized the budgetary situation as deteriorating.

Unfortunately, there seems to be little hope that the next fiscal year, fiscal year 1972, will see a balanced budget. Recently, the Committee on Finance had before it representatives of the Treasury Department and the Budget Bureau defending the need to increase the public debt limit. As my colleagues know, this limit has had to be raised substantially because of the 2-year, $21 billion deficit that I have already described. In executive session on the debt limit bill, Treasury Under Secretary Volcker made a gloomy prediction. He told the committee that "it would take a miracle" for the administration not to have to come back for a further increase in the $395 billion debt limitation next June. This means, Mr. President, that the administration expects and anticipates that it will be submitting a Federal fund budget in the red again next January.

One of the major reasons I am sure that the administration anticipates another deficit year is due to their expectation that the Congress will enact the administration welfare bill currently pending before the Committee on Finance. This bill would increase the number of welfare recipients from 10 million to 24 million, and would add at least $4 billion to Federal welfare costs in the first year. I can only wonder how the President can justify to himself vetoing a congressional appropriation bill for the Department of Health, Education, and Welfare as being too costly and vetoing a bill to extend the Hill-Burton Hospital construction program as being too costly—while at the same time asking the Congress to more than double the welfare rolls.

The amendment I am submitting today, Mr. President, will allow us to make some needed improvements in the welfare program, while at the same time restricting the expansion of welfare. First, the effect of my amendment will generally be to limit eligibility of families for welfare to the kinds of families eligible for welfare under present law. These are families in which the father is dead, absent, incapacitated or, at State option, unemployed. Under present Health, Education, and Welfare regulations, unemployment is defined as working less than 35 hours in most States extending aid to families with an unemployed father. Under my amendment, unemployment would be defined in the law as having less than 10 hours of employment and earnings of less than $20 in a week.

My amendment would strengthen and improve certain work incentive features of the law by disregarding a portion of earnings for purposes of determining eligibility of families for welfare. This will make some families eligible for welfare who are not now eligible, families headed by mothers who work. My amendment retains the features of the administration bill requiring States to guarantee a minimum monthly income of $110 to aged, blind, and disabled persons. However, under my amendment, the States would define blindness and disability for welfare purposes, as they do now, rather than the Secretary, as proposed by the administration.

Mr. President, we all agree that there is a need to improve the present welfare programs. It is not necesary, however, to more than double our welfare rolls under the guise of "welfare reform." Our budgetary situation is serious, and I believe this is a time for fiscal responsibility rather than largesse.

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

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

The amendment (No. 950) was referred to the Committee on Finance, as follows:

AMENDMENT NO. 950

On page 7, between lines 14 and 15, insert the following:

"Exclusion of Certain Families

"(f) Notwithstanding any other provision of this part, no family shall be paid a family assistance benefit under this part for any period during which there is present the male parent of any child or children in such family unless (A) such parent is incapacitated or (B) such parent is unemployed and the agreement entered into pursuant to part E by the State in which such family resides provides supplementary payments to families described in clause (B) of section 451.

"Unemployed Male Parent

"(g) For purposes of subsection (f) of this section and clause (B) of section 451, the male parent of any child or children shall be considered to be unemployed for any week if—

"(1) during such week, he is employed for less than 10 hours and earns less than $20; and

"(2) is not eligible, for such week, to receive unemployment compensation under any Federal or State unemployment compensation law."

On page 12, line 4, strike out "A parent" and insert in lieu thereof "subject to the preceding sentence, a parent".

On page 23, line 15, immediately after "part," insert the following: "(A) to any family other than a family in which the male parent of the child or children is present and is not incapacitated, or (B) at the option of the State,".

On page 27, beginning with the word "other" on line 15, strike out all through "unemployed" on line 18, and insert in lieu thereof "described in clause (A) or (B) of section 451 (as the case may be under such agreement)".

On page 56, lines 18 to 21, strike out "and if it included assistance to dependent children of unemployed fathers pursuant to section 407 as it was in effect prior to such enactment".

On page 65, line 17, insert "and" immediately after "institutions;".

On page 65, line 24, strike out "related; and" and insert in lieu thereof "related.".

On page 66, strike out lines 1 through 5.

On page 67, line 9, insert "and" immediately after "State;".

On page 67, line 14, strike out "aid;" and insert in lieu thereof "aid.".

On page 67, strike out lines 15 through 21.

On page 84, line 5, strike out "made." and insert in lieu thereof "made.' ".

On page 84, strike out lines 6 through 8.

On page 85, strike out lines 10 through 25.

On page 94, lines 17 and 18, strike out "as defined by the Secretary in accordance with section 160(b)(4)".

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 905, TO SENATE JOINT RESOLUTION 1

At the request of the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of amendment No. 905, to Senate Joint Resolution 1.

AMENDMENT NO. 915, TO H.R. 17604

At the request of the Senator from New York (Mr. GOODELL), the Senator from Texas (Mr. YARBOROUGH) was added as a cosponsor of amendment No. 915, to H.R. 17604.

AMENDMENT NO. 932, TO S. 4268

Mr. WILLIAMS of New Jersey. Mr. President, on Tuesday, September 22, 1970, Senator PERCY and I sponsored amendment No. 932 to S. 4268 for the purpose of permitting the Export-Import Bank of the United States to grant long-term low-interest loans to Israel for the purchase of defense articles and defense services. I ask unanimous consent that the names of the Senator from New Jersey (Mr. CASE) and the Senator from South Dakota (Mr. MCGOVERN) be added as cosponsors of amendment No. 932 to S. 4268.

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

ADDITIONAL STATEMENTS OF SENATORS

SERMON BY REV. DR. EDWARD L. R. ELSON AT U.S. MILITARY ACADEMY, WEST POINT, N.Y.

Mr. BYRD of West Virginia. Mr. President, all of us in the Senate are well aware of, and admire, the articulate and thoughtful manner in which our beloved Chaplain, Dr. Edward L. R. Elson, in his regular invocations for this body, pinpoints our basic needs and calls upon Almighty God for the guidance which only He can give as we struggle with the often overwhelming problems confronting us. We feel privileged to enjoy Dr. Elson's ministry. However, the time allotted to him, as the result of the Senate's pressing duties, is very short. I know that we would benefit immeasurably, were we to have the opportunity to hear him at greater length. Consequently, I am pleased to ask unanimous consent to have printed in the RECORD the text of Dr. Elson's sermon when he spoke as guest preacher of the three services in the U.S. Military Academy at West Point, on September 20, 1970.

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

THE BOOK COMES ALIVE

(A sermon by the Reverend Edward L. R. Elson, S.T.D., Minister of the National Presbyterian Church and Chaplain of the United States Senate, in the Cadet Chapel, U.S. Military Academy, West Point, N.Y., on the occasion of the presentation of Bibles to the members of the fourth class by the American Tract Society, Sunday, September 20, 1970)

"I will not forget thy word." Psalm 119:16b.

The pioneer American faced the frontier and the future with three instruments in his hands. He carried an axe, a gun, and a book. With the axe he felled the trees, built his home, his school, his church. With the gun he hunted game for his table, pelts for his livelihood and protected himself from predatory forces of the wilderness. His book was the authority for his worship, the text book for his education and the guide to the erection of his political institutions.

Today's American no longer carries the axe and the gun. His axe has become his vast industrial empire. His gun has become the arsenal of the free world. His book and the person revealed in it is still alive and the pervasive influence in American life.

George Washington began the practice of laying hands on the Holy Bible as the President takes the oath of office.

Thomas Jefferson compiled passages of his own and they are still published as the "Jefferson Bible."

A graduate of this institution, President Ulysses S. Grant, declared, "Hold fast to the Bible as the sheet anchor of your liberties. Write its precepts in your hearts and practice them in your lives. To the influence of this Book we are indebted for all the progress made in true civilization and to this Book we look as our guide in the future."

Another graduate of this Academy, during his convalescence from his first heart attack, Dwight D. Eisenhower, invited me to his Gettysburg farmhouse to dedicate it with the reading of the scriptures and with prayer. Shortly after lunch he stood in a parade-rest stance in front of the fireplace and remarked, "We were both brought up on daily family prayers and reading from the Bible. During our Army days we lived in twenty-two different quarters. This is our first home. We have talked about a dedication service. It is fitting now that our pastor should lead us in this dedication by the use of the words of scripture and prayer." President Eisenhower was thoroughly familiar with the content of the scriptures.

When a British monarch is crowned, the Archbishop of Canterbury takes a volume and places it in the new King's or Queen's hands and says:

"We present this Book, the most valuable thing that this world affords. Here is wisdom, the Royal Law; these are the oracles of God."

Sir Walter Scott once declared, "There is but one book." That book of course is the Bible, a veritable library of sixty-six separate books, thirty-nine in the Old Testament and twenty-seven in the New Testament.

The Book was not only the source of worship and education but was the guide to the founding our our political institutions, as former Chief Justice Earl Warren points out:

"I believe no one can read the history of our country without realizing that the Good Book and the Spirit of the Savior have from the beginning been our guiding geniuses. . . . I believe the entire Bill of Rights came into being because of the knowledge our forefathers had of the Bible and their belief in it. Freedom of belief, of expression, of assembly, of petition; the dignity of the individual, the sanctity of the home, equal justice under law, and the reservation of powers in the people. . . . I like to believe we are living today in the spirit of the Christian religion. I like also to believe that as long as we do so, no great harm can come to our country."

How fortunate we are that the scriptures we have today are more accurate, more reliable, and more interesting than at any time in history. Archeology, ancient manuscripts, the discovery of the Dead Sea Scrolls, and techniques of language research have put our generation closer to original sources than any other generation in all history. And we may rejoice that the Bible, or some part of it, is now available in the languages spoken by ninety-seven per cent of the world population.

We are not the only people of a Book, for the Moslems have their Koran—but we are uniquely the people of this Book—the Holy Bible.

What a book this is. It is a library containing books by different authors, known and unknown, books of varying literary quality and widely divergent spiritual values. Law and prophecy are here, together with ancient wisdom, literature, and poetry. Here we listen to the thunders roll and mark the lightning flash as the Law is given at Sinai, and a motley crowd of nomads are welded into a nation under the glow of an incandescent faith. We hear the sound of "running history" as we observe the footsteps of God making broad His path in the history of the chosen people. We see the panorama take shape before our eyes. We catch the melodies of the singers as they break forth into triumphant praise before the mighty acts of God, or rise from the depths in plaintive tones as men bow before the chastening of a righteous God. The seraphic eloquence of Isaiah lifts us, and the passionate pleadings of Jeremiah grip our hearts and we catch visions of faroff things yet to be. The stern tirades and cutting invectives of the shepherd Amos from Tekoa, and the dull moanings of Hosea's broken heart—together with the rapturous visions of Ezekiel—stir our emotions.

Where will you find poetry to match the words of the shepherd's psalm—especially as strength for a soldier:

"Though I walk through the valley of the shadow of death, I will fear no evil; for thou art with me. . . .

"Thou preparest a table before me in the presence of mine enemies; thou anointest my head with oil (healing); my cup runneth over.

"Surely goodness and mercy shall follow me all the days of my life and I will dwell in the house of the Lord forever."

Or consider the 46th Psalm written during the siege of Jerusalem by the Armies of Sennacherib in the year 701 B.C.:

"God is our refuge and strength, a very present help in trouble."

"He maketh wars to cease unto the end of the earth; (God is the peacemaker; he has his own timetable.) he breaketh the bow, (the ancient rifle) and cutteth the spear in sunder: (the ancient rocket) he burneth the chariot in the fire." (the earliest tank).

Then amid the tumult the writer calls out: "Be still, and know that I am God; . . ."

Or the poetry that rises in the New Testament:

"Now we see through a glass, darkly; but then face to face: now I know in part: but then shall I know even as also I am known.

"And now abideth faith, hope, charity, these three; but the greatest of these is charity."

Or think of all the wisdom and wit packed into the Proverbs with such passages as you find in chapter 12, verse 23:

"A prudent man concealeth knowledge: but the heart of fools proclaimeth foolishness."

Where is there better music than in the Magnificat when Mary sings: "My soul doth magnify the Lord, and my spirit hath rejoiced in God my Saviour."

Or let the voices of the congregation or choir be caught up in the words of Venite: "O come let us sing unto the Lord. Let us heartily rejoice in the strength of our salvation. Let us come before His presence with thanksgiving; and show ourselves glad in Him with songs."

There are many acts and many scenes in the Bible but the supreme actor is God—making Himself known, revealing His laws, incarnating Himself in the Saviour, guiding, disciplining, and empowering His own people.

The Bible is not an object of worship—that is bibliolatry, nor is it a talisman or good luck charm—but it is the record of the God whom we worship and His dealing with man. It contains the enduring truths about God, about man, his redemption, and his ultimate destiny. The Bible is not a scientific manual but it is the chief source book for the queen of sciences—theology—"the science of God."

Look at some ways the Bible may profitably be read today:

1. Read the Bible as literature, for it is the supreme work of literary art. No other document bound in one volume contains such a wide variety of literary forms in such high quality as does the Bible. Considered solely as literature, it takes its place among the classics and merits the attention of all men in every generation.

2. Read the Bible as history. It is history. It is His story. It does not contain all history but the history it does contain is trustworthy as a record of God's redemptive acts for man's salvation. It is a book of sacred history—the history of how salvation and new life have entered into the life of man.

3. Read the Bible for its biographies. One of the proofs that it is the Word of God is that it is so true to life. The Bible portrays man as he really is and as he ought to become. It reveals man in the depth of his sin and the majesty of his manhood. How deeply a person can become absorbed in the career of Abraham or Moses—of Amos or John the Baptist—or Saint Paul. For drama, is there anything to equal Samson and Delilah? There is Delilah—beautiful and sensuous, seducing the mighty Samson until he yields his secret and in the end loses his power because he withdraws his dedication to God. Today's screen portrayals, with all their vivid intimacies, produces nothing more explicit than you will find in the Bible. Read the Bible for its biographies revealing man in his sin and folly, and in his redemption and rise to the heights of moral and spiritual grandeur.

4. Read the Bible as the inspired Word of God. God is a person and in the Bible He is communicating with persons. Spiritual things are spiritually discerned. The Book is understood when the reader approaches it with reverent and believing heart. Get beyond the words to The Word. *Hear* what God is saying. *See* what God is doing through this Book. And in the end its message will find permanent lodgment in the heart, expression in daily life, and become a lamp that will light the pathway through the generations. Comprehension of the Bible comes when the Holy Spirit, who is the author of its message, is present in the mind and heart of the reader. Come to it in the mood of worship and prayer. Learn to worship God in the Bible way.

5. Read the Bible because it contains the truth about Jesus Christ. It is His only authentic biography. Read it because you find Him in it. Jesus knew and used the Scriptures.

As a boy in the Temple He astounded the

rabbis with His knowledge of the Bible. To launch His public career He went into the synagogue at Nazareth and stood up before the congregation, opened the scriptures to the prophecy of Isaiah and read:

"The spirit of the Lord is upon me, because He hath anointed me to preach the gospel to the poor. He has sent me to heal the broken-hearted, to preach deliverance to the captives, and recovering of the sight to the blind, to set at liberty them that are bruised, to preach the acceptable year of the Lord."

Then: "He closed the book and gave it again to the minister, and sat down. And the eyes of all them that were in the Synagogue were fastened on him."

With these words from the 61st chapter of Isaiah, he set out upon his radiant mission. Whenever he preached or taught he drew on the ancient Hebrew scriptures. Whenever religious experts and synagogue lawyers, the scribes and the pharisees, tried to trap him in their frequent debates, he would say, "Does not the Scripture say . . .?" and then go on to drive home his point.

Then when he came to his suffering on the cross and faced the ultimate question, crying out "My God—Why?" he drew upon the Scripture, and after declaring "It is finished!"—his very last words were a paraphrase of the 31st Psalm, verse 5: "Father, into Thy hands I commend my spirit."

If Jesus found the words of holy Scripture to be a central source of power for His life, how much more do we on the lower levels of life, struggling to follow in His footsteps, need the wisdom and the strength which come from the knowledge of His Holy Word.

Let us pray, in the words of the Book of Common Prayer:

"Blessed Lord, who hast caused all holy Scriptures to be written for our learning: Grant that we may in such wise hear them, read, mark, learn and inwardly digest them, that by patience, and comfort of Thy holy Word, we may embrace and ever hold fast the blessed hope of everlasting life, which Thou hast given us in our Saviour Jesus Christ." Amen.

GOLDEN JUBILEE OF HISTADRUT—ADDRESS BY SENATOR HUGHES

Mr. CRANSTON. Mr. President, the Senator from Iowa (Mr. HUGHES) made a significant speech on the Middle East recently in Minneapolis. I believe this is a particularly appropriate time to bring the remarks of my distinguished and good friend to the attention of the Senate.

I ask unanimous consent that his speech be printed in the RECORD.

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

REMARKS OF SENATOR HAROLD E. HUGHES, MINNESOTA TRADE UNION COUNCIL FOR HISTADRUT, HISTADRUT GOLDEN JUBILEE CELEBRATION, AUGUST 23, 1970

I am addicted to a modern American proverb, the origin of which is unknown.

It goes like this: "There is no solution; seek it lovingly."

As we work to preserve the way of life we prize and the country we love, we have no guarantee that we will be successful.

We have only faith that we will hand down to our children a heritage and not a holocaust.

But this is a mystery of life that all generations have shared.

If your house or your neighbor's house is on fire, you do your best to put it out. You don't stop to figure the odds.

It has always been this way. Suppose the ragged men at Valley Forge had stopped to figure the odds. We would be listening to Queen Elizabeth on television, not President Nixon.

The same individual qualities of faith and courage and staying power that brought us through then are still legal tender.

And we are not without examples, in this country and abroad, today.

Tonight we celebrate the 50th Golden Jubilee Year of Histadrut, the Labor Union of Israel.

In paying tribute to Histadrut, we honor the working men and women of the world everywhere, and we salute a nation that is a profile in courage and initiative, the nation that made the desert bloom.

No action you members of the Trade Union Council could take would be more beautifully appropriate than to build a memorial in Israel named for Walter Reuther.

Walter Reuther, like Golda Meir and Moshe Dayan, is a symbol of the value of a single individual in a mass world.

It was my privilege to have a long telephone visit with Walter on the Friday afternoon before his tragic and untimely death.

As always, I got sparks from what this Great American had to say—the kind of sparks that make you move ahead to bigger objectives and forget about the odds.

My personal impression of Walter Reuther was one of sudden sunlight and quick lightning. Within him were the contrasts of greatness. He was the toughest of fighters against injustice, and at the same time a compassionate worker and a prophetic planner for human betterment.

What you are doing to help Israel is magnificently consistent with what Reuther stood for. Building schools and hospitals, caring for children, improving the lot of working people—these are direct routes to a better world.

The work of Histadrut teaches us a lesson which should be heeded in all of American foreign policy. Building a nation requires more than building an army. However necessary certain defense measures may be, they do not, by themselves, aid the long-term growth or development of a nation.

Israel has made enormous social progress, despite its necessarily high budgets for defense. Its people have attained a literacy rate of 90 percent, which is three times the rate of their Arab neighbors. Compared with the United States, Israel has as many hospitals and 50 percent more doctors per capita, and Israelis have a greater life expectancy than Americans.

Israel's progress contrasts sharply with most of the Arab states, who lag far behind in medical facilities, literacy, and life expectancy, and where the military factions rest on shifting sands and on the backs of subsistence farmers.

America's long-range goal is to bring economic and social progress to all of the Middle East. But those developments require peace, and peace today is in short supply.

The Middle East is now on the verge of renewed fighting. The situation is changing daily, but there can be no doubt that it is volatile.

The conflicts in the Middle East are many and varied, as you all know. Sometimes, however, I think we focus too much on the East/West or Arab-Israeli aspects of the situation and ignore other profound divisions in the area. The Arab countries are themselves divided along many lines: rich and poor, stable and unstable, radical and conservative, actively belligerent and passively hostile.

These many lines of conflict make any settlement much harder to achieve. What Egypt might accept, Syria might well reject; what Jordan would favor, the guerrillas would likely oppose. Such facts make any real "solution" almost impossible. For a long time to come we will probably be faced with deeply rooted tensions, suspicions, and disagreements.

These problems have been with us for many years. What is new this year—and particularly disturbing—is the rapid increase of Soviet military involvement in the area. The Soviet Navy has become active in the Mediterranean and now has major base facilities at Alexandria. The Russians are sending in 15 to 20 thousand military advisers. These men have increased their role from merely training Egyptian forces to manning the Surface-to-Air Missile sites (the SAMs) and recently even to flying planes against Israeli aircraft.

The Russians seem to be repeating in Egypt our own myopic slide into Vietnam. They haven't learned that a little military involvement is a dangerous thing.

The more deeply involved the Russians get—for whatever reasons—the more likely they will feel compelled to stay. Rather than helping the Egyptians, the Russians might come to view the conflict as a test of their prestige. They might take us to the brink of a world war in order to avoid being viewed as a "pitiful, helpless giant."

Soviet involvement is not the only cause of increased tensions in the Middle East, but it is a major and inescapable one. All sides must tread carefully, for the slightest rumblings now could set off a war like nitroglycerin.

We all know that if the Soviet Union were not so deeply involved, especially with its own armed forces, the Middle East would be much more stable. We all know that the Israelis can defend themselves heroically, magnificently, and Heaven knows, successfully. And we all know that lasting peace will come to the Middle East only when outside forces stop trying to foment revolutions within the nations of the area.

American policy toward the Middle East has followed a sound and steady course for the past two decades. Historically, we have supported Israel and its right to exist and be recognized as an equal among nations. We have supported international restraints on the conflict in the area. We have offered friendship and development assistance to all willing nations.

This policy is based on our moral and spiritual commitment to Israel, on the belief in the rule of law rather than force, and on friendship to all who reciprocate it.

The United States does not want to inflame tensions or widen divisions in the Middle East. We would all prefer the nations of the area to work together peacefully and productively.

There is no reason to change this policy. It still serves true American interests. Those interests are not simply economic investments, but include our word as a nation and our respect for basic principles of international law.

Our choice is not between oil and Israeli survival—and it must never be posed that way. We can have both if we base our relations with the countries of the Middle East on the principles of mutual respect, national integrity and survival, and freedom of exchange in ideas and goods.

The Middle East is an arena of great conflict and, potentially, a major war. Although there are some superficial similarities to the troubles in Indochina, the situations are fundamentally different.

In both regions, it is true, there are external powers deeply and destructively involved. Both conflicts spring from intense ethnic antagonisms and contests for control of territory.

But Israel is a different and much better ally.

Israel has a democratic government which reflects the political forces within the nation and which is responsive to the needs of the people. The Government in Saigon is not democratic, is not representative of the political groups in the country, and is far from responsive to the needs of the people.

Israel is fighting for its survival in a hostile environment, but it asks only American diplomatic support and sales of military equipment. While Israel makes such sacrifices for its defense, the Saigon generals demand continued American sacrifices of blood and treasure. Some of our so-called allies even demand bonus payments to fight on our side.

The Israelis are strong and independent; the Saigon government demands a veto on our actions.

The Israelis are willing to take substantial risks for peace. No nation in the Middle East wants peace more. But the Saigon generals are so fearful of peace that they put its advocates in jail.

The Middle East conflict is different from the one in Indochina in other respects as well. There are defined borders and visible front lines around Israel. In Indochina there are the ambiguities of areas, ruled by one group in the daytime and another at night.

The outside powers involved in the Middle East recognize their mutual interest in preserving peace. In Southeast Asia, some nations see more to be gained by continuing war.

As a result of these differences, the American stake in the outcome is much greater in the Middle East than in Southeast Asia. American withdrawal from Indochina would force the various political factions to reach some kind of accommodation. But the withdrawal of U.S. support for Israel would leave that valiant country naked prey to armies bent on genocide.

The situations are different—as different as night and day; or as right and wrong.

Two weeks ago the chances for peace suddenly brightened. Israel and Egypt agreed to begin indirect talks on a political settlement. Those talks were to be freed from military pressures by a cease-fire lasting at least 90 days. During the cease-fire, neither was to extend or improve its military position along the Suez Canal.

The basis for a settlement now exists. The Israelis have removed the roadblocks to an agreement which troubled the Arabs most. In particular, Israel now has agreed to consider withdrawal from some of the territories occupied during the 1967 war. In return, of course, Israel demands full recognition of its right to exist within secure borders. Israel has also shown a willingness to make some final settlement with the Palestinian Arabs.

The Arabs—or at least some Arab leaders some of the time—have spoken as if they could accept recognition of Israel and its legitimate security needs. They must also, of course, agree to control their own populations to prevent raids against Israel.

I do not say that the chances for a lasting settlement now are good. But the cease-fire and talks are a necessary and welcome first step.

Where we go from here depends on how well we handle the present crisis over the cease-fire.

Let us first remember one major fact: If this crisis goes unresolved much longer, all-out war is the likely result.

The prelude to the 1967 war showed that Israel cannot wait for the other side to strike first. Its margin of survival is too small.

And since Israel defense rests on the entire population, the nation cannot remain long in a state of mobilization. We have to act soon before fears and suspicions destroy the present opportunity to move a little closer to a lasting peace.

Our major problem today is how to preserve the cease-fire and achieve productive talks. But talks will never be successful in an atmosphere of uncertainty over compliance with the cease-fire agreement. Full compliance is absolutely essential in order to preserve peace in the Middle East.

But what are the facts? The Israelis say that the Egyptians and Russians are moving missiles toward the Suez Canal; the State Department says that American evidence is "not conclusive."

I don't know what the truth is. I wish I did. What have we bought with these billions of dollars for electronic devices, U–2 planes, and reconnaissance satellites?

If this were Vietnam, I am sure that our government would have released full-color photographs and detailed analyses of the number of one and two humped camels near the Suez Canal.

Instead of clearcut evidence either way, the State Department says that it will examine the Israeli evidence and then communicate privately.

This kind of secrecy and evasiveness are unacceptable. The American people deserve to know the truth.

Perhaps the evidence is truly ambiguous, but if there is honest disagreement, we should discuss it candidly.

It is imperative that we be open and unequivocal about our policy in order to avoid misunderstanding and miscalculation.

If the Egyptians are violating the agreement, we must do all within our diplomatic power to insure compliance. And we must stand ready to provide Israel with whatever is necessary to maintain its military security along the Canal.

Whatever we do must be done openly, leaving the Soviet Union with no doubts about our determination to get full compliance with the agreement and, at the same time, leaving the Israelis with no doubts about our firm support for their right to live within secure borders.

Those who love Israel and are committed to the support of her sovereignty and security both within her borders and elsewhere, can only pray for peace for their brave little country.

Man for man, no nation was ever abler or more determined to defend herself. But the fatal arithmetic of 3 million Israelis surrounded by 50 million Arabs must make it apparent to anyone what would happen over the long run to this gallant people if this fighting goes on as it has been going this past year.

I completely agree with Dayan that we "bear a heavy responsibility," since we initiated the cease-fire, and the Israelis agreed to it only after we informed them that the Soviets would abide by the stand-still.

I agree with the long-standing Israeli position that eventually Israel and Egypt must negotiate, themselves, directly or indirectly.

In the meantime, in the steps leading up to this, it is essential that we do not take too arbitrary, conventional, or simplistic an approach.

Negotiation that is not focused on the realities would be futile. Negotiation simultaneously on all of the diverse and widely conflicting aims of the various Arab nations would be predestined to failure.

The cease-fire is a start, but only a start. It must be validated; this is our burden, as I see it.

The stakes are too high, the risks are too great, to resolve these disputes over violations on the basis of aerial photographs that can be interpreted in different ways.

Analysis of photographs takes too long. It would be tragic if the chances for peace were lost now because intelligence estimates arrived too late to enable us to move quickly to expose and rectify any violations.

The only way to get adequate answers to our questions and satisfactory proof on the different allegations is to make direct inspections of military installations within the truce zone. In the present climate of suspicion, the only groups likely to be acceptable in such a role are joint Soviet-American inspection teams. Unless we both assume the responsibility for maintaining an effective cease-fire and standstill truce, the last chance for peace may slip away.

Senator Cranston of California and I proposed such joint inspection teams in a letter to Secretary of State Rogers. Last Friday, we wrote in part:

"We urge you to move forcefully now to take what we believe would be a dramatic and effective means of maintaining the ceasefire and standstill by urging the Soviet Union join with us in establishing joint inspection teams to patrol along both sides of the line. These teams, sent along the ground and in small observation planes, would enable us to detect ceasefire violations almost as soon as they occur. Indeed if we had had such teams when the ceasefire went into effect, the earlier violations could have been exposed and corrected. Moreover, the presence of such teams would have a sobering effect upon local commanders who might otherwise be tempted to improve their tactical positions during this period.

"If we and the Soviets act now it will enable Ambassador Jarring to move ahead with his diplomatic efforts and lessen the danger of a return to the expensive and costly bloodletting along this front. More importantly, joint inspection teams would reassure both parties that their military positions would not be jeopardized while the talks are going on. Hopefully as the talks proceed and the prospects for peace improve it may be possible for American-Soviet inspection teams to be replaced by Egyptian-Isareli teams."

Such inspection teams might be difficult to establish—and their task certainly would not be easy. These teams are not meant to be permanent, but would operate only until other effective steps could be found to preserve the cease-fire. All sides would benefit from this insurance against violations.

In this complex situation, there must be an unconquerable search within the realistic context of the negotiable issues for the hidden keys, the unexpected symbols that might get the wheels truly moving . . . however slowly.

Recently the Egyptians returned to Israel a wounded pilot who had been shot down during an August 3rd raid on Egyptian positions along the Suez Canal.

Maybe this was plainly and simply a public relations ploy.

But whatever it was, it was a human being restored to his people and a humane deed, even if not for all of the right reasons.

I have been as concerned as any American about the treatment of our prisoners of war in the hands of the North Vietnamese. But I have also contended that our best assurance of decent treatment of our prisoners of war is for our government to use its influence on behalf of humane treatment for all prisoners, including those taken by ourselves and the South Vietnamese forces.

A week ago last Tuesday, more than 100,000 Jews gathered at the Wailing Wall Jerusalem to begin their lamentations over the destruction of the Temple, according to the Rabbinical calendar, 1,900 years ago.

For the benefit of these people who have suffered so much through the centuries; for the benefit of the Arabs and Arab refugees who, except for the blind revolutionaries, must also long for peace; for the benefit of peace-seeking people all over the world; our government must act decisively, fairly, and imaginatively to open up new options for peace in the Mideast.

THE SUPERSONIC TRANSPORT

Mr. SCOTT. Mr. President, the Senate Appropriations Subcommittee on Transportation will soon be marking up the bill for the Department of Transportation. The most controversial item in that measure calls for expenditure

of $289 million for a continuation of the prototype development of the supersonic transport.

Like many other Senators, I have been disturbed by the questions raised about the environmental impact that a fleet of SST's would have. I am also concerned about the possibility that the private financial sources in this country might not wish to put up the funds necessary to finance production of these aircraft. At the same time, however, I recognize that we are well along with the development of prototype aircraft, having spent over $700 million on the project. Therefore, failure to proceed with the prototype on the basis of the questions raised would mean defaulting on a potentially viable market without adequate knowledge of all the factors involved.

In this frame of mind, I invite the Senate's attention to the article on this subject written by Henry C. Wallich, published in Newsweek of September 21, 1970. In my view, it is a clear statement of the situation we face. Mr. Wallich also shares the concerns of many about this aircraft; but as he says in the article:

> It seems clear that the U.S. has little to gain and much to lose from terminating the SST project. We shall have to build.

He correctly identifies the issue. It is not, as the opponents of the SST would have us believe, the question of whether or not SST's will be flying in the 1970's. It is, rather, whether there should be an American SST flying in the 1970's. The only way we can keep that option open is to proceed with the development of the prototype.

This does not mean, however, that we must commit ourselves at this time to production of this aircraft. Indeed, it would be foolish to do so before we are sure of two things—first, the environmental impact that a fleet of SST's would have, and second, the commercial viability of the design itself. It is the environmental question about which we have heard so much in the past few months. So let me outline the current environmental research and development program that is now being conducted to study the supersonic transport.

The pending request for appropriations to continue work on the SST totals approximately $290 million. Of that request, over $12 million will be spent by private industry for environmental research. Independently of the total request for funds, the prime contractors will spend over $3 million to study the associated environmental problems.

In addition, the administration is embarking upon a massive 3-year, $27 million environmental research program to study the supersonic transport. During the current fiscal year alone, the Department of Transportation will be spending over $2.5 million on environmental problems. The National Aeronautics and Space Administration will be allocated nearly $4.4 million for similar study. And the Air Force will be conducting its own studies with a separate appropriation of $1.3 million. It is important to note that all of this coordinated environmental research will be devoted only to the study of the SST and its effect on the environment, and I urge its continuation but on an even greater scale. I, therefore, urge that an additional $5 million be appropriated this year for continued environmental research on the SST.

During the course of the administration's 3-year SST environmental research program, attention will be focused on three major anticipated problems: Noise, radiation, and weather modification. All of the resources of the Federal Government and private industry must continue to be brought to bear upon the problem of noise suppression, reduction and control. Radiation research must continue to be conducted at high altitudes to make the necessary determinations. Weather modification research must continue to be conducted on all phases of weather and climatological problems. Clearly, this administration must continue to spend a great deal of money and expend a great deal of effort to find out just what kinds of environmental problems we might expect with a fleet of SST's. In my own study of the SST and its development to date, I noted with great interest that President Kennedy, who initiated this program in 1963, never mentioned the effort that would have to be made to determine the environmental impact of the SST, although I am certain that many people in Government were well aware of the problem at that time. I mention this only to demonstrate our deep concern, 7 years and two Presidents later, over these important environmental considerations. The Nixon administration has wisely separated the building of the prototype from the possible production of the commercial fleet. What we are engaged in here, therefore, is primarily research and development; and we are in no way committed to proceed with production if that research indicates that it would be environmentally dangerous or uneconomical, in any way, to proceed with commercial production. This fact is well known to the Department of Transportation and others charged with administering the program, but it is still unnoticed by the public at large. The kinds of objections being raised in the mail I and other Senators are receiving on the subject makes that very clear.

I think we in Congress have a responsibility, therefore, to go beyond simply repeating the assurances the administration has made to the effect that construction of the prototype does not commit us to production. We need positive and straightforward language which will assure the American public that the SST will be compatible with the protection of our environment or it will not be allowed to fly. We need to support the research on environmental matters connected with the SST which the administration is conducting, research which will bring the completion of the prototype total close to $30 million. I urge that it be made abundantly clear in the language of the act itself that commercial flights will not be permitted to commence unless adequate environmental research has assured that there will be no environmental dangers inflicted upon the American public by a commercial fleet of SST's. I also urge that the language of the bill be written to make it clear that no public funds appropriated by Congress will go for the production subsidy. For my part, I will not support the production phase of the SST unless the essential environmental problems are solved following completion of the prototype phase. That is why I am urging continued appropriation for the prototype to determine whether or not we can solve these critical problems.

I am not a member of the subcommittee and, therefore, will rely upon those capable and distinguished Senators who are to wrestle with the problem. However, I urge them to include in the language of the bill the kinds of assurances I have discussed and which, in my view, the American people need if they are to give support to this program.

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

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

THE SST

Congress is now debating whether to appropriate $290 million to build two prototypes of the Boeing supersonic transport. If by voting down this appropriation we could ground all supersonic flights, I would favor terminating the project. The nuisance that the plane will cause to man at rest or at work outweighs its convenience to man on the wing. Sideline noise at the airport, takeoff roar nearby, sonic boom wherever it goes at full speed, will make the plane a prime nuisance. Disturbance to the upper atmosphere is a remote but serious threat. The traveler's gain in time is unimpressive particularly when measured portal to portal instead of from end of departure delay to beginning of arrival stack. Rarely will so many be bothered on any day to save so little time for so few.

Some of the SST's opponents, with engaging parochialism, talk as if Congress, by denying the money, could keep all such planes from being built. Unfortunately, Congress cannot. The Franco-British Concorde—as well as the Russian TU-144—is already flying. If the Concorde proves technically and commercially viable, the only remaining question is whether the various nuisances are to be produced by their plane or ours. We cannot escape.

It is futile to argue that we can have peace and quiet by simply denying the Concorde the right to land here. What we can have is a nasty argument with a number of friends and allies. We keep out their Concordes, they keep out our jumbo jets. Since we use more airports abroad than others use here, we probably are at the short end of the stick. The eventual outcome is foreseeable: a compromise involving some noise abatement, presumably no supersonic flights over land, but all the rest pretty much as programed.

WILL CONCORDE FLY?

The question therefore is whether the Concorde will turn out to be viable. Before the plane lifted off the ground, some skepticism was in order. But now that its tests have begun, these fears or hopes are beginning to fade. The plane has not yet shown that it can do its promised top speed, because the tests have not yet reached that phase. Reports have it that the Concorde is "gaining weight," i.e., that the designers are having to reduce its payload. But reduced commercial viability can probably be made up by come-

ons to the purchasers. A Concorde II, moreover, is said already to have entered the thinking stage. Seven American airlines and nine foreign ones are now lining up to buy Concordes. The Japanese and the Dutch are reported to be dickering with the Russians for the TU-144 plus some preferential air routes.

If the SST is not built, the consequences for the U.S. balance of payments will be pretty dramatic. The U.S. now is a strong exporter of planes. If the Concorde takes over the world market, we shall become a heavy net importer. The supposed stimulation of tourism, which has played a role in balance-of-payments calculations, I do not consider worth counting. I doubt that many tourists will pay premium fare for a chance to meet their maker at Mach 2.7. But even without tourism, the annual damage to the balance of payments, conservatively estimated, would be of the order of $1 billion till 1985, and with some imagination this can be parlayed above $3 billion.

WE MUST BUILD

It seems clear that the U.S. has little to gain and much to lose from terminating the SST project. We shall have to build. Nevertheless, the U.S. is not without options. We can rush to build the SST now, as is being proposed, or we can delay in order to let technology catch up with the plane, which is said to be rather ahead of our tested capabilities. Evidence of that are the big design changes which the plane has suffered since Boeing nosed out Lockheed for the contract. The SST even now is almost twice as big and almost half again as fast as the Concorde. But the plane will ultimately fly faster if built with more deliberate speed.

If such delay leads to more even sharing of the world airplane market, this would not be a total disaster. The British—less so the French—need exports too. If they can sell some Concordes, we may have to lend them less money next time there is need to stabilize the pound. But the decision whether to proceed posthaste with a commercial SST or simply continue development work is not yet upon us. The issue now is whether to keep our options by building the prototypes, or drop out altogether. Clearly we must build

DIRECT POPULAR ELECTION OF THE PRESIDENT

Mr. SPARKMAN. Mr. President, I cannot think of any issue that we have debated in recent years that so profoundly affects the American way of life, and the future stability of this Nation, as this proposal for direct election of the President and Vice President of the United States.

I am opposed to the resolution for many reasons. While I realize that the electoral college system has its defects—it is not perfect—these defects can be eliminated by a constitutional amendment which would reform, not abolish the present presidential election process. I favor electoral reform but not the present proposal.

In a word, I see no justification for dismantling completely a system which has served this Nation so well down through the years.

Mr. President, I am much persuaded by the views of those joining in the minority report from the Judiciary Committee. I was particularly persuaded by the view that the electoral-vote system, operating as it has down through the years, makes it necessary for a successful candidate for the Presidency to put together, not just a majority, but a broadly based majority, both geographically and philosophically. The system encourages moderation. It encourages compromise and conciliation, and it discourages extremism. We often hear it said of present-day Americans that we are becoming polarized, and I believe that this is alarmingly true. The polarization of political thought in this country contributes significantly to the difficult times in which we live. This is not a time to discard entirely a basic working part of a political system that has brought us through the difficult—indeed perilous—times of the past.

In all this time the electoral college has been assailed vociferously from all sides. It has been condemned as a "tool" of every imaginable interest. Conservatives have attacked it for producing liberal Presidents; liberals have attacked it for producing conservative Presidents. It has been assailed as favoring both major political parties, and all sections of the country, at one time or another.

But the fact remains that the electoral college has provided us with an extraordinary number of outstanding men in the White House who have entered the office with a solid demonstration of public support and have governed the Nation honorably and well.

To quote from the minority views of members of the Judiciary Committee who opposed the Bayh amendment:

It [the electoral college] has given us men who, by and large, have been free from the corrupting influence of faction precisely bebause their method of election forces them to understand the public good as something more than the sum of the interests of their friends.

It has given us Presidents who have been for the most part independent of Congress and the States, but well aware of the powers and prerogatives of both.

I am still quoting the minority report:

In short the electoral college, in conjunction with the party system which grew up in response to it, now produces . . . an energetic and independent and yet responsible and limited Chief Executive. Thus, it will not do to say that the electoral college is antiquated or outmoded; no more viable institution, nor a more salutary one, will be found today.

The minority report goes on to say that the abolition of this proven mechanism and the substitution of direct election of the President would destroy the two-party system, radicalize public opinion, endanger minority rights and undermine the federal system by removing the States as States from the electoral process.

I hold with these views.

Mr. President, the phrase "direct election" is both appealing and deceptive in its simplicity. There is little wonder that the polls that have been taken nationally show a large majority of Americans in favor of "direct election." I am quite confident that if a national poll were taken on the proposition "Do you believe that our political system should provide protection for minorities against the majority," you would get equally large percentages in the affirmative column. I would hope that this debate in the Senate—and with the help of the press it will be so—I would hope that this debate will bring home to the American people the dangers that accompany tampering with a proven, workable system. There is much talk about how it might not have worked in such-and-such a year if so-and-so had happened, but the truth is that it not only works, but it has done a good job of providing this country with distinguished leadership down through the years.

In his first inaugural address, President Thomas Jefferson declared:

The will of the majority is in all cases to prevail, but that will, to be rightful, must be reasonable.

By "reasonable majorities" Jefferson meant those which would be disinclined or unable to interfere with the rights of others. Accordingly, in this debate on electoral reform, the crucial question is whether one method of election is better than another at creating reasonable majorities.

In other words, one method might be better in obtaining a strictly numerical majority, at the price of failing to safeguard minorities, while another might protect minorities very well indeed, but at the price of frustrating a truly reasonable majority.

In presidential elections, the electoral college seeks the ideal approach to a reasonable majority by attempting to strike a golden mean: that is, numerical majorities which are moderate in character. It grants a certain preference to numbers, in this case greater representation for the more populous States.

But it denies, quite properly, that numbers alone should be the exclusive criterion, hence minimum representation for the least populous States. In other words, the electoral college attempts to satisfy qualitative, as well as quantitative goals.

These goals include the strengthening of the Federal system by giving the States as States a say in the selection and election of Presidents. Another goal is the desirability of representing certain interests whose only drawback is the lack of great numbers. A third is the desirability of imposing institutional restraints upon the abuse of power in the office of the Chief Executive.

I do not think anyone would deny that our two-party system has done an indispensable job in promoting the dual purpose of American politics: majority rule with minority rights.

Since both parties face the same requirements in all States, an electoral majority, when it does emerge, is both geographically dispersed and ideologically moderate. The victorious party is therefore capable of governing in the best interests of the great majority of the people. The electoral college, in sum, produces truly competitive, State based, moderate political parties.

One of the gravest dangers of the direct election to the American political system is the runoff election, with its encouragement of splinter parties. With a runoff, it is not only possible, but probable, that many candidates will enter the presidential race. The consequences of this are not pleasant to consider.

Prof. Alexander Bickel of Yale Law School declared in this connection—I quote him:

I think it altogether probable that under a system of popular election the situation would be as follows: the runoff would be, not an occasional occurrence, but the typical event. The major party nomination would count for much less than it does now—and might even eventually begin to count against a candidate. There would be little inducement to unity in each party at or following conventions. Coalitions would be formed not at conventions, but during the period between the general election and the runoff. All in all, the dominant positions of the two major parties would not be sustainable.

This sort of unstructured, volatile, multiparty politics may look more open. So it would be—infinitely more open to demagogues, to quick-cure medicine men, and to fascists of left and right. It would offer, no doubt, all kinds of opportunities for blowing off steam and for standing up uncompromisingly for this or that cause, or passionately for one or another prejudice. But people who think that our democracy would become more participatory fool themselves. Weaker, yes. More participatory in real sense, no.

While men continue to take varying positions on issues, compromise and coalition remain unavoidable. The only question is when and how coalitions are formed and compromises take place. Coalitions are now formed chiefly in the two-party conventions, which are relatively open and accessible and can certainly be made more so. In a multiparty system, the task of building coalitions will be relegated to a handful of candidates and their managers in the period between the election and the run-off. The net result will simply be that the task will be performed less openly, and that there will be less access to the process. Governments will be weaker, less stable and less capable than our governments are now of taking clear and coherent actions. Where multi-party systems have been tried, they have been found costly in just these ways, and they have scarcely yielded the ultimate in participatory democracy or good government. Nor have they lasted.

Under the American party system, our political parties are essentially State-dominated. The so-called "national" parties are, in fact, coalitions of State parties, and the State parties, in turn, are coalitions of county and local party organizations. Thus, the major parties are organized from the grassroots up, which enables them to accommodate a wide diversity of competing interests at the State and local level, and helps to keep elected officials responsive to State and local needs.

The thing that brings all these party units together is the campaign, every 4 years, to capture the Presidency. The role of the States as States is paramount in this procedure. And this structure of the political parties reinforces the power of the States as members of the Union.

The minority report of the Judiciary Committee—which I quoted earlier—states in this connection:

The most obvious symbol of the State orientation of the major parties is the national convention. Delegates come to the conventions as representatives of their States, and voting power is allocated in proportion to electoral vote strength. The direct election of President, of course, would destroy the utility of having delegates selected or votes distributed in this manner.

There would be no reason whatsoever for the States as such to be represented; delegates would most likely represent interest groups.

Let me again refer to the minority report—quoting:

The electoral college asks, in effect, "Who is the choice from Texas." "California." And so on. In so doing, the electoral college shores up the power of the States of the Union. The commonly voiced argument that the Presidency is a "national" office and therefore demands a "national" constituency ignores a most important fact.

For the term "National," as applied to the United States, must include the most distinctive feature of our Constitution, a Constitution which established—in the words of Mr. Justice Chase—"an indestructible union of indestructible States."

Some people may have lamented that phrase, but none can deny its impact and significance. Nor can any proposal to change the presidential election system ignore it, without upsetting the entire balance of the Constitution. The Senate should weigh this carefully before voting to make any changes in the presidential election.

The Senate also should be careful to preserve those institutions that are essential to the maintenance of political equality. Paramount among these, certainly, is the federal system.

Mr. Theodore White, author and political analyst, has testified that the direct election would drastically change the nature of our presidential campaigns. He declared:

Our Presidential campaigns right now are balanced in each party to bring a compromise, to eliminate the extremes of both sides, and create a man who has at least the gift of unifying his party and thereafter the nation.

Once you go to the plebiscite (direct) form of vote, you get the more romantic, the more eloquent and the more extreme politicians, plus their hacks and TV agents polarizing the nation rather than bringing it together.

The same authority, Theodore White, added:

If States are abolished as voting units, TV becomes absolutely dominant. Campaign strategy changes from delicately assembling a winning coalition of States and becomes a media effort to capture the largest share of the national "vote market."

Instead of courting regional party leaders by compromise, candidates will reply on media masters. Issues will be shaped in national TV studios, and the heaviest swat will go to the candidate who raises the most money to buy the best time and the most "creative" TV talent.

Let me just add one word regarding the possibility of contested elections if our present system were abolished. Ernest Brown, professor of law at Harvard stated that under a direct election of President—and I quote him—"the mere fact of contest is a disaster." He added:

Close elections lead to contests. And with direct election, the contest would be nationwide. Every ballot box, every voting machine, would be subject to contest.

It is easy to see how the uncertainties surrounding a recount, to determine the outcome of a close presidential election, could paralyze the Nation. The mechanical aspects of a sizeable recount would be dangerous enough. However, if legal questions concerning voter qualifications and other matters were raised, as they surely would be raised, the period of the recount would be nothing short of chaotic, as the minority report of the Judiciary Committee warned.

Under the present system, the popular vote in most States most of the time is insulated against challenge and recount. Professor Brown testified regarding this:

The present system insulates the States. When the vote is counted by the States, the area of the contest is kept local.

Prof. Charles Black of Yale Law School, commenting on the same subject, testified:

We now have a compartmentalization of the recount problem, like the compartmentalization of a ship. If it springs a leak in one part, that part is sealed off from the others. The recount problem is an infrequent incident, because very often the State in which fraud is charged or error is charged will be one which, on inspection of the electoral totals, does not matter anyway.

Mr. President, we hear a great deal these days about participatory politics. There is the legitimate concern in the country that groups of citizens—whether because of race or age or whatever—may not feel that they have an opportunity to participate in the governmental process. I certainly feel that our system of government should provide the opportunity for all citizens to be involved. In my opinion, the direct election method proposed by Senate Joint Resolution 1 will be a step in the wrong direction. My feeling in this regard is shared by Theodore White, and he expressed it this way in testimony to the Senate Judiciary Committee:

Finally, in politics, I believe there are things that are more important than statistics and vote counting. There are communities. We live in a world of communities which have been balanced and put together by our federalized American system. I believe it is good and right that when somebody goes to the polls in Boston, Mass., he feels he is doing something about the Massachusetts vote, and when the Tar Heel from North Carolina goes to the polls he feels he is doing something for North Carolina.

I would not want to strip this sense of identity from the great historic communities of the United States of America in which each man feels he has a role to play in the larger role of his community for a role which makes him just one more digit, one of those electronic figures that will come cascading in at 70 to 80 million votes in a 6-hour period some November night in which he has no identity whatsoever.

Mr. President, the United States is a big country, with diverse regions and peoples and politics. It is no accident that we remain a strong and basically unified nation.

The system of Government under which we have lived and prospered for nearly 200 years has provided our Nation with strong and effective leadership while preserving the blessings of liberty for our millions of people. No other system of government has ever done so much.

All who have engaged in this debate agree that no system of electing the President and Vice President is perfect. I certainly agree that the electoral-vote system is not perfect. The fact remains, however, that it is the only system of any that has been proposed that has actually worked for almost 200 years.

I remember several years ago when my alma mater, the University of Alabama, had a very fine football season. In fact, I think that they had won every game that year. When they were not selected as the

No. 1 football team in the country, our coach, "Bear" Bryant, was asked for his comment, and he said "winning ought to count for something."

Mr. President, I feel very much that way about the electoral-vote system. Working ought to count for something, and the system has worked for about 200 years. If it needs some improvement, then let us get about the business of improving it. But let us not entirely discard a basic part of the system in favor of an untried and drastically different method.

A LETTER FROM PRESIDENT NIXON TO DR. JAMES McCAIN, PRESIDENT OF KANSAS STATE UNIVERSITY

Mr. DOLE. Mr. President, I have with me a copy of a letter written by President Nixon to Dr. James A. McCain, president of Kansas State University.

Dr. McCain is one of the outstanding college presidents in America. He became president of Kansas State College on July 1, 1950. Since then, Dr. McCain has guided Kansas State to its present full university stature with an enrollment of more than 14,000 students.

During times of great turmoil and disruption on many of our university campuses, Kansas State University, with the leadership of Dr. McCain, has remained strong and responsive.

Kansas State, now comprised of seven internal colleges and a growing graduate school, is not isolated. The student body includes young people from every State in this Nation and international students representing some 50 foreign nations. These students are just as aware on the national situation as any other student body in America.

President Nixon's visit to Kansas State University on September 16, and the university communities' response, proved that the overwhelming majority of young Americans—regardless of their political or ideological views—are respectful and responsive to words of reason.

I ask unanimous consent that President Nixon's letter to Dr. McCain be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, D.C., September 18, 1970.

Dr. JAMES A. McCAIN,
President, Kansas State University,
Manhattan, Kans.

DEAR PRESIDENT McCAIN: The tremendous reception that your university community gave me when I delivered the Landon Lecture on Wednesday was of course immensely heartening to me personally. But it was even more heartening because of its broader implications—implications that go beyond the occasion, and beyond Kansas State University itself.

Your students demonstrated dramatically that the mindless disrupters are not the voice of America's youth, and not the voice of the academic community. They showed that decency and courtesy are still cherished. By their example, and by their massive response to the few who did attempt to disrupt the meeting, they showed that there is a responsible majority and that it, too, has a voice.

I know that at Kansas State, as at our other colleges and universities, there are many and diverse views about the great issues that confront our country today. But these are questions about which rational people can argue rationally. Only those who fear the process of reason have cause to shout down those they disagree with.

What impressed me most at Kansas State was the willingness of the students to listen, and their determination to be allowed to listen. It is this determination that will restore our nation's colleges and universities as citadels of the honest search for truth.

The example set by the overwhelming majority at Kansas State will give heart and hope to those elsewhere who are equally determined to be allowed to listen. Their example will hasten the day when leaders in public life once more can routinely appear on college campuses, to meet with students, to discuss the great issues with them, to listen and be listened to—and when it will cease to be news that they are able to do so. It will hasten the day when respect for the rule of reason rather than the rule of force is once more recognized, in all of our great educational institutions, as the first prerequisite of academic life.

I am most grateful for your own gracious comments about the occasion. I hope you will also pass on to your students my gratitude for their warm reception, my appreciation of their courtesy, and my deep respect for the understanding they displayed of what a great university is all about.

With every good wish,
Sincerely,

RICHARD NIXON.

RETIREMENT OF JOHN S. FORSYTHE

Mr. CRANSTON. Mr. President on September 15, a truly great public servant retired from the service of the Senate. John S. Forsythe was a committee counsel's counsel. He spent 19 of the past 21 years as the top lawyer, first, for the House Education and Labor Committee, and then and until September 15 for the Labor and Public Welfare Committee. It was in this latter capacity that I came to know and respect Jack Forsythe and greatly value his counsel.

During my 18 freshman months in the Senate and in service on the Labor and Public Welfare Committee, Jack has been of the greatest assistance to me and my staff. He is a man of his word, wise in the ways of the Hill, its committees and the world. He never was anything less than generous with his time and good counsel. He made my job as chairman of the Subcommittee on Veterans' Affairs a great deal easier and was most cooperative on a number of amendments I was able to succeed in offering to various bills in the full committee.

I know that all in the Senate who know Jack are saddened by his departure. Yet, we all wish him well in his new work and hope for him and his wife a somewhat more leisurely pace than the hectic one he always maintained on the Hill.

THE BRAVE PEOPLE

Mr. CURTIS. Mr. President, for the past 5 years and more Americans have been held imprisoned by the North Vietnamese and denied even the most basic rights provided for by the Geneva Convention on war prisoners. The Government of North Vietnam is a signatory to these Geneva agreements but has consistently flouted the letter and spirit of the international accord.

Americans are being fed less than minimum diets and their wounds are often unattended by any medical personnel. They have been beaten and tortured and held up to open public ridicule.

They are even denied the right to communicate with their families and to receive mail and messages direct from their homes.

In spite of this the men have held up well. They have not broken. They have not succumbed to the enemy's pressure to use them as propaganda against their country. And here at home the families of these men, although deeply concerned and in mental turmoil, have held up remarkably against the pressure from the radical leftists who coax and cajole them to allow themselves to be used for anti-American propaganda purposes.

We can be proud of the record of these brave people, both those in prison and those who wait for the prisoners' release. We can do no less than support them at every step in the long battle to get the men released and returned to their homes. Liberty-loving individuals throughout the world should not still their voices until these men are released.

PRESIDENT'S COMMISSION ON OBSCENITY AND PORNOGRAPHY

Mr. DOLE. Mr. President, since the Gathings investigation in 1952, Congress has held numerous hearings on the effect of pornography on the individual and American life. The increasing proliferation of obscene literature has been documented; its marring effect on the dignity of the individual has been exposed; and its stain on the very moral fiber of this Nation has been shown. From these hearings, Congress saw that the traffic in obscenity was a matter of national concern. It was recognized that a thorough investigation to determine relationships between pornographic materials and antisocial behavior was needed. It was hoped that such an investigation could serve as the basis for recommendation of means to curtail the proliferation of pornographic materials.

To this end, Congress passed and the President, on October 3, 1967, signed Public Law 90–100, creating the Commission on Obscenity and Pornography.

Next week this Commission will submit its report to the President and to Congress. And I must say that many concerned individuals look forward to its publication with some apprehension. The news media have recently detailed indications of the majority report's contents and if these reports are accurate, the report will be a disgrace to the American public which has spent nearly $2 million to support the Commission's operations.

The Commission's preliminary draft was released to the press and indicated findings that pornography has no relation to crime or sexual deviancy, that there is no consensus as to its potential for harm to the public and that all local, State, and Federal laws against pornog-

raphy which affect adults should be repealed. Such conclusions are reprehensible, a monumental fiasco to the mandate given by Congress. They call for investigation of the Commission's operations. Such an investigation would find numerous irregularities, including evidence to show:

First. That at the first meeting, at the behest of Chairman Lockhard, the Commission adopted a secrecy pact, thus denying to Congress and the American public, information regarding their meetings, their studies, their records, and any other part of their work.

Second. That certain studies for "technical reports" were contracted without their full knowledge of the whole Commission and that certain of these technical reports as completed were unavailable to some members of the Commission.

Third. That the Commission's structure did not allow equal and thus effective imput for all Commission members.

Fourth. That Commissioners Hill, Link, and Keating were granted insufficient time, and inadequate space and resources with which to file their minority views.

Fifth. That the four panel reports: Legal, effects, traffic, and positive approaches lack adequate scientific studies and documentation, and that the conclusions are often not warranted by the facts.

Especially disturbing is the fact that the Commission virtually ignored numerous congressional investigations into pornography.

In 1969, President Nixon called for a citizens' crusade against the obscene, and asked for stronger legislation against the intrusion of sex-oriented advertising into the home. This week, the Senate heeded that call and unanimously passed the strongest antipornography bill in our Nation's history. But the tone and content of the majority recommendations of this Commission are in fundamental opposition to our action.

Mr. President, in the light of the irregularities in operation and the runaway nature of the report of the President's Commission on Obscenity and Pornography, I ask for a full investigation of it from its inception in January 1968. A first step in this direction can be taken very simply through a reading of the testimony of Commissioners Link, Hill, and Cline on Wednesday before the Senate Subcommittee on Juvenile Delinquency.

ADDRESS BY ROBERT T. MURPHY, CIVIL AERONAUTICS BOARD

Mr. HANSEN. Mr. President, on August 25, the Honorable Robert T. Murphy, a member of the Civil Aeronautics Board appeared in Casper, Wyo., to address the Governor's Transportation Conference.

Mr. Murphy's appearance in Wyoming did much to restore the faith of the people of our State in the Federal Government's role in transportation. In the past several years, Wyoming, a State in which transcontinental transportation was pioneered, has suffered a great decline in the quality and quantity of air service. It is particularly distressing to our people because the economy and growth of Wyoming are tied to the ability to provide adequate and reliable transportation throughout the State.

Air transportation is very popular because of the vast distance between Wyoming's population centers. Mr. Murphy made it obvious to the people of Wyoming that at least one member of the Civil Aeronautics Board was vitally interested in the problems faced by sparsely populated States such as Wyoming and is working on a solution.

Mr. Murphy pointed out the need for adequate Federal subsidies and described the revision of the class rate which is now taking place and which is designed to insure that Federal subsidies will be spent by local carriers for improved service to our communities and will not be frittered away by them on facilities and equipment to compete with other airlines in the big city markets already saturated with service. He also discussed in detail the progress and difficulties which might result from use of air commuter carriers.

Mr. President, in Casper, Mr. Murphy said:

> I believe there is emerging today a whole new reason for fostering and strengthening air service to smaller communities which did not exist before.

I call it the demographic or ecological factor. In my view, if we could make it more possible for the residents of small communities to enjoy the best of both worlds, that is, the good life of the small town or city, and yet have available to them whenever they wished the social, cultural, and economic advantages of the large metropolis, we might be able to retard the surging migration to the great cities. My view is that regular, efficient air services at reasonable rates between the small towns and the great metropolis might reverse the tendency of our people to huddle in ever-increasing numbers on the fringes of our great cities with the resultant problems of air pollution, water pollution, urban plight and all the rest.

Mr. President, this statement has great significance and there is much to be learned from Mr. Murphy's address to the Governor's Transportation Conference. Senators from States suffering with problems similar to Wyoming's will find the article interesting in that it provides possible solutions to the problems presently being faced by such States. Senators from large, populous States should direct their attention to this speech because as long as the problems of the rural areas of this Nation are ignored, the political and social problems of our urban areas will be multiplied.

Mr. President, I ask unanimous consent that the address of the Honorable Robert T. Murphy before the Governor's Transportation Conference in Casper, Wyo., on August 25 be printed in the RECORD.

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

ADDRESS BY THE HONORABLE ROBERT T. MURPHY

It is a distinct privilege to join my old friend, Marv Stevenson, your able State Director of Aviation, here at the Governor's Transportation Conference in Wyoming. I was particularly pleased to find a number of old acquaintances such as Jerry Brooder, Jack Slichter and Dick Fitzgerald pooling their respective talents and experience at the very worthwhile panel discussion which took place this afternoon. As far as I am concerned it is always good to have a reason for returning to Wyoming and particularly to be able to share some views with the outstanding air transport experts who have gathered here at the invitation of Governor Stanley K. Hathaway.

The Governor has asked me to speak to you tonight on the problems confronting the local service airlines in providing service to rural areas of the United States and to explore with you the possibilities for providing third level commuter airline service particularly to some of the growing Wyoming communities which do not presently have air service. All of us on the Board are deeply concerned, of course, over the decline in air service to the small communities and together with our staff we have been grappling with the problem on a day-to-day basis in an effort to come up with some kind of solution which will preserve scheduled airline service to rural America without unduly draining the Federal Treasury.

I realize in discussing the problems of service to small communities with a Wyoming audience that I am speaking to experts and that there is little need to lay much background. You, in these Western states, live with small traffic points and know the problems which small communities and the airlines face in trying to maintain adequate air service. We have letters from Senator McGee, Senator Hansen and from Congressman Wold, pointing out only too clearly the problems of isolation and economic restraint which will befall your communities if air service is curtailed. I might point out that I am somewhat of an expert in this field myself since my own area of the country, New England, has experienced drastic curtailment of service by certificated airlines in recent months and years. Probably the most lucid and enlightening discussions of this whole matter occurred recently in the hearings held by the Senate Aviation Subcommittee, first in the West and later in Washington. Testimony before that committee by the communities, the airlines and our Board clearly portrayed the scope of the problem and brought out some of the constructive thinking which is being done to resolve it. I would like to give you my thoughts tonight about some of the plans which we are considering at the Board and which I expect to support in the months to come.

The starting point for any consideration of improved service to your communities is the Federal Aviation Act and, particularly, the provision which states that the carriers providing service which the Board has found to be required by the public convenience and necessity are entitled to such Federal payments as they may need "under honest, economic and efficient management, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the postal service and the national defense." Mindful of that injunction by the statute, the Board has allocated subsidy through the years at levels sufficient to develop a thriving local transport industry serving America's smaller cities. Beginning about the middle sixties, the Board and the industry for various reasons undertook a program aimed at tapering down the annual subsidy payments of the local carriers year by year. From a high of $70 million of subsidy paid to the local service carriers in 1963, we had driven the amounts down until the Board's subsidy request for the present fiscal year was below $30 million. We accompanied this by route proceedings in which we tried to strengthen the local service carriers by awarding them

authorizations to operate in larger and longer traffic markets in the hope that the profits there would cross-subsidize service to smaller communities. We allowed them to overfly many smaller traffic points and generally strengthened their route structures. As we reduced the subsidies, however, the local carriers were disposing of their older, smaller propeller and piston aircraft and acquiring larger and more expensive jet equipment. The cost of borrowing money and wage costs also began to mount, traffic growth slowed, and the subsidy needs of the local carriers increased instead of decreasing as we had hoped. By 1969 the nine remaining local service carriers had a subsidy need of nearly $76 million but we paid them only $36 million under the so-called class rate formulas then in effect. This, of course, left them far short of their revenue requirements and resulted in substantial losses in recent periods. Unfortunately, the brunt of these losses has fallen on the small, low traffic points as the carriers have sought to stem the flow by curtailing or eliminating service to these low traffic and frequently isolated points.

In my view, the time has come to remedy this situation. The services of the local service carriers, particularly to the rural areas, must be maintained and we have the means to do so. Beginning early this year, the Civil Aeronautics Board puts its staff to work on a crash program to review the subsidy needs of the local service carriers for the present fiscal year. We have now found, as the result of this review, that as a group the local carriers will need a total of roughly $58 million in Federal subsidy to provide their certificated services for the fiscal year ending June 30, 1971. The Board had previously requested only $30 million for this period. We now know that this will leave them $28 million short of actual need. The additional money must be made available. Most of the local carriers are experiencing staggering financial losses, collectively and individually. This cannot continue. They must have the revenues to pay their employees, pay for financing their equipment and, hopefully, make some small profit so they can remain in existence. The stakes are high, particularly in the rural areas such as those in Wyoming where the breakdown of air service would cut off the life blood of the state. So the money must come from somewhere. There is little that can be done insofar as fares are concerned. I frankly believe we are bumping against the ceiling of public tolerance and patience in fare levels already and there is little more that can be squeezed from the traveling public in these isolated areas to keep the system going.

Additional subsidy is therefore the only answer at the present time. I do not consider that increasing subsidy now will be a retrograde step. Our previous efforts to curtail these Federal expenditures were well intentioned but subsidy at those levels simply will not meet the air service needs of 1970. The $58 million total subsidy which our staff found to be the minimum required has no fat in it. We have wrung out of the estimate many of the expenses incurred by the local carriers including some parts of executives' salaries and the costs of providing unnecessary services and we have taken full account of the revenues from the recent fare increases and other sources. In my view, therefore, the answer is clear and unmistakable and I would support a request from the Board to appropriate $58 million to sustain the local service operations during this fiscal year. I fear that any lesser amount would jeopardize the ability of these airlines already struggling under massive financial burdens to maintain the minimum required service. Only by making this money available can we avoid more and more urgent requests for abandonment and curtailment of services by these carriers at smaller traffic points.

I would like to digress here briefly to mention a view I have expressed in the past with regard to the importance of maintaining air service to these communities. I believe there is emerging today a whole new reason for fostering and strengthening air service to smaller communities which did not exist before. I call it the demographic or ecological factor. In my view, if we could make it more possible for the residents of small communities to enjoy the best of both worlds, that is, the good life of the small town or city, and yet have available to them whenever they wished the social, cultural and economic advantages of the large metropolis, we might be able to retard the surging migration to the great cities. My view is that regular, efficient air service at reasonable rates between the small towns and the great metropolis might reverse the tendecy of our people to huddle in ever-increasing numbers on the fringes of our great cities with the resultant problems of air pollution, water pollution, urban blight and all the rest. I believe, in short, that an overall review of our national priorities might suggest that the maintenance and expansion of air service to smaller communities is entitled to greater consideration and a greater share of our financial resources than it is now receiving. An additional $28 million in subsidy would be a small price to pay for such benefits.

What will we do at the Board with this additional subsidy money if it is appropriated? In other words, you might properly ask, can you at CAB assure that this money be spent by the local carriers for improved service to our communities or will it be frittered away by them on more powerful, faster and luxurious jet aircraft to compete with other airlines in the big city markets already saturated with service. I think that we at the Board are capable of preventing that and can make sure that the additional money is used for the vital task of serving small communities.

As you know, the Board determines the amount of subsidy to be paid on the basis of a so-called "class rate" under which the amount of subsidy paid is related roughly to the amount of service performed in subsidy-eligible markets. We are now in the process of studying means of revising the class rate formula. It is my hope and expectation, and it will be our goal in revising the rates, to find a formula whereby the amount of subsidy will be tied more closely and identifiably to the service provided by these carriers to small communities which have below average traffic density. We must provide positive subsidy incentive to the carriers to maintain an adequate volume of transportation to smaller communities. To do this, I think we can tie the new formula payments to such factors as (1) the size of the community served in terms of passenger boardings and level of service and (2) to the degree of isolation of the particular community, including the availability of alternative common carrier transportation, access to interstate highway systems and distance from primary communities of interest. I would hope that the new formula which we develop could be graduated so as to pay the highest rates of subsidy for service to communities with the lowest passenger boardings and the greatest isolation, with a reducing rate as these factors improve. Obviously, of course, other factors affecting subsidy need will also have to be considered when the final formula is adopted. As you can imagine, the development of an equitable and effective formula based on these considerations will be difficult, but I believe it can be done.

This brings me to the next point which Governor Hathaway asked me to discuss, namely, the matter of substitution of third level commuter airlines for the services of scheduled certificated carriers. Many of you are familiar with the program of some of the local carriers of suspending service at certain low traffic points in reliance upon substitute service to be provided by commuter airlines. When I last counted these substitutions before leaving Washington, I found that we had approved 54 such arrangements and 12 more were pending. By far the greatest number of commuter carrier substitutions have been made in the East primarily by Allegheny, Mohawk, Eastern and Northeast Airlines. However, there are a number in the West also. One of the earliest was the substitution of Combs Airways for certain of Frontier's service between Cody and Billings in 1968. In April this year we authorized Frontier to suspend services temporarily between eight Montana points in favor of Apache Airlines. Earlier this month we authorized the suspension of service by Frontier at two Kansas points in reliance upon the services of a commuter line.

These substitution arrangements take several different forms. Under what I would call the most sophisticated form, the certificated carrier enters into an agreement with a commuter line to underwrite a certain number of daily flights by the latter for a term of years and to authorize the commuter to use the certificated carrier's colors and its name in providing the service. Examples of this are the Allegheny Commuters which operate now in 15 markets and the Mohawk Commuter which operates mainly in New York State. The certificated carrier agrees to provide reservation, ticketing and other services for the taxi operator at a specified fee. The agreement between the carriers and the suspension of the services by the certificated carriers are then approved by the Civil Aeronautics Board subject to the condition that, if the agreed number of services are not provided by the commuter airline, the certificated carrier will be required to step back in and provide the service itself. There are a number of variations of this arrangement. In some cases, the certificated carrier merely enters an agreement allowing the commuter line to use its name and colors and provides various services on behalf of the commuter without providing any financial guarantee. In other cases, the certificated carrier is authorized to merely suspend its service without any agreement with a commuter airline but on the basis of evidence that commuter service is being performed. In all cases, however, when the Board authorizes suspension by the certificated carrier, it conditions the suspension upon the maintenance of a given level of service by an air taxi operator.

There are many obvious benefits to these arrangements. The certificated carrier can save a great deal of expense by overflying these small traffic points with its large aircraft. The Federal Government saves some subsidy. The cities get more frequent and better timed schedules from the commuter airline than the certificated carrier was able to provide. The commuter carrier gains the benefit of using the certificated carrier's name and other facilities to increase its traffic in the markets. In many cases the substitution arrangements have produced dramatic increases in the traffic carried in the markets served.

But all is not rosy in these substitution areas and to be realistic we must recognize the drawbacks. First off, the American public has generally become accustomed to flying in large stable aircraft and there have been some indications of concern about flying in smaller aircraft. The Board does not regulate the economics of the substitute carriers. Whether they will be able to operate efficiently and profitably in these markets where the certificated carriers could not survive remains to be seen. For example, in Bowling Green, Kentucky, Reading, Pennsylvania

and Waycross, Georgia, the commuters substituting for Eastern Air Lines have had difficulty maintaining the level of service specified by the Board with the financial contributions provided by Eastern. There are problems of assuring that a traveler, when he buys a ticket, is aware that part of his transportation will be performed by a commuter airline with small aircraft and not by a certificated carrier. The problem is most acute when the commuter is using the name and colors of the certificated carrier. Thus, while air taxi substitutions appear to be very desirable and practical solutions at many small points, they may not be the solution everywhere. The service problems of each city are different and the characteristics of each city must be understood and the air service tailored to each city's requirements.

To date, the Board has made no specific policy declaration as to the types of markets in which it will permit these substitutions but rather is developing a policy on a case-by-case basis. One thing, however, is of primary importance to me whenever a new replacement service is proposed to the Board and that is whether the community involved is willing to accept the substitution. Without that willingness and the cooperation and understanding of the community, I see little future for this program. Moreover, while I have every hope and expectation that these substitutions will benefit the certificated carriers financially, it is too early to determine how successful they have been in this regard. I seriously doubt, however, that commuter carrier substitutions alone will permit any major reduction in the subsidy requirements of the local service carriers in the immediate future. Even under the most optimistic assumptions I believe that Federal subsidy at sufficient levels will be required to keep the scheduled airline services operating into smaller communities for the foreseeable future.

The final point which Governor Hathaway asked me to discuss is the possibility of service by third level carriers to some of the growing Wyoming communities that do not presently have air service. In dealing with this question we have to look at it from two viewpoints; *without* subsidy and *with* subsidy. Let us first look at the matter without Federal subsidy. When a market develops to such size that it warrants service with small aircraft, I believe that enterprising operators will soon discover and develop it. This is happening all over the country. There is no lack of authority from the Civil Aeronautics Board for air taxi operators to conduct such service. We have already authorized them to fly aircraft weighing less than 12,500 pounds on a scheduled or nonscheduled basis between any points in the United States. Part 298 of our regulations, which grants this authority by exemption, requires only that these carriers comply with certain liability insurance and reporting requirements and the safety regulations of the Federal Aviation Administration. There are no tariff or accounting obligations and no minimum service requirements. The Board has deliberately refrained from imposing such demands upon these small operators in the hope that by withholding the heavy hand of regulation we could enable them to grow and prosper in an atmosphere of economic freedom. I believe the results have shown the wisdom of the Board's action. There are now literally hundreds of air taxi operators in business throughout the country. I have no current information on those now operating within Wyoming but my last information showed four commuter lines serving five Wyoming points with scheduled air taxi service.

As I indicated, the air taxi operators are currently limited to operations with aircraft below 12,500 pounds. These includes the Beech 99 and the Twin Otter. The Board recently instituted a rule making proceeding to take another look at this weight limitation to see if it should be raised or if some other standard should be used, such as the number of seats in the aircraft. It may be that larger, more comfortable equipment by the commuter carriers would enable them to meet the service needs of your cities without impinging on the certificated carriers. However, there are many ramifications to this problem and the Board is far from reaching any decision on it. One interesting fact, however, is that some of the commuter carriers today are operating equipment which will carry 15 to 19 passengers. This is very near the capacity of the old DC–3 which served small communities all over the nation for two decades.

But you might rightly say that all of this relates only to unsubsidized service voluntarily instituted by commuter carriers on their own initiative. What about the small Wyoming communities where no taxi operator has yet come forward to provide scheduled service despite all of the authority the Board has granted—can't Federal subsidy be paid for that service?

We at the Board have taken the position that under the law, subsidy cannot be paid directly to a carrier unless it holds a certificate granted by the Board after a hearing in which we find that the service is required by the public convenience and necessity. In that case, the carrier comes under an affirmative statutory duty to provide the certificated service. Such a certificate is both a benefit and a burden to the holder. While it might permit the payment of subsidy to him if a need is found and afford protection against competition, it also imposes service requirements, tariff obligations, and other duties. I personally fear that it will be difficult to find new markets in this country with sufficient traffic to support a viable operation by a commuter carrier operating under the obligations imposed by a certificate of public convenience and necessity. Therefore, I do not see much hope at this time for any direct subsidy to commuter carriers for service to points which are not presently certificated on the routes of any airline.

This is not to say, however, that there is no way that Federal subsidy can be used to help these commuter airlines. It may be possible to pay it to them indirectly through the certificated carrier when the commuter performs substituted service on the routes of a certificated carrier. While this is one of the questions which we are still exploring at the Board at the present time, I personally see no legal reason why the Board could not consider financial aid paid by a subsidized certificated carrier as part of the legitimate expenses of the certificated carrier. I can see several very valid arguments for financing such aid through the certificated carrier. When that carrier suspends service, there is a subsidy saving. Why should not some of the subsidy thus saved be passed on to the commuter airline? The latter would undoubtedly need less subsidy to provide the service than the local carrier so that the United States Treasury would benefit. At the same time the community would be receiving improved service. I think, therefore, that if this program of small carrier substitutions is to continue, we will soon have to face up to the anomaly of asking commuter airlines to do *without* subsidy what the local service airlines have failed to do *with* subsidy. I believe, therefore, that we will have to give early consideration to this possibility of routing subsidy through the local service carriers to the commuter carriers for certificated routes. As in all things, there are problems here too. In many cases there is no agreement between the certificated carrier and any particular commuter carrier. In addition, some of the certificated carriers now using commuter carriers to serve their routes, have long been off subsidy and I am afraid the Board would have to think long and hard before putting them back on subsidy as a device for indirectly subsidizing the services of the substitute commuter line.

In closing, I would like to say that while I share your distress over the decline in air service to your cities, it is refreshing to be here with so many people who appreciate the importance of air transportation. It is good to be out here in Wyoming where people look up at a silver airplane tucking its wheels up into its belly as it climbs skyward and see it as a mark of progress rather than simply a source of air pollution. Out here, the contrails of a jet airplane are signs of growth and not symbols of ecological decay. We must combine our efforts to bring air service to the communities where it is needed and wanted. I would like to think that we have made a good beginning at this Conference here in Casper.

STATEMENT BY HUBERT H. HUMPHREY ON EQUAL RIGHTS AMENDMENT

Mr. MONDALE. Mr. President, this body is now considering an equal rights amendment to insure, at long last, that American women will enjoy the full and equal role in our society which is so clearly their right.

Hubert H. Humphrey, Democratic candidate for the Senate from Minnesota, has made a compelling statement in support of this amendment. I ask unanimous consent that the statement be printed in the RECORD.

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

STATEMENT BY HUBERT H. HUMPHREY

Wednesday, August 26, marks the fiftieth anniversary of the extension of the franchise to women, and Congress is currently considering legislation which would add another significant chapter to the struggle for women's rights.

I support the Equal Rights Amendment now pending in the Senate. The case for the amendment is clear. The stage has been set since 1920, the year the 19th amendment gave women the vote. Since that time, women have worked to achieve full participation in all facets of American society, and it is time—past time—to welcome their full and equal participation. We can ill afford to do without the energies and abilities of half our population. Just as we have fought to protect the rights of our minorities, we must apply the American tradition of civil liberty to women.

Opponents cite several drawbacks to passage of the measure. However, I feel that the advantages which would accrue to women would far outweigh any disadvantages which could result from enactment of this legislation. Some oppose the amendment because they feel that many of the protective labor laws relating to women may no longer be effective. Those laws which relate exclusively to women, such as work before and after childbirth, will, no doubt, be treated as bona fide physical exceptions.

However, other laws which have related to women, such as restrictions on weightlifting, have been found by the Equal Employment Opportunity Commission to discriminate against women in violation of Title VII of the 1964 Civil Rights Act. Further labor laws, such as minimum wage, overtime compensation, equal pay, fair employment practices, hours of work, rest periods, and so on, must continue to protect all workers alike, and must not be allowed to discriminate against women in the working force.

Another possible effect noted by opponents of the amendment is the eligibility of women for the draft. First, it should be noted that there is a movement in Congress and the administration to establish a volunteer Army. In the event of enactment of this proposal, women would be accepted for military service on the same volunteer basis as men. It has been pointed out by some that military service offers to men opportunities for in-service educational and vocational advancement which may not be available to women of lower economic status. And the additional benefits of military service, such as government-financed education through the GI Bill and Veterans pensions could be extended to women who wished to serve.

Should the volunteer Army fail to become a reality, and should women become eligible for conscription, they would first face physical requirements, and, should they be inducted, would be placed in positions commensurate with their abilities. It must be noted that women in the Armed Forces are serving in Southeast Asia at present in the fields of communications and medicine, for example.

Some opponents cite Title VII of the 1964 Civil Rights Act as evidence that the amendment is unnecessary. However, Title VII concerns itself with equal employment in private business alone. The Equal Rights Amendment expressly states that, "Equality under the law shall not be denied or abridged by the United States or by any State on account of sex." It would prohibit discrimination by government on the basis of sex.

Many factors have combined to bring about a change in the role of women in our society. Not the least of these is economic necessity. More and more women have felt it necessary to work outside the home to help their husbands in support of their families in an ever-inflating economic environment. And as women have entered the business world, they have become increasingly aware that opportunities for advancement have been limited. Increasing availability of education to women has spurred the desire for intellectual challenge and responsible involvement in the workings of society, and the whirlwind pace of technological advancement has freed modern women from many of the chores which formerly consumed the bulk of their time.

There can be no doubt that women have the intellectual capacity to fill positions of authority. Eleanor Roosevelt ranks among the greatest and best loved diplomats and public servants of this century. Helen Keller was an exemplar of intellectual courage and emotional stamina who was respected by all who knew her or knew of her. And the list goes on and on. Women today serve in the judiciary, in business, in science, in law, in journalism, in education, and in government. And where they serve, they serve splendidly. But they are too few. Women constitute a majority of the population of this country, yet the percentage of women in jobs of authority falls very short of a fair representation of this majority.

Women in the more advanced industrial countries of Western Europe, particularly the Scandinavian countries, the Soviet Union and other countries of Eastern Europe are playing an even more significant role in all areas of the political, social, and economic structure. Surely, the United States, which has long prided itself upon equal rights and equal opportunities should be in the forefront of the movement for maximum participation of women in our national life. One of the untapped resources of this country is woman power. We need them in science, medicine, engineering, politics, education—in all endeavors.

The last fifty years have brought about substantial advances in the position of women in the United States. Yet an alert and responsible democracy cannot rest solely on past accomplishments. The Equal Rights Amendment offers us an opportunity to effect another phase in the progressive unfolding of America's promise of equality for all citizens.

OUR YOUNG PEOPLE

Mr. HANSEN. Mr. President, it was my very real honor this morning to attend a breakfast in this city which was part of the activities of the 1970 meeting of the Distributive Education Clubs of America.

This group, known as DECA, includes an outstanding girl from Wyoming, Miss Charlotte Dudley, who is one of the group's national officers. Miss Dudley is serving as western region vice president for the organization.

DECA is interested in marketing, merchandising, and management and I was pleased to accept the invitation of Mr. Keiji G. Okano of Cheyenne, Wyo., to attend the breakfast meeting. Mr. Okano is State director of the Wyoming Department of Education's distributive and health occupations and cooperative education programing division.

Craig J. Wilson of Minnesota is serving as president of DECA's junior collegiate division. He gave a most outstanding address at the breakfast session and I commend him for the great job he did; it was a message with a message and one that will stay with me for a long, long time.

National president of DECA's high school division this year is David Colburn of South Carolina. This young man helped preside at the breakfast meeting today and gave a most outstanding speech.

Mr. President, may I say that I thoroughly enjoyed the opportunity to meet these young people.

I came away more convinced than ever that our country's future is in good hands. As I have said on the floor of the Senate on other occasions, our young Americans are determined and decent and dedicated.

Because of the impact of David's message—one that I believe should be shared with my colleagues—I ask unanimous consent that David's address be printed in the RECORD.

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

DECA—WHAT IT IS—WHAT IT DOES

WHAT IS DE?

Distributive Education identifies a program of instruction which teaches marketing, merchandising and management.

WHAT IS DECA?

DECA identifies the Program of Youth Activity relating to DE—Distributive Education Clubs of America—and is designed to develop future leaders for marketing and distribution.

DECA is the only national youth organization operating in the nation's schools to attract young people to careers in marketing and distribution.

DECA AND THE STUDENT

DE students have common objectives and interests in that each is studying for a specific career objective. DECA activities have a tremendous psychological effect upon the attitudes of students and many have no other opportunity to participate in social activities of the school or to develop responsibilities of citizenship.

DECA members learn to serve as leaders and followers, and have opportunity for state and national recognition that they would not have otherwise.

DECA AND THE SCHOOL

DECA Chapter activities are always school-centered, thus contributing to the school's purpose of preparing well-adjusted, employable citizens. Chapter activities serve the Teacher-Coordinator as a teaching tool by creating interest in all phases of marketing and distribution study, and serve as an avenue of expression for individual talent.

The Chapter is the "show window" for student achievement and progress, and is the public relations arm of the DE instructional program. It attracts students to the DE program who are interested in marketing management and distribution careers and assists in subject matter presentation.

DECA AND THE COMMUNITY

DECA members have made numerous studies and surveys to aid the economic development of their own community. Individual and group marketing projects continue to encourage this type of contribution.

Many businesses favor hiring DE students because of their interest in training and their related school study of that particular business. Many leaders in business and government have praised the DECA program for its civic-related activities.

DECA AND THE NATION

DE instruction and DECA activity constantly emphasize America's system of competition and private enterprise. Self-help among students is the rule rather than the exception, and DECA leaders give constant encouragement to continued education.

History has proven that whenever a nation's channels of distribution fail to function, that nation is shortlived. As DECA attracts more of our nation's youth to study marketing and distribution, the total DE program becomes a vital necessity to our national security.

NATIONAL DECA WEEK

The purposes of National DECA Week are to call attention to the Distributive Education program, to enhance the educational facilities of your school, and to highlight the activities of DECA. The date is set annually by the Board of Directors, and has traditionally been held to coincide with *American Education Week*. Promotional materials are made available to Chapters and State Associations at a nominal cost.

THE DECA CREED

I believe in the future which I am planning for myself in the field of distribution, and in the opportunities which my vocation offers.

I believe in fulfilling the highest measure of service to my vocation, my fellow beings, my country and my God—that by so doing, I will be rewarded with personal satisfaction and material wealth.

I believe in the democratic philosophies of private enterprise and competition, and in the freedoms of this nation—that these philosophies allow for the fullest development of my individual abilities.

I believe that by doing my best to live according to these high principles, I will be of greater service both to myself and to mankind.

I have a story which I would like to relate to you. Please listen carefully.

After the takeover, they told me that the words they scrawled above the entrance to the Capitol simply read, "We Hate Your Country." They also told me that there really wasn't much left of what was once the greatest city in the world. It seems that they

had managed to reach this city without any difficulty whatsoever.

I came to the conclusion that somewhere along the line, something went wrong somewhere.

At first, I couldn't believe that corruption and wickedness had actually been allowed to breed among the highest levels of a once economically stable government.

They did it all across the nation, so I'm told—everything went to pieces—total confusion.

My history professor told me that it would never had happened if only there had existed some driving force, some motivating concern, of the young people themselves, for their great nation and its philosophies.

After all of the worrying and debating about maintaining that essential balance of power, we ended up destroying our own selves.

This is a nightmare; however, it could realistically happen except for one factor—the youth of today will not allow this nightmare to exist.

So you may ask: What is today's youth doing to show their concern for the direction of this nation?

125,000 young members of the Distributive Education Club of America have a creed in which they believe. It's called the DECA Creed. Listen to what it says along with my own interpretations.

VERSE 1

Nowadays you don't hear too many persons saying "I believe in the future." We of DECA believe in the future, not only our future but also our country's as well. We're concerned about our country's economic future and in effect, we are planning for futures in the field of distribution. We are also aware that our respective vocations will open the door to unlimited opportunities for us. The fact is that we are the future leaders in marketing and distribution.

VERSE 2

How much are we willing to give? We of DECA are going to put everything we have into life for the purpose of attaining our objectives. What we get out of life is the end results of our input. Our input is measured by the services we, in fact, render to our own vocation, our fellow man, our country, and our God. In the same sense, our rewards are measured by the personal satisfaction which we obtain from giving of our selves. Along with this comes material wealth.

VERSE 3

We of DECA are acutely aware of the importance of private enterprise and competition to our nation's wellbeing. Not only do we acquire an understanding but also we develop a respect for these philosophies. What can we say about freedom? Freeedom was acquired by our forefathers and ever since that time it has persevered because Americans valued it enough as far as to sacrifice their lives for it. DECA believes in the American system because under this system, each of us has the chance to fully develop our own individual talents and abilities. This is what America is all about. America is government of the people, by the people, and for the people.

We of DECA respect the lawmakers of this nation's government for displaying the competence and leadership desperately needed during such critical and trying times.

VERSE 4

This speaks for itself. The 125,000 members of the Distributive Education Club of America are, in fact, young crusaders.

We are flag raisers—not burners; patriots—not anarchists; freedom lovers—not draft card burners; and also

We are potential business leaders—not dead weights.

This is our creed. We live by its philosophies and yet, it is basically a guideline in which all mankind should believe.

There is no need for fear of a nightmare because, standing in the path of the present undermining forces, is a brick wall composed of 100,000 dedicated young people. There are other brick walls present also. However, we still need more support; we need support for this nation's lawmakers, by the powers needed in determining the directions this country needs to take.

If you are really concerned about today's youth and this country's future, you will lend a helping hand. We of DECA need your personal and legislative support, and, needless to say, this country needs DECA and thousands more like us.

Yes, we believe in the future.

DAVID COLBURN,
President, Distributive Education Clubs of America, South Carolina.

THE THREAT OF PROTECTIONISM TO MINNESOTA AGRICULTURE

Mr. MONDALE. Mr. President, the American farmer is the most productive in the world. He feeds and clothes over 200 million of the most prosperous people in the world, and still exports $6½ billion worth of food and fiber to other nations.

Our Minnesota farmers earn more than all but four other States in the Union, and we are the tenth leading exporter of agricultural products to the rest of the world. Exports of Minnesota dairy products, flour, soybeans, feed grains, wheat and other produce this year alone will bring jobs to at least 30,000 Minnesotans and over $235 million into the State.

Anything which threatens the ability of Minnesota farmers to sell to the rest of the world is an economic step backward and a grave threat to our leading industry and to the economy of our entire State.

Today we see, for the first time since the end of the Second World War, a wave of economic isolationism—a mistaken but growing loss of confidence in the productivity of the American economy—and a clear reversal of America's past leadership in promoting open, expanded trade among free world nations. Till now, we have met the responsibility of world economic supremacy by leading the way toward a reduction of artificial trade barriers among nations. While lesser economies have often feared our productivity and have resisted open trade and world competition, we have tried to expand world economic markets, confident in our productivity and technological superiority, and relying on our consistently favorable balance of trade to cover our enormous economic commitments abroad.

No one would claim that we should or even could pursue a policy of totally free trade—oblivious to the trade policies of other nations, to subsidized imports and the threat of foreign dumping, to our domestic economic and agricultural policies, to the demands of national security, or to the need to assist businesses and workers whose livelihoods may be lost to foreign competition through no fault of their own. All of these factors and special needs are recognized by the legislation and the programs by which we now trade.

I have no doubt that existing legislation can be strengthened. A new comprehensive trade bill, in fact, is needed as soon as reasonably possible in order to set the general direction for United States and world trade policies in the years ahead.

But these special needs can well be met—and our position of responsibility as the world's leading trader maintained—within a policy which continues to advocate open trade and the progressive reduction by all nations of shortsighted artificial trade barriers.

The trade legislation emerging from the U.S. House of Representatives goes far beyond any concept of "fair protection." It is a Pandora's box of protectionism which openly invites higher prices to the American consumer and serious retaliation against our major exporting industries. It is a patently political bill which may promise "protection," but which will assuredly deliver retaliation, economic isolationism and a serious setback to world trade negotiations.

No industry is more threatened by retaliatory protectionism than U.S. agriculture. In particular danger are wheat, soybeans, and feed grains, the exports of which account for some 8 percent of Minnesota agricultural cash income, and which together brought over $142 million into the State in 1968.

Soybean exports alone will earn almost $76 million for Minnesota farmers this year. The absence of trade barriers on soybeans, particularly into Europe, has been a major factor in the phenomenal growth of these exports. However, should the United States enact protective quotas, injuring European exports to us and diverting Japanese exports into the European market, retaliation is invitable. The Common Market, which now buys a half a billion dollars worth of American soybeans yearly, has threatened to levy a consumption tax upon our exports which could mean $10 to $12 million in lost sales to Minnesota farmers alone.

Wheat and feed grain sales, already restricted by the Common Market variable import levies, are also extremely vulnerable to further retaliation. Although current indications suggest some improvement this year, these sales have been declining drastically. Feed grain exports last year were at their lowest level since 1963, and wheat exports were at their lowest in a decade. In a single year, then, due at least in part to Common Market levies, Minnesota lost somewhere around $20 million worth of exports.

The message is clear. Neither Minnesota nor the rest of this Nation can afford the inevitable trade war which would result if protectionist trade legislation passes the Congress this year. Trade is worth $750,000,000 and perhaps 70,000 jobs to our State. We cannot allow this to be sacrificed to a politically expedient but potentially disastrous piece of protectionist trade legislation.

The way to full employment, a stable and growing domestic economy, and a healthy balance of payments lies not in a shortsighted restriction of imports but in

an aggressive expansion of exports. We are the leading exporting nation in the world. We will export this year some $40 billion worth of American goods to the rest of the world—a healthy $3 billion or so more than we will import.

This means direct employment for at least 4 million Americans.

It means we can finance our overseas commitments and meet our responsibilities abroad.

It means that the American consumer gets the benefit of the finest goods at the lowest possible prices.

We cannot, of course, sacrifice the American worker in competition with foreign imports any more than we can sacrifice the farmer and the worker whose livelihood depends upon exports.

We must help the industries which are struggling in competition with goods produced abroad. We must—and our existing trade agreements and trade legislation recognizes this need—provide adjustment assistance, retraining, and other aid to textile, shoe, and other industries which may not be competing successfully with overseas goods.

But this assistance does not have to turn the clock back on American trade policies.

The Japanese are aggressive competitors but they are a $1 billion customer of American agricultural exports, purchasing more soybeans, wheat, and feed grains than any other nation. I believe that we should work toward a reduction of Japanese trade barriers and toward voluntary agreements to ease the domestic impact on industries where Japan is more productive and competitive. But a wholesale erection of quota barriers places the entire burden of this problem on the American exporter, farmer, consumer, and on the overwhelming majority of American businesses and workers whose magnificient productivity is the envy—and fear—of the rest of the world.

For their sake; for the sake of economic cooperation and competition throughout the world; and the particular sake of the Minnesota farmer, I urge the Senate and the administration to retreat from the brink of a disastrous trade war and work toward the expansion—not the constriction—of American exports.

GENOCIDE CONVENTION IS CONSISTENT WITH THE CONSTITUTION AND LAWS OF THE UNITED STATES

Mr. PROXMIRE. Mr. President, one of the major arguments used by the opponents of the Genocide Convention is that it is not consistent with the Constitution and laws of the United States. In this regard, I invite the attention of the Senate to a section of the report issued by the section of individual rights and responsibilities of the American Bar Association. Section IV of the report, which recommended that the United States ratify the Convention on the Prevention and Punishment of the Crime of Genocide, is entitled "The Genocide Convention Is in All Respects Consistent With the Constitution, the Laws, and the Ideals of the United States."

I ask unanimous consent that section IV of the report by the section of individual rights and responsibilities of the American Bar Association be printed in the RECORD.

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

IV. THE GENOCIDE CONVENTION IS IN ALL RESPECTS CONSISTENT WITH THE CONSTITUTION, THE LAWS, AND THE IDEALS OF THE UNITED STATES

A. THE GENERAL OBJECTIONS TO THE GENOCIDE CONVENTION MADE IN 1949–50 ARE WHOLLY OBSOLETE TODAY

The opposition to the Genocide treaty at the Senate hearings twenty years ago centered around three main points.[36] First, a general opposition to the "new concept" of government action by treaties. During the next two decades, the United States has entered into some 4,000 international agreements, without any noticeable diminution of its sovereign independence, nor any noticeable debasement of its standards to an international average. That treaties are the modern means of developing international law, just as statutes are the modern means of developing state and federal law, has been noted earlier, and hardly requires demonstration. If some felt nervous or cautious in 1949 about stepping on the new ground of multilateral treaties, including treaties affecting individuals, that fear is no longer justified. On the contrary, the only concern a United States citizen should have is that his country not be left out as the documents and issues of the new international law are drafted, debated, interpreted and applied.[37]

Second, the opposition expressed the fear that by treaties in general, and by the Genocide Convention in particular, Article 2(7) of the United Nations Charter, dealing with matters "essentially within the domestic jurisdiction of states" was being undercut. In the words of the ABA Special Committee,[38] "Shall we be governed in internal affairs by treaty law or by laws passed by Congress with a constitutional basis?" Again the answer has already been given. Article 2(7) is is no way undercut by the Genocide Convention. Domestic matters are as out of bounds for the United Nations as ever. The only effect of the Genocide Convention is to say that the issues specified in Articles II and III cover not merely one country, but all countries. If the United States wants (1) to take a complete handsoff attitude if genocide should occur somewhere in the world; or (2) to foster, shield, or protect the commission of genocide within the nation's borders, then it should certainly not join the Convention. If neither of these attitudes is real, then the argument has no appeal whatever.

Third, the opposition, focusing on certain enigmatic language of Justice Holmes in *Missouri* v. *Holland*[39] considered that the Genocide Convention might be the opening wedge in a drive to exceed the legislative powers of the Congress vis-a-vis the states through use of the treaty power. Whatever theoretical merit there might have been with respect to this point, discussed for nearly ten years in the context of the proposed Bricker Amendment,[40] it has no relevance to the Genocide Convention. No one could have any doubt about the right of the Congress to prohibit genocide. Quite apart from the treaty power, the Constitution expressly grants to the Congress the power "to define and punish Piracies and Felonies committed on the high seas and Offences against the Law of the Nation."[41] And if anyone suspected that the Genocide Convention might be used to justify federal legislation in the field of civil rights, the events since 1949 have shown that the United States Constitution as currently understood is quite adequate to sustain any civil rights legislation likely to be proposed and passed, and certainly more ample to coverage than any authority possibly derived from the Genocide Convention.

It is conceivable that a claim could have been made that depriving a racial group—say Negroes or American Indians—of the right to vote or the right to enjoy public accommodations is comprehended within Article II (b) of the Genocide Convention related to "mental harm". But this thought is hardly more than conceivable: as we have seen, the whole thrust of the convention and its origin suggest quite different goals; moreover, Article II (b) like all of the definitions of the crime of genocide, is governed by the phrase "with intent to destroy", which would not seem to apply to even the most extreme segregationist measures which may be tolerated by statute law in the United States.[42] At all events the barring of school segregation, which was accomplished without any statute,[43] the passage of the Civil Rights Acts of 1957[44] and 1964[45] and the Voting Rights Act of 1965[46] all sustained by the Supreme Court, show that blocking the Genocide Convention has given and will give no comfort to opponents of federal enforcement of rights of minorities, while ratification of the Convention will add no powers to those the Federal Government possesses.

Unconnected to the state-federal relation in the United States, the objection was also made in 1949–50 that the Convention undertakes to define a crime for which there would be punishment under federal law, without concurrence by the House of Representatives. This is simply a misunderstanding resulting from a confusion about what is and what is not a "self-executing" treaty. In fact, ratification of the Convention would obligate the United States internationally to pass the necessary implementing legislation, making the crimes specified punishable under United States law. Failure by the Congress to enact the implementing legislation would leave the United States in breach of an international obligation, but in such eventuality no one could be tried in the United States for a crime not specified in the Criminal Code. It is certain that no one can be accused of or tried for the crime of genocide in the United States until legislation making genocide a crime has been adopted in accordance with our domestic procedure for passage of a law.

B. THE SPECIFIC OBJECTIONS RAISED TO THE GENOCIDE CONVENTION ARE NOT MERITORIOUS

In addition to the general objections to the Genocide Convention discussed above, a number of particular criticisms relating to the text of the Convention were made by opponents in 1949-50.[49] These are not of a dimension sufficient, singly or together, to warrant non-ratification.

"As such"

Why, it was asked, did Article II refer to the destruction of a national, ethnical, racial, or religious group *as such*? Does this not create an ambiguity? The answer is perhaps it does, but so would the phrase without these words. Conceivably, an edict to kill all restaurant owners might be a subterfuge to kill, say, all Chinese within a country. In such an event, the words "as such" would give a possible technical defense to the authors of the deed. But that possibility seems very remote. In the past, genocide has not usually been disguised. It has been part of a deliberate, public, and political or religious campaign. Rome set out to destroy the Carthaginians; Islam set out to destroy Christians; Hitler set out to destroy the Jews, *as such*.

Footnotes at end of article.

"In whole or in part"

What did the addition of the words "in whole or in part" signify for the crime of genocide? Did it mean, in the words of one opponent, "driving five Chinamen out of town"?[50] The answer, again, is quite simple, and indeed, appears in the drafting history of the Convention itself.[51] The object of adding the words "in part" was to preclude an argument that international destruction, say, of half or two thirds of the Jews of Rumania was not comprehended in the crime of genocide.

In the context of this Convention, there can be no doubt about the distinction between intent to destroy a national, ethnical or racial or religious group and intent to destroy some individuals belonging to that group. Nothing in the history of the United States since the early Indian wars quite adds up to genocide within the meaning of this convention. If any race riot, lynching, or comparable event ever grew to the scale approaching genocide as defined in the Convention, the international obligation would surely add nothing to the determination of our own state and federal authorities to bring the perpetrators to full justice.

"Mental harm"

The thrust of the objection to this phrase, apparently, was that the critics did not understand it. As more facts of tortures both in Asia and in Eastern Europe during World War II have come out, as we have come to know about brain-washing in North Korea of our own soldiers, and in Eastern Europe of various political and religious leaders including for instance Cardinal Mindszenty, the objection to including mental harm along with bodily harm would seem to disappear.

"The place of trial"

One criticism of the Convention arose out of the possibility that, under Article VI, a person accused of genocide could be tried by an international penal tribunal, possibly without trial by jury and other safeguards to which a United States citizen is entitled under the Constitution. Again, the answer is simple. No such tribunal has been established.[52] If one were established, parties to the Genocide Convention would have the option whether to accept its jurisdiction or not. For the United States, that option would have to be independently exercised through the Treaty Power, that is only with the advice and consent of the Senate by a two-thirds vote.

"Direct and public incitement"

The question is raised whether Article III (c) of the Convention, in prohibiting "direct and public incitement" to commit genocide is contrary to the First Amendment's guarantee of free speech. The scope of the free speech protection in the United States Constitution has been subject to various interpretations through the years, particularly as it conflicts with public order.[53] Thus it is not possible to state categorically that a given statement is or is not protected free speech, as against prescribed criminal activity. Our best judgment, for reasons spelled out below, is that any activity sufficient to support conviction for violation of Article III(c) of the Convention would fall outside of the First Amendment's protection. But the case need not rest there.

Assuming the above judgment were wrong and an activity prohibited by the Convention were held to be protected by the First Amendment, the conviction would simply be reversed. Nothing in the development of the treaty power suggests any other result. Indeed, in *Missouri v. Holland*,[54] the case most often cited as pointing the way toward expanded use of the treaty power, Justice Holmes specifically limited his speculation to "some invisible radiation from the general terms of the Tenth Amendment," [relating to reserved powers of the states] and not to "prohibitory words to be found in the Constitution," such as the First Amendment. Thus reversal of a conviction on free speech grounds would be perfectly within the powers of the Supreme Court (or indeed a lower court), notwithstanding anything in the Convention. Indeed, the Convention itself only requires (in Article V) that states undertake to enact, "in accordance with their respective Constitution" the necessary legislation to give effect to the Convention. If a portion of the implementing legislation were declared unconstitutional, generally or as applied to a given defendant, there would be no breach of the obligation under the treaty.

If the above possibility were very strong (and if incitement to genocide were the major provision of the Convention), there might be some cause for hesitation about the Convention.[55] In fact, it appears that Article III (c) is drawn precisely to satisfy the prevailing interpretations of the First Amendment to the United States Constitution.

Mr. Justice Holmes stated the argument in favor of the constitutionality of a provision such as Article III (c) in speaking for the Supreme Court in *Frohwerk v. United States*,[56] decided just after World War I.

"We think it necessary to add to what has been said in Schenk v. United States * * * [57] that the first amendment, while prohibiting legislation against free speech as such, cannot have been, and obviously was not intended to give immunity for every possible use of language. We venture to believe that neither Hamilton nor Madison, nor any other competent person then or later, ever supposed that to make criminal the counseling of murder within the jurisdiction of Congress would be an unconstitutional interference with free speech."

The same thought was expressed thirty years later in a case involving an injunction against peaceful picketing to induce violation of a state law concerning trade.[58]

"It has rarely been suggested that the constitutional freedom for speech and press extends its immunity to speech or writing used as an integral part of conduct in violation of a valid criminal statute. We reject the contention now."

It is worth pointing out that the author of that opinion, for a unanimous court, was Mr. Justice Black, surely a justice sensitive to violations of the First Amendment.

It is, of course, not easy to distinguish in all cases between permissible and impermissible expression, or between condemnation of a racial, religious, or ethnic group and intent to destroy such a group. The distinctions drawn by the Supreme Court in this area—for example, between *Chaplinsky v. New Hampshire*,[59] *Terminiello v. City of Chicago* [60] and *Feiner v. New York* [61] are not easy. If a person were arrested and prosecuted for inciting to genocide, doubtless the factual issues would be scrutinized with great care. The dividing line was expressed best, perhaps, by Mr. Justice Brandeis in his famous concurrence in *Whitney v. California*.[62]

"* * * even advocacy of violation, however reprehensible morally, is not justification for denying free speech *where advocacy falls short of incitement* and there is nothing to indicate the advocacy would be immediately acted on. The wide divergence between advocacy and incitement, between preparational attempt, between assembling and conspiracy, must be borne in mind." (Emphasis supplied.)

In its most recent decision in the free speech area, the Supreme Court, while discrediting *Whitney v. California*, appears to have reaffirmed the distinction drawn by Justice Brandeis in his concurrence. Reversing the conviction of a Ku Klux Klan member who staged a "rally" for television reporters, the Court said: [63]

"* * * the constitutional guarantees of free speech and free press do not permit a State to forbid or prescribe advocacy of the use of force or of law violation except *where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.*" (Emphasis supplied.)

However hard it is in practice to draw the distinctions between advocacy and incitement, it is clear that in the definition of the crime, the Genocide Convention has drawn them correctly by these standards.

In short, the particular criticisms of the text of the Convention are the sort of objections that can be made to the text of many documents. Singly or together, they do not provide reason to reject the Convention.

FOOTNOTES

[36] See *Senate Hearings* (1950) 154–230.

[37] This point, in the context of the growth of international law in the post-war period, is developed by Bernard G. Segal, President of the ABA, in a recent address to the World Peace Through Law Conference, Bangkok, Thailand, September 1969.

[38] 74 A.B.A. Rep. 320 (1949), *Senate Hearings* (1950) 160.

[39] 252 U.S. 416, 433–434 (1920).

[40] There were several versions of the Amendment. For the principal one, see S.J. Res. 1 as amended and reported favorably by the Senate Judiciary Comm. S. Rep. No. 412, 83d Cong., 1st Sess. (1953).

[41] U.S. Constitution Art. I, sec. 8, cl. 10.

[42] There have been, of course, deliberate lynchings or murders with racist aims. But such acts have always been unlawful.

[43] *Brown v. Board of Education*, 347 U.S. 483 (1954). See also *Cooper v. Aaron*, 358 U.S. 1 (1958), *Griffin v. Prince Edward School Board*, 377 U.S. 218 (1964).

[44] 71 Stat. 637 (1957), 42 U.S.C. 1971 (1964), sustained in *United States v. Mississippi*, 380 U.S. 128 (1965).

[45] 78 Stat. 243 (1964), 42 U.S.C. § 2000a-h, sustained in *Heart Of Atlanta Motel, Inc. v. United States*, 379 U.S. 241 (1964), and *Katzenbach v. McClung*, 379 U.S. 294 (1964).

[46] 79 Stat. 437 (1965), 42 U.S.C. § 1973 (Supp. 1965), sustained in *South Carolina v. Katzenbach*, 383 U.S. 301 (1966).

[47] Reference omitted.

[48] It seems no longer necessary to address the possible overlap between the new federal crime and a state crime, such as homicide. Such overlap is by now accepted without question, in areas as disparate as civil rights legislation, kidnapping, bank robbery, possession of narcotics, and as many more. For an early and authoritative statement on this point, see *United States v. Arjona*, 120 U.S. 479 (1887).

[49] See *Senate Hearings* (1950) 154–221.

[50] See *Senate Hearings* (1950) 154, 199, 201, 203.

[51] The amendment containing these words was proposed by Norway in the debates of the Sixth (Legal) Committee of the General Assembly in its debates on the draft prepared by the Economic and Social Council. U.N. Doc. E/794 (May 24, 1948). The debates appear at 3 U.N. GAOR 6th Comm. 61, 92–97, Oct. 7, Oct. 13, 1948.

[52] The last time the proposal was seriously discussed appears to have been in the Sixth (Legal) Committee of the General Assembly in 1957. 12 U.N. GAOR 6th Comm. 155 (Dec. 5, 1957).

[53] For a thorough presentation of cases and scholarly discussion, see Emerson, Haber and Dorsen, *Political and Civil Rights in the United States* 512–601 (1967).

[54] 252 U.S. 416, 433–34 (1920).

[55] It would, of course, be possible to ratify the convention but omit the language corresponding to Article III(c) from the implementing legislation. That course is expressly permitted by Article V. For the reasons stated

in the text, however, this course is not here advocated.

[56] 249 U.S. 204, 206 (1919).

[57] 249 U.S. 47 (1919).

[58] *Giboney v. Empire Storage Co.*, 336 U.S. 490, 498 (1949).

[59] 315 U.S. 568 (1924)—Conviction of a Jehovah's Witness for addressing the police officer as "a damned Fascist" upheld.

[60] 337 U.S. 1. (1948)—Conviction of a speaker addressing a crowd and attacking "Communistic Zionist Jews" reversed.

[61] 340 U.S. 315 (1951)—Conviction of a speaker for "endeavoring to arouse the Negro people against the Whites" and refusing to stop when requested by a police officer upheld. Justice Douglas, dissenting in *Feiner*, wrote "A speaker may not, of course, incite a riot any more than he may incite a breach of the peace by the use of 'fighting words'." 340 U.S. 329, 341.

[62] 274 U.S. 357, 376 (1927).

[63] *Brandenburg* v. *Ohio*, 395 U.S. 444, 447 (1969).

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate and that, when that is done, the distinguished Senator from North Carolina (Mr. ERVIN) be recognized.

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

The unfinished business will be stated by title.

The assistant legislative clerk read Senate Joint Resolution 1 by title, as follows:

A joint resolution proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

The Senate resumed the consideration of the joint resolution.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. ERVIN. Mr. President, I wish to speak in behalf of the most precious possession of the American people. The most precious possession of the American people is not the broad expanse of our lands which run from the Atlantic Ocean on the east halfway across the Pacific to Hawaii on the west, and from the Canadian border to the Gulf of Mexico and our neighbor, the country of Mexico, on the south. The greatest possession of our country is not our material wealth. It is not the great Armed Forces which protect our national security in a very precarious world. The greatest resource of our country does not consist of our institutions of higher learning.

The greatest possession of our country is an old document which was penned in Philadelphia in 1787, and under which this country has enjoyed substantially the same system of government for 181 years, while other systems of government have perished and vanished from the face of the earth.

Senate Joint Resolution 1 proposes the most drastic assault on this precious possession of the American people, the Constitution of the United States, that has ever been proposed in the history of this Nation. The Constitution was brought into being by 13 separate and independent States, sparsely settled and lying along the Atlantic seaboard.

We have a proposal here, in Senate Joint Resolution 1, which would destroy, in large measure, the federal system of government which was created by the drafting and the ratification by these 13 States of the Constitution of the United States.

Make no mistake, when we destroy the function of the States in the election of the President and Vice President of the United States, we strike a mortal blow at the federal system of government, which has endured for 181 years, and which has even weathered the efforts of the man for whom Senate Joint Resolution No. 1 ought to be named—George Wallace.

It is just as logical, Mr. President, to say that since all the Members of the U.S. Senate and all the Members of the House of Representatives are Federal legislators and participate in the making of laws for all the 200 and more million Americans, they ought to be chosen in a single election precinct embracing the 50 States and the District of Columbia.

We are told by advocates of this proposal that Senate Joint Resolution 1 undertakes to make every man's vote, within 50 States and the District of Columbia, count exactly the same. I assert, without fear of successful contradiction, that proposal has an effect that only 40 percent of the people who vote in the United States should select the President, and that the votes of the other 60 percent should be disregarded, if they happened to be cast for candidates other than the one who receives 40 percent of the vote.

In short, Senate Joint Resolution 1 proposes that we have a 40-percent President. That is what it comes down to. Despite the great wisdom of the proponents of Senate Joint Resolution 1, the Senator from North Carolina is constrained to say that the men who wrote the Constitution were wiser than they are; consequently, the drafters of the Constitution proposed that no man should ever be elected President of the United States unless he receives a majority of all the electoral votes of all the States of the Union. They did not want our country to have a 40-percent President.

When all is said, Senate Joint Resolution 1 proposes that we have a minority President. That is exactly what it provides. It provides that we shall have a 40 percent President.

We have a lot of wise men in North Carolina, the State I have the honor to represent, in part, in the U.S. Senate. Incidentally, North Carolina was one of the 13 States which brought the United States of America into existence and which ratified the original Constitution of the United States. I am proud to be able to say that one of my direct ancestors, Reuben Wood, a North Carolina lawyer, had the honor of being a member of the North Carolina constitutional convention which ratified the Constitution of the United States, and that he voted in favor of its ratification.

We have, as I said a moment ago, many wise men residing in the State of North Carolina, and one of those wise men is the editor of the Durham, N.C., Morning Herald. In one of his editorials, which appeared in that great newspaper on Sunday, September 13, 1970, he correctly diagnoses Senate Joint Resolution 1.

The editorial is entitled "Providing Election by Minority," and it reads as follows:

As the Senate debates the proposed constitutional amendment to provide for the direct election of President and vice president, it is well to remember that direct election is not the only alternative to the present system of election. Therefore enactment of this amendment is not the only way in which reform of the current system can be accomplished. The Senate debate will undoubtedly explore at length and in detail the merits and demerits of direct election.

I digress at this point to say that the distinguished Senator from Indiana does not seem to want this question debated at length, because he supports a proposal which would gag the Senators who happen to disagree with his views. But I certainly express the hope which is voiced in this editorial that Senate debate will flow at length. The editorial then details the merits and demerits of direct election.

I resume the reading of the editorial:

Much has been made of the possibility of electing a President through the electoral college who receives a minority popular vote. This has happened only three times in the history of the Republic, when John Quincy Adams was elected by the House of Representatives in 1825, when Rutherford B. Hayes was chosen by the electoral commission—not college—in 1877, and when Benjamin Harrison received a majority of the electoral vote in 1888 after failing to receive a majority of the popular vote.

What advocates of the direct election amendment either fail to realize or fail to point out is that the amendment they advocate actually provides for the election of a minority President. If a candidate receiving a plurality of the popular vote gets as much as 40 percent of the popular vote, he would become under the proposed amendment, President. Thus the Nation would have in fact a minority President. The present system prevents that by requiring a majority in the electoral college, which is a nationally representative body.

The provision for election by a 40 percent popular vote is a serious weakness in the direct election amendment, for it makes legitimate a situation which can prove destructive of republican government and the democratic system, election by a minority. In times of crisis, particularly, there would be grave danger that a minority President would not receive national acceptance, with all the implications that would have for government.

The provision which makes possible the election of a minority President, with no recourse or validation by a national majority, is a sufficiently serious flaw in the proposed amendment to justify the Senate in defeating it.

The Senator from North Carolina finds himself in full agreement with the view expressed by the editor of the Durham Morning Herald, that the provision of Senate Joint Resolution 1 which makes possible the election of a minority President, with no recourse or validation by a national majority, is a sufficiently serious flaw in the proposed amendment to justify the Senate in defeating it.

The Senator from North Carolina is strongly opposed to this Nation having a 40-percent President. The Senator from North Carolina is opposed to this Nation having a 40-percent President because a 40-percent President is not likely to have the support of more than 40 percent of the people of this Nation when he is inaugurated, and is likely to suffer a decrease from month to month thereafter, until he reaches the tragic point where he has far less than 40 percent of the support of the Nation.

I do not think that this Nation can endure as a great nation of the earth if it accepts the proposition that henceforth and hereafter, despite the fact that in prior years we have had great men such as George Washington, Thomas Jefferson, Andrew Jackson, Abraham Lincoln, Grover Cleveland, Woodrow Wilson, Franklin D. Roosevelt, Harry S. Truman, and Jack Kennedy, we are not going to have a hundred percent President, as these men were, but are going to have only a 40-percent President, instead of a majority President.

I understand that the pending business is the Tydings-Griffin amendment. Before I discuss that amendment, I should like to read to the Senate a statement made about the Constitution of the United States, which would be drastically affected if Congress should be so foolish as to submit Senate Joint Resolution 1 to the people of this land as a proposed amendment to the Constitution and if the people of this land should so far take leave of their intelligence as to ratify it as a part of the Constitution. Frankly, I do not believe that the people of this land would be foolish enough to ratify Senate Joint Resolution 1 if it should be submitted to them.

I say that for this reason: It appears from the hearings held on April 15, 16, and 17, 1970, that the legislators of 34 of the States ought to be bored for the simples, as we would say in North Carolina, if they would consent to the ratification of a proposed constitutional amendment which would not only substantially destroy the federal system of government which the Constitution was ordained to establish, but also would rob their own constituents of a substantial part of the voice they now have under the Constitution, in the selection of a President and a Vice President.

Frankly, if I thought that the big States of this Union had a monopoly upon the wisdom of this country, I might be so foolish as to support Senate Joint Resolution 1. But I have noticed that much of the wisdom of this Nation comes from the smaller States.

I have observed that when Moses wanted to know what to do about the problems which confronted him and the Hebrews of his day, instead of going to some great center of population such as Jerusalem or Babylon or Nineveh or Tyre or Sidon, he went out into the wilderness and meditated and deliberated and came to wise decisions.

Senate Joint Resolution 1 proposes that Presidents, in effect, be selected by a few of the largest States in this Union; and those who advocate it, whether they so recognize or not, are seeking to take away from 34 of the States a substantial part of their voice, under the existing Constitution, in the selection of a President and a Vice President for this great land of ours.

I say by way of illustration to our Presiding Officer, who has the honor to represent, in part, in this body one of the newer States of the Union, that Senate Joint Resolution 1 would reduce to 33 percent or less the voice which his State, Alaska, now has in the selection of a President and a Vice President. The Senator from North Carolina does not know, of course, how our Presiding Officer feels about this matter; but the Senator from North Carolina would say that he cannot comprehend how our Presiding Officer could favor Senate Joint Resolution 1 unless he reached the conclusion that the people of States like New York, California, Pennsylvania, Illinois, Ohio, and Michigan are more capable of selecting a President than are the people of the State of Alaska, which he has the honor, in part, to represent.

On page 20 of the hearings before the Senate Committee on the Judiciary, held April 15, 16, and 17 of this year, is a list of States which would lose substantial portions of their voices—their power, if you please—in the selection of a President and a Vice President of the United States if Congress should pass and submit to the States Senate Joint Resolution 1 for ratification, and if three-fourths of the States were to ratify it. Those States are: Texas, my own State of North Carolina, Virginia, Georgia, Tennessee, Maryland, Louisiana, Alabama, Iowa, Kentucky, Oklahoma, South Carolina, Kansas, West Virginia, Mississippi, Colorado, Arkansas, Nebraska, Arizona, Utah, Maine, Rhode Island, New Mexico, New Hampshire, Idaho, South Dakota, Montana, North Dakota, Hawaii, Delaware, Vermont, Nevada, Wyoming, and Alaska. This is also true with respect to the District of Columbia.

It is to be noted that among the States that would be deprived of a substantial part of their voice and power in the selection of the President are seven of the original 13 States which brought our Constitution into existence: North Carolina, Virginia, Georgia, Maryland, South Carolina, Rhode Island, and Delaware.

I happen to entertain the view that notwithstanding that some of these 34 States are relatively small, their people are just as wise, when it comes to selecting a President or a Vice President, as are the people who happen to live in States having great centers of population, such as New York, California, Pennsylvania, Illinois, Ohio, and Michigan.

To be sure, some Senators from some of the smaller States may support Senate Joint Resolution 1. I am not saying that they will. But I do not believe that the legislators of 34 States are going to vote for a constitutional amendment which would rob their people, in many cases, of two-thirds of their power to participate in the selection of a President. I say that because none of the legislators who would vote on the question of ratification in the States have served in Washington; therefore, they have never been exposed to the virulent disease which has its habitat on the banks of the Potomac River and is known as "Potomac fever."

Potomac fever has a very peculiar effect on those who succumb to it. The chief effect is that it induces in their minds a belief that the people who sent them here do not really have sufficient intelligence to manage their own governmental affairs and that they should be deprived of just as much political power as possible. Sometimes this disease takes the form of causing one to believe that there is more wisdom in the heavily populated sections of the country than there is out in the wide open spaces, where people can look up to the heavens and see the stars at night. I say this because during the First World War there was a division from Brooklyn, N.Y., which was said never to have seen a dark night until they got to the Western Front because the artificial illumination of Brooklyn had been around them to such an extent that they did not really know what darkness was. When there is no darkness, there is no good opportunity to go out and meditate under the stars, which are poetically called the forget-me-nots of angels.

The Senator from North Carolina thinks that even though Congress should be so foolish as to submit Senate Joint Resolution 1 to the States for ratification, it is inconceivable that the 34 States which would lose their power under Senate Joint Resolution 1 would be so foolish as to vote to deprive themselves of the power which the present Constitution gives to them.

One of the great constitutional scholars of the United States is a professor in the Yale Law School, Prof. Charles Black, who was originally from the great State of Texas and who has been rendering great service to our Nation by instructing law students at Yale Law School for some years.

He appeared before the Senate Judiciary Committee in the hearings in April. He testified in substance that if Senate Joint Resolution 1 should become a part of the Constitution, it would be the most radical provision that has ever been placed in the Constitution of the United States.

I cannot refrain from contrasting the attitude toward our present Constitution exhibited by Professor Black and that of our good friend, the Senator from Indiana, who says in effect that unless we accept Senate Joint Resolution 1 as an amendment to our Constitution, our country is going to experience chaos and ruin tomorrow, or at least in the next election.

While the Senator from Indiana deplores splinter parties and third, fourth,

fifth, sixth, and seventh parties in one breath, he demands in the next breath that we submit to the States a proposed constitutional amendment calculated to destroy the two-party system which has made our Constitution operate and which would encourage a proliferation of third, fourth, fifth, sixth, and seventh party candidates.

I would commend to the consideration of the Senate these words which were spoken by Prof. Charles Black of the law school of Yale University before the Senate Judiciary Committee in April of this year. I read from pages 140 and 141 of the record of those hearings:

But if I may be permitted a reminiscence which, though personal, I believe is entirely to the point on the present issue, I spent last summer instructing foreign law graduate students in the Constitution of the United States, teaching a course in constitutional law to young people already lawyers in their own countries, who were to go out after the summer to the many different American law schools and pursue their studies of American law and reside for the year in the United States. I told them, at the beginning of the course, "We have nothing to show you here in the way of antiquities. We will show you a house that was built in 1810 and you will laugh when we tell you it is an old house, you will laugh behind your hands, because you look at the Arch of Titus every morning when you walk to work. We have in fact only one antiquity that is worth your attention. That is the Constitution of the United States."

"It was put into effect when Napoleon Bonaparte was a young comer. And as the other countries of the world, almost without exception, have rolled through one constitutional revolution after another, this thing has stood there in substantially its present form, has accommodated a whole continent and now reached out to the islands of the Pacific and brought them into a political structure of obvious solidity and strength. It is our antiquity. It is what we have to show you instead of the cathedral at Chartres," I told them, "so let's get to work studying it."

I approach this question with that kind of bias. I approach this question with the feeling, which I believe to be validated historically as well as any can be, that the Constitution of the United States is an almost miraculously successful document, and that any change in its structure is to be approached with every presumption against it. It is often said that the electoral college system is antiquated. This is used as a sort of prerogative term for it. "Antiquated" means that it has lasted a long, long time. I do not find that an epithet of opprobrium at all. I like antiquated constitutions. They are the best kind.

So I want to approach this from that point of view. I think that none of the difficulties that I or Mr. Bickel or Mr. Brown or others see in these proposed changes can be proved up to the hilt. These are prophecies. These are suggestions of possible trouble. Some of them seem very convincing. Some of them seem almost inevitable to me.

But I do not think that it is up to the opposition to this proposal to establish beyond a doubt what will happen in the future. We are dealing with a system which has been brilliantly successful, the whole solar system, as the late President, then Senator Kennedy, called it, of the allocation of power in the United States. It is up to those who would effect a major and radical change in it to dispel very positively the doubts as to the wisdom of that change.

And it is with that conception of where the burden of argumentation lies that I proceed to say what I have to say.

After this very eloquent statement at the outset of his testimony, Professor Black proceeded to demolish in a most effective manner the proposal now embodied in Senate Joint Resolution 1.

I say this, and I say it with hesitation, but I say it with a firm conviction, that I do not believe the Senate should vote on Senate Joint Resolution 1 until every Senator has read the statement of Professor Black and the statements made by Alexander M. Bickel, Theodore H. White, and the secretaries of state of Louisiana and New York, who testified together before the Senate Judiciary Committee.

While Senate Joint Resolution 1 professes to leave to the States the power to prescribe the qualifications for voting, Senate Joint Resolution 1 would require the virtual annihilation of the States as viable entities in the selection of President and Vice President, and would require the passage of laws which would concentrate the complete control of the presidential and vice-presidential elections in the Federal Government in Washington. This may be something that is desirable to those who are victims of Potomac fever, but it is not desirable to those, like myself, who believe that any good system of government should be kept as near to the people as possible, and who believe that no government sitting on the banks of the Potomac River has sufficient wisdom to solve all of the problems which confront public officials and the people at local levels.

The pending business before the Senate is the Tydings-Griffin amendment. The authors of this amendment recognize very wisely that Senate Joint Resolution 1 is unwise and extremely unwise in one particular; namely, in that it provides for a runoff election in the event that 40 percent of the people voting in the United States are unable to pick a 40-percent President in the first election. So the authors of the Tydings-Griffin amendment seek to abolish the runoff election which will have to be held, as I have said, if 40 percent of the voters do not all vote for a 40-percent President in the first election.

Strange to say, they return in part to the wisdom of the electoral college, the electoral vote system which now prevails under the present Constitution. The Tydings-Griffin amendment appears at first blush to be an improvement over Senate Joint Resolution 1. I say "at first blush" because upon analysis it appears that all of the objections which can be voiced against Senate Joint Resolution 1 apply to the Tydings-Griffin amendment insofar as the first election is concerned.

To make the first election operate Congress would have to transfer the entire control over presidential and vice-presidential elections from the States and various voting precincts of the States to the National Government. They would have to abolish all State and local election officials as far as their ultimate powers were concerned and supersede them with national election officials.

As far as the Tydings-Griffin amendment is concerned, it would still leave the chief vices of Senate Joint Resolution 1 in existence insofar as the first election is concerned. It would still provide for the election, not of a majority President, but of a 40-percent President. It would still provide that the 184,000 separate election precincts—think of it, 184,000—now existing in the 50 States and the District of Columbia would be converted into one great big election precinct in which 60 or 70 million people would vote and in which a majority of one vote, whether it was coerced or purchased, or freely cast would determine who would be President or Vice President of the United States, provided that one vote was cast with the 40 percent of the people rather than with the 60 percent.

Mr. President, under the Griffin-Tydings amendment, you would still have the temptation to chicanery that appears in every close election. History shows that we had two such elections recently, the election of 1960 and the election of 1968. All of these close elections would invite controversy, would invite charges and countercharges of fraud and miscounting of votes, and the breaking down of voting machines, such as occurred on a large scale over in the State of Maryland during a recent primary.

Under that first election this country could go weeks and weeks and months and months without a President of the United States. I say that because the President has a definite term of office. It ends on a particular day. Unlike the case with respect to many public offices, he does not remain in office until his successor is chosen and qualified. This is made clear by the 20th amendment to the Constitution. Section 1 of the 20th amendment to the Constitution provides as follows:

AMENDMENT [XX]

SECTION 1. The terms of the President and Vice-President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Under the 20th amendment, come noon on January 20, the term of the incumbent President ends, stops short, and the term of his successor begins. The incumbent President cannot serve 1 second constitutionally beyond noon on the 20th day of January next succeeding the most recent presidential election.

So what is going to be the situation if there is established a system of direct election where every fraud committed in any one of the 184,000 election precincts and where every miscount of every vote cast by millions of people in 184,000 election precincts and where every breakdown of a voting machine in any one of the 184,000 election precincts may be litigated and controverted and made the subject of charges and countercharges, and where the truth as to who was elected President can be clouded with doubt and uncertainty and controversy and litigation for weeks and weeks and months and months.

So the situation is made possible, both by Senate Joint Resolution 1 in its original form and the Tydings-Griffin proposal in respect to the first election, that we can have noon, January 20, come around without knowing who has been elected President, and the outgoing President to go out of office and there is no successor to take his place.

What does that mean in practical effect? It means we do not have a President who has been elected even by 40 percent of the people. It means we have a period when we do not have a President for whom any person has voted.

The Constitution, insofar as the 20th amendment is concerned, recognized that danger even in such a relatively foolproof thing as the electoral college system. So there is a provision to take care of that situation. There was put in section 3 of the 20th amendment the following language:

If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice-President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice-President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice-President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice-President shall have qualified.

Senate Joint Resolution 1 and the Tydings-Griffin proposal both present a very substantial danger that we will have the situation envisaged by the 22d amendment where, noon of January 20 following a general election comes around, with nobody having been chosen President or Vice President.

I digress to note that some of the contingencies covered by section 3 of this amendment cannot possibly come into being, even though this would provide some way out of the quandary if they did come into being, because Senate Joint Resolution 1 says that every voter has to vote for a President and Vice President who have joined themselves together on the ticket. A voter has to vote for both of them. Consequently, if we cannot tell who has been elected President, we cannot tell who has been elected Vice President. So instead of insuring, as the distinguished Senator from Indiana has become so accustomed to asserting, that we will have a President who is the choice of the greater number of voters—that is, 40 percent of them—we will have to have an interim President to be selected in some manner yet undetermined, who has not been voted for by a single human being casting a vote in any one of the 184,000 precincts.

It may be months and months during which we will have an acting President, for whom nobody has voted, serving as the head of the administration of this country.

That is not only a real possibility under Senate Joint Resolution 1 and under the Tydings-Griffin amendment, but I venture to assert that it is a probability. We have had cases where Presidents have received only a scant plurality of the popular votes over the opposing candidates. If one vote were cast in each of the 184,000 precincts as a result of fraud, or if one vote were miscounted in each of the 184,000 precincts, or if voting machines should break down in any area of the Nation, there would be a real probability that in close elections, when January 20 came around, we would not have anybody who had been identified as the President-elect or the Vice-President-elect, who could take office and supplant the retiring President leaving office as the Constitution requires at noon on that day.

Why should the Senate or the people be asked to abandon a system which has stood this country in good stead for 181 years, and invite troubles of this kind?

Why should we abandon the system of our Constitution which has endured for 181 years, and brought the highest degree of happiness and prosperity to a people, for such an untried thing like Senate Joint Resolution 1 or the Tydings-Griffin amendment, which may plunge this country into chaos, and is likely to do so, in respect to every close election such as those we had in 1960 and 1968?

I wish to read an article from the New Republic of September 26, 1970, entitled "Direct Election of the President."

This article was written by one of the greatest constitutional scholars of this country, Alexander M. Bickel, of the law school of Yale University, who appeared before the Senate Judiciary Committee and made a most cogent statement regarding the evils of the direct election proposal as embodied in Senate Joint Resolution 1.

The article from the New Republic reads as follows:

DIRECT ELECTION OF THE PRESIDENT

(By Alexander M. Bickel)

Though last week it narrowly rejected a move to limit debate on the proposal to abolish the electoral college and substitute direct popular election of the President, which was passed in the House by better than the required two-thirds majority, the Senate is moving toward decision.

Whether the necessary vote can be repeated there, and Senator Birch Bayh (D, Ind.) hopes it can, may depend on whether the Senate first attaches to the proposal for direct election an amendment put forward by Joseph Tydings, the Maryland Democrat, and Robert Griffin of Michigan, the assistant Republican floor leader. An amendment such as this to a proposed Constitutional amendment needs the support of only a simple majority for passage.

The direct election proposal as approved by the House provides that the winner of the popular vote by no less than 40 percent becomes President. If no one gets 40 percent, there is a run-off popular election between the two top candidates. Such a system, as I have several times pointed out in these pages, would invite multiple candidacies, and run a heavy risk of ending the dominance of two major parties in our politics, and one need not be a die-hard Democrat or die-hard Republican to appreciate the consequences of that. In order to minimize this risk, the Tydings-Griffin amendment would eliminate the run-off and provide instead that if no one gets 40 percent of the national vote, the vote is to be retabulated by states, the way it is now, and if the winner of a nation-wide popular plurality, by whatever margin, also has a majority in the electoral college, he becomes President. If he doesn't—which is to say, if nobody in the run-off has an electoral college majority, or if the loser of the popular vote has it—then a joint session of Congress shall elect a President by majority vote of the representatives and senators, each casting one ballot.

Reinserting the electoral college in the Tydings-Griffin fashion would very likely deter multiple candidacies almost as effectively as the electoral college now deters them, since only a candidate with sufficient regional strength to garner an electoral college vote could hope to gain anything by running. What he would hope to gain would be deadlock, giving him a chance to bargain in the congressional joint-session run-off. A candidate whose strength is spread more or less evenly across the country won't count for much in the electoral college, and can't entertain such hopes. Under the proposal as passed in the House, any candidate, and a number of them in the aggregate, can very well hope to produce deadlock by simply preventing anyone from getting 40 percent, and thereby driving the election into the popular run-off, with opportunities to trade support open to all.

The Tydings-Griffin amendment is thus an improvement over the popular election proposal endorsed by the House. But it is not addressed to and does not touch two other serious defects of that proposal. Direct popular election, which would be the norm under Tydings-Griffin as much as under the House proposal, would deprive cohesive, balance-of-power groups in the large industrial states of the special leverage they now have in Presidential politics. The blacks are such a group, whose influence would be diminished, and it is a wonder that liberal and civil rights organizations have supported, or at least not opposed, popular election. There are exceptions, of course, most notably Rep. William Clay, the black, Democratic congressman from Missouri, who has argued cogently against popular election, both in the House and in Senate hearings.

Any so-called Southern strategy in Presidential politics is at best a very risky business now, depending entirely on the delicate acrobatic trick of pursuing politics that attract, without quite satisfying, the South; that have appeal to ethnic and economic groups in the North and West also, and yet do not repel other groups there. Under popular election, a full-fledged Southern strategy will become a realistic possibility. Groups that will be repelled (ie, the blacks) can go hang. Who will need to carry New York or Michigan? Enough to get millions of votes there, which can be added to the large majorities on the Border, in the South, in Southern California and in solid Republican country in the middle!

The electoral college forces a Presidential candidate to think distributively; he must keep the whole country in mind, which includes combinations of small states too, and put together a national coalition. Hence strategicaly placed groups count heavily—and the blacks are, of course, not the only such group. Popular election will make other strategies possible.

Popular election—again, whether under the original House passed proposal, or under the Tydings-Griffin amendment—is capable also of producing in a close race horrors of vote counting and recounting, and of charges and counter-charges of fraud, with consequent litigation and endless delay. The electoral college system counts by states, focuses the closeness of the race on one or a few states—the result in most is plainly beyond doubt, however narrow the national margin of victory—and insulates recounts and other difficulties within those states. That is why our national elections, even the closest ones, have always been almost instantly decisive.

Those of us who sat anxiously before our TV sets through the night of November 5 in 1968 should try to imagine what it would feel like to sit there on and off for weeks.

The direct election proposal may well be called a political tower of babel.

Mr. ERVIN. Mr. President, John F. Kennedy once said with respect to the electoral system:

It is not only the unit vote for the Presidency we are talking about, but a whole solar system of governmental power. If it is proposed to change the balance of power of one of the elements of the system, it is necessary to consider the others.

We do not know for certain what the effects of direct election will be on the various institutions that make up our political system, but history and political analysis can point out some of the more obvious dangers and probabilities. It is not, however, for the opponents to prove beyond a shadow of a doubt that these political disasters will occur. The burden is on those who would change our political institutions to show that their plan is safe—that it will not create political instability and a breakdown of our constitutional system.

At this point I would like to discuss the probable effects direct election will have on one of our most enduring political institutions—the two-party system. As our Nation has grown from a small collection of colonies hovering along the Atlantic Ocean into a vast, densely populated continental expanse, so has our diversity and range of interests. Accommodation and compromise have become absolutely essential features for the effective governing of the 200 million people who now constitute the American citizenry. Our two-party system has long served as a unique instrument of this accommodation and compromise.

As Prof. Alexander M. Bickel of Yale Law School describes it:

The monopoly of power enjoyed by the two major parties would not likely survive the demise of the electoral college. Now, the dominance of two major parties enables us to achieve a politics of coalition and accommodation rather than of ideological and charismatic fragmentation, governments that are moderate, and a regime that is stable. Without forgetting that of all the mysteries of government the two-party system is perhaps the deepest, one can safely assert that each major party exerts centripetal force; that it ties to itself the ambitions and interests of men who compete for power, discouraging individual forays and hence the sharply defined ideological or emotional stance; that it makes, indeed, for a climate inhospitable to demagogues; and that it provides by its very continuous existence a measure of guidance to the marginally interested voter who is eminently capable of casting his ballot by more irrelevant criteria. The system, in sum, does not altogether take mind out of politics, but it does tend to ensure that there are few irreconcilable losers, and that the winners can govern, even though—or perhaps because—there are equally few total victories.

Largely, because of the stability and strength of our two major parties, ideological fragmentation—the plague of many a democracy—has been avoided in America. The programs of minor parties seeking reform in the economic, political, and social order of our country have commonly been absorbed and advanced by the two major parties as they each attempt to build a winning national coalition.

Mr. President, it is my firm belief that our two-party system has been nurtured and protected by the manner in which we elect the President.

The electoral college system requires that a presidential candidacy, to be successful, secure broad, nationwide support. Minor-party presidential candidates and political reform parties have learned their political history well enough to understand that without sufficient strength to fashion broad-scale State electoral victories they have no chance of affecting, much less winning, a presidential election. As a consequence of this well-understood political reality, minor-party presidential candidacies have been few and far between and never successful.

The particular feature of the present system primarily responsible for discouraging third-party candidates is the unit rule. Though not constitutionally required, from an early date in the Nation's history "pledged electors" have traditionally cast their votes for the presidential candidate receiving the largest number of popular votes in the State. By awarding to the winner of a plurality in the State the State's entire electoral vote, the present system requires that any presidential contender, to have significant effect upon the outcome, secure sufficient popular support in States with enough electoral votes to affect the electoral college decision. As a corollary to this, it offers no hope of success to a candidate whose considerable and intense support is scattered around the country.

With few exceptions, only candidates with a strong enough regional base to capture State electoral votes have seriously challenged the two-party domination of presidential politics. The reasons are spelled out in the statistics of past presidential elections. In 1912 there were two important minor-party candidates. Theodore Roosevelt broke away from the Republican Party and received 4,127,788 popular votes to 6,301,254 for the winner, Woodrow Wilson. Wilson won 435 electoral votes and Roosevelt captured 88. But in reality, in 1912, it was Taft, the regular Republican nominee, who was the true third-party candidate, and he got only eight electoral votes although he had 23 percent of the popular vote. Eugene Debs received 901,255 popular votes out of the total vote of approximately 15,000,000. He won no electoral votes. Again in 1920, despite the fact that Debs won almost 1,000,000 popular votes out of 26,000,000 cast, he had no electoral votes. Senator La Follette, breaking away from the Republican Party in 1924, won 4,832,532 popular votes, more than one-half the popular total for the losing Democratic nominee, Davis. Nevertheless, while Davis' vote was translated into 136 electoral votes. La Follette received a meager 13. Finally, in 1948, Henry Wallace received a popular vote of 1,157,326 out of approximately 49,000,000 votes cast. He, too, won no electoral votes. By contrast and in the same election, STROM THURMOND, the States' Rights Party candidate, received a similar popular vote of 1,176,125 but was able to capture 39 electoral votes because of the regional concentration of his popular support.

These lessons of history must have been particularly persuasive in the presidential election of 1968. Richard N. Goodwin described the impact of the electoral college on the temptations of many antiwar critics in 1968 to mount a fourth party drive for the White House. In an article appearing in the Washington Post, of October 6, 1969, Goodwin stated that recognition of the extreme difficulty in winning any electoral votes despite the prospect of a large popular vote was the primary reason that he and others of similar political views did not challenge the major party presidential candidates. The effect of a "peace candidacy" would most likely have been, in Goodwin's judgment, a further enhancement of the election prospects of the Republican candidate. As Goodwin himself suggests, the encouragement that direct election would give to minor party candidates could not come at a worse time than now, "when the tendency to political fragmentation and ideological division is reaching new heights."

Similarly, the appeals to Wallace supporters not to waste their vote—by Republicans in the South and by Democrats in the North—significantly lowered the popular vote for Wallace in 1968. His appeal was running consistently at about 20 percent of the vote in September of 1968. But his final vote percentage was 13.6 percent. The decrease is generally attributed to the drives by both major parties to persuade voters that a vote for Governor Wallace was a wasted vote since the Governor could not gain sufficient electoral votes to affect the results of the election.

These examples of history prove two things about the present system. First, for the important third-party candidates without a regional base—Taft and Debs in 1912, Debs again in 1920, and Henry Wallace in 1948—no matter what their popular vote strength, they made no impact on the electoral college race. They did not deadlock it. They did not serve as power brokers. While their candidacies no doubt had a political impact, they were no threat to political stability and they did not shake the structure of our electoral system.

Second, the regionally based candidates—notably STROM THURMOND in 1948 and George Wallace in 1968—won proportionally more electoral votes in relation to their popular appeal. Yet even so, this group, too, did not pose a threat to the stability of our electoral system. It is worth something to note that in 1912, with four candidates in the field, the worry was what Teddy Roosevelt was doing to the Republican Party, not what he was doing to the electoral system. Yet, in 1968, when Wallace got 47 electoral votes, compared to Roosevelt's 88 in 1912, the scare talk was all about the imminent destruction of our election institutions.

I digress there to say that that is the theme song of the distinguished Senator from Indiana (Mr. BAYH) in his advocacy of Senate Joint Resolution 1.

In summary, history and logic teach us that the present system discourages

third-party candidates who do not have a regional base of support. And in the rare times when candidates with a regional base do run, their impact on the race has been restricted to political influence only. They do not register significantly in the electoral vote.

Quite in contrast with the support which our present electoral college system provides for the two-party tradition, in my judgment the proposal for direct popular election harbors dangerous threats to this great American tradition.

Direct election of the President will enable third-party candidates to run more easily for the presidency. Adoption of direct election will necessitate the enactment by Congress of uniform standards for entitlement of candidates to a place on the ballot in every State. This will allow every minority party candidate to run nationwide rather than as a State, regional, or limited area candidate. It will permit votes to be drawn from all sectors of the Nation by each minority candidate. Governor Wallace secured a place on the ballot in each State in 1968, but only after several law suits and a decision by the Supreme Court. Under the existing law in a number of States, Governor Wallace's party, as well as other minor-party candidates, will have to field candidates in 1970 in order to secure a place on the ballot in those States for 1972. If such candidates do not file for office in these States in 1970, their respective parties will have to file as new parties in 1972. Such obstacles to Mr. Wallace's party and other minor parties will be eliminated under direct election plan.

The upshot of direct election and the inevitable national legislation on eligibility for the ballot will result in an unknown number of splinter parties—local, regional, and ideological.

Some of the arguments used in favor of direct election support this analysis. Proponents of direct election have argued that the unit rule of the present system bolsters the continued existence of one-party States. I would add parentheticall-y that the era of the one-party State appears to be ending. The theory is that supporters of the weaker party in a one-party State become so discouraged at being unable to carry the State for their party's standard bearer, that real competition for the State's electoral votes ceases to exist. Direct election would change this situation, according to its proponents, because even the weaker major party would now have an incentive to get every possible vote in the one-party State. Accepting for arguments' sake the assumptions of this theory, it should be obvious that voters who have been reluctant to support third-party candidates in the past, because of the slim likelihood of carrying their State, would now support with undaunted enthusiasm their real choices for President. The same factors which would change one-party States to two-party States will also change two-party States into three-, four-, or more, party States. These other parties may include a one-issue peace party, a States-rights party, a black-power party, an urban party, a women's liberation party, or innumerable other such presidential parties which would undoubtedly offer themselves to the voters under a system of direct election. The public confusion and fragmentation likely to surround this bartering and begging for votes will seriously undermine the integrity of the presidential election.

A few illustrations of the encouragement which direct election will give to minor-party candidates will point to the dangerous potential of direct election. If the aggregate of votes cast for minor-party candidates is very large, as may very well be the case under direct election, the third-highest popular vote candidate will have great influence.

We should remember that the total vote of all the third-party candidates need only amount to about 25 percent for the direct election process to be deadlocked. If the two major candidates split the remaining 75 percent of the vote closely, then no President can be elected. To avoid the deadlock, one major candidate must achieve a 40- to 35-percent plurality. This would be highly unusual even in an ordinary election.

Supporters of direct election seem to assume that Wallace will forever be the strongest third-party candidate. If that is so, and there is no reason to believe that it is so, every vote that every minor party candidate secures would be a boost to Wallace's bargaining strength, even those votes cast for candidates at the opposite end of the ideological spectrum. Wallace attained a September 1968 popularity of at least 20 percent. He might well have done much better under direct election, since the "wasted vote" argument used so effectively against him would not apply.

It does not take much imagination to transform the 1968 election into a direct election nightmare. Wallace with his 20 percent, Senator McCarthy and others totaling better than 5 percent, and Nixon and Humphrey maintaining the seven-tenths percent difference between them. Wallace, as the leading third-party candidate, would have held the balance of power. The "might-have-beens" we hear from direct election supporters are a lot more probable under their plan, than under the electoral system we have.

Supporters of direct election do not seem to understand the extent to which the existing system discourages minor-party presidential candidates. It cannot be stressed too often that not since our two-party sysem developed has a minor-party candidate forced an election into the House of Representatives. No third-party candidate has ever been able to bargain with his electoral votes for concessions from major party candidates.

There is another influence that direct election will have, which is of concern to all those who value the stability that our two-party system has given this country. When we think of third-party candidates, we generally think first of the vegetarians and prohibitionists. Next we think of independent political movements which nominated candidates for the Presidency on their own. Rarely have we had a third-party candidate who ran first for the nomination of a major party, and then elected to go his own way after his loss of the nomination. A familiar example of this type of candidacy is Teddy Roosevelt's "Bull Moose" campaign.

With the advent of direct election and uniform national eligibility rules, however, we should ponder the effect on the two major parties and their nomination process. Imagine a contest in a Republican or Democratic convention between two evenly matched strong candidates, each with broad national following. To avoid a deadlock, the party chooses a darkhorse.

Or imagine that same race, with one candidate being able to secure the nomination just barely over his opponent. As a third example, consider a three-, four-, or five-way race between candidates of relatively equal strengths. Finally, consider a contest with one clear leader, but with another candidate who inspires a devoted, but relatively small following.

Now, under the existing system the losers, with more or less grace, have acceded to the wishes of the party convention and retired from the contest. The influences upon them to do this are many—party loyalty, lack of party or-organization, et cetera. But one of the strongest influences is that within a main party nomination, an aspirant to the White House is under terrific handicaps in getting himself on the ballot nationally to have a fighting chance at victory.

The ease with which third-party candidacies can be mounted under direct election applies to the losers of party nominations as well as it does to single-issue candidates. The pressures on the convention loser to enter the race as an independent will be great. The question put to him by his supporters will be: "If we have a peace candidate, a black-power candidate, a conservative candidate, and an urban candidate, why should the people not be able to vote for a man who has 40 percent of his party behind him, and who lost the party nomination by only a hair. With all these minor candidates, you can win in the runoff if you can get over 30 percent of the vote."

"And," they will be quick to add, "do not worry about being disciplined by the party. Even if you lose, the party would not dare ignore a strong leader with the 25 percent popular vote we know you can get."

Now, no one can predict what the response will be to such blandishments. But the issue will be clear to the loser of the party nomination: party loyalty versus a chance at the White House. I would not want to bet that the losing candidate could resist the lure of the White House every time. We remember that in 1968 in both parties there were two strong candidates in addition to the eventual nominees. It is profitable to speculate on what the situation might have been in November 1968 if direct election had given these forces an opportunity to pursue their goals after the conventions.

This is not idle speculation. One of the consequences of direct election may well be that the nomination by a major party convention will lose its meaning when it

no longer is the most important waystation on the road to the Presidency. It may turn out, as some have speculated and as is suggested by New York's recent political history, that selection by a party convention may even be a handicap to a candidate. It may leave him open to charges of being the choice of the party "bosses," as opposed to his opponent, who won a few more primaries in the spring and who is the "choice of the people."

The major party presidential nomination is the linchpin of the national two-party system. Remove that linchpin—by removing the necessity for the losers of the party nomination to withdraw from the race—and we threaten to unhinge the entire national two-party structure. Without the unifying force of the party nomination and presidential campaign, the Republicans of Nebraska may have little in common with Republicans of Florida or New York. Democrats of California may have little to do with those of North Carolina or Illinois. When the party nomination no longer is the force which unifies the 50 State parties, who knows what the consequences will be for our two-party institution. Will Congress itself be able to maintain its two-party character in the face of this fragmentation? No one knows. One thing is certain, however, and that is that we cannot assume that the present political system will remain intact when we change so important an element as the Presidential electoral system. What seems as firm and as enduring as the Rock of Gibraltar may have the permanence of a rope of sand after 4, 8, 12, or 20 years of the direct election system.

Mr. President, I respectfully submit that proponents of direct election have completely failed to carry the burden with respect to the dangers the direct election poses for our two-party system. They propose to abandon a system which has worked well for almost 200 years, no small achievement for a human institution. In its place they propose a method of electing the President which, according to almost every respected observer of our political process, poses a great threat to the survival of our great two-party tradition.

Time and time again, one-issue, ideologically oriented candidates file for State offices with no purpose other than to establish a bargaining position in the final showdown for a narrow cause or to punish a candidate who has refused to accede to the special demands of a narrow interest group. The runoff primary has been typically bitter, divisive, and cynical. The two remaining contenders are tempted to pay a very high price for the support of the defeated candidates who hold the balance of power in the runoff. I shudder to think what our presidential campaigns would become under the pressures of a popular runoff. It is my sincere belief that the legitimacy of any President will be seriously undermined if he is subjected to the conditions and consequences of fighting his way through a runoff.

The period of indecision between the first election and the runoff is in itself a great danger to political stability. In the case of very close presidential elections, where the country is evenly and perhaps intensely divided, it is important that any system for electing the President be swift and sure in its designation of a winner. The direct election proposal provides for anything but this swift and sure designation. For several weeks or even months after the November election, the country will be in doubt as to its next President. Certainly, in times of great stress and bitter political division, such delay and doubt would of itself constitute a serious national crisis.

Mr. President, a number of distinguished observers of our political system have pointed out the dangers of the runoff provision.

Prof. Ernest Brown of Harvard Law School reminded the Judiciary Committee in the course of his testimony that:

> At a time when the country suffers from sharp divisions, we should be cautious lest, though with the best of intentions, we encourage further division and discourage coalition.

Also testifying before the Judiciary Committee concerning the dangers of a popular runoff was Prof. Alexander Bickel of Yale Law School. Professor Bickel observed:

> I think it altogether probable that under a system of popular election the situation would be as follows: the runoff would be, not an occasional occurrence, but the typical event. The major party nomination would count for much less than it does now—and might even eventually begin to count against a candidate. There would be little inducement to unity in each party at or following conventions. Coalitions would be formed not at conventions, but during the period between the general election and the runoff. All in all, the dominant positions of the two major parties would not be sustainable.

The distinguished Senator from Maryland (Mr. TYDINGS) has offered an amendment to Senate Joint Resolution 1 which would eliminate the runoff. In remarks before the Judiciary Committee Senator TYDINGS warned that:

> The maneuvering and dealing in a runoff race of the two surviving candidates would certainly be intense as they desperately wooed the disappointed followers of the third-party candidates. If experience under the French electoral system is any guide, the runoff makes the first election a test of bargaining strength, leads to a further ideological hardening, and creates an atmosphere of shameless deals preceding the runoff.

The runoff provision is not the only reason which leads me to oppose Senate Joint Resolution 1. However, the likely consequences on our political institutions and traditions of the runoff provision are so dangerous that it alone warrants the rejection of Senate Joint Resolution 1.

It would be a gross error to think that these defects and dangers will all disappear if we do some patchwork on the runoff procedure. Senators GRIFFIN and TYDINGS, alarmed by the disastrous consequences of the second direct runoff election provided for in Senate Joint Resolution 1, have offered an amendment to eliminate that provision. While I share the concern of my two distinguished colleagues concerning the effects of a runoff election on our political process, I do not share their belief that its elimination cures the direct election proposal of its fundamental weaknesses as a method for electing the President.

The Griffin-Tydings amendment provides that if the leading candidate fails to reach a 40 percent plurality, he will still be President if he secures a majority of the electoral votes, automatically allocated to the candidates according to the unit rule system. If the plurality winner secures neither 40 percent of the popular vote nor a majority of the electoral votes, the election of the President is then thrown into a special joint session of the new Congress where each Congressman and Senator shall have one vote to cast between the two candidates receiving the highest popular vote total. The Griffin-Tydings amendment is designed to eliminate the development of splinter parties, so universally expected as a consequence of the runoff provision of Senate Joint Resolution 1. In my judgment, this well-meaning amendment will not accomplish its purported objective.

In the first instance, the sponsors of the runoff elimination amendment have underestimated the full impact of the direct election proposal on our two-party system. Minor-party Presidential candidacies are undertaken for reasons other than any serious intention of capturing the Presidency. The "spoiler" candidate is one example of candidacies which will quite likely appear if direct election is instituted, with or without a runoff provision. It is not a matter of loose imagination to contemplate the possibility of a bitterly disappointed presidential aspirant, rejected by his party convention, mounting a third party effort which would alone, or in combination with other minor-party candidacies, deny 40 percent of the vote to any candidate and possibly send the election to a joint session of Congress.

In addition to the "spoiler" candidate, the "ideologue" candidate will be encouraged to enter a direct election contest, with or without a runoff. The ability to amass and register a national vote total on behalf of some specific cause or to demonstrate the strength of a certain bloc vote will be an almost irresistible temptation to certain groups of voters. Under our present system, such efforts are discouraged because their State totals are lost forever unless sufficiently large to carry a State for the splinter Presidential candidate.

It will be very attractive for a women's liberation candidate, a states-rights candidate, a Black Power candidate, an urban candidate, a motherhood candidate, a secessionist candidate, an environmentalist candidate, or other such legitimate or illegitimate minor-party candidates to enter a presidential contest for the sole purpose of registering a national total on election eve to demonstrate the political potency of his—or her—cause or group. Whatever else may result from such a fragmentation of the electorate, a stable and effective method of electing the President will not.

Finally, there is the third type of third-party candidate—the loser of a major party nomination who makes a serious bid for the Presidency. Teddy

Roosevelt's Bull Moose campaign is the classic example of such a serious major party "renegade" candidacy.

Should "spoiler" candidates and "ideologue" candidates and "renegade" candidates become a regular and significant part of presidential politics, as I believe is likely under direct election even without the runoff, we would face the prospect of having our Presidents routinely elected by a joint session of Congress. The possiblity that Congress would regularly select the President must give us great concern. One of the most important principles incorporated in our Constitution is the doctrine of separation of powers. It is not an abstract theory. Its importance lies in its practical consequence of preventing the concentration of total political power in any one governmental institution. While at times I have believed it is the executive branch which has most exceeded the proper limits of power established by the Constitution, I would never favor the creation of a mechanism which might subject the Presidency to a position of eternal dependence on the Congress. Because of the failure of the Griffin-Tydings amendment to eliminate the likelihood of third-party presidential candidacies under a system of direct election, there is a great possibility that no candidate will be sufficiently strong to win the Presidency as a result of the popular election and that the Congress in special session will emerge as the body before which a presidential aspirant must bow—not the American people.

The proponents of direct election have sought to use the splinter-party problem for their own ends. For some time they have pointed to the 1968 candidacy of George Wallace and have tried to raise the specter of a 1972 candidacy as a goad to action on their proposal. One thing ought to be made clear about this argument. Whatever happens on the direct election proposal, it will have no effect on the 1972 election. To be pertinent in 1972, this constitutional change must go into effect by April 15, 1971—a bare half-year away. There is no practical likelihood that the required number of States could ratify this amendment in the short weeks between now and the April time-limit. Therefore, all the scare talk about George Wallace is disingenuous, to say the least.

Direct election opponents of the electoral college have tried to use Wallace's hairbreadth victory over Albert Brewer in the Alabama gubernatorial primary to scare the American people into believing a constitutional crisis lurks around the corner. They have argued that should Governor Wallace run as a candidate for the Presidency in 1972, he could win enough electoral votes in Southern and Border States to deny a majority to either of the majority party candidates. He could thus stalemate the election and exact a high price from a major party candidate for his support. On the other hand, they have asserted that if direct election is in effect in 1972, Governor Wallace's power to affect the presidential election would be greatly diminished if not entirely eliminated. They apparently assume that it is unlikely that Wallace can secure a sufficiently large percentage of the popular vote to deprive a major party candidate of the 40 percent popular vote necessary to avoid a runoff under the direct election proposal.

In light of this 13th-hour scare tactic of direct-election supporters, I would suggest that the plan for direct election now be designated as the "Bye-Bye Wallace" amendment.

I seriously question an approach to constitutional reform which is based, however slightly, upon the short-term political expediency of hindering one potential candidate's campaign for office. Whether George Wallace's campaign or other minority-party or independent presidential candidacies are good for the country at this particular time in our history is a subject of considerable debate and disagreement. I personally believe that ideologically oriented one-issue parties do not contribute to wise public policies and orderly government. Indeed, one of the great benefits of the present electoral college system is its discouraging impact on minor-party presidential candidacies.

Quite apart, however, from one's personal view of the consequences of minor-party presidential candidates, I trust that the Senate will not embrace the proposition that the presence of one or more particular presidential hopefuls in one particular presidential election, with the theoretical possibility of causing an electoral college deadlock, justifies abolishing a process for electing our President which has been tried and proved over two centuries of experience. It is no reason for substituting a system whose consequences are at best unpredictable and, at worst, disastrous for our constitutional framework and political stability.

In discussing the third-party issue, it is worth repeating that never since the development of our two-party system has a minor-party candidate or a combination of minor-party candidates forced the election of the President into the House of Representatives. Never has a minor-party candidate been able to bargain with his few electoral votes in return for substantial concessions from the ultimate winner. Nevertheless, we are told—on the basis of authoritative crystal-balling—that the political situation in 1972 will bring about a constitutional crisis if we do not turn to direct election of the President.

I recognize that the existing system is not perfect. That is beyond the capacity of man. But it has functioned more than adequately in giving the nation outstanding national leadership, orderly transfer of power, and stable government. In the process we have developed political institutions, traditions, and balances which have contributed mightily to the harmony, the stability, and the integrity of our system of government.

Now we are being told, "Throw all that away and leap with us into the void." We should take this action, it is urged, because of the remote possibility that the experience of a long unbroken series of presidential elections will be shattered by one candidate in one presidential election. Surely George Wallace could do no greater harm than to be the motivation for such a dangerous experiment with our constitutional system.

I am no seer capable of revealing future events. On the one hand, I hear claims that the political situation in 1972 will be such that a candidate who receives 46 electoral votes in five States plus one additional electoral vote in another State in 1968 will increase that total in 1972 and prevent any major-party candidate from receiving an electoral vote majority. On the other hand, I hear predictions that this candidate will have greater difficulty in securing support in 1972 and may not be able to mount a campaign at all.

One thing I do know. No one can state affirmatively what the political situation will be like in 1972. Even if they could, I would have grave reservations about rushing into a fundamental constitutional change because of allegations of one possible aberration in an otherwise workable system.

I am distressed about the use of George Wallace's alleged presidential ambitions for 1972 as a basis for adopting direct election.

Fundamental constitutional changes should not be used as a device to achieve short-run political objectives. But I am also of the opinion that proponents of direct election are mistaken in their assessment of George Wallace's political fate as it is related to their proposal for direct election. In my judgment, the proposal for direct election makes it much easier for Mr. Wallace, and for any other minor-party presidential candidate, to exercise significant influence over the ultimate resolution of a presidential election.

Mr. President, it is my firm belief that the direct election plan bodes serious ill for our constitutional system. I have tried to outline at some length the effects I see in our national two-party system. How direct election will affect State and local politics, the relationship between Congress and the Presidency, the governing ability of the President during his term, the balance of strength among the various political forces in our country—these are other questions which deserve serious thought by Members of the Senate. We can only speculate on these questions, but that does not mean we are raising "fanciful" issues. Direct election is unknown. It is untried. We must speculate on its consequences before we cast aside political institutions which have developed over the course of this Nation's history.

When this debate opened, the distinguished Senator from Indiana (Mr. BAYH) who has led the fight for direct election, acknowledged:

> The burden in this debate will be on those of us supporting direct popular election—as it rightly should.

Mr. President, I respectfully submit that proponents of direct election have completely failed to carry the burden with respect to the dangers the direct election poses for our two-party system. They propose to abandon a system which has worked well for almost 200 years, no small achievement for a human institu-

tion. In its place they propose a method of electing the President which, according to almost every respected observer of our political process, poses a great threat to the survival of our great two-party tradition.

I have come to the same conclusion as that of Prof. Charles Black, of Yale Law School, that "a case can be made for the proposition that this amendment, if it passes, will be the most deeply radical amendment which has ever entered the Constitution of the United States." Consequently, I cannot be satisfied at the effort made thus far by the proponents of direct election to persuade us that we are only securing an equal vote for every Presidential elector. What we are doing is tampering with a fundamental American political institution. I trust that the Senate will hold the distinguished Senator from Indiana and others who advocate such a radical departure from our constitutional and political heritage to their duty to carry the burden of proof.

(The following colloquy, which occurred during the delivery of the address by Senator ERVIN, is printed in the RECORD at this point by unanimous consent.)

Mr. ALLEN. Mr. President, I want to commend the distinguished, able, and eminent Senator from North Carolina for his most logical and persuasive argument against Senate Joint Resolution 1. The junior Senator from Alabama notes here—and he is delighted that the Senator from Indiana has come into the Chamber again, because he might wish to make a comment or two about this resolution which might be of interest to the distinguished Senator.

The junior Senator from Alabama notes that section 7 of Senate Joint Resolution 1 provides that "this article shall take effect 1 year after the 15th day of April following ratification," which, it would seem to the junior Senator from Alabama, would mean that if this resolution is not submitted by a two-thirds vote of each House of Congress, and then ratified by the legislatures of 38 States, by April 15 of 1971—which is a physical impossibility, the junior Senator from Alabama submits—then the procedure for the election of the President and Vice President of the United States provided by this resolution could not take effect and be applicable until the 1976 elections; and the junior Senator from Alabama also is mindful, and I am sure that all Members of the Senate are mindful, that we have on the calendar many important bills and resolutions that need action by the Senate.

The Senate is now in the second day of what the junior Senator from Alabama characterizes as the Bayh filibuster, because the Senator from Indiana has seen fit to grind the proceedings of the Senate to a halt with respect to all matters other than the resolution under consideration, it being a resolution that could not become effective until 1976. As the junior Senator from Alabama understands it, a filibusterer could be defined as a person in a legislative body who obstructs or impedes the normal flow of legislation or legislative action, by parliamentary devices and rules, all within the Senator's rights.

Would it occur to the distinguished Senator from North Carolina that it would be much more desirable, much more in the interest of the country, that the Senate proceed to the consideration of these important bills that need action now, rather than to continue the Bayh filibuster and insist on the wasting of time on a measure that could not become effective until 1976? Especially, the junior Senator from Alabama would like to point out, since the Senate itself has been known to change its position in this regard and the distinguished Senator from Indiana has been known to change from advocating the automatic electoral plan rather than the direct plan, and the Senate and the distinguished Senator from Indiana might change their minds a number of times between now and 1976.

Mr. ERVIN. That is certainly to be hoped. I think the Senator from Indiana has a real fear about what he thinks is going to happen in 1976. He reminds me of the little girl, a very small girl, about 7 years old, who was weeping as if her heart would break. Some kindly gentleman came along and saw her, and asked her, "What is causing you all this grief?"

The little girl said, "I just got to thinking that I might grow up and be a grown lady, and I might get married, and I might have a little daughter of my age, and my little daughter might die."

She said, "That is what was causing me to weep."

I think the distinguished Senator from Indiana is like the little girl; he is just weeping in anticipation of what he feels may happen in 1976 if we do not have a constitutional amendment that permits a 40-percent President to be elected instead of a majority President, as under the present system.

I can understand why people like the little girl and the Senator from Indiana can conjure up imaginary ghosts that really frighten them. But I am convinced that the distinguished Senator from Indiana is concerned about what he fears may happen in 1976.

Mr. BAYH. Mr. President, will the Senator yield, since he made a personal reference to me?

Mr. ALLEN. The Senator from North Carolina has the floor.

Mr. ERVIN. Mr. President, I will do so with great pleasure, with the understanding that anything that transpires between the Senator from Indiana and myself by way of colloquy, questions, or observations shall not deprive me of my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAYH. I have just one brief observation to my friend from North Carolina and my friend from Alabama. I have sat here for 2 days now and heard this same hypothesis proposed repeatedly. Having worked side by side with my friend from North Carolina on the Senate Judiciary Committee, I never cease to be amazed, amused, and stimulated by some of the stories of the Senator from North Carolina.

I am sure that when our grandchildren read the last 5 minutes of debate that has transpired with respect to this constitutional issue, it will go down as one of the intellectual high spots of this generation.

Mr. ERVIN. Well, it is nice to have something intellectual in connection with the debate on such an unintellectual proposition as Senate Joint Resolution 1. [Laughter.]

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

Mr. ERVIN. Mr. President, I yield to the Senator from Nebraska on exactly the same terms I yielded to the Senator from Indiana: with the understanding that anything that transpires between the Senator and myself by way of colloquy, questions, or observations shall not deprive me of my right to the floor.

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

Mr. CURTIS. Mr. President, I would like to ask the distinguished Senator from North Carolina a question or two about Senate Joint Resolution 1.

Were I from a very populous State, a State which mathematically might gain by changing the method of counting the votes for the President, there would still be some features of Senate Joint Resolution 1 that, in my opinion, are very disturbing, and I should like to ask the Senator about them.

The joint resolution provides that if no candidates for President and Vice President get the required number of votes, there shall be a runoff election. My question is this: How long, in the Senator's opinion, would it take to go through all the processes of arriving at the decision that there should be a runoff from the first election, then preparing for the second campaign, having the campaign, holding the election, the process of counting, tabulation, and checking, disputes, and so on? How long would it take?

Mr. ERVIN. Mr. President, I think it would take months and months; and, in the case of close elections such as we had in 1960 and in 1968, and such as we have had on other occasions in this country, if we are going to have two elections in 1 year, since the Constitution provides that the President shall take office on the 20th of January next following the general election, I think we ought to have the general election a year and 10 days before he is to take office, so that we will be in a position to get two elections crowded in, and two campaigns, and all that goes with it, if we are going to have Senate Joint Resolution 1.

Mr. CURTIS. Does the distinguished Senator think it would be a good idea, in this day and age of tremendous world happenings, the electronic age, the space age, for this Government to go for months without a final decision being made as to the selection of an individual for President to lead this country, to speak to the foreign nations, and to give us leadership on domestic matters?

Mr. ERVIN. I think that would be the worst calamity that could befall the Nation. I alluded to it a moment ago in discussing the 20th amendment. I pointed out that an incumbent President's term expires at noon on January 20, and he

cannot remain in office a second thereafter. If we do not have somebody to take his place, we have a situation in which Congress would have to make a provision for electing some man, who has not been voted for by anybody, to act as President, until it could be determined, after months and months, who has been elected, if anybody. I think it would be better to have a 40-percent President ready to take office at noon on the 20th of January than it would to go through the period where we would have no President whatever, merely an acting President.

Mr. CURTIS. Is it not true, also, that one election, a campaign for one election, has created problems for the candidates and the parties from the standpoint of the tremendous cost involved?

Mr. ERVIN. The cost of holding a presidential election has become astronomical.

Mr. CURTIS. What would happen to that cost if we were to switch from the system we have always had, with the House of Representatives standing by to decide a contest, to having a runoff? Would the costs of campaigning in the election of a President increase?

Mr. ERVIN. There is no question that they would be multiplied severalfold, and the good Lord knows that they are too high now.

Mr. CURTIS. Another matter that we hear discussed at election time—and I am sure that anyone in political life is fully aware of it and disturbed by it—is the tremendous burden placed upon a candidate for President. He is expected to visit every State. He must speak out on many issues. He has to travel night and day, at rapid speeds. I think it is true that our present system of campaigning is not only almost cruel and inhuman upon the candidates, but also, conceivably could actually jeopardize their health and thereby jeopardize their ability to perform. What would happen in reference to that problem if it should occur that we would have to have two elections or a runoff?

Mr. ERVIN. I think that it would virtually wreck the health of the most physically perfect human being we could imagine, especially, if as our friends the proponents of Senate Joint Resolution 1 say, this amendment would cause the candidates to campaign with as equal vigor in the small States as they do in the large States. I have some difficulty in accepting that proposition, because I think that when a person goes quail hunting, he goes where the most quail are, if he can find out. I think the candidates would ignore the smaller States, to the advantage of the larger States. I think the burden of campaigning through two presidential election campaigns would be intolerable.

Mr. CURTIS. In that connection, my tabulation indicates that under our present system of counting the votes for President, the State of Alaska has fifty-five one hundredths of 1 percent of the voting power. Should we go to a method of electing the President as described in Senate Joint Resolution 1, based upon the returns of 1968, the State of Alaska would have eleven one-hundredths of 1 percent of the voting.

That is down to one-fifth of what it is.

There is a question in my mind as to whether or not candidates for President would give very much attention to the State of Alaska. After all, it is an extremely important State in the Union. It is important from the standpoint of needed natural resources. It is important from the standpoint of foreign affairs. It is important from the standpoint of national defense.

Would the distinguished Senator from North Carolina agree with me that it is in the public interest and in the interests of all 50 States that a President or a potential President go to Alaska and be acquainted with its problems and its importance in the field of national defense and natural resources?

Mr. ERVIN. I think it is essential, if he is going to perform the duties of his office in an efficient manner.

Mr. CURTIS. I cannot think of a State that has a more strategic place from the standpoint of natural resources, national defense, and foreign affairs. Yet, its voting strength would be cut to 20 percent of what it is now.

Mr. BAYH. Mr. President, will the Senator yield to permit me to propound a question to the distinguished Senator from Nebraska, without losing his right to the floor?

Mr. ERVIN. I yield very reluctantly, because I have a great deal to say on this subject, and I do not know whether I can say it, if those who want to gag me are successful next Tuesday. Nevertheless, I yield to my genial friend the Senator from Indiana to put a question to my good friend the Senator from Nebraska, with the understanding that by so doing I do not lose my right to the floor.

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

Mr. BAYH. I appreciate that. I want the record to show that I in no way want to gag the Senator from North Carolina. In fact, I have hardly been able to sleep at night during the last week, ever since the Senator informed us in colloquy the other day that he has a speech to make.

Mr. ERVIN. Mr. President, I am not surprised to learn that my friend the Senator from Indiana has a guilty conscience which troubles his sleeping.

Mr. BAYH. The question I want to propound to the Senator from Nebraska is this: I share his concern for the State of Alaska. There are two matters upon which I thought the Senator might want to elaborate.

Perhaps he might care to offer his judgment as to whether the Senators from Alaska would be in a better position to determine whether the people of that State would be jeopardized by being given the opportunity to vote for their President directly. I bring this matter to the Senator's attention because both Senators from Alaska—the State about which he is so concerned—have suggested that they are prepared to vote on the direct election plan and to support it. It is rather inconsistent that if a State is jeopardized, the Senators who represent the people of Alaska should not be concerned.

Another question: Perhaps the Senator would explain why, if Alaska's importance is of paramount concern to candidates for the Presidency, no presidential candidate since 1960 has gone to Alaska during the campaign, soliciting the support of citizens of Alaska.

Theodore White said, in recounting the 1960 election, that one of the reasons to which he attributes the defeat of the present President in 1960 was that he took time to go to Alaska when he should have been spending that time in Illinois, Ohio, and some of the other States.

Mr. CURTIS. I would be happy to comment.

In regard to the first question, I cannot comment, nor do I think it would be proper for me to say anything that would question the judgment or the motives or the opinion arrived at of any other Senator. So I have no comment as to what the position of the Senators from Alaska or any other State might be.

As to the fact that candidates for President have not visited Alaska, I think that is part of the overall problem that no candidate ever finds enough time to go everywhere he would like. So, in the opinion of the junior Senator from Nebraska, the questions the Senator raises do not go to the merits of the problem at all. The questions the Senator raises do not explain the deficiencies of Senate Joint Resolution 1.

Mr. BAYH. The Senator has been very kind. I do not wish further to interrupt the Senator from North Carolina, but anyone who will read the RECORD can judge whether the questions propounded by the Senator from Indiana to the Senator from Nebraska go to the merits. I appreciate his giving me the courtesy of providing these answers.

Mr. CURTIS. Mr. President, will the Senator from North Carolina yield further?

Mr. ERVIN. Yes, I yield, on the same conditions.

Mr. CURTIS. I thank the Senator from North Carolina.

Mr. President, Senate Joint Resolution 1 proposes, instead of counting the votes by States, that we determine the total of the popular vote as to how they voted for the various candidates. If I read Senate Joint Resolution 1 correctly, and I have followed the comments of its chief sponsor, it also provides that the States shall determine the qualifications of the electors in general. Are those two propositions inconsistent and impractical?

Mr. ERVIN. They are absolutely irreconcilable.

Mr. CURTIS. Would the Senator please elaborate on that?

Mr. ERVIN. If we are going to have a fair system and count all the votes in a precinct that covers 50 States and the District of Columbia, the people who participate in an election in that great big precinct should have the same qualifications for voting; otherwise, the system is inherently unfair, because if we have one State that allows 18- or 17-year-olds to vote, and other States do not, we are putting the latter at a disadvantage. We

are inviting the States to extend qualifications to incompetents, those clearly incompetent to cast votes, in order to increase their power. Aside from being inherently unfair, it is impractical, because it tempts the State to grant the franchise to persons, without regard to whether they are really qualified to vote with wisdom, in order to increase their power.

Mr. CURTIS. Would it not also mean that the courts in a State, in determining contests or other actions to enforce the right to register and vote, would be interpreting the laws differently from many other parts of the Nation?

Mr. ERVIN. Oh, yes; which would certainly add to the confusion.

Mr. CURTIS. Would it be practical in a State, whether it be Indiana, North Carolina, or Nebraska, to provide certain rules in electing a Governor, where each county in the State could determine the qualifications of the voters?

Mr. ERVIN. That would be applying exactly the same system to the counties of a State that Senate Joint Resolution 1 would undertake to apply to the States.

Mr. CURTIS. It would be both unfair and very confusing, would it not?

Mr. ERVIN. Yes.

Mr. CURTIS. Would the provision that a candidate could be declared elected President without having a majority vote be a new departure for the United States?

Mr. ERVIN. Yes, because it has been the constitutional law of the Nation, ever since the time when George Washington was first elected President of the United States, that the President should be a majority President and not a 40-percent President.

Mr. CURTIS. Does the Senator feel that any officeholder, be he President or an officeholder in an office of lesser importance, has disadvantages and problems that he must assume in that office with less than a majority vote?

Mr. ERVIN. Yes. I think in all probability that a 40-percent President would start out at his inauguration with only 40 percent of the support of the people. As he acts in the succeeding weeks and months, his support is likely to decrease rather than increase, so that we would wind up with a 40-percent President having about 20-percent support. That would certainly be a handicap to the functioning of a great country like the United States of America.

Not only would he be at best a 40-percent President but, unfortunately, millions of Americans do not go to the polls, which is unfortunate, but under Senate Joint Resolution 1, a 40-percent President could possibly be elected because of absentees at the polling places by 25 to 35 percent of the vote, so that instead of having a 40-percent President we might have a 25-percent to a 35-percent President.

Mr. CURTIS. We have heard a great deal about the one-man, one-vote. If Senate Joint Resolution 1 should become a part of the Constitution, we could have a situation where 60 percent of the voters were opposed to candidate A, but candidate A could be elected President; is that not correct?

Mr. ERVIN. Oh, yes. That is exactly what is stated in substance in an editorial in the Durham Morning Herald, which I read into the RECORD this morning. This editorial pointed out that what Senate Joint Resolution 1 would do would actually provide for the election of a minority President. In other words, under Senate Joint Resolution 1, we would count 40 percent of the votes and we would throw away the other 60 percent of the votes. That is what we would do.

Mr. CURTIS. I think it is clear that the President and the Vice President are the only two public officials elected by the entire country, so that we have no other government offices to turn to as to how they do it. I should like to ask the distinguished Senator from North Carolina, how do important organizations who operate throughout the entire country, elect their president? Say, for instance, the U.S. Chamber of Commerce, the League of Women Voters, or the AFL–CIO, and so forth.

Mr. ERVIN. I was very much intrigued by the fact that the Senator from Indiana laid great stress on the fact that some official body in the chamber of commerce, some official body of the American Bar Association, some official body of the League of Women Voters, and some official body of the AFL–CIO support the direct election as proposed in Senate Joint Resolution 1. All these organizations, of course, are acting within their rights. They remind me of the doctor who prescribes medicine for his patient but does not take it himself.

The U.S. Chamber of Commerce does not elect its president by a vote of its members. Its president is elected by its board of directors and, strange to say, the board of directors elects members of the board of directors, subject to the limitation that members of the board of directors are eligible for reelection after a specified time and that 10 of the 25 board members elected annually must be elected from 10 designated sections of the country. Hence, the U.S. Chamber of Commerce, in its own method of electing its president, goes as far away from direct election by the vote of its members as it is humanly possible to do.

The same thing is true with respect to each of these other organizations. I have mentioned previously the fact that I happen to be a member of the chamber of commerce in my hometown. No one ever allowed me to vote for any president of the National Chamber of Commerce. Moreover, I have never been polled on how I stand on Senate Joint Resolution 1.

Mr. CURTIS. Mr. President, did the Senator ever vote for a president of the American Bar Association?

Mr. ERVIN. No. I started paying dues to the American Bar Association about the time I was a little boy, long before the chlorophyll went out of my hair. They never asked me for my opinion on any proposition. They never gave me a chance to vote for the president of the American Bar Association.

There are thousands and thousands of lawyers belonging to the American Bar Association and the only ones who get to make recommendations concerning governmental matters are the members of the house of delegates, composed of a small minority of the membership. They undertake to speak for all the members.

Mr. President, I have been receiving a tremendous amount of mail on Senate Joint Resolution 1 from people who tell me they are members of the chamber of commerce and members of the American Bar Association.

Virtually all of them tell me they do not favor it. A small handful of people professing to represent the chamber of commerce and the American Bar Association endorse the measure.

Mr. CURTIS. Mr. President, I think that is very true. The record has not been encumbered by recommendations from those organizations supporting the recommendations of the organizations.

Mr. ERVIN. Mr. President, I am just as wary of the recommendations of an organization which ignores its own members in the conduct of its affairs as I am of a physician who undertakes to write a prescription for others which he is not willing to take himself.

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

Mr. ERVIN. I am glad to yield to the Senator from Alabama.

Mr. SPARKMAN. Mr. President, I have listened with interest to what the Senator has had to say. I enjoyed his discussion of the runoff proposal. To me, that proposal has seemed absolutely unworkable. Of course, the amendment to which the Senator refers would abolish that, but would provide that in case one of the candidates does not win, the election would go to Congress as a whole. Is that correct?

Mr. ERVIN. Yes.

Mr. SPARKMAN. Instead of to the House of Representatives, as in the past. Thinking back, I am rather horrified at the thought of an election of the President and Vice President having to be decided in either house of Congress, or in the two houses sitting as one body.

Mr. ERVIN. If the Senator will pardon the interruption, he might well be dismayed by that because of the close election between Samuel J. Tilden and Rutherford B. Hayes.

Mr. SPARKMAN. Congress sidestepped that election.

Mr. ERVIN. Congress side-stepped the matter by appointing an electoral commission, and the electoral commission had for consideration many charges of fraud and corruption, especially in the States of Louisiana, Florida, and South Carolina. Finally the decision was made in favor of the Republican candidate, Rutherford B. Hayes, by a strict party vote of the members of the commission, indicating the danger that the Senator apprehends.

Mr. SPARKMAN. That was made in spite of the fact Tilden only lacked one electoral vote, and they had to decide every single electoral vote in the disputed States should have gone to Hayes.

Mr. ERVIN. Without saying anything to detract from the gentlemen who composed that commission, their action gives rise to the suspicion that all of them,

whether they were Republicans or Democrats, were like the billy goat that had already voted, before they were placed on the commission.

Mr. SPARKMAN. I think that is the only instance since the adoption of the 12th amendment. We did have one in the case of Jefferson-Burr. Stories have come down through the years of the trading and maneuvering that was done both in that election and in connection with this electoral commission.

As the Senator pointed out, the very fact that the electoral commission in deciding Hayes-Tilden voted a strictly party vote gives us cause for alarm with reference to second elections in either House of Congress. If we can work out a plan whereby the election will be definitely settled on election day we will all be happier.

Mr. ERVIN. It is just as Professor Bickel indicated in the article I read. We may have to sit before our television sets for weeks and weeks in the event Senate Joint Resolution 1 becomes part of the Constitution to find out who was actually elected President, if we can do it even then.

Mr. SPARKMAN. That is certainly correct. There is another matter that concerns me greatly about this proposal. Our present system—and I am not talking about the system that was established by the 12th amendment, because all that did was to spell out what the Constitution provided—was set up, if my recollection of history is correct, as part of the great compromise between the small States and the large States.

Mr. ERVIN. It has been truly said by well-versed historians that that was the compromise which made the creation of the United States possible.

Mr. SPARKMAN. And it is a compromise which made two Houses of Congress part of our system. A great many persons wanted only one House, the House that was elected frequently by the people. Another group wanted also a Senate. Finally they agreed upon a Senate by giving each State two Senators, and House Members according to the population, with the proviso that every State, regardless of population, would have at least one Representative. Is that correct?

Mr. ERVIN. That is correct.

Mr. SPARKMAN. Then, when the electoral college system was worked out, it provided that each State should have the same number of electors as the combination of House Members and Senators. That gave a little weighted advantage to the small States. In other words, it was something the smaller States were looking forward to in order to give them somewhat of an even break in this union of sovereign States.

Mr. ERVIN. That was the reason smaller States were willing to come into the Union. As a matter of simple justice, no one can seriously object to giving a little extra protection to those who are weak as against those who are strong. The strong do not need protection, they can protect themselves, but the weak cannot.

Mr. SPARKMAN. It was pillared by the agreement worked out by our forebears to distribute that degree of equity. That should be taken into consideration and it should be remembered that this effort completely revokes that agreement. I think we can say it was an agreement worked out by the founders who set up this system of government. Is that correct?

Mr. ERVIN. There is no question about that. It is a matter of absolute truth that Senate Joint Resolution 1 destroys the Federal system of government ordained by the Constitution insofar as the selection of President and Vice President is concerned.

Mr. SPARKMAN. And agreed to by the sovereign States after they had been assured of that protection.

Mr. ERVIN. Yes. In other words, the proponents of this amendment want to establish the same system of election which was established in Germany after the First World War, when they made the President of Germany elective by direct vote, and wound up with Hitler as the Fuhrer and the Second World War as the consequence.

Mr. SPARKMAN. Let me say I have long favored some kind of electoral college reform. When I was in the House I became a supporter of the Lodge-Gossett resolution, as it was known then. I supported it in the Senate. I introduced it at different times. I believe the Senator from North Carolina introduced it in the last Congress.

Mr. ERVIN. Yes. The distinguished Senator from Alabama and the Senator from North Carolina on several occasions have cosponsored an amendment of that character.

Mr. SPARKMAN. Yes. I have always felt that I would be glad to support that kind of reform because it does not change the essential protection of giving the States that which the Constitution originally intended.

The Senator will remember that several years ago our friend from South Dakota (Mr. MUNDT) introduced a proposal whereby the President and Vice President would be elected by district, with two from the State at large. I opposed it at that time. My principal fear was that it would lead to gerrymandering of districts in order to get partisan advantage. But after the Supreme Court's decision on one-man, one-vote, I thought that decision pretty well eliminated that objection to it. I am a cosponsor now with the Senator from North Carolina of the proportional representation within the States. I believe he and I are both on the Mundt resolution also—

Mr. ERVIN. I did not cosponsor the Mundt resolution.

Mr. SPARKMAN. I did.

Mr. ERVIN. However, I would certainly agree with the distinguished Senator from Alabama that there are three methods of reform far preferable to Senate Joint Resolution 1, in that they reach the serious objections to our present system without placing the future of this country in the chaotic condition that Senate Joint Resolution 1 would.

Mr. SPARKMAN. Would it be too strong to say, without tearing up our Constitution?

Mr. ERVIN. That is right, or the mainspring of the Constitution.

Mr. SPARKMAN. I would gladly support either of the other two plans, but I cannot support this plan for the reasons the Senator from North Carolina has stated.

Mr. ERVIN. I agree with the Senator from Alabama.

There are three other plans proposed. One is the one that was so long advocated by our distinguished friend from South Dakota, KARL MUNDT, which is called the district plan. Then there is another one called the Katzenbach plan. The other is the proportional voting plan.

Any one of them would be a substantial reform without involving the chaos which Senate Joint Resolution 1 would invite.

As a matter of fact, I have an amendment, which I shall call up at the proper time, to the Tydings-Griffin amendment. I intend to offer my amendment to amendment No. 711 to Senate Joint Resolution 1. That is the Tydings-Griffin amendment.

My amendment would provide, in lieu of the language proposed to be inserted by amendment No. 711, that the Senate should insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution only if ratified by three-fourths of the legislatures of the several States within seven years from the date of its submission by the Congress:

This is the proposed amendment:

"ARTICLE —

"SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as provided in this Constitution.

"The office of elector of the President and Vice President, as established by section 1 of article II of this Constitution and the twelfth and twenty-third articles of amendment to this Constitution, is hereby abolished."

That would do away with the possibility of a defaulting or unfaithful elector.

I continue to read from my proposed amendment of the Griffin-Tydings amendment:

The President and Vice President shall be elected by the people of the several States and the district constituting the seat of Government of the United States. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that the legislature of any State may prescribe lesser qualifications with respect to residence therein. The electors in such district shall have such qualifications as the Congress may prescribe. The places and manner of holding such election in each State shall be prescribed by the legislature thereof; but the Congress may at any time by law make or alter such regulations. The place and manner of holding such election in such district shall be prescribed by the Congress. Congress shall determine the time of such election, which shall be the same throughout the United States. Until otherwise determined by the Congress, such election shall be held on the Tuesday next after the first Monday in November of the year preceding the year in which the regular term of the President is to begin. Each State shall be entitled to a number of electoral votes equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress. Such district shall be entitled to a

number of electoral votes equal to the whole number of Senators and Representatives in Congress to which such district would be entitled if it were a State, but in no event more than the least populous State.

"Within forty-five days after such election, or at such time as Congress shall direct, the official custodian of the election returns of each State and such district shall make distinct lists of all persons for whom votes were cast for President and the number of votes for each, and the total vote of the electors of the State or the district for all persons for President, which lists he shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. On the 6th day of January following the election, unless the Congress by law appoints a different day not earlier than the 4th day of January and not later than the 10th day of January, the President of the Senate shall, in the presence of the Senate and House of Representatives, open all certificates and the votes shall then be counted. Each person for whom votes were cast for President in each State and such district shall be credited with such proportion of the electoral votes thereof as he received of the total vote of the electors therein for President. In making the computation, fractional numbers less than one one-thousandth shall be disregarded. The person having the greatest number of electoral votes for President shall be President, if such number be a majority of the whole number of electoral votes. If no person has a majority of the whole number of electoral votes, then from the persons having the two greatest numbers of electoral votes for President, the Senate and the House of Representatives sitting in joint session shall choose immediately, by ballot, the President. A majority of the votes of the combined authorized membership of the Senate and the House of Representatives shall be necessary for a choice.

"The Vice President shall be likewise elected, at the same time and in the same manner and subject to the same provisions, as the President, but no person constitutionally ineligible for the office of President shall be eligible to that of Vice President of the United States.

"The Congress may by law provide for the case of the death of any of the persons from whom the Senate and the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of death of any of the persons from whom the Senate and the House of Representatives may choose a Vice President whenever the right of choice shall have devolved upon them. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 2. This article shall take effect on the 10th day of February next after one year shall have elapsed following its ratification."

This amendment which I have prepared to the Tydings-Griffin amendment—that is, amendment 711—embodies the proportional voting plan. It has many advantages over Senate Joint Resolution 1. It retains the federal system ordained by the Constitution. It keeps the States as viable constitutional entities in the selection of the President and the Vice President. It abolishes the faithless elector by abolishing his office. It provides for a fair distribution of the popular vote. It gives every citizen the right to vote in his own State, directly for President and Vice President. It provides that the candidates for these offices shall receive a proportion of the electoral vote in each State corresponding to their popular vote in the State. It does away with the present method of electing a President in case no one receives a majority of the electoral vote.

I might state, by way of digression, that one advantage about this proposal is that it provides for the election of a majority President—not a 40-percent President but a majority President—and it provides that in the event no candidate for the Presidency receives a majority of all the electoral votes, the Senate and the House of Representatives, sitting in joint session, shall select the President from among the two candidates receiving the highest electoral vote, and that, in making such selection, a majority of the Senators and Representatives in this joint session shall determine the choice.

This would reform every objectionable provision of our present system, preserve the federal system of government, and at the same time keep the Nation from fleeing to the chaos which a direct election of the Presidents, as envisioned by Senate Joint Resolution 1, would produce.

I join the Senator from Alabama in saying that I would prefer this method of electing a President over any other suggestion. However, I could vote with good grace for the so-called Katzenbach plan, or for the so-called district plan, because both of those plans would provide some needed reforms without inviting the chaos which Senate Joint Resolution 1 invites.

Now I wish to call attention to another editorial which appeared in the Durham Morning Herald, of Durham, N.C., on September 16, 1970. I mentioned the fact that this newspaper has an exceedingly wise editor, who has a capacity to analyze and clearly reveal the merits and the demerits of different proposals on various subjects of a governmental nature.

This editorial is entitled "Direct Election Splinter Boon," and reads as follows:

As senators debate the proposed amendment to provide for the direct election of President and vice president, they should consider the impact of such an election upon the political structure of the country.

A major motivation for promoting the direct election amendment at this time is the threat the Wallace third party in 1968 raised for throwing the election into the House of Representatives (together with the action of the Republican elector in North Carolina's Second District in casting his vote, not in accordance with the popular vote plurality in North Carolina for Nixon, but for Wallace).

I digress to note that the great ghost which my good friend the Senator from Indiana sees, and which prompts him to advocate Senate Joint Resolution 1, is the specter of George Wallace. For that reason, I have been so bold as to venture the suggestion that Senate Joint Resolution 1 should be called the George Wallace amendment. I do this because George Wallace inspired this amendment, or at least he is the man who fueled the enthusiasm of my good friend from Indiana for Senate Joint Resolution 1.

I resume reading from the editorial:

The prospect of throwing an election into the House of Representatives is an alluring temptation to third-party hopefuls. But it does not work. Not since 1824 has an election been decided by the House, and then there was only one party, but four aspirants for the presidency. The Electoral College system is really the deterrent to third-party hopes of preventing the election of a major party nominee by the College. For the system is so structured that a third party nominee must win in enough states to prevent either of the other nominees from getting a majority of the electoral vote. And this is extremely difficult to do.

On the other hand, direct election offers greater encouragement to third parties than does the electoral system. Under the proposed amendment, a third party's effort would be directed toward preventing the nominees of other parties from getting 40 per cent of the popular vote. This with only 21 percent of the popular vote, a third party nominee could conceivably force a runoff election (provided the rest of the vote was about evenly split between two others, neither getting 40 per cent). Such a situation would put the third party in a position to bargain with the intent of gaining the objectives of a relatively small minority in turn for delivering its votes to the candidate it might enable to win.

While it is true that only once in the history of presidential elections (since accurate figures for the popular vote are available) has any nominee failed to get as much as 40 per cent of the vote, that one exception shows the circumstances which would make such a situation possible. That was the election of 1860, in a politically badly splintered nation, when Lincoln received 39.8 per cent of the popular vote.

But direct election of Presidents would not merely encourage the development of a third party but also the development of other parties. Ideologically there were four parties in 1968 (as there had been with four candidates 20 years earlier), but only three major candidates, since Senator McCarthy chose not to run after failing to get the Democratic nomination. Had there been no Electoral College, there would have been greater encouragement to him to run on a fourth party ticket.

The outlook, then, in the event the direct election amendment is passed, is the splintering or fragmentation of the political organization of the nation, with all the dangers for immoblizing government, in the event no party commanded a congressional majority or a majority in the popular election of a President, as the experience of France, with its multiplicity of parties, shows.

Not only is the Electoral College a more democratic method of electing a President, as noted in these columns Tuesday, but it is a much more politically stabilizing influence than direct elections would be.

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

Mr. ERVIN. Yes, I am delighted to yield. The Senator from Indiana asked me to yield first.

Mr. HANSEN. The Senator from Indiana is not present.

Mr. ERVIN. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I was present in the Senate Chamber when the Senator from North Carolina asked unanimous consent that various committees might be able to meet today. As Senators know, there was objection to that unanimous consent request.

I would like to observe that I attended a hearing of the Subcommittee on Indian Affairs of the Interior and Insular Affairs Committee of the Senate this morning. Present at that hearing were members of Indians from the United States. There is interest in the package of bills

that has been sent up to the Hill by the administration, which calls for important legislative reforms in the manner by which we shall deal with Indian problems.

The point I want to make is that it became my very sad duty to apprise the distinguished chairman of that subcommittee, the Senator from South Dakota (Mr. McGOVERN), that we would not be able to hear numerous witnesses, who have come great distances, at great expense, this afternoon. I think that is most unfortunate. It will impose further financial burdens on them. It will require them to stay over, unless it could be that in an informal way they might be able to make their point to the Senator from South Dakota, though I certainly do not countenance that sort of hearing. I think these people, interested as they are in their problems, deserve better treatment than that. I think they deserve to be heard. I think the hearings should be formal. I think reporters should be present to take down what has been said, questions that might be raised, responses that might be given.

I understand that this whole situation came about despite the objections of the Democratic Policy Committee to the manner in which we are now forced to proceed, with the exception being taken by the Senator from Indiana. I have great respect for him. I am not trying to criticize him, but I do think the Senate should be aware of what can happen when one person, despite the recommendations of his colleagues, decides that he will force the Senate to dispense with all other business. He ought to know that it can result in considerable inconvenience and considerable expense being visited upon people who have come a long way. I am told that representatives of various tribes were there from Alaska.

It certainly causes me great anguish that we would be forced, as was the distinguished Senator from South Dakota, to apprise those present that no more formal hearings could be continued this afternoon.

I thank my distinguished colleague from North Carolina.

Mr. ERVIN. I thank the distinguished Senator from Wyoming. Those associated with me have been criticized on the floor of the Senate by some because we exercised the right, under the Senate rules, to insist that we be given an adequate opportunity to point out the inequities in Senate Joint Resolution 1. We have that right under the Senate rules.

I will have to say, just by way of explanation of the action of the distinguished Senator from Indiana, he has the right to assume the exercise of powers which ordinarily belong to the majority leader of the Senate as to whether committees shall meet or how legislation shall flow in the Senate.

I am somewhat at a loss to understand why we should be criticized for exercising our rights under the rules, and why he should be extolled for exercising his rights under the rules.

If we abuse our rights, there is a remedy which can be applied by the Senate. That is, a two-thirds majority can silence us, can gag us. And there is a remedy for the action of the Senator from Indiana. The majority leader could move to lay aside Senate Joint Resolution 1 and, by a majority vote, that resolution could be laid aside, and then the Senate could go on with its other affairs.

I think every Senator is entitled to exercise any of his rights under the Senate rules. As one who loves his country and venerates the Constitution, I insist that those of us who are opposed to throwing on to the scrapheap of history a method of selecting our President which has worked well for 181 years, and given us some great presidential leaders, have a right to speak our piece. I believe we have a duty to our country to do it.

I do not believe such a drastic change in the Constitution should be made possible by a Congress of the United States in a harried and hurried atmosphere such as necessarily prevails in Congress at this time.

Mr. BYRD of West Virginia. Mr. President, what I am about to say, I say assuring the able Senator from North Carolina that I do not misunderstand his remarks, and that I am fully aware that he meant no criticism of the majority leader in what he has just said.

Mr. ERVIN. Oh, no.

Mr. BYRD of West Virginia. But I think it ought to be stated for the RECORD, in the absence of the majority leader, that he did give his word to Senators, following the vote on the motion to invoke cloture a few days ago, that there would be opportunity for further debate, and that after a period of time, there would be a second cloture motion introduced by him.

Having given his word—and he is a man of his word, and is so recognized by all Senators—the majority leader, I am sure, felt that it would not be incumbent upon him to move to table Senate Joint Resolution 1 until such time as a second cloture motion had been introduced and, under rule XXII, had run its course and been voted down, if that is the verdict of the Senate.

What he will do following the verdict of next Tuesday awaits to be seen. But I do feel that it ought to be said that the majority leader, being a man of his word, and having indicated that he would not move at this time to table Senate Joint Resolution 1, proceeded as he has done.

Mr. ERVIN. Mr. President, if the Senator will pardon me, I did not mean to suggest that the majority leader should move to table Senate Joint Resolution 1. What I was trying to say was that as Senators who believe in unlimited debate as the only method by which serious issues can be illuminated, we are insisting on our rights under the Senate rules. My distinguished friend from Indiana and I are both exercising privileges under the rules of the Senate. I did not say this in the spirit of criticism; I was striving to point out this fact.

The rules of the Senate secure to any Senator the right to speak until two-thirds of the Senators think he has abused the right. Then he can be silenced or gagged. That right is the remedy for the abuse of that right. I was suggesting also that there is a remedy available to the majority leader if any individual Senator assumes the power to exercise, in effect, the powers of the leadership, by objecting to committee meetings and the consideration of particular bills; I certainly did not mean to make any suggestion to the majority leader as to what he should do in the exercise of his authority. That is a matter for him, not me. I have the deepest affection and the most profound admiration for the majority leader, and certainly did not intend any criticism of him in saying these things.

Mr. BYRD of West Virginia. Mr. President, I am aware of that. I am sure of it. I understood the distinguished Senator very clearly, and I understood the spirit in which he made his statement. He would be the last to speak critically of the leader. But I thought that, in protection of the Senator himself as well as the majority leader, I should say what I have said.

Mr. ERVIN. I appreciate that, because I would not want my remarks to be misconstrued by anyone, and the Senator from West Virginia, I think has made certain that they will not be misunderstood or misconstrued.

Mr. BYRD of West Virginia. That has been my intention.

(This marks the end of the colloquy which occurred during the delivery of the address by Senator ERVIN and which by unanimous consent was ordered to be printed in the RECORD at the conclusion of the address.)

THE VISIT OF VICE PRESIDENT KY

Mr. THURMOND. Mr. President, there has been an extraordinary amount of debate over the question of whether the Vice President of our ally, South Vietnam, should be made welcome when he comes to this country to speak before the March for Victory.

I do not understand why there should be any hesitancy or doubt over his presence in this country. This is not the leader of the Communist nation coming in false colors of peace nor is he a neutralist who refuses to do anything which advances the cause of peace and freedom.

I notice that Vice President AGNEW has said:

> I have steadfastly refused to take any active part in dissuading him. I think to some extent it is an unofficial visit and what he accomplishes or does not accomplish is being grossly overplayed. We do have free speech in this country and I think it would be improper to forbid or repress his appearance.

I commend Vice President AGNEW for his courage in taking this stand even though he indicates he may not agree with Vice President Ky. I certainly will not take any part either in dissuading Vice President Ky's visit.

He is the second ranking elected official of a country which is fighting gallantly for the freedom of the West.

Can it be possible that our values are so inverted and our sense of moral decency so devastated that the very word "victory" is treated in some quarters as

an obscenity? Have we sunk so low that it is impossible for rational discourse to consider the possibility of winning against an enemy?

I would like to make my own position clear. I have always believed that a rapid military victory was the way to avoid escalation and to avoid the needless slaughter of thousands of Americans and South Vietnamese. A quick military victory would have been the humane way to avoid unnecessary killing and suffering on the part of the civilian population. For reasons known only to the civilians who proposed new doctrines on conducting the war, the Johnson administration chose to adopt a no-win policy until the events reached a point of no return. President Nixon promised to end the Vietnam war in an honorable manner and adopted the policy of Vietnamization. For the first time we trusted our allies to have the tools of war and to bear the responsibility for it. The results have been unqualified success. Much of this success must be attributed to the quality of leadership and courage of the Vice President of the Republic of Vietnam.

I do not pretend that I am in agreement with all of Mr. Ky's political philosophies or his past statements, or that I will necessarily agree with what he has to say to the American people. But we have never made total agreement a prerequisite for listening to the voice of foreign leaders. Even now, President Nixon is planning a trip to speak with Tito of Yugoslavia, a Communist responsible for many brutal murders and for the extinction of freedom in his country. I am sure that the President feels that his visit is not necessarily an endorsement of communism in Yugoslavia. Why should we feel, therefore, that a man who represents freedom in Southeast Asia will have anything to say in our country that is against the broad interest of the West? Vice President Ky may indeed bring criticism, but criticism has never been lacking on all sides of this question.

Mr. President, two distinguished columnists and observers of the American scene have written on this matter pointing out the strange contradictions of those who are opposed to Vice President Ky's speech in Washington. The first of these is David Lawrence, writing in the Washington Evening Star on September 22, in which he says that Ky is entitled to address the rally.

Mr. President, I ask unanimous consent to have this column be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. THURMOND. Another outstanding columnist is Maj. General Thomas A. Lane, former Commissioner for the District of Columbia. General Lane asks:

> Wouldn't you suppose that one of the leaders of a gallant ally fighting side by side with us in Vietnam would receive a warm welcome in Washington?

He points out that the political left has promoted a guilt complex about our actions. I do not believe that we should surrender to the mythology of the left.

Mr. President, I ask unanimous consent to have General Lane's column of September 29 be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

EXHIBIT 1

KY ENTITLED TO ADDRESS RALLY

(By David Lawrence)

President Thieu of South Vietnam has given his righthand man—Vice President Nguyen Cao Ky—permission to visit the United States and speak at a "private" rally to be held on the Monument Grounds south of the White House on Oct. 3.

Some senators who happen to be supporters of President Nixon's policies in Vietnam have been worried about the plan of Ky to make a speech at the "March for Victory" demonstration in Washington because it might stir up ill feelings. The Rev. Carl McIntire, a minister who has been delivering broadcasts over many radio stations for the last seven years, made a trip to Saigon to invite Ky and has been enthusiastic about the idea. He thinks it would be a good thing for the American people to hear from the South Vietnamese leader. Mr. McIntire headed a march in Washington last April and is helping to organize the rally on Oct. 3. He says:

"Vice President Ky will be another Agnew. Possibly he will out-Agnew Agnew."

But the real question is why there are such undercurrents of apprehension and a lot of misgivings hereabouts concerning Ky's visit. In a nation which is dedicated to the principles of free speech, it should be possible for leaders from foreign nations to come here and express themselves to the American people without difficulty.

In the last two years many Americans, in and out of Congress, have criticized the Saigon government and accused it of corruption and other errors. Presumably the South Vietnamese are entitled to give their rebuttal. Perhaps they will not get "equal time," because a good deal of the adverse comment has consumed hours on television. The Congressional Record contains pages of criticism and innuendo about the South Vietnamese from critics in Congress.

Pressure, of course, has been exerted in the last few days to try to persuade Ky to give up his trip on the theory that it might embarrass the administration and Congress. No officials here concede that any such action has been taken, but several senators have openly urged that Ky remain home to avoid trouble.

There have been a great number of anti-war demonstrations around the country, including Washington, in the last two years, and the McIntire idea is to hold a "March for Victory" rally in the national capital. Presumably the presence of the vice president of the South Vietnamese government will add publicly to the occasion. Arrangements have been made also for Ky to appear before the House Armed Services Committee on an informal basis.

What has given rise to apprehension is not what Ky might say, but the possibility that anti-war activists might carry on a competing demonstration and that a riot might result which would be embarrassing. But certainly an official of any country is entitled to come to the United States and speak to the American people at any time, especially when there are controversies going on and prominent members of Congress are uttering criticisms about other governments without a corresponding opportunity for spokesmen from a foreign land to be present to give their side of the argument.

Ky speaks excellent English and is looked upon as a likely candidate for the presidency of his country in the election next year. So the trip to America may indeed have some bearing on a desire to build up his political prestige for the future. His purpose also is to help assure the American people that South Vietnam is not going to crumble and give in to the Communists but instead will make every effort to carry on the fight against the Hanoi government. He will have an opportunity to explain the effectiveness of the "Vietnamization" program and his conviction that, with the withdrawal of American troops, the South Vietnamese will be able to protect themselves against the aggressors from the north and from internal enemies.

Ky is the personal representative of President Thieu at the peace talks in Paris and is planning to stop there on his way to the United States. He is expected to arrive in Washington on October 1 and address the rally on Saturday, Oct. 3.

EXHIBIT 2

KY VISIT EVOKES SCHIZOID RESPONSE

The sick condition of the American psyche is illustrated in the reaction of public figures to the visit of Vice President Nguyen Cao Ky of the Republic of Vietnam. Mr. Ky has accepted an invitation to address a Washington Rally for Victory in Vietnam on October 3rd. U.S. Senators of both political parties have suggested that Vice President Ky should stay home.

Wouldn't you suppose that one of the leaders of a gallant ally fighting side by side with us in Vietnam would receive a warm welcome in Washington? What kind of an alliance is this? What would the American people have thought if Senators of South Vietnam had told Vice President Agnew to stay home before his recent visit to Saigon? The people of Vietnam have always given our leaders a generous welcome. That is expected of allies.

Let it be clear whom Vice President Ky represents. The people of South Vietnam are fighting for survival against the aggression of world communism. Before President Nixon took office, we and they were each suffering about 200 killed in battle weekly. Now we are withdrawing and they are taking the brunt of the battle. Our killed in action has dropped to about 70 weekly; theirs has increased to about 340 weekly. President Nixon has not reduced the scale of warfare one bit; he has simply transferred the load to our small ally.

Because South Vietnam has one-twelfth our population, its casualty rate is about sixty times as great as ours. It is as though the United States were having 4000 killed in action each week. South Vietnamese leaders know that they must win the war to put an end to the killing. Negotiation is a snare and a delusion.

American performance in Vietnam is a story of brave fighting men sacrificed by tragically inept political leadership. The Republic of Vietnam has had better leadership. Vietnamese leaders from President Diem to President Thieu have all wanted to carry the war to the enemy; they have submitted to a war of attrition only under U.S. political compulsion.

Our political Left has promoted a guilt complex about our bombing of the enemy; but no element of our political spectrum has told the people about the tragic sacrifices which American restraint has imposed on the people of South Vietnam. If the truth were grasped, our people would have a better sense of the great obligation of restitution which we owe to our injured ally. American policy has injured us too; but that injury is self-inflicted. Our ally has accepted but has never approved the policy.

Vice President Ky is a particular hero of the Vietnamese people. In 1967, after

American policy had virtually paralysed the government of South Vietnam, Air Vice Marshal Ky accepted the office of Premier, quelled the subversive activities of rioting factions and restored order in the country. He guided the country through the adoption of a new Constitution and the election of a new government. Then, working with President Thieu in the new government, he has contributed to the growing strength and unity of his people. By every rule of courtesy and decency, our government should welcome Vice President Ky with generous tributes to his leadership.

It is obvious that the United States is in precipitate retreat; but are we also determined to keep our ally from winning? President Thieu and the people of South Vietnam have not forsaken the goal of victory. Are we going to support them or are we going to oppose them? Which side of this war are we on?

The attitude of our Senators lends credibility to the communist boast that they will defeat the United Sates as they defeated France in 1954—through control of public information on the home front. Their response to this visit of a truly great allied leader bespeaks a meanness of spirit which ill becomes America. We the people are called to repudiate our leaders and give Vice President Ky a hero's welcome.

THE NATION'S COAL SUPPLY AND THE COAL CAR SHORTAGE

Mr. COOPER. Mr. President, on August 25, I introduced Senate Resolution 457, cosponsored by Senators RANDOLPH, BAKER, BYRD of West Virginia, BYRD of Virginia, COOK, JORDAN, SPONG, SPARKMAN, SCOTT, THURMOND, GRIFFIN, MAGNUSON, GORE, and SCHWEIKER, authorizing the Committee on Interior and Insular Affairs to conduct a study and investigation concerning the present shortage of coal in the United States. One of the causes for our Nation's coal shortage—a cause specified in the resolution and one which the committee is directed to investigate—is the lack of an adequate and available number of coal cars for loading and transporting coal.

Kentucky ranks second in coal production in the United States—with major fields in eastern and western Kentucky. The shortage of coal cars in eastern Kentucky—the largest producing area—has been acute during the past year and is a substantial contributing factor to the Nation's coal shortage. The car shortage has been accelerated by an increased demand of foreign purchasers of coal for export. As a result, a substantial number of coal cars have been standing idle at eastern parts awaiting loading on freighters. I am informed that a practice has developed on the part of some shippers of shipping coal to eastern ports in the Hampton Roads-Norfolk and Lambert's Point, Va., area without firm contracts for export, but on speculation of negotiating "spot" sales with foreign buyers. Coal cars carrying coal for these "spot" sales remain idle at the ports awaiting buyers during the period of negotiation, and also during the period subsequent when arrangements must be made to obtain vessels for shipment of the coal abroad.

On August 28, 1970, the Norfolk & Western and the Chesapeake & Ohio Railroads, the country's major coal carriers, announced that they would embargo coal cars moving coal to U.S. ports for export unless the shipper had received a permit to ship specified amounts of coal to these ports. I am informed that under this plan a shipper, in order to obtain a permit for the use of coal cars, must demonstrate that he has a firm contract for the sale of his coal to a foreign purchaser, and that he has engaged a vessel which is en route to the port to load the coal.

Upon being informed of the announcement by the Norfolk & Western and Chesapeake & Ohio Railroads on August 28, I wired the Louisville & Nashville Railroad, the chief coal carrier in eastern Kentucky, to consider adopting a similar program in shipments of coal to Lambert's Point, Va., for export. I was pleased to receive a reply by Mr. Philip Lanier, vice president and counsel of the L. & N., that the L. & N. would institute a similar "permit" system to Lambert's Point, in connecting with the Norfolk & Western.

I am pleased to note that in his letter dated August 31, Mr. Lanier states that the L. & N. has been urging since early in 1970 such a cooperative effort by coal carriers.

After the inauguration of this program by the L. & N. and its connecting carrier, the N. & W., at Lambert's Point, I requested the staff of the Interstate Commerce Commission to furnish me with a report on the results.

I am informed that this "permit" system will provide an estimated 2,000 additional coal cars on a weekly basis to the N. & W. and L. & N. combined and, of this total amount, some 400 cars will be additional cars for loading by the L. & N.

I have received a report from officials of the L. & N. confirming the above results. In the month of August, the L. & N. sent 2,288 coal cars to Lambert's Point. From September 1 to September 23, the L. & N. has sent a substantially reduced number—376—to Lambert's Point. The present estimate is that the L. & N. will probably send about 500 cars to Lambert's Point for the month of September, some 1,700 cars less than the month of August, resulting in approximately 400 additional L. & N. cars on a weekly basis that will be made available for loading in eastern Kentucky by the adoption of this "permit" system.

I have also contacted officials of the Chesapeake & Ohio and the Norfolk & Western Railways asking if they would be willing to supply me with information concerning the results of their programs inaugurating the "permit" system to eastern ports, inasmuch as these results affect not only Kentucky coal operations but also the coal operations in the neighboring States of Virginia, West Virginia, and Tennessee.

While I have addressed myself primarily to the car situation in eastern Kentucky in connection with my correspondence with the Louisville & Nashville Railway, I intend—and I know that all of the cosponsors of Senate Resolution 547 intend—that every effort shall be directed to securing increased shipments of coal for domestic use so as to meet the needs of our utilities and general consumers. The proposed investigation into the causes of the shortages in the production and distribution of coal is a complex matter, and it seems to me that the speediest improvement that could be made to reduce the shortage is in the area of making more coal cars available for loading coal.

The shortage of rail cars is not a new problem—it has been a persistent one since World War II—so severe at times that it has been necessary for Presidents to appoint an official in the executive department to expedite and allocate the existing supply of rail cars on a priority basis to meet the Nation's defense needs including the allocation of coal cars. This procedure may be required again. I am pleased to note that the Louisville & Nashville has adopted its present program and I hope and expect that I can report similar progress from other major coal carriers.

Mr. President, I ask unanimous consent that the article appearing in the Wall Street Journal of August 28, reporting the inauguration of the permit system by the C. & O. and N. & W., together with correspondence I have had with the L. & N. in this matter be printed in the RECORD.

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

[From the Wall Street Journal, Aug. 28, 1970]

N. & W. AND C. & O. LIMIT RAIL CARS AVAILABLE FOR MOVING COAL TO U.S. PORTS FOR EXPORT

NEW YORK.—Two railroad systems said that, effective Monday, they will restrict the number of rail cars they make available for movement of coal to U.S. ports for export.

The Norfolk & Western and the Chesapeake & Ohio railways and the Baltimore & Ohio Railroad, which is over 90%-controlled by the C&O, said they would require "permits" for the hopper cars that move coal to the piers.

An "acute shortage" of rail coal cars has developed within the past two weeks, according to an official of Pittston Co., a leading coal producer. He said this has resulted from a combination of factors. Coal mines had their annual vacations in July, and many bulk ocean vessels, taking advantage of the currently high charter rates to move oil, have temporarily left the coal movement trade.

This has meant that many coal cars have been held up in port areas awaiting ships, he said. Further, many coal cars have been stalled at mine areas because of continued wildcat strikes in Kentucky, West Virginia, Virginia and Ohio. The Pittston official believes, however, that the coal car problem could be over in about three weeks.

There are also trade source reports that the Nixon Administration has been privately warning the railroads that it may have to embargo export coal to assure enough cars to move the coal to domestic utility plants, which are reporting low coal reserves for their generating needs.

The N&W-C&O plan would involve issuing permits for coal cars only when the arrival of coal trains at Newport News and Norfolk, Va., export piers coincided with the arrival of ocean vessels there. This will free more coal cars for movement of coal to domestic utilities and steel plants, the railroads said.

John P. Fishwick, N&W's president, said that after his road determines the number of coal cars already at Norfolk awaiting ships and the number of cars in en route to Norfolk, the N&W will "permit" the number of cars that exporters can ship. Gregory S. DeVine, president of the C&O, said that road will employ a like system.

Many millions of tons of coal are exported via the Hampton Roads-Norfolk piers annually, and this is a major revenue source for the nation's two leading coal carriers—the N&W and the C&O. Pittston Co.'s spokesman says that about 30% to 40% of its annual production goes abroad.

Currently, the N&W is dumping coal onto ships in Norfolk at the rate of about 1,200 carloads daily. This requires a "bank" of between 16,000 and 18,000 coal cars in the immediate port area to feed the coal unloading system. Even if the schedules of dumping were ideally smooth, an N&W spokesman said, the road would need 14,000 coal cars in the port area. The N&W has 68,000 coal cars.

The C&O and B&O together own about 76,000 coal hopper cars, and they're currently building an additional 3,600.

One major coal company said it doesn't expect the permit system to affect the concern because most of its export coal to Japanese and European steel manufacturers is sold on a long-contract basis. Thus, this company doesn't anticipate any trouble getting permits, since it can order a specific number of cars, dovetailed with ship arrivals. But it contends that dealers in "spot" coal exports on a more speculative basis could be affected.

Railroads last previously used the permit system in 1955, when a spate of adverse weather disrupted ocean vessel schedules. But they kept the system for about 2½ years when they found it afforded them more effective use of their coal car fleet without the need of building more cars at that time, an industry source says.

Permits were also used during World War I, when there was a shortage of both cars and coal.

Power companies have recently been complaining about the dwindling supply of steam coal they need to generate electricity. Yesterday Duke Power Co., Charlotte, N.C., said it had acquired two coal mines in Kentucky and agreed to the joint financing of an unidentified third mine in an effort to guarantee coal supplies. Price wasn't disclosed.

AUGUST 28, 1970.

Mr. WILLIAM H. KENDALL,
President, Louisville & Nashville Railroad, Louisville, Ky.:

I receive complaints almost daily from small coal operators in eastern Kentucky concerning the serious shortage of coal cars. I further understand that many coal cars of the L&N are tied up at Lambert's Point, Virginia, awaiting trans-shipment of coal for export.

I note the Norfolk and Western and the Chesapeake and Ohio railroads announced today that they were limiting coal cars available for moving coal to U.S. ports for export. In view of the serious shortage of cars in eastern Kentucky, could not the L&N adopt a similar program for limiting coal cars available for moving coal to Lambert's Point? I would appreciate very much your immediate consideration of this matter.

JOHN SHERMAN COOPER,
U.S. Senator.

LOUISVILLE & NASHVILLE RAILROAD CO.,
Louisville, Ky., August 31, 1970.

Hon. JOHN SHERMAN COOPER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOPER: Mr. Kendall is absent at the present time and I am replying, for him, to your telegram of August 28 in which you comment upon the action of the Norfolk & Western and of the Chesapeake & Ohio Railroads in limiting coal cars available for moving coal to U.S. ports for export. You inquire if L&N cannot adopt a similar program for limiting coal cars available for moving coal to Lamberts Point, Virginia.

The program placed into effect by the Norfolk & Western has the very practical effect of doing precisely what you request L&N to do. L&N has received telegraphic notice from Norfolk & Western of its actions and, as a result, L&N will only deliver to Norfolk & Western cars from L&N coal fields which can move to Lamberts Point, be dumped and returned with the expedition which Norfolk & Western intends to accomplish through the inauguration of the permit system.

Because Mr. Kendall and I both know of the great interest which you have in this hopper car situation, I would like to expand this letter to give you some history of L&N's actions in this particular matter of export coal.

Being much concerned earlier this year about the great delays which were being experienced in the turnaround of L&N hopper cars moving from Eastern Kentucky to Lamberts Point on the N&W and to Newport News on the C&O, L&N explored—in January and February—the possibility of instituting a permit system such as the N&W and the C&O have now announced. This system would have applied to movements to Lamberts Point and Newport News. We did not institute the permit system at that time because Norfolk & Western would not agree to it.

We did, therefore, announce, effective April 1, 1970, cancellation of Eastern Kentucky rates on coal to Lamberts Point and Newport News. The cancellation as to the Newport News rates went into effect and no coal has moved from Eastern Kentucky mines on L&N to Newport News since that time. As to the cancellation of rates via L&N to Lamberts Point, protests were entered by Norfolk & Western, Blue Diamond Coal Company, Forreston Coal Company (of New York), which buys from small coal operators as well as large, Maryland Coal & Coke Company, which buys from small operators, Pathfork Harlan Coal Company, a small operator, and Coal Exporters Association of the United States. These firms filed with the Interstate Commerce Commission petitions for suspension of our cancellation of rates and because of the opposition, L&N withdrew its cancellation notice. As a practical matter, the cancellation would not have become effective in view of the opposition of the connecting line, *i.e.*, the Norfolk & Western.

We are, as you will understand from the foregoing, very pleased at the action of Norfolk & Western in now imposing a permit system.

Very truly yours,

PHILIP M. LANIER.

Mr. COOPER. Mr. President, in conclusion, I note that the Interstate Commerce Commission, on June 16, 1970, issued Service Order 1043, effective June 21, 1970, under its emergency powers. Basically, the order requires that all coal cars owned by the Louisville & Nashville, the Chesapeake & Ohio, Norfolk & Western, and other coal carriers, when made empty at an off-line point be immediately returned empty, without intervening loading, to the owning railroad. This order has been helpful to the above carriers in expediting the return of cars. The conditions set forth in the preamble of Service Order 1043 are as critical today as they were on June 16, when the order was adopted. The preamble states:

It appearing, That an acute shortage of hopper cars exists in certain sections of the country; that shippers are being deprived of hopper cars required for loading coal, resulting in an emergency, forcing curtailment of their operations, and thus creating great economic loss and reduced employment of their personnel; that coal stockpiles of several utility companies are being depleted; that hopper cars, after being unloaded, are being appropriated and being retained in services for which they have not been designated by the car owners; that present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of hopper cars are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

Service Order 1043 is scheduled to expire next week on September 30.

Mr. President, because of the continuing serious car shortage in eastern Kentucky, Virginia, West Virginia, and Tennessee, I have urged the Commission to give further consideration in continuing Service Order 1043 in effect without modification or other conditions which would tend to reduce its effectiveness. I am pleased to report that I have just been informed that the Commission today has directed that Service Order 1043 continue in effect without modification to December 31.

Mr. President, I ask unanimous consent to have a copy of Service Order 1043 printed in the RECORD.

There being no objection, Service Order 1043 was ordered to be printed in the RECORD, as follows:

SERVICE ORDER NO. 1043.—REGULATIONS FOR RETURN OF HOPPER CARS

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 16th day of June, 1970.

It appearing, That an acute shortage of hopper cars exists in certain sections of the country; that shippers are being deprived of hopper cars required for loading coal, resulting in an emergency, forcing curtailment of their operations, and thus creating great economic loss and reduced employment of their personnel; that coal stock piles of several utility companies are being depleted; that hopper cars, after being unloaded, are being appropriated and being retained in services for which they have not been designated by the car owners; that present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of hopper cars are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1043 REGULATIONS FOR RETURN OF HOPPER CARS

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Exclude from all loading hopper cars owned by The Baltimore and Ohio Railroad Company, The Chesapeake and Ohio Railway Company, the Louisville and Nashville Railroad Company, the Norfolk and Western Railway Company, and the Penn Central Transportation Company and return empty to the owning line, either direct or via the reverse of the service route.

(2) Carriers named in paragraph (1) above are prohibited from loading all hopper cars foreign to their lines and must return such

cars to the owner, either direct or via the reverse of the service route.

(b) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Chief Transportation Officer of the car owner. Such modifications must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to R. D. Pfahler, Director, Bureau of Operations, Interstate Commerce Commission.

(c) No common carrier by railroad subject to the Interstate Commerce Act shall accept any hopper car offered for movement loaded contrary to the provisions of paragraphs (a) and (b) of this order.

(d) The term "hopper cars," as used in this order, means freight cars having a mechanical designation "HD", "HM", "HK" or "HT" in the Official Railway Equipment Register, I.C.C. R.E.R. No. 375, issued by E. J. McFarland, or reissues thereof.

(e) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(f) *Effective date.* This order shall become effective at 12:01 a.m., June 21, 1970.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15 and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15 and 17(2). Interprets or applies Secs. 1(10–17), 15(4) and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4) and 17(2)).

It is further ordered, That a copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

H. NEIL GARSON,
Secretary.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on Monday next, immediately following the prayer and disposition of the Journal, and any unobjected-to items on the calendar, there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

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

ELECTORAL REFORM

Mr. BAYH. Mr. President, the Senator from Indiana would like to make a brief observation, if he may, at the risk of prolonging the session of the Senate today. I do so only because as debate has proceeded here, the Senator from Indiana has been the target of several observations by his colleagues. And they were fully within their right to make these observations. But here we are at 4 p.m., with the cloture motion having been laid before the Senate today and the vote to be taken 1 hour after we come in on the second day, which means that we have only 1 full day.

Inasmuch as the Senator from Indiana has been criticized on the one hand for causing the Senate to sit here and debate this matter, and criticized on the other hand for permitting other business to be laid down, thus denying us the opportunity for debate, I would suggest, as I have before, that it is my judgment that the proponents of vitally necessary electoral reform have made their case.

With all due respect to my colleagues I would suggest that if there is to be further attention drawn to the fact that insufficient time has not been available for debate, perhaps now would be a good time, at 4 p.m., with the afternoon still young, for this kind of discussion to continue.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. HARRIS. Mr. President, could I say, briefly, that I commend the distinguished Senator from Indiana for trying to get to a vote on this basic question in regard to the American political system.

If one studies the political history of the United States, he will find that the general trend has been toward greater popular control of government by the people themselves. It has been a good trend.

In my own State of Oklahoma, the first two Senators ever elected to the Senate were Robert L. Owen and Thomas P. Gore. Senator Thomas P. Gore was blind. He came from my hometown of Lawton.

At the time of statehood for Oklahoma, in the election of 1907, Senator Gore actually ran third, but a gentlemen's agreement has been reached at the Constitutional Convention, that there would be one Senator to represent the first two Senators ever elected by Oklahoma from eastern Oklahoma and the other from western Oklahoma. Therefore, despite the fact that Senator Gore ran third in the preferential primary, he was chosen as one of the two Senators, since he was the only one of the three top men who came from western Oklahoma.

The reason he could be elected the way he was elected, although he ran third in the preferential primary, was that the people themselves directly did not elect Senators. Senators were elected by State legislatures. The State Legislature of Oklahoma thereafter abided by the gentleman's agreement which had been made at the Constitutional Convention. They discarded the poor fellow who ran second, whose name I cannot recall as of now, and sent Robert Owen and Thomas Gore, the men who ran first and third, to the Senate.

Well, I have listened here for the past few days about how, if we allow the people's will to govern, it will destroy the parties, and that all sorts of other bad things will then ensue.

Mr. President, from my own knowledge of the history of my State, I can say that while those same arguments were entered in Oklahoma against the popular election of Senators, it has not proved to be a well-founded fear.

I can say, as a former national chairman of one of the two principal political parties in this country, I do not fear that the political system in America is so weak that to allow the people to express their will will destroy it. I would say, if that will destroy it, then perhaps it is destroyed already. Thus, I think that if we are going to err, we should err on the side of the people, as we did many years ago in Oklahoma, and as we did many years ago in many States, in the Union, by allowing the people the right to vote and to have their wishes directly—not indirectly through all sorts of devious mechanisms, but directly have their wishes effect the Government and the decisions which it makes.

Accordingly, I am greatly pleased to stand with the distinguished Senator from Indiana, the distinguished Senator from Tennessee (Mr. BAKER), and others, for getting up to vote this matter of direct election of the President and Vice President of the United States.

I think that the distinguished Senator from Indiana need make no apology—of course he need not—for availing himself of the rules of the Senate. He is doing nothing other than what every one should do; namely, require those who would stretch to the last measure the rules of this body, in order to prevent the will of this body from being effected to stand up and take whatever time it requires to read the calendar of business, or whatever is done to take up Senators' time to prevent a vote, and requiring them to do that.

I do not fault the Senator from Indiana for that. I honor him for it, and I believe that the country will honor him for it as well.

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.

ADJOURNMENT TO NOON MONDAY, SEPTEMBER 28, 1970

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 12 o'clock noon on Monday next.

The motion was agreed to; and (at 4 o'clock and 13 minutes p.m.) the Senate adjourned until Monday, September 28, 1970, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate September 25, 1970:

U. S. DISTRICT COURT

Daniel H. Huyett, III, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania, vice a new position created under Public Law 91–272 approved June 2, 1970.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 25, 1970:

U.S. ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by

the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. John Norton, [redacted], U.S. Army.

U.S. NAVY

Adm. Ephraim P. Holmes, U.S. Navy, for appointment to the grade of admiral on the retired list, pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Charles K. Duncan, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

IN THE NAVY

The nominations beginning Richard C. Adams, to be captain, and ending Tanya Zatzariny, to be lieutenant commander, which nominations were received by the Senate and appeared in the Congressional Record on Sept. 14, 1970;

The nominations beginning Carl A. Armstrong, Jr., to be lieutenant, and ending Richard D. Webb, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on Sept. 14, 1970; and

The nominations beginning Herman C. Abelein, to be captain, and ending Muriel J. Lewis, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on Sept. 14, 1970.

IN THE MARINE CORPS

The nominations beginning James W. Abraham, to be colonel, and ending Arnold G. Ziegler, to be colonel, which nominations were received by the Senate and appeared in the Congressional Record on Aug. 24, 1970;

The following-named temporary disability retired officer for reappointment to the grade of first lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Stevens, Arnold T., [redacted] USMC.

The nominations beginning Arthur R. Anderson, Jr., to be lieutenant colonel, and ending James R. Ziemann, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on Sept. 16, 1970.

EXTENSIONS OF REMARKS

MEN OF MEDICINE MEET THE CHALLENGE—ADDRESS BY SENATOR RANDOLPH

HON. JOHN SHERMAN COOPER

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Friday, September 25, 1970

Mr. COOPER. Mr. President, one of the great challenges of the 1970's is the provision of adequate medical care at a reasonable cost. I consider that our Nation's doctors are acutely aware of this difficult problem.

On Monday, September 21, members of the Kentucky Educational Medical Action Committee met in Louisville and, I am informed, sought to define the physician's role in society and Government and the Government's role in medicine. The keynote speaker for the occasion was Senator JENNINGS RANDOLPH, the senior Senator from West Virginia, chairman of the Committee on Public Works and who as ranking majority member of the Committee on Labor and Public Welfare has been a leader in the field of health legislation during his service in the House and Senate. Senator RANDOLPH is uniquely qualified to discuss health legislation and the role of the Government. His grasp of the interplay of public interest and congressional action in the fields of health, education, and the environment is broad and profound.

Mr. President, I ask unanimous consent that Senator RANDOLPH's address to the Kentucky Educational Medical Action Committee be printed in the RECORD.

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

MEN OF MEDICINE MEET THE CHALLENGE

(By Senator JENNINGS RANDOLPH)

Our American society stands as a symbol of success to virtually every other nation.

We have achieved unparalled prosperity. We have made affluence obtainable to our people to an extent unknown in recorded history.

Our ability to produce material prosperity is a goal actively sought by all the world's developing nations.

But America is not the historic America of our forefathers' dream. . . . of a prosperous people living in freedom. The historic America was a land of hope and promise and example—not a land of civil disorder and mass misery and battered cities. Our greatest responsibility today is to our historic American heritage . . . a land of plenty and promise and good purpose.

It is freely acknowledged that the society we have built contained the seeds of its own destruction. Today, for the first time in our nation's history, we face a tragic prospect—the cities of the richest nation on earth may soon be uninhabitable.

Americans are rightfully alarmed about the continued survival of a good society. Americans have looked beyond our shores for threats to our survival. We have concerned ourselves with world-wide aggression and colonization carried forward by Communism. We have agonized over nuclear proliferation and the possibility of nuclear war. We have earmarked more than half of our nation's wealth for a military defense system designed to deter any and all aggressors.

Threats continue to exist. They cannot be dismissed.

Yet, it seems to me as we begin the 1970s, that the greatest threat to our civilization looms not from external aggression . . . but from weakness within our own society.

As citizens and as members of one of the largest single groups of individual taxpayers—I know you share with me the concern that has been building in recent years—concern for the future of the United States.

Most of our political leaders, government specialists, educators and businessmen appear to be in agreement. The predominately urban society we have created represents the greatest threat to our continued existence. It is a threat perhaps far more immediate than any from outside.

The urban environment we have created is polluted, noisy and ugly. It is an environment that cannot be allowed to continue.

We must eliminate air and water pollution, dispose of our solid wastes more effectively, make our streets safe from criminals and homes and schools safe from vandals . . . conserve our resources, improve transportation and eliminate urban blight and unplanned suburban sprawl.

We must create central cities that make it possible for our urban dwellers to live rather than to exist. We must enhance and provide access for our rural areas to make them more attractive for development.

Our population is approximately 209 million. Approximately 130 million—or two-thirds of all Americans—live in urban areas. In another generation, our nation's urban population will double to some 250 million. Three out of every four Americans will live in urban areas.

I am convinced that our economic prosperity cannot be preserved if most of our nation's people are clustered in a dozen major megalopolitan environments rapidly becoming uninhabitable.

One of the leading functions of the private sector must be to cooperate with all levels of government to reverse this trend. The cliche—"the only proper business of business is business"—has been changed.

Today's business and professional men and women acknowledge and accept their social responsibilities and increasingly involve themselves in the solution of social problems.

Considerable public debate has been focused on corporate social responsibility.

You are concerned with involvement of the medical profession in government . . . and the involvement of government in the medical field.

The question of the business or professional man and his political role is an old one. The debate began with the founding of our republic.

Jefferson at first took the negative side. He wanted a nation of small farmers. He wrote "While we have land to labor, let us never wish to see our citizens occupied at work-bench or twirling a distaff."

Hamilton took the other side. He wrote the "Report on Manufacturers" arguing that the interests of the new country "would be advanced, rather than injured, by the due encouragement of manufacturers."

This basic level demonstrated the different views held by the founding fathers. But there was a question of fear—fear of economic wealth and potential political power of businessmen.

Henry Wallich in his book, "The Cost of Freedom," wrote that "Throughout American history, liberals and conservatives alike have feared and sought to guard against concentration of power."

In those beginning days the equation seemed simple. Daniel Webster spoke for many when he observed: "Power naturally and necessarily follows property. . . ." To which John Taylor echoed: "As power follows wealth, the majority must have wealth or lose power."

Despite the fear of the businessman's potential political power, he was allowed a place at the national table. In 1805 President Jefferson said, apparently in some surprise, "As yet our manufacturers are as much at their ease, as independent, and as moral as, our agricultural inhabitants." And, by 1816, he dropped even this hedge. Jefferson said: "Experience has taught me that manufacturers are now as necessary to our independence as to comfort."

If we substitute the words business, or service industry, or lawyer or doctor, we begin to see that anti-establishment feelings are not new.

Some of you may not think of yourselves as allied with the businessman because of your primary mission as healer, but it is axiomatic that there can be no physical