United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, SECOND SESSION

SENATE—*Thursday, October 1, 1970*

The Senate met at 11 a.m. and was called to order by Hon. PAUL J. FANNIN, a Senator from the State of Arizona.

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

Most merciful and gracious God, as we pause to pray, may we be blessed by a stronger and steadier faith in Thee and be inclined to commit ourselves unreservedly to Thy leading. May we never feel impotent when Thy strength is near, nor be discouraged in finding sound solutions when Thy word has promised that "If any of you lack wisdom, let him ask of God, that giveth to all men liberally, and upbraideth not; and it shall be given him." Impart to us that wisdom Thou hast promised. Grant us perseverance and power for daily work and the confirmation that as we work here we fulfill the divine vocation.

In the name of Him who went about doing good. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 1, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. PAUL J. FANNIN, a Senator from the State of Arizona, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, September 30, 1970, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce and the Committee on Finance both be authorized to meet during the session of the Senate today.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of unobjected to items on the calendar, order Nos. 1264 and 1267.

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

DISPOSITION OF EXCESS REAL PROPERTY

The Senate proceeded to consider the bill (S. 2867) to amend section 202(a) of the Federal Property and Administrative Services Act of 1949 to remove a preference accorded to the District of Columbia over State governments in the disposition of excess real property, which had been reported from the Committee on Government Operations with amendments on page 1, line 9, after the word "Rico,", insert "or in the territory of the Virgin Islands,"; and on page 2, after line 2, insert a new section, as follows:

SEC. 2. Clause (H) of section 203(e)(3) of that Act (40 U.S.C. 484(e)(3)(H)) is amended by inserting therein, immediately after the word "States", the words "the municipal government of the District of Columbia".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 202(a) of the Federal Property and Administrative Services Act of 1949 (^0 U.S.C. 483(a)) is amended by inserting therein, immediately after the words "in section 109(f)", a comma and the following: "except that excess real property situated within any State of the United States or within the Commonwealth of Puerto Rico, or in the territory of the Virgin Islands, shall not be transferred under this subsection to the municipal government of the District of Columbia."

SEC. 2. Clause (H) of section 203(e)(3) of that Act (40 U.S.C. 484(e)(3)(H)) is amended by inserting therein, immediately after the word "States", the words "the municipal government of the District of Columbia".

The amendments were agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1245), explaining the purposes of the measure.

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

PURPOSE

S. 2867 would amend the Federal Property and Administrative Services Act of 1949, to remove a preference now accorded to the District of Columbia over State governments in the disposition of excess real property. As reported by the committee, S. 2867 would prohibit the transfer of excess real property located within any State of the United States, or within the Commonwealth of Puerto Rico, or in the territory of the Virgin Islands, to the government of the District of Columbia, under section 202(a) of the Federal Property and Administrative Services Act of 1949. The bill would also place the government of the District of Columbia on an equal basis with the State under section 203(e)(3)(H) of the Federal Property and Administrative Services Act of 1949, which authorizes the acquisition of surplus Federal real property on a negotiated basis.

BACKGROUND

When the bill S. 2867 was introduced, the sponsor, Senator William B. Spong, of Virginia, explained the need or justification, as follows:

Under existing provisions of the Federal Property and Administrative Services Act of 1949, as amended, federally owned property in any State of the Union, declared surplus to the needs of a Federal agency may be claimed by the government of the District of Columbia, prior to the claim of the State in which the property is located. The responsibility of the Federal Government to the Federal City is recognized, but I doubt that the residents of any State would consider such preferential treatment to be justified.

The inequity of this provision became clear when the Army announced recently that it was inactivating a transmitter station in Virginia and was declaring the land, which had been acquired by condemnation in 1951 from private owners, surplus to the needs of the Army. The State and the county in which the land is located have indicated an interest in acquiring the land for public use and a portion of the land in question lies in the path of a projected parkway. Even the former owners have indicated an interest in reacquiring the property. Yet, under existing law, the municipal government of the District government has first refusal. Admittedly, this situation from a practical standpoint is faced more by the States of Maryland and Virginia than any other State. But conceivably the District could file claim for surplus Federal lands in West Virginia, Tennessee, Pennsylvania, Delaware, Kentucky, or for that matter, in any State of the Union or the Commonwealth of Puerto Rico before the State in which the land is located even had an opportunity to refuse it.

HEARINGS

The ad hoc subcommittee of the Committee on Government Operations held hearings on this and several related bills on October 9, 1969, at which time Senator William B. Spong, Jr., testified that (a) he wanted to remove the preferential status which the

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District of Columbia has over the disposition of excess real property and (b) the States should be placed on a parity with the District of Columbia government for acquisition of surplus real property.

The General Services Administration, expressed no objection to enactment of the bill and concluded that the determination as to whether the government of the District of Columbia should be treated as a Federal agency, or the same as a State, was a policy decision which it would defer to the views of Congress.

By letter dated October 27, 1969, to Senator James B. Allen, the sponsor of S. 2867 indicated that he had no objection to amending the bill so as to provide that the District of Columbia be included with other public bodies as eligible to acquire surplus real property on a negotiated sale basis, as long as the preferential treatment afforded in section 202(a) is eliminated. The amendment to accomplish that purpose has been incorporated in the bill as reported by the committee.

EXTENSION OF AUTHORITY TO MAKE APPROPRIATIONS TO CARRY OUT SECTION 3 OF THE ACT OF NOVEMBER 2, 1966

The bill (H.R. 12943) to amend section 3 of the act of November 2, 1966, to extend for 3 years the authority to make appropriations to carry out such act 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. 91–1248), 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 LEGISLATION

The purpose of H.R. 12943 is to extend for an additional 3 years the program to provide for the control or elimination of jellyfish and other such pests in the coastal waters of the United States.

NEED FOR THE LEGISLATION

The need for the legislation arises from the fact that thousands of vacationers are being deprived of water-recreational activities due to the presence of jellyfish. This in turn has an adverse effect on hundreds of businessmen who cater to citizens seeking such recreation. In addition, studies in Mississippi have shown that some jellyfish species consume large quantities of larval menhaden, an important commercial resource in the Atlantic Ocean and Gulf of Mexico.

Most importantly, it is essential that the law be extended to provided advance time for States to secure funds and to plan sound project activities.

GENERAL STATEMENT

Although no method has yet been discovered to control or eliminate the jellyfish problem during the 3 years the law has been in effect, six States and Puerto Rico have participated in the 50–50 matching fund program carried out jointly by the Federal Government and the States, and considerable knowledge toward solution of the problem has been developed. H.R. 12943 would allow these studies and experimental programs to continue.

COST OF THE LEGISLATION

The bill does not alter the total dollar amount authorized to be appropriated. The act authorized to be appropriated not to exceed $500,000 for fiscal year 1968, $750,000 for fiscal year 1969, and $1 million for fiscal year 1970. Actual appropriations have been $100,000 in fiscal year 1968, $225,000 in fiscal year 1969, and $267,000 in fiscal year 1970.

The net effect of H.R. 12943 would be to authorize to be appropriated the residual amount authorized for fiscal year 1970 (i.e., $733,000) during the 3-year period beginning July 1, 1970, and ending June 30, 1973.

ORDER OF BUSINESS

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

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

The legislative clerk proceeded to call the roll.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

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

AN ACCOLADE FOR AMERICA

Mr. PASTORE. Mr. President, Every once in a while—above all the discord that seems to pervade our everyday existence—there is found a note of harmony.

Such a pleasant item of inspiration comes from the activity in my State of Rhode Island—of the women of the Emblem Clubs whose symbol of citizenship is our flag itself.

With all the patriotism shared through their nearness to the Benevolent and protective Order of Elks, these ladies are dedicated to Americanism in their hearts and in their homes.

Indeed, "Americanism" was the theme of a contest recently held among the Clubs of the State—this to be "Americanism" as an anagram poem.

A prize winner from Rhode Island Warwick Emblem Club No. 416 was Mary Appleton. Because of the inspiration of the anagram itself and the incentive that it may be to other organizations and other States, I should like to read it to the Senate, as I believe it will do us all a lot of good.

This is the anagram:

AMERICANISM

A—is for America, the land of the brave
M—stands for her Mercy, for she never will enslave
E—is for Equality, for all men black and white
R—means our Republic—a beacon in the night
I—is for Inspiration she gives to one and all
C—is for her Capitol, a temple strong and tall
A—stands for her Army, for freedom must be sure
N—is for her Navy, her waters to secure
I—means Independence, for each man must be free
S—stands for her fifty States, conceived in liberty
M—stands for her Majesty, on land, in air, on sea

Mr. President, I think that is a lovely poem by a lovely girl. It should serve as an inspiration to all Americans.

I want to thank the Acting President pro tempore, the Senator from Arizona (Mr. FANNIN), the majority leader, the minority whip, the Senator from Michigan (Mr. GRIFFIN), and the assistant majority whip, the Senator from West Virginia (Mr. BYRD), for listening to me this morning as I read the anagram.

EXTRAORDINARY LOBBYING BY THE SECRETARY OF AGRICULTURE AGAINST THE AMERICAN FARMER

Mr. SYMINGTON. Mr. President, it is hard to understand why there is such a degree of effort being made by Secretary of Agriculture Hardin, whose responsibility is presumed to be to protect and improve farm income, to nevertheless oppose Senate proposals now being considered in the Senate-House conference on agricultural legislation.

By a series of six letters, all dated September 23, 1970, and all addressed to Congressman W. R. POAGE, chairman of the House Agriculture Committee, Secretary Hardin opposes practically all Senate provisions of the bill, including the Senate provision relating to a minimum feed grain price support level of 75 percent of parity or $1.35 per bushel which I sponsored on the Senate floor.

All of the Secretary's recommendations are designed to give him and any other Secretary of Agriculture unprecedented discretionary authority to set farm price supports on food and fiber at extremely low levels, the effect of which could virtually eliminate any price supports at all.

The Senate should not permit this to happen, especially when we now know that farm production costs are increasing at such an alarming rate.

There follow but two examples of these increases:

First. For every $10 that farmers paid in taxes in 1957–59, last month they paid $22.90.

Second. Interest paid on borrowed capital last month average $33.70 for every $10 spent on the same size loan just 10 years earlier.

If American agriculture is to survive these inflationary times, the Congress must enact workable farm legislation which will not only maintain, but actually improve net farm income.

Mr. MANSFIELD. Mr. President, will the distinguished Senator from Missouri yield to me?

Mr. SYMINGTON. I am happy to yield to the Senator from Montana.

Mr. MANSFIELD. I want to express my accord with what the distinguished Senator from Missouri has just said.

May I say for the RECORD that had the Senate been faced with the farm bill which the House, I would have had to vote against it because it was a monstrosity.

What the Senate did was a good job—not as good as I would like to have seen done—but at least it laid down a base of $1.25 on the wheat which, with the certificates, would bring it up to about $2. That is about the price the farmers have received for the past two decades to my knowledge.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may yield to the Senator from my time.

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

Mr. MANSFIELD. Mr. President, during that period the farmers' costs have gone up and up and up. During that period the cost of bread has gone up and up and up. During that time the farm population of this country has been on a downward slide, numbering between 5 and 6 percent of the population today, whereas the population of the urban and congested areas have gone up to about 76 percent. The trend is up.

So I think we had better stick very tightly to what the Senate has done in passing what on the whole is a good farm bill.

I certainly hope that the Senate conferees will stand firm. If they do not, we can look for a further slide down in the farm economy of this Nation. That disturbs me, because it was the farms, the farmers, and the people living in the small towns of this Nation that gave to this Nation the stability and the strength which is rapidly disappearing because of the changing course of events.

I commend the distinguished Senator from Missouri and state emphatically that I am in accord with his views. I hope that the Senate conferees will not give a single inch.

Mr. SYMINGTON. Mr. President, I do thank the able majority leader. The provisions of the measure are especially punitive to my State. With respect to cotton, the law is most unfortunate as recommended by this administration and later passed by the House. With respect to feed grains, which, of course, also have a primary effect on ultimate price of hogs and cattle, the concept of parity would be entirely eliminated under this proposed bill.

Mr. MANSFIELD. Mr. President, would the Senator yield at that point?

Mr. SYMINGTON. I yield.

Mr. MANSFIELD. Mr. President, I recall that when we tried to increase the percentage to 77 percent during the debate on the agricultural bill, that the chairman of the committee, the Senator from Louisiana (Mr. ELLENDER)—probably the most knowledgeable man on this side of the aisle—stated that he would be willing to accept 75 percent amendment, proposed by the Senator from Missouri (Mr. SYMINGTON) because he had assurances that the administration would be agreeable to it.

Mr. SYMINGTON. Mr. President, I thank the majority leader. As he stated, the 75 percent proposal was my amendment.

Mr. MANSFIELD. The Senator is correct. I had forgotten.

Mr. SYMINGTON. Mr. President, I was very glad that the distinguished senior Senator from Louisiana, the chairman of the Committee on Agriculture and Forestry, said he would accept that amendment.

I understand that, for the first time since the days of the deep depression of the thirties, there has been no formal agricultural bill actually presented to the Congress by the Department of Agriculture, just first considerable discussion with some of the members of the Agricultural Committee of the House.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that I may have 1 additional minute.

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

Mr. SYMINGTON. Mr. President, as I mentioned, what this bill would actually do is place the future of the American farmer entirely in the hands of the Secretary taking it away from the Congress. I cannot imagine anything more potentially dangerous to the future income of our farmers.

Mr. ALLEN subsequently said: Mr. President, I commend the distinguished Senator from Missouri (Mr. SYMINGTON) and the distinguished majority leader for their support of the Senate version of the agriculture bill. I commend the distinguished majority leader for his statement that he believes that the Senate conferees should stand firm and not agree to any change in the Senate bill. I commend our conferees, and I commend in particular the distinguished chairman of the Committee on Agriculture and Forestry, the Senator from Louisiana (Mr. ELLENDER) for his leadership and for the devising of the formulas contained in the Senate bill.

The distinguished Senator from Missouri has pointed out that under the House bill the parity concept is discarded. That concept must not be discarded. We must retain the parity concept of support of agriculture prices.

Mr. President, a most significant feature of the bill, as it was passed by both Houses, is the fact that there is a payment limitation of $55,000 per crop. Under the present law there was no limitation on payments. We have read in the newspapers where various large organizations, large farm combines, received payments of several hundred thousand dollars for planting, and for not planting crops.

The Senate version of the new bill, which is necessary because the 1965 act was for 5 years, does provide for liimtation of $55,000 per crop.

Another important feature of the Senate version is not in the House bill, but it is a part of the Senate version of the farm bill, and that is that there will be no payment for not planting cotton. All payments would be to encourage planting and to maintain adequate price support, which makes a vast difference.

It is absolutely impossible for the cotton farmer to grow cotton at the world price of around 20 cents per pound, so it is necessary that the Government supplement the price that he can receive in the world market. That is what the Senate version would do—not to pay for not planting cotton, but to maintain a price that will enable the farmer to plant cotton.

At the time the 1965 act became law there was a surplus of around 16.5 million bales of cotton. There is no surplus now; the carryover now is down to below 6 million bales.

So there has been a great change in the situation regarding cotton. There is no surplus. There is a shortage of cotton. So unless we have a farm bill—unless we have the Senate version of the farm bill—we are not going to have sufficient cotton grown in this country to keep our mills busy, to support the agricultural economy of our small cities and towns.

Under the House bill, Mr. President, there is a great land retirement program which would result in the drying up of small towns, small counties, and an exodus of people from the farm. Also, we will go back to the 1958 act if we do not get a farm bill during this session of Congress.

The speeches of the distinguished majority leader and the distinguished senior Senator from Missouri give emphasis to the vital ned to enact a sound farm bill.

It is painfully evident that the American farmer is caught in a vicious cost-price squeeze and that his plight becomes worse with each passing day.

On September 15 the Senate passed its version of the farm bill and, in my opinion, this bill—the Senate version—attempts a constructive approach toward restoring purchasing power in agriculture.

I am sorely distressed over the adamant opposition of the Nixon administration to the bill as passed by the Senate. I would hope that the economic experts at the White House and the Budget Bureau and the Department of Agriculture will soon come to realize that a strong and viable agriculture is essential to the continued economic strength and security of our Nation.

Let me point out that if we do not enact the farm bill this year we will revert to the outmoded 1958 farm program. This would mean that we would be returning to the disastrous era of huge Government investments in loans. It would also mean bulging warehouses again with all the attendant expense to the Commodity Credit Corporation, which ran to more than $7 billion in 1958, more than twice the budget request for the Agriculture Department for the 1971 fiscal year. History tells us that such conditions would not benefit the farmer, the consumer, nor the taxpayer.

I should like to make the observation that President Nixon, perhaps more than anyone else down at the other end of Pennsylvania Avenue, should recognize the necessity of avoiding a return to the unworkable 1958 farm program inasmuch as he was serving as Vice President of the United States during the time when farms throughout the Nation were being liquidated by the thousands and the Public Treasury was being depleted by the billions.

That is what we face if we do not get a farm bill in this session of Congress. We will automatically revert to the 1958 law, which would provide practically the same amount of money to the individual farmer—but it will be in the form of loans at a high level, far above the world market. This would cause the farmer to place his produce into a loan, rather

than to sell it on the market. If it were dumped on the market by the Government, it would further depress the market.

So we would have the Government ending up with millions of bales of cotton, and millions of bushels of wheat and corn, under the loan programs.

The Senate version of the farm bill will provide an incentive to the farmer to plant cotton, to provide fiber with which the mills can run, and it will not result in filling every warehouse in the country with Government cotton.

I applaud the plea of the distinguished majority leader (Mr. MANSFIELD) that the Senate conferees stand firm behind the Senate version of the farm bill, feeling that it is in the best interest of the Nation, the best interest of the farmers, the best interest of the consumer, and the best interest of the public generally.

I hope that before many days have passed, a conference report embodying the Senate version of the farm bill will be before us for final action.

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

Mr. ALLEN. I am delighted to yield.

Mr. MANSFIELD. I am glad the Senator emphasized cotton, which, of course, is of tremendous importance to his part of the country, just as I have endeavored to emphasize wheat, which is very important to the State of Montana and in general to the Midwest and the Northwestern part of the country.

I would point out that several months ago, while the President was on a trip, he stopped in Fargo, N. Dak. I happened to see some TV clips that evening. As he was shaking hands with the crowd, as is his custom, it seems to me I recall his saying twice distinctly that he was for 100-percent parity for wheat.

So I would hope that the Secretary of Agriculture would pay heed to the words of the President, because, after all, he is only the agent of the President; that he would not continue to exert the pressure which I understand he has been exerting on the House conferees and the House Agriculture Committee; and would recognize that a situation of crisis proportions affects a declining farm economy and a declining rural population and that if something is not done along the lines of the bill the Senate has already agreed to—and that to my mind is a minimum—the consequences may well be disastrous and will bode no good for the future of our country.

I commend the Senator from Alabama for his cogent and forthright remarks.

Mr. ALLEN. I thank the Senator.

PAYMENTS IN LIEU OF TAXES FOR FORMER RECONSTRUCTION FINANCE CORPORATION PROPERTIES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of an unobjected-to bill, Calendar No. 1262, H.R. 4599.

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

The bill (H.R. 4599) to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments 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. 1243), 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 this bill is to extend for 2 years from December 31, 1968, the period for which payments in lieu of taxes may be made to State and local taxing authorities by the Federal Government with respect to certain real property on which payments were authorized by Public Law 388, 84th Congress, and to repeal the authorizing statute at the end of that period. H.R. 4599 was reported favorably by the House Committee on Government Operations on March 18, 1970 (H. Rept. 91-926), and was approved by the House of Representatives on April 27, 1970.

Public Law 388, which became law on August 12, 1955, was designed to furnish temporary relief for local taxing authorities which were under an undue and unexpected burden as the result of the transfer of taxable real property from the Reconstruction Finance Corporation, or its subsidiaries, to another Federal agency or department, which transfer operated to take such property out of taxation. The act authorized payments in lieu of taxes with respect to such property only if it was transferred by the RFC, or one of its subsidiaries, to another Federal agency or department on or after January 1, 1946, and only if title to such property has been held continuously by the United States since such transfer.

With respect to real property meeting these conditions, the Government department having custody or control was required by Public Law 388 to pay the local taxing authority for the period commencing on January 1, 1955, and terminating on December 31, 1958, an amount equal to the real property tax which would have been payable on any date on which such taxes would have been due during the specified period if the property were privately owned. Bills extending the program for 2-year periods have been approved by this committee and enacted into law in the 85th, 86th, 87th, 88th, and 90th Congresses. The present extension expired on December 31, 1968, and no further payments have been authorized for periods after that date. Tables showing the payments made, budgeted or allocated by the Department of Defense and the General Services Administration on each property for fiscal years 1967, 1968, and 1969 are set forth in appendix A.

H.R. 4599 would authorize payments under the program for the period commencing January 1, 1969, and terminating December 31, 1970, following which, the program would be terminated. According to information furnished by executive branch agencies, the extension of this program to cover calendar years 1969 and 1970 will involve annual estimated expenditures of approximately $3,100,000 or a total of $6,200,000 for the 2-year period. These payments would be made to 28 cities and counties, one school district and one township, on 26 properties located in 15 States.

BACKGROUND

Basic legislation authorizing or establishing certain Government corporations included provisions subjecting the real property of such corporations to local taxation or requiring that these agencies make payments to local taxing authorities in lieu of taxes. Thus, the real property of the Reconstruction Finance Corporation was specifically made subject to special assessments for local improvements and to State and local taxation to the same extent according to its value as other real property (15 U.S.C. 607).

In addition, the Congress authorized payments in lieu of taxes on real property declared to be surplus by Government corporations when legal title to such property remained in the Government corporations. This authority was continued by section 210(a)(9) of the Federal Property and Administrative Services Act of 1949, as amended (64th Stat. 581), but only as to property declared surplus under the Surplus Property Act of 1944, prior to July 1, 1949. The General Services Administration followed the established policy and practice of leaving legal title to such property in the Government corporation when such property was declared surplus to the needs of such Government corporation and was transferred to another Government agency.

As a result of this practice, local taxing authorities were protected against losses which they would otherwise have incurred when such property was transferred to another Government agency (thus becoming tax exempt); and when the property was finally disposed of to private interests, it was then subject to taxation again, as in the case of any other property.

This procedure worked well until July 15, 1952, when the Court of Claims, in a case involving a subsidiary of the Reconstruction Finance Corporation, held that, although no change in the tax status of property owned by a Government corporation occurs by the mere declaration that it is surplus, when the transferee agency accepts accountability for such property, even though the corporation retains title, it is immediately taken out of taxation. This was based upon the theory that unless the Federal Government specifically consents to waive its immunity from local taxation, its property cannot be taxed. Although such consent had been given in the case of the Government corporation, the court found that the retention by the corporation of legal title, without any retention of control, did not operate to continue the property in a taxable status, so long as it appeared that the transferee agency was the true user and was accountable for such property (*Board of County Commissioners of Sedgwick County v. United States*, 123 Ct. Cls. 304).

In October 1952, the Comptroller General of the United States issued an opinion in a similar situation which resulted in barring payment of taxes by any transferee agency once accountability for the transferred property has been accepted (32 Comp. Gen. 164). The immediate result of the decision and the ensuing opinion of the Comptroller General was to cut off a source of revenue upon which the local taxing authorities had come to rely.

AGENCY COMMENTS

The agency comments received by the committee were made with respect to S. 1184, a companion bill to H.R. 4599, both of which provide for an extension of the program from January 1, 1969, through December 31, 1970. As approved by the House of Representatives, H.R. 4599 was amended to provide for the termination of the program and the repeal of the authorizing statute, as of January 1, 1971. Accordingly, the comments summarized below are directed only to those provisions which would authorize a 2-year extension of the program.

The Bureau of the Budget, the Department of Defense, and the General Services Administration all oppose enactment of this bill. The Comptroller General, noting a basic objection to a piecemeal approach to the gen-

eral problem of the extent to which Federal property should be subject to State or local taxation, declined further comment on the ground that enactment was a matter of congressional policy.

The Bureau of the Budget, pointing out that the purpose of the original law was to furnish temporary relief from an unexpected burden, stated that the continuation of the program for 14 years has accomplished this objective; that continued extensions may have the unintended effect of causing local taxing authorities to rely increasingly on regular payment of these revenues; and that the Bureau was unable to recommend continuance of the program or favorable consideration of the bill.

The Department of the Army, on behalf of the Department of Defense, advises that the original program provided ample opportunity for State and local taxing authorities to develop alternative sources of revenue; that there is no assurance that continuance of the program would result in a final resolution of the problem; and that, since its extension cannot be supported on the basis of defense requirements, it opposes enactment.

The General Services Administration opposes enactment of the bill and any further extension of the program, noting that (1) it was enacted as a temporary measure in 1955, to alleviate hardships to a number of communities created by the removal of Reconstruction Finance Corporation properties from the tax rolls of State and local taxing authorities, and (2) that the 14-year period of the operation of the program has been more than adequate in duration to permit local authorities concerned to rearrange their tax bases to accommodate the loss of revenue involved. (Comments submitted by the departments and agencies involved on a companion bill, S. 1184, are set forth in appendix B.)

CONCLUSION

Public Law 388 was enacted in 1955 as a 4-year emergency program, designed to alleviate the hardship and unexpected burden to a number of communities throughout the country resulting from the removal of Reconstruction Finance Corporation property from the tax rolls of State and local taxing authorities. During the first 4 years of operation, the owning Federal agencies paid out in lieu of taxes a total of $11,727,834 on 86 properties, and it was anticipated that these properties would be disposed of ultimately by the owning agencies and restored to the tax rolls.

At present, 26 properties remain; of this number, the General Services Administration owns three, and the Department of Defense, 23, distributed, as follows: Air Force, 11; Navy, five; and Army, seven. One Air Force plant in Indiana was sold in 1967; another Air Force plant in Ohio has been declared excess to the General Services Administration for sale to the using contractor; and a Navy plant in Massachusetts has been declared excess to the General Services Administration for sale to the current lessee, subject to a 10-year recapture clause.

Although, since the inception of the program, there has been a substantial reduction in the number of properties upon which payments have been made, and five have been disposed of since 1966, it appears that most of those remaining will probably be retained indefinitely by the owning agencies.

With respect to cost, since the enactment of Public Law 388, in 1955, as of December 31, 1968, total payments under this program have amounted to approximately $46 million. Of this amount, $9,453,000 represents payments made in fiscal years 1966, 1967, and 1968. If the program is extended to cover fiscal years 1969 and 1970, a total of approximately $15,250,000 will have been expended for the 5 fiscal years—1966–70; and when the program terminates on December 31, 1970, total expenditures will have amounted to slightly less than $50 million during the 16-year period, beginning in 1955 and terminating in 1970.

It is the view of the committee, fully supported by the owning Federal agencies, that after 14 years, the affected taxing authorities have had ample opportunity to rearrange their respective tax bases so as to eliminate the unexpected tax hardship which resulted from the original transfers. In the 90th Congress, the committee reluctantly approved legislation to extend this program "in order to afford an additional opportunity to the local taxing authorities involved to rearrange their tax bases." It is difficult to justify or recommend any further extension of a program which, in effect, provides special benefits for 28 cities and counties, one township, and one school district, located in 15 States, which benefits are based solely on the fact that the property for which payments are made were once owned by the Reconstruction Finance Corporation and therefore subject to local taxation.

In this instance, however, the bill, as approved by the House of Representatives, contains a provision which would terminate the program and repeal the authorizing statute, as of January 1, 1971. In order to insure the permanent termination of a program which has long since accomplished the objectives for which it was established, the committee recommends favorable action on H.R. 4599.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for an additional 5 minutes.

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

THE REPORT OF THE COMMISSION ON OBSCENITY AND PORNOGRAPHY

Mr. BYRD of West Virginia. Mr. President, I rise to express my indignation at the report made by the Commission on Obscenity and Pornography. The recommendations that laws dealing with obscene materials be repealed should be rejected out of hand.

It is disgusting that a Commission authorized by the Congress and appointed by a President of the United States should publish a conclusion that there is no harm in pornography. This is a shameful report. Its only effect will be to further encourage immorality and debauchery in what most Americans wish to cherish as a heretofore clean, decent, and religious land.

There is already far too much filth on display in theaters, bookstores, and newsstands. The report of this outrageously permissive Commission is another indication of how far our Nation has traveled down the road toward moral degeneration.

I am glad that a few members of the Commission had the moral courage to oppose the majority recommendations. I praise them for their courage, and I hope that their dissent will be as widely disseminated as the majority findings are sure to be.

I agree thoroughly with the statement made by Charles H. Keating, Jr., of Cincinnati, a member of the Commission, who said in his dissent:

For a Presidential Commission to have labored for two years at the expense to the taxpayers of almost $2 million and arrive at the conclusion that pornography is harmless must strike the average American as the epitome of government-gone-berserk.

I think Mr. Keating hit the nail on the head when he said further:

Credit the American public with enough common sense to know that one who wallows in filth is going to get dirty. This is intuitive knowledge. Those who will spend millions of dollars to sell us otherwise must be malicious or misguided, or both.

No one needs to tell any person of taste, or discrimination, or just plain good sense, Mr. President, what is offensive and obscene. There is a built-in feeling about these things, and the effort of this Commission to tell the Nation otherwise is an insult to the intelligence of the Nation.

This report should be totally disavowed by the White House—as I feel that it will be—and it should be totally disavowed by the Congress. I am confident that it will be rejected by the overwhelming majority of the American people.

What Government ought to do is to put the smut peddlers out of their dirty business, instead of opening the flood gates further to their degrading, corrupting influence. I applaud the Vice President for his statement of last evening that the views of the Commission "do not represent the thinking of the Nixon administration."

Let me say that I believe this smutty report may have the opposite effect of what its authors intend it to have. It may polarize opinions on this subject to the point that some good can yet come out of it. Polarization in this area might be good for the Nation. The country may be brought to its senses sufficiently by the audacity of the proposals to realize that more control—not less—should be exercised over salacious films, magazines, pictures, and all of the other paraphernalia of pornography.

The idea that Government should withdraw from the scene completely and let the sex merchants run completely wild is repugnant and preposterous. What repeal of antiobscenity laws would mean, in effect, would be that Government was protecting the smut peddlers in their ugly trade. That is unthinkable, especially at this time when we face so many related problems, such as the spreading use of drugs, the rejection of religion, the flouting of authority, and the general erosion of the American character.

I hope, Mr. President, that the publishing of this report and its recommendations will have the effect of toughening the attitude of the Congress and other lawmaking bodies—and, indeed judicial bodies—toward the whole question of obscenity and pornography.

Mr. GRIFFIN. Mr. President, I commend the distinguished Senator from West Virginia on his remarks, and I wish to associate myself with what he has said. As usual, he is very fair and objective. Not only did he take occasion the other day to sharply criticize a report concerning campus unrest which was submitted by a Commission appointed by the incumbent President, President Nixon, but he has not hesitated

today to speak out sharply in criticism of this report by the Commission on Obscenity—a Commission which was appointed by a President of his own party.

I am sure that Vice President AGNEW was speaking not only for the administration but for many, many Americans of both parties in and out Congress when yesterday he paid his respects in most appropriate language to the Commission report. Furthermore, I want to say that I am particularly pleased with the vigorous dissent filed by Mr. Keating, who was the only member of that Obscenity Commission appointed by President Nixon.

I hope, as does the Senator from West Virginia, that this report will, if anything, spur Congress on to the enactment of more legislation in this field—legislation which would move in the direction of tightening regulation and control over pornography consistent with the Constitution, rather than moving in the direction recommended by a majority of the Commission.

I thank the Senator for yielding.

Mr. BYRD of West Virginia. I thank the Senator. I wish to express appreciation to the able majority leader who has vigorously urged action by the Senate with respect to laws dealing with pornography. I wish to express appreciation also to the Senator from Michigan, the able assistant minority leader, for his support and leadership.

Mr. MANSFIELD. Mr. President, I join in the remarks made by the distinguished Senator from West Virginia and the distinguished Senator from Michigan.

For the RECORD I think it should be pointed out that the Senate has faced up to its responsibility on the basis of the only two opportunities it has had. It passed the so-called Goldwater-Mansfield amendment, which was made a part of the postal reform bill and is now law. It passed as well the bill having to do with unsolicited salacious and obscene literature through the mails, which was passed unanimously in this body last week. That was S. 3220, the so-called Mansfield antipornography bill.

Sending those materials through the mails to the unsuspecting was, without any question, an invasion of privacy which is as sacred as any right under the Constitution. It was deplorable that such use was being made of the U.S. Government through its postal service, acting as a handmaiden, in picking up this literature, carrying it to its destination, and depositing it at the homes of individuals who did not seek it, did not request it and did not want that material in their homes.

I commend the Senate for what it has done already; and I commend the distinguished Senator from West Virginia (Mr. BYRD) and the distinguished Senator from Michigan (Mr. GRIFFIN), the acting minority leader, for their leadership and for making their views so clear.

I only wish again to emphasize that the Senate has faced up to its responsibilities insofar as this issue is concerned. It will continue to do so.

Mr. BYRD of West Virginia. Mr. President, not only has the Senate faced up to its responsibilities, but in doing so, it has responded to the repeated urgings of the distinguished majority leader that it act in such direction.

PROPOSED AMENDMENTS TO THE AGREEMENTS FOR COOPERATION WITH THE UNITED KINGDOM AND WITH SWEDEN CONCERNING CIVIL USES OF ATOMIC ENERGY—STATEMENT BY SENATOR GORE

Mr. BYRD of West Virginia. Mr. President, at the request of the able Senator from Tennessee (Mr. GORE), I ask unanimous consent to insert in the RECORD a statement by Mr. GORE entitled "Proposed Amendments to the Agreements for Cooperation with The United Kingdom and with Sweden Concerning Civil Uses of Atomic Energy," and I request unanimous consent, at the request of the able Senator from Tennessee (Mr. GORE), that there be included in the RECORD the text of the proposed amendments to the agreements for cooperation with the United Kingdom and with Sweden concerning civil uses of atomic energy, together with supporting correspondence.

There being no objection, Senator GORE's statement and the material were ordered to be printed in the RECORD, as follows:

PROPOSED AMENDMENTS TO THE AGREEMENTS FOR COOPERATION WITH THE UNITED KINGDOM AND WITH SWEDEN CONCERNING CIVIL USES OF ATOMIC ENERGY

Mr. GORE. Mr. President, as Chairman of the Subcommittee on Agreements for Cooperation of the Joint Committee on Atomic Energy, I wish to advise my colleagues in the Senate that in compliance with section 123 c. of the Atomic Energy Act of 1954, as amended, the Atomic Energy Commission placed before the Joint Committee proposed amendments to the Agreements for Cooperation between the Government of the United States and the Governments of the United Kingdom and Sweden concerning civil uses of atomic energy. These amendments were submitted by letters dated September 10 and 18 respectively. The Atomic Energy Act requires that such proposed amendments lie before the Joint Committee for 30 days while Congress is in session before becoming effective.

The existing Agreement with the U.K. provides for cooperation between the two nations in research activities relative to applications of nuclear energy for civil uses. The proposed amendment links aspects of that Agreement with the Agreement relative to Civil Power Applications, permitting interchange of materials under the two Agreements. The amendment would also authorize either country to send special nuclear materials to the other for conversion and fabrication into fuel elements and return to the country of origin.

The Agreement with Sweden combines the research and civil power applications of atomic energy. It came into effect in September, 1966, and runs for a period of thirty years. The proposed amendment more than doubles the amount of special nuclear material the U.S. can provide for Sweden's nuclear power program which is being increased from six to twelve nuclear power plants. The amendment also includes some current standard provisions incorporated in new agreements with other countries executed since entry into the original Agreement with Sweden. The amendment also contains provisions reflecting the transfer of safeguards responsibilities for materials, equipment and facilities received by Sweden under the Agreement to the International Atomic Energy Agency either under a trilateral agreement with that agency and the U.S. or through U.S. acceptance of an IAEA agreement for safeguarding Sweden's entire program pursuant to the Treaty on Nonproliferation of Nuclear Weapons. The international agency would undertake its responsibility for such safeguards with the rights of the United States being suspended during the time and to the extent that the international agency safeguards are in effect.

In keeping with the general practice of the Joint Committee, I ask unanimous consent that there be included in the Congressional Record, for the information of interested members of the Congress, the texts of the proposed amendments to the Agreements for Cooperation with the U.K. and Sweden together with supporting correspondence.

ATOMIC ENERGY COMMISSION,
Washington, D.C., September 10, 1970.

Hon. CHET HOLIFIELD,
Chairman, Joint Committee on Atomic Energy, Congress of the United States.

DEAR MR. HOLIFIELD: Pursuant to Section 123c of the Atomic Energy Act of 1954, as amended, copies of the following are submitted with this letter:

a. An amendment to the "Agreement for Cooperation on the Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland," which was signed in 1955;

b. a letter from the Commission to the President recommending approval of the amendment; and

c. a memorandum from the President containing his determination that its performance will promote and will not constitute an unreasonable risk to the common defense and security, and approving the amendment and authorizing its execution.

The enclosed amendment modifies paragraph (c) of Article IV of the 1955 Agreement for Cooperation. A principal purpose of the amendment is to permit transfers of special nuclear material, on a reciprocal basis between the United States and the United Kingdom, for performance of fabrication and conversion services and, after completion of such services, return to the country of origin. It thus expands the provision which heretofore limited disposition of U.S.-supplied material (which currently would be only enriched uranium) to retention in the United Kingdom under the 1955 Agreement or transfer to third countries having appropriate bilaterals with us. By permitting returns to the United States of the material fabricated or converted in the United Kingdom, we would be extending to the United Kingdom the authorization which has already been given to Canada and Japan in their Agreements for Cooperation.

The amendment would also serve the purpose of bringing Article IV, paragraph (c) up to date in view of the fact that the 1966 U.S.-U.K. Civil Power Agreement was concluded subsequent to the date when the current provisions of paragraph (c) were included in the 1955 Agreement. Thus, the amendment permits the United Kingdom to retain the fabricated and converted products deriving from material directly supplied by the United States, as well as the irradiated special nuclear material of U.S. origin which it may now receive from third countries for treatment, for applications not only within the scope of the 1955 Agreement but also for applications within the scope of the 1966 Agreement. The authority for the United

Kingdom to transfer such end products to third parties having appropriate bilaterals with us remains unchanged. The flexibility accorded to the United Kingdom in its disposition of material received under the 1955 Agreement, while appropriately preserving U.S. interests in such transactions, avoids the cumbersome procedures which currently could be employed to redirect the material received from the United States or third countries to the coverage of the 1966 Agreement.

It is not intended that special nuclear material irradiated in the United States will be transferred to the United Kingdom for chemical processing in the absence of a further amendment to the 1955 Agreement which would permit reprocessing and return of such material to the United States.

The amendment will enter into force on the date in which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for entry into force.

Cordially,

W. E. JOHNSON,
Acting Chairman.

ATOMIC ENERGY COMMISSION,
Washington, D.C., September 10, 1970.

His Excellency
The Right Honorable JOHN FREEMAN, M.B.E.,
Ambassador of Great Britain,
Washington, D.C.

DEAR MR. AMBASSADOR: Pursuant to discussions during the negotiation of the Amendment to the 1955 Agreement for Cooperation signed today to permit transfers of special nuclear material for the performance of fabrication services and return to the country of origin, I wish to set forth the position of the USAEC with respect to several matters pertinent to the Amendment.

The language of the Amendment regarding transfers of special nuclear material for fabrication services reads, "On such terms and conditions as may be agreed by the Parties, transfers may also take place between their respective countries of special nuclear materials for the performance in the country of the recipient of conversion or fabrication services or both . . ."

As was discussed during the negotiations, it is the intent of both Parties that opportunities for fabricators in each of our countries to supply services for customers in the other country will be available on a reciprocal basis. This consideration was a significant factor in the mutual acceptability of the Amendment, and it was emphasized on our part that the implementation of the expanded fabrication provision would depend upon the existence of such reciprocal opportunities on a realistic basis. Consequently, should it develop that U.S. suppliers of fabrication services are not being afforded realistic opportunities to provide such services to consumers in the U.K., it should be understood that we would not be in a position to approve transfers of special nuclear material to the U.K. for the performance of fabrication services and return to the U.S.

I wish also to recall that the 1963 Amendment was originally requested in order to permit the U.K. to reprocess irradiated special nuclear material supplied by the U.S. to third countries. We understand that the U.K. accepts for reasons which have previously been explained that the U.S. is not now in a position to agree to the transfer to the U.K. for reprocessing of special nuclear material irradiated in the U.S. Any change in this position would be reflected in an appropriate amendment to our Agreement for Cooperation providing for the transfer for reprocessing and return to the U.S. of special nuclear material irradiated in the U.S.

Finally, I wish to note that the terms of the 1955 Agreement for Cooperation will expire in July 1976. It can be expected, assuming a continuing need for the Agreement, that our two Governments will consult with respect to amending and extending the Agreement. In our own review of the Agreement at that time, we shall, in considering the various provisions from the aspect of continuing them in an extended agreement, look specifically at whether or not, in the light of circumstances existing at that time, the provision in the current Amendment for the return of fabricated special nuclear material to the country of origin should be continued.

Sincerely,

W. E. JOHNSON,
Acting Chairman.

BRITISH EMBASSY,
Washington, D.C., September 10, 1970.

Dr. GLENN T. SEABORG,
Chairman, U.S. Atomic Energy Commission,
Germantown, Md.

DEAR DR. SEABORG: I am writing in reply to Commissioner Johnson's letter of today's date commenting on various matters pertinent to the current Amendment of the 1955 Agreement for Cooperation between our two countries.

As we explained during the negotiations, we believe that United States suppliers of fabrication services are under no greater disability as regards obtaining business in the United Kingdom than the U.K. suppliers will be with the current Amendment, as regards business in the U.S. I am glad to confirm that there are no statutory or other bars to U.S. entry to the U.K. market. Whether or not our respective fuel fabricators can convince prospective customers in the other's country that they can supply an acceptable product on acceptable commercial terms is a problem common to both countries and the failure of one to achieve his object should not affect the rights of the other.

It is, therefore, our expectation that the U.S.A.E.C. would not refuse to approve transfers of special nuclear material to the U.K for the performance of fabrication services and return to the U.S. in the event of U.S. fabricators failing, for normal commercial reasons, to obtain business in the U.K.: and that no action would be taken to jeopardize the performance of signed contracts between U.S. utilities and U.K. fuel fabricators, on which the U.S.A.E.C. had been consulted

As Commissioner Johnson says, the overall terms of the bilateral Agreement will need to be reviewed not later than July, 1976, when it expires, but we hope that it will be possible well before then for the Commission to recommend that the Agreement be answered to make possible the transfer to the U.K. of U.S.-irradiated fuel for re-processing in the U.K. and return to the U.S., as has been discussed in the past.

Yours sincerely,

JOHN FREEMAN.

THE WHITE HOUSE,
Washington, September 5, 1970.

Memorandum for: Dr. Glenn T. Seaborg, Chairman, Atomic Energy Commission.

Subject: Proposed Amendment to the Agreement for Cooperation with the United Kingdom Concerning Civil Uses of Atomic Energy.

The proposed Amendment to the "Agreement for Cooperation on the Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland", submitted for my approval with the Acting Chairman's Letter of August 12, 1970, has been received.

Pursuant to the provisions of Section 123b of the Atomic Energy Act of 1954, as amended, and upon the recommendation of the Atomic Energy Commission, I hereby:

a. Approve the proposed Amendment, and determine that its performance will promote and will not constitute an unreasonable risk to the common defense and security of the United States of America; and

b. Authorize the execution of the proposed Amendment on behalf of the Government of the United States of America by appropriate authorities of the Department of State and the Atomic Energy Commission.

RICHARD NIXON.

ATOMIC ENERGY COMMISSION,
Washington, D.C., August 1, 1970.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: Enclosed is a proposed amendment to the "Agreement for Cooperation on the Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland," which was signed in 1955. The amendment has been negotiated by the Department of State and the Atomic Energy Commission pursuant to the Atomic Energy Act of 1954, as amended. With the Department's support, the Atomic Energy Commission recommends that you approve the proposed amendment, determine that its performance will promote and will not constitute an unreasonable risk to the common defense and security, and authorize its execution.

The purpose of the amendment is to modify paragraph (c) of Article IV of the 1955 Agreement which was incorporated through an amendment in 1963.

This paragraph, among other things, provides for the transfer to the United Kingdom of irradiated special nuclear material of United States origin for the performance of reprocessing services. Material recovered from the reprocessing operation may be subsequently converted in the United Kingdom or fabricated into fuel elements, or both. After completion of the services, the United Kingdom may retain the material for applications otherwise permitted under the 1955 Agreement, or may transfer the material, with United States consent, to another nation or group of nations having an Agreement for Cooperation with the United States within the scope of which the transfer could take place.

This authority would be modified by the proposed amendment to permit the United Kingdom to retain the special nuclear material so processed for applications within the scope of either the 1955 Agreement, as heretofore, or within the scope of the separate United States-United Kingdom Agreement for Cooperation in the Civil Power Applications of Atomic Energy signed in 1966. This latter agreement permits the transfer of 8,000 kilograms of U-235 to the United Kingdom for fueling reactors in its civil nuclear power programs. The added authority which the amendment would provide, to retain under the 1966 Agreement material of United States origin received for reprocessing, would thus give the United Kingdom greater flexibility in disposing of material so reprocessed. Such material would come from third countries since it is not intended that special nuclear material irradiated in the United States will be transferred for reprocessing in the United Kingdom in the absence of further amendment of the 1955 Agreement which would permit transfer for reprocessing and return of such material to the United States.

Article IV, paragraph (c), of the 1955 Agreement also permits the transfer of enriched uranium directly from the United States to the United Kingdom for the performance of conversion or fabrication services and use in the United Kingdom for purposes permitted under the 1955 Agreement

or transfer with consent of the United States to third countries which have an Agreement for Cooperation with the United States within the scope of which the transfer would fall. The proposed amendment would authorize two additional end uses of material transferred from the United States to the United Kingdom for the performance of conversion or fabrication services. These additional uses would be (1) return to the United States of the converted or fabricated products or (2) their retention in the United Kingdom under the 1966 Agreement. Additionally, the type of material which could be transferred for conversion and fabrication services in the United Kingdom would be changed from enriched uranium to any type of special nuclear material.

The modification is in reciprocal form and would permit each of the parties to receive special nuclear material from the other and to return it after performing conversion or fabrication services. The United States would thus be extending to the United Kingdom the authorization which has already been given to Canada and to Japan in their Agreements for Cooperation with the United States. This authorization to permit the return of special nuclear material after fabrication and conversion is in accordance with the policy objectives which the Commission has been following to make special nuclear material generally available abroad for peaceful purposes in a manner consistent with the interests of the United States Government and of industry.

Following your approval, determination, and authorization, the proposed amendment will be formally executed by appropriate authorities of the Government of the United States of America and the United Kingdom of Great Britain and Northern Ireland. In compliance with Section 123c of the Atomic Energy Act of 1954, as amended, the amendment will be submitted to the Joint Committee on Atomic Energy.

Respectfully yours,

JAMES T. RAMEY,
Acting Chairman.

AMENDMENT TO AGREEMENT FOR COOPERATION ON THE CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The Government of the United States of America (including the United States Atomic Energy Commission) and the Government of the United Kingdom of Great Britain and Northern Ireland, on its own behalf and on behalf of the United Kingdom Atomic Energy Authority,

Desiring to amend further the Agreement for Cooperation on the Civil Uses of Atomic Energy (hereinafter referred to as the "Agreement for Cooperation") signed between them at Washington on June 15, 1955, as amended by the Notes signed October 20, 1955 and November 3, 1955, as amended by the Agreement signed at Washington on June 13, 1956, as modified by the Agreement signed at Washington on July 3, 1958, as amended by the Agreement signed at Washington on June 5, 1963, as amended by the Agreement signed at Washington on June 29, 1964, as amended by the Agreement signed at Washington on July 15, 1965, and as amended by the Agreement signed at Washington on June 2, 1966;

Have agreed as follows:

ARTICLE I

Article IV of the Agreement for Cooperation, as amended, is amended as follows:

1. Paragraph (c) is redesignated as paragraph C 1, sub-paragraphs (1), (2), (3) and (4) are redesignated (a), (b), (c) and (d) respectively, and paragraph (d) is redesignated as paragraph D;

2. The last two sentences of redesignated paragraph C 1 are revised to read as follows:

"Upon completion of any of the services mentioned in this paragraph C 1, such transferred material may be transferred to another nation or group of nations pursuant to the terms of Article IX hereof, or retained in the United Kingdom for applications otherwise within the scope of this Agreement or the Agreement between the Parties for Cooperation in the Civil Power Applications of Atomic Energy, signed at Washington on June 2, 1966."

3. The following paragraph C 2 is added:

"On such terms and conditions as may be agreed by the Parties, transfers may also take place between their respective countries of special nuclear material for the performance in the country of the recipient of conversion or fabrication services or both. Upon completion of such services, such transferrable material may be retained in the recipient country for applications otherwise within the scope of this Agreement or the Agreement between the Parties for Cooperation in the Civil Power Applications of Atomic Energy, signed at Washington on June 2, 1966; transferred to another nation or group of nations pursuant to the terms of Article IX hereof; or returned to the country of origin."

ARTICLE II

This Amendment, which shall be regarded as an integral part of the Agreement for Cooperation, shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for the entry into force of this Amendment and shall remain in force for the period of the Agreement for Cooperation, as amended.

In witness whereof, the undersigned, duly authorized, have signed this Amendment.

Done at Washington this tenth day of September, 1970 in two original texts.

For the Government of the United States of America:

GEORGE S. SPRINGSTEEN,
Deputy Assistant Secretary of State for European Affairs.

WILFRID E. JOHNSON,
Acting Chairman, U.S. Atomic Energy Commission.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

JOHN FREEMAN, M.B.E.,
Ambassador of Great Britain.

Certified to be a true copy:

WILLIAM L. YEOMANS,
Assistant Director for Agreements and Liaison (DIA).

ATOMIC ENERGY COMMISSION,
Washington, September 18, 1970.

Hon. CHET HOLIFIELD,
Chairman, Joint Committee on Atomic Energy, Congress of the United States.

DEAR MR. HOLIFIELD: Pursuant to Section 123c of the Atomic Energy Act of 1954, as amended, copies of the following are submitted with this letter:

a. a proposed amendment to the 1966 "Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy;

b. a letter from the Commission to the President recommending approval of the amendment; and

c. a memorandum from the President containing his determination that its performance will promote and will not constitute an unreasonable risk to the common defense and security, and approving the amendment and authorizing its execution.

The main purpose of the amendment is to permit the transfer to Sweden of an increased quantity of enriched uranium to cover the fuel requirements of six additional nuclear power projects which Sweden plans to place under construction through 1973. The appendix listing power projects covered by the 1966 Agreement has been revised to include U-235 requirements for the six new projects, as well as to account for modified requirements of the six projects currently listed. Transfer of such revised fuel requirements is to take place over the remaining life of the agreement (until 1996).

The net quantity of U-235 estimated to be necessary for fueling the twelve power reactors listed in the revised appendix is 121,800 kilograms. This quantity plus 500 kilograms allocated for fueling research reactors and other purposes permitted under the agreement comprises the overall net ceiling of 122,300 kilograms established in Article IV. It is estimated that revenues on the order of one-half billion dollars would accure to the United States through supply of the material covered by the modified agreement. Other significant features of the amendment are discussed below.

Article I recasts, in the preferred form utilized in other agreements since 1967, the existing provision permitting privately arranged transfers of special nuclear material between the United States and Sweden.

Pursuant to Articles II and III, the current "fuel" article (Article VII) has been divided into the format common to our recent long-term power agreements. The division serves to distinguish the supply obligations of the United States and methods of supply from the implementing terms and conditions governing supply.

The significant modifications incorporated in Article II of the amendment are as follows:

(a) According to our now standard approach, toll enrichment is established as the normal method of fuel supply with respect to power reactors, with sale possible at the United States' election. Nevertheless, because the Government of Sweden wishes to retain the undertaking in the current agreement for power reactor fuel to be supplied for the original six projects either by sale or by toll enrichment at its election, the formula in subparagraph A(2) of Article II has been devised so that such assurance of sale, if requested, would be limited to the first 49,776 kilograms of U-235 required for power projects—the total set forth in the present appendix. This quantity will soon have been placed under contract.

(b) Concerning enriched uranium required for fueling research, materials-testing, and experimental reactors. Article II continues the existing provision that such material may be transferred under agreed terms and conditions, but it adds the stipulation common to other long-term agreements that, in the event of transfer of title to such material, the United States shall have the option of limiting supply arrangements to provision of toll enrichment services.

(c) Paragraph D of Article II has been included to indicate expressly that, in the event United States enrichment facilities should not be owned and operated by the Atomic Energy Commission at a future date, the Commission may transfer to a person or persons under the jurisdiction of the United States such of its responsibilities under the agreement with respect to the supply of special nuclear material, including provision of enrichment services, as it deems desirable, and thus the Commission would not itself be the actual supplier of the material.

Significant changes in Article III of the amendment concern reprocessing and two United States options. Under this article, reprocessing may be performed in facilities acceptable to both parties upon a joint determination that safeguards may be effectively applied, instead of being limited to facilities of the Atomic Energy Commission

or those the Commission approves, as provided in the current agreement. This approach has been used in a number of agreements, including recently the Japanese, Argentine, Austrian and Finnish Agreements. As has also been done under recent agreements, such as the first three just cited, the amendment discontinues the options granted to the United States under the present Swedish Agreement to acquire special nuclear material produced in material obtained from the United States. Nevertheless, transfers of such produced material from Sweden to any other nation or group of nations would be subject to United States approval (under paragraph H).

Articles V and VI, the "peaceful uses guarantee" and "bilateral safeguards" articles, have been edited to delete the cross-references to the discontinued options on produced special nuclear material.

Article VII affirms the parties' agreement that the International Atomic Energy Agency will be requested to assume safeguards responsibilities respecting materials, equipment and facilities subject to the bilateral safeguards of the Agreement for Cooperation. This is to be accomplished either through a normal safeguards transfer agreement among the parties and the Agency or as provided in an agreement between Sweden and the Agency pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons. United States safeguards rights will be suspended during the time and to the extent the United States agrees that the need to exercise such rights is satisfied by a safeguards agreement as contemplated in the article. This approach is similar to the one followed in the recent Finnish Agreement.

The steps necessary for transfer of safeguards responsibilities to the International Atomic Energy Agency under either alternative above have been initiated. However, since Sweden is committed by its ratification of the Non-Proliferation Treaty to undertake the negotiation of a safeguards agreement with the Agency, it is likely that the transfer of safeguards responsibilities envisaged in the amendment would be accomplished through the Treaty alternative.

The amendment will enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for entry into force.

Cordially,

THEOS J. THOMPSON,
Acting Chairman.

THE WHITE HOUSE,
Washington, September 15, 1970.

Memorandum for: Dr. Glenn T. Seaborg, Chairman, Atomic Energy Commission.

Subject: Proposed Amendment to the Agreement for Cooperation with Sweden Concerning Civil Uses of Atomic Energy.

The proposed Amendment to the "Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy," submitted for my approval with the Acting Chairman's letter of August 20, 1970, has been reviewed.

Pursuant to the provisions of Section 123b of the Atomic Energy Act of 1954, as amended, and upon the recommendation of the Atomic Energy Commission, I hereby:

a. Approve the proposed Amendment, and determine that its performance will promote and will not constitute an unreasonable risk to the common defense and security of the United States of America; and

b. Authorize the execution of the proposed Amendment on behalf of the Government of the United States of America by appropriate authorities of the Department of State and the Atomic Energy Commission.

RICHARD NIXON.

ATOMIC ENERGY COMMISSION,
Washington, D.C. August 20, 1970.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: Enclosed is a proposed amendment to the "Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy," which was signed on July 28, 1966. The amendment has been negotiated by the Department of State and the Atomic Energy Commission pursuant to the Atomic Energy Act of 1954, as amended. With the Department's support, the Commission recommends that you approve the proposed amendment, determine that its performance will promote and will not constitute an unreasonable risk to the common defense and security, and authorize its execution.

The main purpose of the amendment is to permit the transfer to Sweden of an increased quantity of enriched uranium to cover the fuel requirements of six additional nuclear power projects which Sweden plans to place under construction through 1973. The appendix listing power projects covered by the 1966 Agreement would be revised to include U-235 requirements for the six new projects, as well as to account for modified requirements of the six projects currently listed. Transfer of such revised fuel requirements would take place over the remaining life of the agreement (until 1996).

The net quantity of U-235 estimated to be necessary for fueling the twelve power reactors to be listed in the revised appendix would be 121,800 kilograms. This quantity plus 500 kilograms allocated for fueling research reactors and other purposes permitted under the agreement would comprise the overall net ceiling of 122,300 kilograms established in proposed Article IV. Other significant features of the proposed amendment are discussed below.

Article I would recast, in the preferred form utilized in other agreements since 1967, the existing provision permitting privately arranged transfer of special nuclear material between the United States and Sweden.

Pursuant to Articles II and III, the current "fuel" article (Article VII) would be divided into the format common to our recent long-term power agreements. The division serves to distinguish the supply obligations of the United States and methods of supply from the terms and conditions governing supply.

The significant modifications incorporated in proposed Article II are as follows:

(a) According to our now standard approach, toll enrichment would be established as the normal method of fuel supply with respect to power reactors, with sale possible at the United States' election. Nevertheless, because the Government of Sweden wishes to retain the undertaking in the current agreement for power reactor fuel to be supplied for the original six projects either by sale or by toll enrichment, the formula in subparagraph A(2) of proposed Article II has been devised so that sale, if requested, would be limited to the first 49,776 kilograms of U-235 required for power projects—the total set forth in the present appendix. This quantity will soon have been placed under contract and, for subsequent quantities, toll enrichment would be the normal method of supply.

(b) Concerning enriched uranium required for fueling research, materials-testing, and experimental reactors, proposed Article II would continue the existing provision that such material may be transferred under agreed terms and conditions, but it would add the stipulation common to other long-term agreements that, in the event of transfer of title to such material, the United States shall have the option of limiting supply arrangements to provision of toll enrichment services.

(c) Paragraph D of Article II has been included to indicate expressly that, in the event United States enrichment facilities should not be owned and operated by the Atomic Energy Commission at a future date, the Commission may transfer to a person or persons under the jurisdiction of the United States such of its responsibilities under the agreement with respect to the supply of special nuclear material, including provision of enrichment services, as it deems desirable, and would not itself be the actual supplier of the material.

Significant changes in proposed Article III concern reprocessing and two United States options. Rather than requiring performance of reprocessing in facilities of the Atomic Energy Commission or those the Commission approves; proposed Article III, paragraph F would permit reprocessing to be undertaken in facilities acceptable to both parties upon a joint determination that safeguards may be effectively applied. This approach has been used in a number of agreements, including recently the Japanese, Argentine, Austrian and Finnish Agreements. As has also been done under recent agreements, such as the first three just cited, the amendment would discontinue the options granted to the United States under the present Swedish Agreement to acquire special nuclear material produced in material obtained from the United States. Nevertheless, transfers of such produced material from Sweden to any other nation or group of nations would be subject to United States approval (under paragraph H).

Articles V and VI, the "peaceful uses guarantee" and "bilateral safeguards" articles, would be edited to delete the cross-references to the produced special nuclear material subject to the discontinued options.

Article VII would affirm the parties' agreement that the International Atomic Energy Agency will be requested to assume safeguards responsibilities respecting materials, equipment and facilities subject to the bilateral safeguards of the Agreement for Cooperation. This is to be accomplished either through a normal safeguards transfer agreement among the parties and the Agency or as provided in an agreement between Sweden and the Agency pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons. United States safeguards rights would be suspended during the time and to the extent the United States agrees that the need to exercise such rights is satisfied by a safeguards agreement as contemplated in the article. This approach is similar to the one followed in the recent Finnish Agreement.

The steps necessary for transfer of safeguards responsibilities to the International Atomic Energy Agency under either alternative above have been initiated. However, since Sweden is committed by its ratification of the Non-Proliferation Treaty to undertake the negotiation of a safeguards agreement with the Agency, it is likely that the transfer of safeguards responsibilities envisaged in the proposed amendment would be accomplished through the Treaty alternative.

Following your approval, determination and authorization, the proposed amendment will be formally executed by appropriate authorities of the United States and Swedish Governments. In compliance with Section 123c of the Atomic Energy Act of 1954, as

amended, the amendment will be placed before the Joint Committee on Atomic Energy.

Respectfully yours,

C. E. LARSON,
Acting Chairman.

AMENDMENT TO AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF SWEDEN CONCERNING CIVIL USES OF ATOMIC ENERGY

The Government of the United States of America and the Government of Sweden,

Desiring to amend the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy signed at Washington on July 28, 1966 (hereinafter referred to as the "Agreement for Cooperation"),

Agree as follows:

ARTICLE I

Article VI of the Agreement for Cooperation is amended to read as follows:

"A. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of equipment and devices and materials other than special nuclear material and for the performance of services with respect thereto.

"B. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of special nuclear material and for the performance of services with respect thereto for the uses specified in Articles IV and VII and subject to the relevant provisions of Article VII Bis and to the provisions of Article VIII.

"C. The Parties agree that the activities referred to in paragraphs A and B of this Article shall be subject to the limitations in Article II."

ARTICLE II

Article VII of the Agreement for Cooperation is amended to read as follows:

"A. During the period of this Agreement, and as set forth below, the Commission will supply to the Government of Sweden or, pursuant to Article VI, to authorized persons under its jurisdiction, under such terms and conditions as may be agreed, all of the requirements of Sweden for uranium enriched in the isotope U–235 for use as fuel in the power reactor program described in the Appendix to this Agreement, which Appendix, subject to the quantity limitation established in Article VIII, may be amended from time to time by mutual consent of the Parties without modification of this Agreement.

(1) The Commission will supply such uranium enriched in the isotope U–235 by providing, to the same extent as for United States licensees, for the production or enrichment, or both, of uranium enriched in the isotope U–235 for the account of the Government of Sweden or such authorized persons. (Upon timely advice that any natural uranium required with respect to any particular delivery of enriched uranium under such service arrangements is not reasonably available to the Government of Sweden or any such authorized person, the Commission will be prepared to furnish the required natural uranium on terms and conditions to be agreed.)

(2) Notwithstanding the provisions of paragraph A(1) of this Article, if the Government of Sweden or authorized persons under its jurisdiction so request, the Commission will, with respect to the first 49,776 kilograms of U–235 transferred under this Article, sell uranium enriched in the isotope U–235 under such terms and conditions as may be agreed; further, notwithstanding the provisions of paragraph A(1) of this Article, if the Government of Sweden or authorized persons under its jurisdiction so request, the Commission, at its election, may sell additional quantities of uranium enriched in the isotope U–235 under terms and conditions to be agreed.

"B. As may be agreed, the Commission will transfer to the Government of Sweden or to authorized persons under its jurisdiction uranium enriched in the isotope U–235 for use as fuel in defined research applications, including research, materials testing, and experimental reactors and reactor experiments. The terms and conditions of each transfer shall be agreed upon in advance, it being understood that, in the event of transfer of title to uranium enriched in the isotope U–235, the Commission shall have the option of limiting the arrangements to undertakings such as those described in paragraph A(1) of this Article.

"C. The Commission may also transfer to the Government of Sweden, under such terms and conditions as the Parties may agree, special nuclear material for the performance in Sweden of conversion or fabrication services, or both, and for subsequent transfer to another nation or group of nations with which the Government of the United States of America has an Agreement for Cooperation within the scope of which such subsequent transfer falls.

"D. It is understood that the Commission may transfer to a person or persons under the jurisdiction of the Government of the United States of America such of its responsibilities under this Agreement with respect to the supply of special nuclear material, including the provision of enrichment services, as the Commission deems desirable."

ARTICLE III

The Agreement for Cooperation is amended by adding after Article VII the following new Article:

"ARTICLE VII BIS

"A. With respect to transfers by the Commission of uranium enriched in the isotope U–235 provided for in Article VI, paragraph B and Article VII, it is understood that:

(1) Contracts specifying quantities, enrichments, delivery schedules, and other terms and conditions of supply or service will be executed on a timely basis between the Commission and the Government of Sweden or persons authorized by it, and

(2) Prices for uranium enriched in the isotope U–235 sold or charges for enrichment services performed will be those in effect for users in the United States of America at the time of delivery. The advance notice required for delivery will be that in effect for users in the United States of America at the time of giving such notice. The Commission may agree to supply uranium enriched in the isotope U–235 or perform enrichment services upon shorter notice, subject to assessment of such surcharge to the usual base price or charge as the Commission may consider reasonable to cover abnormal costs incurred by the Commission by reason of such shorter notice.

"B. Should the total quantity of uranium enriched in the isotope U–235 which the Commission has agreed to provide pursuant to this Agreement and other Agreements for Cooperation reach the maximum quantity of uranium enriched in the isotope U–235 which the Commission has available for such purposes, and should contracts covering the adjusted net quantity specified in Article VIII not have been executed, the Commission may request, upon appropriate notice, that the Government of Sweden or persons authorized by it execute contracts for all or any part of such uranium enriched in the isotope U–235 as is not then under contract. It is understood that, should contracts not be executed in accordance with a request by the Commission hereunder, the Commission shall be relieved of all obligations with respect to the uranium enriched in the isotope U–235 for which contracts have been so requested.

"C. The enriched uranium supplied hereunder may contain up to twenty percent (20%) in the isotope U–235. A portion of the uranium enriched in the isotope U–235 supplied hereunder may be made available as material containing more than twenty percent (20%) in the isotope U–235 when the Commission finds there is a technical or economic justification for such a transfer.

"D. It is understood, unless otherwise agreed, that in order to assure the availability of the entire quantity of uranium enriched in the isotope U–235 allocated hereunder for a particular reactor project described in the Appendix, it will be necessary for the construction of the project to be initiated in accordance with the schedule set forth in the Appendix and for the Government of Sweden or persons authorized by it to execute a contract for that quantity in time to allow the Commission to provide the material for the first fuel loading. It is also understood that, if the Government of Sweden or persons authorized by it desire to contract for less than the entire quantity of uranium enriched in the isotope U–235 allocated for a particular project or terminate the supply contract after execution, the remaining quantity allocated for that project shall cease to be available and the maximum adjusted net quantity of U–235 provided for in Article VIII shall be reduced accordingly, unless otherwise agreed.

"E. Within the limitations contained in Article VIII, the quantity of uranium enriched in the isotope U–235 transferred under Article VI, paragraph B or Article VII and under the jurisdiction of the Government of Sweden for the fueling of reactors or reactor experiments shall not at any time be in excess of the quantity necessary for the loading of such reactors or reactor experiments, plus such additional quantity as, in the opinion of the Parties, is necessary for the efficient and continuous operation of such reactors or reactor experiments.

"F. When any special nuclear material received from the United States of America pursuant to this Agreement or the superseded Agreement requires reprocessing, or any irradiated fuel elements containing fuel material received from the United States of America pursuant to this Agreement or the superseded Agreement are to be removed from a reactor and are to be altered in form or content, such reprocessing or alteration shall be performed in facilities acceptable to both Parties upon a joint determination of the Parties that the provisions of Article X may be effectively applied.

"G. Special nuclear material produced as a result of irradiation processes in any part of the fuel leased by the Commission under this Agreement or the superseded Agreement shall be for the account of the lessee and, after reprocessing as provided in paragraph F of this Article, title to such produced material shall be in the lessee unless the Commission and the lessee otherwise agree.

"H. No special nuclear material produced through the use of material transferred to the Government of Sweden or to authorized persons under its jurisdiction, pursuant to this Agreement or the superseded Agreement, will be transferred to any other nation or group of nations, except as the Commission may agree to such a transfer.

"I. Some atomic energy materials which the Commission may be requested to pro-

vide in accordance with this Agreement, or which have been provided to the Government of Sweden under the superseded Agreement, are harmful to persons and property unless handled and used carefully. After delivery of such materials, the Government of Sweden shall bear all responsibility, insofar as the Government of the United States of America is concerned, for the safe handling and use of such materials. With respect to any special nuclear material or fuel elements which the Commission may, pursuant to this Agreement, lease to the Government of Sweden or to any person under its jurisdiction, or may have leased pursuant to the superseded Agreement to the Government of Sweden, the Government of Sweden shall indemnify and save harmless the Government of the United States of America against any and all liability (including third party liability) for any cause whatsoever arising out of the production or fabrication, the ownership, the lease and the possession and use of such special nuclear material or fuel elements after delivery by the Commission to the Government of Sweden or to any person under its jurisdiction."

ARTICLE IV

Article VIII of the Agreement for Cooperation is amended by deleting the number "50,000" and substituting in lieu thereof the number "122,300".

ARTICLE V

Article IX of the Agreement for Cooperation is amended to read as follows:

"A. The Government of Sweden guarantees that:

(1) Safeguards provided in Article X shall be maintained.

(2) No material, including equipment and devices, transferred to the Government of Sweden or authorized persons under its jurisdiction by purchase or otherwise pursuant to this Agreement or the superseded Agreement, and no special nuclear material produced through the use of such material, equipment or devices, will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose.

(3) No material, including equipment and devices, transferred to the Government of Sweden or to authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Sweden except as the Commission may agree to such a transfer to another nation or group of nations, and then only if, in the opinion of the Commission, the transfer of the material is within the scope of an Agreement for Cooperation between the Government of the United States of America and the other nation or groups of nations.

"B. The Government of the United States of America guarantees that no equipment or devices transferred from the Government of Sweden to the Government of the United States of America or authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose."

ARTICLE VI

Paragraph B(3) of Article X of the Agreement for Cooperation is amended to read as follows:

"(3) To require the deposit in storage facilities designated by the United States Commission of any of the special nuclear material referred to in paragraph B(2) of this Article which is not currently utilized for civil purposes in Sweden and which is not transferred pursuant to Article VII B is or otherwise disposed of pursuant to an arrangement mutually acceptable to the Parties;".

ARTICLE VII

Article XI of the Agreement for Cooperation is amended to read as follows:

"A. The Parties, recognizing the desirability of making use of the facilities and services of the International Atomic Energy Agency, agree that the Agency will be requested to assume responsibility for applying safeguards to materials, equipment and facilities subject to safeguards under this Agreement.

"B. The application of Agency safeguards pursuant to this Article will be accomplished either by means of an agreement among the two Parties and the Agency or by means of arrangements made a part of an agreement between the International Atomic Energy Agency and the Government of Sweden pursuant to Article III of the Treaty on the Non-Proliferation of Nuclear Weapons. It is understood that, without modification of this Agreement, the safeguards rights accorded to the Government of the United States of America by Article X of this Agreement will be suspended during the time and to the extent that the Government of the United States of America agrees that the need to exercise such rights is satisfied by an agreement as contemplated in this paragraph.

"C. In the event the applicable "safeguards agreement referred to in paragraph B of this Article is not concluded as therein provided, or should be terminated prior to the expiration of this Agreement and agreement is not reached promptly upon a resumption of such Agency safeguards, either Party may, by notification, terminate this Agreement. In the event of termination by either Party, the Government of Sweden shall, at the request of the Government of the United States of America, return to the Government of the United States of America all special nuclear material received pursuant to this Agreement or the superseded Agreement and still in its possession or in the possession of persons under its jurisdiction. The Government of the United States of America will compensate the Government of Sweden or the persons under its jurisdiction for their interest in such material so returned at the Commission's schedule of prices then in effect in the United States of America. Before making such request, the Government of the United States of America will carefully consider the economic effects of the action and will provide sufficient advance notice to permit arrangements by the Government of Sweden for an alternative source of power."

ARTICLE VIII

This Amendment shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for the entry into force of such Amendment.

In witness whereof, the undersigned, duly authorized, have signed this Amendment.

Done at Washington in duplicate this —— day of ————, 1970.

For the Government of the United States of America:

DONOVAN Q. ZOOK,
Director, Office of Atomic Energy Affairs, Bureau of International Scientific and Technological Affairs, U.S. Department of State.

BARBARA H. THOMAS,
Foreign Affairs Officer, Division of International Affairs, U.S. Atomic Energy Commission.

For the Government of Sweden:

ANDERS OLANDER,
Second Secretary, Embassy of Sweden.

Initialed: August 19, 1970.

Certified to be a true copy.

BARBARA H. THOMAS.

APPENDIX—SWEDEN'S NUCLEAR POWER PROGRAM

Reactor	Power MW net electrical	Start of construction	Criticality date	Total Kgs. U-235 required
A. Marviken	135	1963	1974	3,000
B. Oskarshamn I, BWR	440	1966	1970	8,400
C. Ringhals I, BWR	760	1968	1973	12,200
D. Ringhals II, PWR	820	1969	1974	12,800
E. Oskarshamn II, BWR	580	1969	1974	9,200
F. Barseback I, BWR	580	1970	1975	9,100
G. Forsmark I	800	1971	1976	12,300
H. Ringhals III	800	1972	1977	11,700
I. Stockholm I	600	1972	1977	8,800
J. Barseback II	800	1972	1977	11,700
K. Forsmark II	800	1973	1978	11,300
L. Oskarshamn III	800	1973	1978	11,300
Total				121,800

ORDER FOR RECOGNITION OF SENATOR PERCY AND SENATOR SCHWEIKER TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, at the conclusion of the disposition of the reading of the Journal and any items on the legislative calendar that are not objected to, the able Senator from Illinois (Mr. PERCY) be recognized for not to exceed 15 minutes and that he be followed by the able Senator from Pennsylvania (Mr. SCHWEIKER) for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the conclusion of the orders for recognition of Senators on tomorrow, there be a period for the transaction of routine morning business with statements limited therein to 3 minutes.

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

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

WORLD WAITS FOR ACTION ON PRISONERS OF WAR

Mr. GRIFFIN. Mr. President, much has been said about the most recent Communist proposals at the Paris conferences which for the first time include the possibility of discussing the Prisoner of War issue. However, the manner in which this aspect of negotiations was placed on the table leaves much doubt as to the sincerity of the North Vietnamese.

If the Communists are serious about negotiating an agreement embodying either a political or military settlement in Vietnam they could show good faith by taking some steps that are already required by treaty.

Our hope would be to gain their freedom through prisoner exchange, but there are other steps on the way to that goal which could and have been taken. For instance, the Communists—as International Law requires—should provide the United States with a list of the prisoners being held. They could also bring

their policy into line with their treaty commitment by allowing international Red Cross investigations to assure that proper care is being provided for the prisoners—as well as permitting them at least minimal communications with their families.

The world waits to see if the Communists are sincere in their offer to negotiate on this subject or whether it is but another of their many propaganda ploys.

AMENDMENT TO THE TENNESSEE VALLEY AUTHORITY ACT OF 1933

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1271.

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

The LEGISLATIVE CLERK. A bill (H.R. 18104) to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority.

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

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1251), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

H.R. 18104 has a single objective: to increase from $1.75 billion to $5 billion the amount of revenue bonds which TVA may have outstanding to finance additions to its power system. Its enactment will not change in any way any of the other provisions of the Tennessee Valley Authority Act.

PUBLIC HEARING

The Subcommittee on Flood Control—Rivers and Harbors, held a hearing on August 11, 1970, on H.R. 18104. Testimony was received from interested Members of Congress, and officials of the Tennessee Valley Authority.

(The following pertinent information has been extracted from House Committee Report No. 91–1278.)

GENERAL STATEMENT

Thirty-seven years ago the Tennessee Valley Authority was created as, in the words of the Presidential message recommending its creation: "* * * a corporation clothed with the power of Government, but possessed of the flexibility and initiative of a private enterprise. It should be charged with the broadest duty of planning for the proper use, conservation, and development of the natural resources of the Tennessee River drainage basin and its adjoining territory for the general social and economic welfare of the Nation. This authority should also be clothed with the necessary power to carry these plans into effect."

Today, the TVA regional resource development program is known and acclaimed as one of the most successful governmental public improvement projects ever undertaken. The whole world knows of TVA's work in harnessing a great river for navigation, power production, and other uses such as recreation; in preventing devastating floods; in helping through the introduction of new fertilizers and farm practices to transform a soil-depleting row-crop agriculture into an agriculture emphasizing the production of cattle and small grains and the use of scientific soil-conserving farm practices; in encouraging the conservation and proper utilization of a great forest resource; in providing adequate supplies of economical electric power; and, through all these activities, in helping an economically depressed region to take advantage of its opportunities to industrialize and to make the best use of its resources in improving its economy. This is an American success story, nurtured over the years by the Congress on a bipartisan basis. It has been regarded throughout the world as a model from whose experience many countries have borrowed.

Where in 1933 the per capita income of the people of the Tennessee Valley region was two-thirds of the national average, it is today three-fourths. Where in 1933 some 62 percent of the region's people depended on agriculture for a living, the figure today is 11 percent. Where in 1933, only 12 percent of the region's employment was in manufacturing, today it is 33.4 percent. While much remains to be done, much has been accomplished.

Electric power is one of the great resource tools provided by TVA within the region in which it conducts its operations. TVA is the power supplier for an area of about 80,000 square miles containing about 6 million people. TVA generates, transmits, and sells power to 161 distribution systems, which in turn retail power to their own customers. It also supplies power directly to 43 industries which have large or unusual power requirements and to 11 federal installations, including the AEC plants at Oak Ridge, Tennessee, and Paducah, Kentucky. The distribution systems which are dependent on TVA for their power include 109 municipalities, 50 rural electric cooperatives, and two small private systems. These distribution systems which purchase their power at wholesale from TVA serve more than 2 million electric customers, including homes, farms, businesses, and most of the region's industries.

But the importance of the TVA power system is by no means limited to electric consumers in the area which TVA supplies directly. The TVA system, which with 19.4 million kilowatts of presently installed generating capacity is the Nation's largest, is interconnected at 26 points with neighboring systems with which TVA exchanges power. The TVA system is in effect part of a huge power network. In a time of power emergency, operation of the TVA power system could have a definite impact on power supply conditions from the Great Lakes to the Gulf of Mexico and from New England to Oklahoma and Texas. The experience in the Northeast during the power blackout which occurred there a few years ago demonstrates the interdependence of interconnected power systems, and the need for insuring that all such systems provide their share of needed capacity and other facilities necessary to insure reliable electric service.

NEED FOR THE LEGISLATION

For the Nation as a whole, electric power requirements have been growing on an average of 7 percent per year, which means that they are doubling about every 10 years. In the Tennessee Valley region, power requirements of homes, farms, businesses and industries have been increasing at an average annual rate of 8 percent in recent years. Continually increasing power needs in the region are expected to require at least a doubling of the capacity of the TVA system in the next ten years.

TVA is now constructing 10.3 million kilowatts of additional generating capacity to be in service by the end of 1975. Of its existing $1,750,000,000 revenue bond authorization, it has presently utilized $1,155,000,000. Virtually all of the remainder will be required for completion of the capacity now being constructed. Meanwhile, TVA must begin now to construct additional capacity which will be required after 1975, in order that the region's power needs can continue to be met. In fact, TVA has recently opened bids for two additional generating units, under the terms of which it would also have options for two or more such units. It cannot, however, award firm contracts for any of these units until its present revenue bond authorization is increased. Lead times for new generating units are now about six years, and it is obvious that firm contracts for new units should be awarded and construction should begin without delay if the region's power requirements beyond 1975 are to be met. The need for legislation is urgent.

TVA'S PAST USE OF ITS REVENUE BOND AUTHORIZATION

The initial authorization to TVA to issue revenue bonds was granted by an amendment to the TVA Act adopted in 1959, in the amount of $750 million. In 1966, this amount was increased to $1.75 billion. TVA's experience with the issuance of revenue bonds since 1959 has been highly successful. Its long-term bonds have received the highest ratings from the principal rating agencies, and have sold at interest rates comparable to those on the highest grade private utility issues.

"The same 1959 legislation which authorized TVA to issue revenue bonds also directed it to make payments into the Treasury each year from its net power proceeds as a return on the Government's $1.2 billion appropriation investment in the TVA power system, plus amounts in repayment of $1 billion of such investment. The payments made as a return in any fiscal year are computed by applying the Government's cost of money on its total marketable public obligations at the beginning of the fiscal year to the then outstanding appropriation investment in the TVA power system. The repayment amounts were fixed at $10 million for each of the first 5 years, $15 million for each of the next 5 years, and $20 million per year thereafter until the $1 billion total is reached. TVA is required by the legislation to charge rates for power which will produce gross revenues sufficient to provide funds for operation, maintenance, and administration of its power system; payments to States and counties in lieu of taxes, as provided by section 13 of the TVA Act; debt service on outstanding bonds; the required payments to the Treasury; and such additional margin as the TVA Board may consider desirable for investment in power system assets and other purposes, having due regard for the primary objectives of the act, including the objective that power be sold at rates as low as are feasible.

Since 1959 when the initial bond legislation was enacted, TVA has increased the generating capability of its system from 11 million kilowatts to over 19 million, and it has also increased the size of its transmission system. While thus building the new facilities which the growth of power loads in its area required, it has also made all of the payments to the Treasury which the 1959 legislation contemplated. During the fiscal year ending June 30, 1970, TVA will pay the Treasury $15 million as a repayment on the appropriation investment, plus $57.65 million as a return. In all, by the end of the 1970 fiscal year TVA will have paid to the Treasury from net power proceeds since 1959 a total of approximately $573 million.

AMOUNT OF THE PROPOSED INCREASE IN THE REVENUE BOND AUTHORIZATION

So far as the Committee is aware, no question has been raised by anyone as to the need for an increase in the TVA revenue bond authorization. The only question is

what the amount of the increase should be. The Bureau of the Budget recommended, in a letter to the Chairman of the Committee, that the authorization be increased to $3.5 billion. The bill as reported by the Committee provides for an increase to $5 billion. The Committee's approval of the latter amount is based on the following considerations:

1. An increase in the authorization to only $3.5 billion would require that TVA seek a further increase in from two to four and one-half years, thus quite possibly requiring further legislation in the 92nd Congress.

That an increase from the present $1.75 billion to $3.5 billion would provide for TVA's needs only for this period of time is due to a number of factors. As TVA's system increases in size, so must the annual additions to capacity increase to keep up with the relatively constant annual percentage increase in demands for electricity from the homes farms, businesses and industries in its area. Lead time for construction of plants has lengthened over the last decade from four years to six, and is likely to become still longer; and as already pointed out, TVA must have sufficient bond authority to enable it to complete a plant before it can place firm orders for the necessary components. The costs of labor, materials, and money have increased substantially, and future construction costs per kilowatt of capacity are expected to be higher than the costs of units presently in service or now under construction. Finally, environmental considerations are adding substantially to construction costs. TVA is committed to the proposition that its power system should be constructed and operated in such a way as to protect the quality of the environment. This approach is highly commendable and is in accord with evolving national policy; but its effect on costs must be recognized.

An increase in the authorization to $5 billion as recommended by the Committee would provide authority adequate for from five to seven years.

2. When the original bond authorization of $750 million was provided in 1959, it was expected to last for from five to seven years. H. Rep. No. 271, 86th Cong., 1st sess., p. 6. The increase in the authorization to $1.75 billion voted in 1966 was expected to last for six years. H. Rep. No. 1559, 89th Cong., 2d sess., p. 2. It has actually provided for two years less than that because of the cost and other factors mentioned above.

It would make no sense, in the Committee's view, to provide for a shorter period of system growth now than Congress sought to provide in 1959 and 1966. The practicability of the revenue bond financing method has been demonstrated by TVA's record of eleven years of successful operation under it. The Committee believes that this record warrants sufficient Congressional confidence to justify an increase that will last at least as long as the original authorization was intended to last; that is for from five to seven years.

3. Sufficient authorization should be provided to leave no question concerning TVA's ability to meet the growing demands on its power system for a reasonable period. TVA can provide for these demands only if it has enough borrowing capacity to make firm contracts for required new generating capacity. If growth in demands for power should be at a higher rate than now estimated, a $3.5 billion authorization might not even last two years. The homeowners and businesses dependent on TVA for power are entitled to plan with confidence on a longer-range basis. So, too, are homeowners and businesses in other areas of the country who in a power emergency could be directly affected by the power supply situation on the TVA system with which their own systems are interconnected. On May 5 of this year, the Office of Emergency Preparedness, Executive Office of the President, published a Survey of Electric Power Problems, in which it pointed out that electric generating capacity to meet peak loads will be in tight supply this summer in various sections of the nation. Of the Southeast, the Survey stated:

"This area has insufficient reserve capacity from Virginia through the Carolinas, Georgia, Alabama, and Mississippi. The CARVA pool (Virginia, North Carolina and South Carolina) has reserves of only 6.5%, more than 50% of which are in one unit. The Southern Company utilities serving Georgia, Alabama, Mississippi have reserves of only 8.6%. On the other hand, TVA and the Florida pool are in reasonably good position with reserves of upwards to 15%, *but one-half of TVA's reserves is equal to the rating of one unit*, and there are tight power supply areas within the Florida pool (i.e., Jacksonville has only 10.6% reserves). [italic added]"

The Survey also pointed out a factor that should be considered in relation not only to the coming summer but to future periods as well:

"It should be recognized that some reserve capacity estimates are dependent on new large units whose reliability is uncertain, and a large number of small units which are past retirement age. The estimates also assume a normal summer. Peak loads could be several percent higher than utility estimates. A combination of an intense heat wave and poorer-than-expected power system performance could result in the elimination of reserve margins and a failure to meet peak loads."

The Survey also emphasized the interdependence of TVA and other interconnected systems by pointing out, in discussing available capacity for the coming summer in the South Central and Western regions, that:

"There appear to be no serious capacity problems in these regions. However, the South Central region is depending on 1500 MW, from TVA this summer. Without this, the South Central reserve is 12.7%."

This 1500 MW is made available by TVA under a seasonal interchange arrangement, and will be returned to it during the winter months—the period of TVA's peak power loads.

Further, in a statement which accompanied the release of the Survey, the Director of the Office of Emergency Preparedness, The Honorable George A. Lincoln, emphasized a point that cannot be made too often:

"Electricity is the lifeblood of our high energy civilization. It is imperative that industry and government work together in order to avert disruptions to the consuming public."

The Committee is in full accord with this statement, and believes that it would be shortsighted in the extreme for the Congress to deny to a federal agency responsible for operating the country's largest single power system adequate bond authority to assure that it can do its part in contributing to reliability of the Nation's power supply.

4. The 1959 legislation provides expressly that the principal of an interest on bonds issue by TVA shall be paid solely from TVA's net power proceeds, and that such payment is not an obligation of or guaranteed by the United States. Accordingly, the bonds are not part of the public debt, and an increase in the bond authorization to $5 billion would have no effect on the debt ceiling.

5. There are no disadvantages that the Committee can see in providing an authorization of $5 billion rather than $3.5 billion. If growth in power demands in the TVA system should for any reason be less than now anticipated, the only result would be that TVA would slow down its construction program and its issuance of bonds, and the authorization would last somewhat longer. For example, one of the variables in the present estimates of how long an increase to either $3.5 billion or $5 billion would last is the extent to which future power purchases from TVA by the AEC plants at Oak Ridge and Paducah may grow beyond the purchases for which AEC has already contracted.

TVA would not, however, build capacity to supply any additional power for these plants unless and until firm contracts covering such additional power supply have been entered into. Hence, the provision of a $5 billion rather than a $3.5 billion bond authorization to TVA will in no way affect future decisions concerning the desirability of an increase in power takings by the AEC plants.

6. In summary, the Committee is convinced that an increase in the authorization to less than $5 billion would be inadequate, that strong reasons exist for an increase to at least this amount, and that such an increase would have no important disadvantages as compared to a lesser amount.

The Committee therefore recommends the $5 billion figure.

COMMITTEE VIEWS

The committee is aware that in order for the Tennessee Valley Authority to provide sufficient electric energy to meet the growing needs of the area it must have access to adequate capital to finance the facilities which will be needed over the next several years. Therefore, an increase in the bonding authority of the TVA should be made at this time. The committee accordingly recommends early enactment of this legislation.

Mr. COOPER subsequently said: Mr. President, earlier today the Senate passed H.R. 18104. The Public Works Committee held hearings on August 14, on H.R. 18104, a bill to increase the amount of bonds which the Tennessee Valley Authority could sell from the present limitation of $1.75 to $5 billion.

The Bureau of the Budget, however, had proposed an increase of the lesser amount of $3.5 billion as compared with the bill and the committee's recommendation of $5 billion. Although I did not oppose the bill in committee, it was my view that the administration's recommendation of the lower amount was adequate and realistic in meeting the financing needs of the Authority for the near future and I supported the Bureau of the Budget's request.

In the course of these hearings the Honorable Aubrey J. Wagner, Chairman of the Board of Directors of the TVA, raised important questions concerning the various problems the TVA is currently facing in meeting the power requirements of its service area. One of the chief problems testified to concerns TVA's dwindling coal supply for its steamplants and the alarming shortages of coal in the area. It was Chairman Wagner's testimony that the causes of the present coal shortage are basically fourfold: First, the effect of the recent coal mine health and safety legislation in closing small mines with a resulting loss of production; second, the lack of an adequate number of railcars; third, the increased export of coal abroad, thus removing this supply from the domestic market; and fourth, the growing concentration of ownership of the country's largest coal companies among a few large operators who own competing sources of fuel such as oil and gas and the effect on production.

Chairman Wagner's testimony on the coal situation together with many complaints that I received from Kentucky prompted me to introduce on August 25 Senate Resolution 457 calling on the Committee on Interior and Insular Affairs to conduct a study and investigation concerning the shortage of coal existing in the United States with special emphasis on the above enumerated causes. This resolution is cosponsored by 14 Members.

Because of the increased demand for coal and of recent increases in coal prices, there has been a substantial increase in strip mining this year in Kentucky and, I believe, also in Tennessee. In the early 1960's, I had urged that the TVA—an agency whose basic purpose, as set forth in the original TVA Act of 1933, is conservation of our natural resources—to require in their coal contracts with coal companies engaged in strip mining that these companies agree to reclaim the land strip mined and that this requirement be made a condition of all TVA's contracts. This practice was inaugurated in 1965, and Chairman Wagner's testimony provides current information on this important subject.

In conclusion, I should note that I have received correspondence from residents in the Kentucky TVA service area complaining of the proposed rate increase of some 23 percent in power rates previously announced by the TVA. During the hearings, I requested the TVA to document the financial basis upon which the rate increase was proposed. Chairman Wagner's testimony points out that such an increase is necessary if TVA is to meet the requirements of section 15d(f) of the TVA Act, and also section 3.4 of the Authority's bond resolution under which certain conditions must be met before the Authority may issue additional bonds.

Because of the wide interest of many Members of the Senate in these subjects discussed by Chairman Wagner, I ask unanimous consent that his testimony be printed in the RECORD at this point.

I want to congratulate Senator BAKER, of Tennessee, who was the principal sponsor of the amendment in the Senate and upon whose motion in the Senate Committee on Public Works, the amendment was agreed to by the committee and reported to the Senate. He is familiar with TVA legislation and the needs of the TVA—certainly in his State of Tennessee—and is a strong supporter of the Tennessee Valley Authority.

I ask unanimous consent that Chairman Wagner's testimony be printed in the RECORD at this point.

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

STATEMENT OF A. J. WAGNER, CHAIRMAN, BOARD OF DIRECTORS, TENNESSEE VALLEY AUTHORITY; ACCOMPANIED BY FRANK SMITH, MEMBER, BOARD OF DIRECTORS, TVA; JAMES E. WATSON, MANAGER OF POWER, TVA; ROBERT MARQUIS, TVA GENERAL COUNSEL; JACOB VREELAND, TVA WASHINGTON REPRESENTATIVE

Senator JORDAN. Will you introduce your associates?

Mr. WAGNER. Yes, sir; I will be glad to do that.

We have this morning, Mr. Frank Smith, a member of the TVA Board, Mr. James Watson, who is TVA's manager of power, Robert Marquis, TVA's general counsel, and Jake Vreeland, our Washington representative.

Mr. Chairman, we do appreciate this opportunity to review with the subcommittee TVA's need for an increase in its power revenue bond authority as proposed in S. 3967 and H.R. 18104. These bills, which as Senator Baker said are identical, would continue in effect all of the basic provisions of the 1959 bond financing amendment to the TVA Act, but would increase the ceiling on the amount of bonds we are permitted to have outstanding.

The 1959 bond amendment, which is incorporated in section 15d of the TVA Act, authorized us originally to issue power revenue bonds up to a maximum amount of $750 million outstanding at any one time. Section 15d provides specifically that the bonds are not obligations of or guaranteed by the United States, but are backed solely by TVA's power revenues.

In additions to authorizing our issuance of bonds, section 15d provides for two types of payments by TVA to the U.S. Treasury. One of these is in reduction of the appropriation investment in the TVA power system which stood at $1.2 billion when section 15d was enacted. The payments required by section 15d in reduction of this appropriation investment were $10 million a year for the first 5 years and $15 million a year for the next 5 years, and will be $20 million a year hereafter until a total of $1 billion has been paid.

The second type of payment required by section 15d is a return or dividend. Such payments are determined by applying to the appropriation investment outstanding as of the beginning of each fiscal year the computed average interest rate payable at that time by the Treasury on its total marketable public obligations.

Last year, for example, we paid to the Treasury $15 million in reduction of the appropriation investment and $57.6 million as a return. In all, since the 1959 amendment was enacted, we have made payments to the Treasury of $125 million in reduction of the appropriation investment and $448.2 million as a return, a total of $573.2 million.

It was recognized when the 1959 legislation was enacted that power demands in the area TVA supplies would continue to grow, and that the $750 million bond authorization for which the legislation provided would be sufficient for only a relatively few years and would thereafter need to be increased.

In 1966 the ceiling was accordingly raised to $1.75 billion, again with the expectation that further increases would be required as power demands in the area and the amount of generating capacity required to supply them continued to increase. Such demands and capacity needs have grown and are continuing to grow, and that is why we are appearing before you today.

TVA's power program is a part of its overall regional economic development program. This overall program involves supplying basic economic tools—economical transportation on the Tennessee River and connecting waterways, protection against major floods, an abundant supply of electric power, improved fertilizers for use in a soil-conserving type agriculture, opportunities for recreational and other development—which the people of the region can use in developing their economy.

We believe the program has been highly successful. The region in which we operate is in many respects far different that it was in 1933 when TVA was created.

There are many factors at work in the TVA area besides TVA's own operations, but in the period since 1933, per capita incomes have increased from less than half the national average to nearly three-fourths of it today. Employment has shifted for its reliance from an agricultural base to an industrial base. We are delighted to be able to report to you that in recent years particularly, much of our industrial development is taking place in the smaller communities and in the rural areas, rather than in the metropolitan areas with their population and industrial concentrations.

The region for which TVA is a power supplier contains 80,000 square miles and 6 million people. TVA furnishes power at wholesale to 110 municipalities, 50 rural electric cooperatives and one small private company which own and operate distribution systems representing assets of over $1 billion. These 161 distributors resell the power to over 2 million electric customers—homes, farms, businesses, and most of the industries.

TVA also supplies power directly to 11 Federal installations, including the atomic energy plants at Oak Ridge, Tenn., and Paducah, Ky., and to 43 industries which have large or unusual power requirements.

Power loads in the Nation have been growing at an average annual rate of approximately 7 percent. This means that loads are doubling about every 10 years. In the Tennessee Valley region, power requirements of the homes and farms and businesses and industries have grown at an average annual rate of about 8 percent in recent years. The load growth in the region is expected to require at least a doubling of capacity in the coming 10 years.

The generating capacity of the TVA power system is now 19.4 million kilowatts, and we have an additional 10.3 million kilowatts of capacity under construction. This includes three nuclear units of 1,150 megawatts each at our Browns Ferry plant near Athens, Ala.; two coal-fired units of 1,300 megawatts each at our new Cumberland plant west of Nashville; two additional nuclear units of 1,220 megawatts each at the Sequoyah site north of Chattanooga; 16 gas turbine units having a total of 350 megawatts to be installed at the Allen Plant at Memphis; and a 1,350 megawatts pump storage plant at Raccoon Mountain west of Chattanooga.

These units now under construction are scheduled for completion on various dates, but all of them are scheduled to be in service by the end of 1975. The 30 million kilowatts of capacity which we will then have on our system is the amount which our forecasts indicate will be needed by the end of 1975 to supply the region's growing power requirements then.

Meanwhile, we need to begin promptly construction of additional capacity to meet projected further growth in power loads beyond 1975. During the 1970's we face the need for beginning an additional 30 million kilowatts of new generating capacity in order that we may continue to meet the growing demands for electric power in the region.

Large amounts of capital obviously will be required to finance this kind of construction program. Some of the funds required can be provided from power proceeds, but the greater portion will have to come from additional borrowings.

At the present time, under the authority of the 1959 amendment, we have a total of $1,106 million of such borrowings outstanding out of the total of $1.75 billion which is authorized. This includes $675 million of long-term bonds sold to the general public, $331 million of short-term notes sold to the general public, and $100 million of short-term notes sold to the Treasury.

These borrowings have helped finance the 8.4 million kilowatts of generating capacity additions we have made to the power system since the 1959 amendment to the TVA Act and the work done thus far on the 10.3 million kilowatts of additional generating ca-

pacity now under construction and to be in service by the end of 1975.

Virtually all of the remainder of the $1.75 billion of borrowings now authorized will be required to complete the 10.3 million kilowatts of capacity now under construction, together with the related transmission facilities and nuclear fuel requirements. I think this is important to understand, because when we start a new generating unit, we must have available to us the authority to borrow whatever funds will be needed to complete its construction, so that while we have not yet completely exhausted or borrowed the $1.75 billion, we are committed to work which will use it up.

We have just opened bids on two additional nuclear units, with options on additional units, and we will need an increase in our borrowing authority in order to award firm contracts for these units. The leadtime for constructing new generating units is now about 6 years as compared with 4 years only a few years ago.

So we should make awards without delay for the two new units if they are to be completed in 1976 when they will be needed. The need for an increase in our bond ceiling is therefore of the utmost urgency to us and to the region.

As to the amount by which TVA's borrowing authority should be increased, the administration has recommended an increase in the ceiling to $3.5 billion, and we of course support the recommendation. We estimate that with such an increase we could go forward from 2 to 4½ years before coming back to Congress with a request for a further increase in our borrowing authority.

I should perhaps make clear why a doubling in our bond ceiling to $3.5 billion would provide funds only for the period of time I have indicated, that is, 2 to 4½ years. A number of factors are responsible. First, with power use doubling every 10 years, we are having to provide larger and larger capacity additions each year to keep up with the demands. Second, as I have already noted, the leadtime on new units is now about 6 years and we need enough bond authority to finish units before we begin constructing them.

Third, construction costs per kilowatt of capacity have increased drastically, despite the efforts we have made to take advantage of economies of scale by constructing large-size units. The average cost of the completed steam capacity now installed on the TVA system is about $125 per kilowatt. We estimate that the capacity now under construction will cost considerably more than this, and the cost of future capacity will be still greater—perhaps double the cost of presently completed capacity, so that our dollars do not go as far as they did 10 years ago.

The increased costs of generating units reflect increases that have taken place in the costs of labor, materials, and money. Another factor is the costs which result from the need to protect the environment. TVA has a responsibility, both as a conservation agency and the operator of a large power system, to assure that its powerplants do not adversely affect the air or water and their quality.

The problems of fly ash and sulfur dioxide contained in stack gases at coal-fired plants must be solved, and heated water discharged at both coal and nuclear plants must be controlled so that aquatic life will not be harmed. Technology has found the answers to some of these problems, as in the case of the electrostatic precipitators which we are installing—incidentally, at a cost of about a hundred million dollars—to remove 99 percent of the fly ash at our coal-fired plants, and we are confident that technology will ultimately solve these other problems as well.

Although the exact costs which will be required to protect the environment are not known, it is clear that both TVA's capital and operating costs will be greatly increased by these requirements and that this, in turn, will increase our need for additional borrowings.

We are deeply committed to the principle that our operations shall not damage the environment, and believe the added costs of assuring that they do not do so must be accepted, whatever those costs turn out to be.

One final point I would like to mention is the need for providing adequate generating capacity in the Tennessee Valley region not only for its own benefit but to assure that we do our part in providing power reliability for the Nation as a whole. The TVA power system interconnects at 26 points with neighboring power systems for the economical exchange of power and to safeguard the reliability of power supply.

For example, we have agreements with interconnected groups of systems to the south and west for the exchange of power on a seasonal basis. We exchange 1,800,000 kilowatts of capacity. These systems receive power from TVA to help meet their peakloads during summer air conditioning season. In winter, TVA gets back similar amounts of power to help meet peak demands that result from electric heating.

In the case of an emergency, it is possible, through transfers of power under exchange arrangements between adjacent and interconnected power systems, in effect to ship power hundreds of miles from one system that has a reserve supply to another that may have experienced a failure at one or more of its plants and is in dire need of an additional supply.

This is, of course, what happened a couple of weeks ago when several systems, including TVA, began making power available to Consolidated Edison to meet the emergency situation which developed in New York. Transfers of this kind are possible only if there is reserve capacity available, as well as adequate transmission interconnections.

This is one more reason why TVA, as well as other systems, must provide adequate generating capacity in their respective areas if they are to fulfill their responsibilities as power suppliers.

I should add that these interconnection arrangements and these seasonal interchanges also effect very substantial economies for both partners in the interchange arrangements. They eliminate the necessity for building generating capacity on each system that otherwise would be necessary, and they are a real efficiency device in the operation of a system.

Mr. Chairman, that completes my statement. We will be glad to answer your questions, of course.

Senator JORDAN. Mr. Wagner, what is the highest voltage that you are transmitting now?

Mr. WAGNER. Our highest voltage now is 500,000 volts, Mr. Chairman.

Senator JORDAN. I just wondered if you had reached that voltage capacity—if that had become necessary for long-range transmission, for instance, to New York City.

Mr. WAGNER. Some of it went on high voltage transmission. The transmission to New York City was really a displacement of power—we were providing power to our neighbors, they to their neighbors, and so on.

Senator JORDAN. Are you having any problem getting coal?

Mr. WAGNER. Yes, sir; we are having a very serious problem getting the coal, due to quite a number of factors, and we are distressed by the fact that our stockpiles are now down to about a 10-day supply, in spite of everything that we can do to get coal. We are paying prices at the present time that are approximately double what we were paying as recently as a year ago, and we still are not able to get as much as we need.

There is also a problem of getting coal delivered, even though we have it bought, and it is available at the mines. There is a shortage of railroad cars that we have tried to get corrected, but so far, we have not succeeded. This problem is a serious one. I think it is a serious one not only for us, but for the entire electric utility industry.

Senator JORDAN. Are you using any gas at any of your plants?

Mr. WAGNER. One of our plants is equipped to use gas, but it is off-peak gas, and the plant burns gas or coal intermittently. We can't always get the gas when we want it.

Senator JORDAN. Well, is it gas and coal or gas and oil?

Mr. WAGNER. Gas or coal.

Senator JORDAN. Gas or coal. Well, I know a number of the power companies are seriously affected by a shortage of coal, partly due to the vast amount we are exporting, and there is an effort being made here now to see if that can't be corrected in one way or another. I also understand that a number of the coal mines, particularly small ones, have been unable to meet some of the requirements set up under the Mine Safety Act, and have just closed down, rather than try to do it. That is also contributing to the shortage.

Mr. WAGNER. Yes, sir; that is correct.

On the matter of export coal, we have had at least one instance in which coal where we were buying under a contract that lasted for several years, for a price of about $5 a ton, was not available to us when the contract expired. It was sold instead for the export market at a price of something over $11 a ton.

The costs involved in that $11 were greater; coal had to be washed, while we were buying it unwashed, but nevertheless, it was denied to us.

The export coal problem also ties up numbers of rail cars. The coal moves to the ports, and then because the demurrage charges on rail cars are very low, it is stored in the cars for days, and there are trainloads of coal sitting at the ports, whereas the cars, if they were available for moving coal for use in this country, would help to alleviate the coal shortage.

The mine safety laws to which you referred have caused several of the smaller producers who have been supplying us with coal to close down. The costs involved for them would have been too great in relation to their total operations, and these requirements are adding to the costs of coal that we are getting from some of our larger producers.

Now I should say that we favor mine safety, Mr. Chairman, and whatever is required for realistic mine safety, we believe must be borne as a part of the cost of producing and selling the coal. It is true, however, as you have said, that this legislation now has added both to the scarcity of supply, by stopping it from some of the smaller mines, and to the cost of the coal supply, by adding to the costs from the larger suppliers.

Senator JORDAN. Of course, I am hearing that same thing from Duke and Carolina Power, in my own State. They have got the same problem.

Mr. WAGNER. Yes; this is a nationwide problem for the electric utilities business.

Senator JORDAN. It is a nationwide problem, which we are going to have to solve. I know something about the reason for this shortage of coal cars too. It is cheaper to let the coal sit in the cars at what they are charging for demurrage, than it is to have a storage basin——

Mr. WAGNER. Unfortunately, that is true.

Senator JORDAN (continuing). Established

wherever they happen to be shipping from; that is, the large ports.

Mr. WAGNER. That is true. Demurrage charges need to be legally established on a more realistic basis.

Senator JORDAN. Senator Cooper?

Senator COOPER. I will yield to Senator Baker for the time being.

Senator BAKER. Thank you, Mr. Chairman. I have a strange feeling that the Senator from Kentucky just wants the last word.

Mr. Chairman, you spoke a moment ago about export coal, and certain supplies that you have been deprived of because of their commitment, after a contract expired, to the export market.

Do you know of substantial reserves of unmined coal that have been acquired by companies, formerly under contract to domestic users, for foreign interests, especially Japanese interests?

Mr. WAGNER. Senator, I do not know, but Mr. Watson might.

Do you want to comment on that?

Mr. WATSON. Well, Senator Baker, as you are aware, with your knowledge of the coal industry, most of the coal in our area is not low-sulfur enough to be in the metallurgical market, so you have to get into the southern Tennessee coals, or the really——

Senator BAKER. Southwest Virginia coal.

Mr. WATSON. Yes, southwest Virginia, and we draw very little of our coal from southwest Virginia. Really the only coal in our region that had low enough sulfur for the metallurgical market was in the southern Tennessee area, and that is the coal we just lost. Our biggest problem with export coal is the fact that it ties up rail cars for weeks at a time, that could make a round trip from our normal sources of supply to our plant and back, in, say, 2 days or something like that.

Senator BAKER. The reason I asked the question is because I have reports from time to time—which I am careful to say I have not verified—that not only is the export trade calling heavily on reserve of metallurgical quality coal, but that foreign interests, especially Japanese interests, have advanced substantial sums of money for the construction of new plants, largely for the mining of metallurgical grade coal, but also tying up vast expanses of unmined coal, both metallurgical and nonmetallurgical, which might be then beyond the reach of the domestic steam coal market.

Do you know of any such situations?

Mr. WATSON. Well, in the particular case that Mr. Wagner was talking about, where we had been buying the coal for about 10 years, the Japanese offered to supply $2.6 million interest-free——

Senator BAKER. To build a washing plant, and they are approximately doubling the output of the mines. This in effect drains off the reserves of this company twice as fast as before.

Senator BAKER. And this was coal that you have used for the general TVA steam requirement?

Mr. WATSON. It all went to the Widows Creek Steamplant.

Senator BAKER. And $2.6 million was advanced by the Japanese Government, interest-free, in order to process it and wash it to make it available to them as metallurgical coal.

Mr. WATSON. To reduce the sulfur content to something around a half of 1 percent. It normally runs in the neighborhood of about seven-tenths to eight-tenths of a percent.

Also, washing removes some of the ash, so they don't have to ship it to Japan.

Senator BAKER. On a slightly different subject: You were speaking of a reduction in the availability of hopper cars or coal cars by reason of their standing in the export cities. Has the unit train concept reduced the availability of mine cars, especially for the smaller operators?

Mr. WATSON. No, I really think the unit train concept makes more cars available. Usually unit trains, like the one that I am sure you are familiar with, that comes out of Hazard, Ky., and goes to Bull Run Steamplant, which is right close to your hometown there; are made up of cars that were all provided especially for that movement. They are hundred-ton cars, special automatic dumping equipment, and really do not have any effect on the car supply situation.

The fact remains, however, that the railroads, the principal railroads that serve our area, have approximately the same number of cars now that they had 5 years ago.

Senator BAKER. Including the unit train.

Mr. WATSON. Including the unit train.

Senator BAKER. Well, the recurrent complaint comes to my office that the railroads tend to favor and supply the unit train operators, and tend either not to replace or not to expand the supply of coal cars available to non-unit train operators.

Mr. WATSON. Well, I think both the railroads and the utilities feel that a unit train is dedicated to a certain movement, and should be kept in that movement.

Senator BAKER. Well, I think it should, too, but the point of the matter if, if you have the same number of cars now that you had a few years ago, and if you have now dedicated a great number of those cars to unit train operation, then you probably have fewer cars that are non-unit train cars than you had, say, 10 years ago.

Mr. WAGNER. Senator, I think the situation of understanding here is that these unit trains are usually specially designed and built at the time they are established. They don't take old coal cars and set them up in a unit train, and the problem has been that the standard type coal cars, in normal operation, have not been replaced as they should, nor has the fleet been added to as it should have been in view of the expanding market and need for them.

Senator BAKER. I think that is right, Mr. Chairman, and the point I am struggling to establish is that while unit trains are not made up of old coal cars, thus depriving other operators of their use, it is nonetheless true, is it not, that since the total number of cars, of all types available is roughly the same as it was a few years ago, there are relatively fewer conventional cars available to nonunit train operators than there have been in the past?

Mr. WAGNER. That is correct.

Senator BAKER. Well any way you put it—we have managed to get that fairly complex, but any way you put it, there is a coal car shortage. Is that right?

Mr. WATSON. There certainly is. For coal that originates on railroads for delivery to our plants, we have been averaging between a hundred thousand tons and one hundred thirty thousand tons shortage every week, for more than a year.

Now you can't say that this was all due to the rail car shortage, because maybe there were cars placed too late in the evening to be loaded, or the coal producer had problems at his mine that day, or something like that, but most of that is due to a shortage of coal cars.

Senator BAKER. On another subject: it is my observation in Tennessee that since the passage of the mine safety bill, there has been a great resurgence of interest in very large stripping operations. There has been a great deal of activity in exploration and prospecting and the like.

Does TVA have any policy respect to restraint or conditions on the nature of coal stripping operations as a condition to accepting the coal?

Mr. WAGNER. Yes, Senator Baker, we do have. We require in our contracts with coal producers who supply us with strip mine coal that the land be reclaimed, and we believe that this program has been working very satisfactorily. We now have reclamation provisions in all of our coal contracts that we entered into in the last 5 years, at least, and this means 154 contracts that require reclamation, and under those contracts, more than 8,000 acres of land have been reclaimed, and, of course, all of it that is being strip mined for us now will be reclaimed.

The program we believe is working very well, and we keep watching it and looking for methods to improve reclamation, so that the land is not only preserved, but returned to useful purposes.

Senator BAKER. Is the degree of restoration required by your coal purchase contract comparable to the requirement of, say, the Kentucky Statute for restoration of strip mines?

Mr. WAGNER. It is generally comparable with Kentucky. Kentucky has, we believe, a very good statute. In most of the States where we operate, I believe our requirements are more stringent than the State requirements. We are mining some coal reserves now that we bought several years ago, doing this in an effort to try to get coal at lower prices; and in that area, we are trying some new ideas that would reach even higher standards of reclamation than we are requiring in our general contract.

We want to try these out, and see if they are practical and feasible, and if they are they would be written into our new contracts.

Senator BAKER. This is another observation that was suggested to me in Tennessee recently, in connection with stripping: that in years past, when there were few, if any, restrictions on the nature of coal stripping, a great deal of damage was done in terms of potential restoration, in that after a coal strip pit stands for a few years, it is virtually impossible to do much with it, seed it, or drain it effectively, or the like.

Therefore, the suggestion has been made in some quarters that one of the most practical restoration steps that might be taken for old strip pits, especially in mountain areas, is to hope that they might be re-stripped now in a more controlled manner, with an opportunity to start afresh with the restoration.

Do any of you have any comment on that?

Mr. WAGNER. Well, I don't know about that as a general policy, Senator Baker. There are some instances where I am sure it would provide an opportunity for better restoration than you otherwise might get. We have two places where the coal is being stripped in areas that have been previously opened, and there we are getting reclamation to new standards. It is true that it is much easier to do a good reclamation job, and at much less cost, if you have it in mind at the time you mine the coal.

At the same time, while it is difficult to go back to some of these old areas, we believe that it should be done, and can be done at reasonable cost. We have some proposals that we are working on in that direction.

Senator BAKER. Well, this is a subject that I won't burden the committee with further, nor you, Mr. Chairman, but it is a subject that I intend to give a great deal more attention to in the future. I feel that a Federal policy on the restoration of strip pits and the manner of the recovery of coal by stripping must be examined, and possibly enacted into standards.

Mr. WAGNER. We have a number of research and demonstration projects in this direction. On the specific point that you mention, some of these coal reserves that we own and are now mining have been stripped in the past, and we are working in those areas. This operating and cost experience is valuable in determining the feasibility of this kind of operation and we will have it.

Senator BAKER. This last question, Mr. Chairman, if I may.

On the particular subject at hand, which is of course, the amendment to the TVA Act to increase your bond authorization, the bill I introduced, together with cosponsors, and the bill passed by the House provide for an authorization increase from $1,750 million to $5 billion, which is, frankly, my preference, because I feel that on the basis of projected power needs for the future, and on the basis of our national underestimate of our power needs for the last several years, that we ought to put TVA in a position to commit or be in a position to commit its generating and transmission capacity, without having to come back at an early date for additional authority.

I don't ask you to comment on that, but I would simply say that notwithstanding the fact that you are here asking for $3.5 billion, I would urge, Mr. Chairman, that the committee approve the full authorization of $5 billion.

Thank you very much.

Senator YOUNG (presiding). Mr. Chairman, it is with regret that I was not able to be here at 10 o'clock, and I know that Senator Jordan from North Carolina feels the same, because he and I were both over in the Senate Chamber, working, at 10 o'clock. Fortunately, he was able to leave earlier than I, and now I am very glad to be here and it is my intention to read your testimony very thoroughly, and may I say that it is a very happy personal recollection that in the first administration of Franklin D. Roosevelt, my vote helped create the Tennessee Valley Authority, and during years following service in the House of Representatives, I was also glad to vote for legislation supporting the TVA.

Mr. WAGNER. Well, thank you very much, Mr. Chairman. We know of your long interest and support for TVA, and the interests of the great Tennessee Valley region, and we know that you gentlemen are busy. We were delighted to wait for the few moments that were required, and it is good to see you again.

Senator YOUNG. Senator Cooper, do you have questions?

You may proceed.

Senator COOPER. Yes, Mr. Chairman.

Senator Baker has mentioned that $5 billion was authorized by the House, and that his bill, S. 3967, would call for $5 billion instead of the present authorization level of $1,750 million. Is that correct?

Mr. WAGNER. Yes, sir, that is correct.

Senator COOPER. Do you still hold to that position? I understand that $5 billion is the amount you require?

Mr. WAGNER. Senator Cooper, our position is that $3.5 billion will permit us to continue for 2 to 4 years, depending on the way some of the loads grow.

As long as we have authorization when we need it, this is the important thing to us. As I indicated in my statement, the administration has felt that the doubling of the present authorization of $1,750 million to $3.5 billion is sufficient for this time, and we support that position.

Senator COOPER. The last increase was for $1 billion; is that correct?

Mr. WAGNER. That is correct; yes.

Senator COOPER. Has all of that amount been obligated?

Mr. WAGNER. It has been obligated to the extent that to complete the capacity which we now have started and under construction will take all of this authorization to do that, so that if we wanted to start, or we want to place a firm contract, as we must have soon, for some additional generating capacity, we would need to have the additional authorization available, so that we would know we could sell the bonds needed to complete that capacity.

Senator COOPER. You mentioned certain facilities that are now being constructed—nuclear plants, and, I believe, one coal-fired plant. Do you have an authorization sufficient to borrow the money, to complete the construction of these facilities?

Mr. WAGNER. Yes; the authorization that we have now would enable us to complete the construction of facilities that are now under construction. It would not permit us to start construction of additional facilities.

Senator COOPER. I note that Mr. Shultz, in his letter, states:

"Now because of the tenuous nature of projecting the growth of peak demand, coupled with the uncertainty of AEC's future power needs which are served by TVA, we believe that an increase as large as 2.35 billion should not be made that point."

Do you consider that your estimate of future TVA power needs may be of a tenuous nature?

Mr. WAGNER. Well, Senator Cooper, any estimate is an estimate. You can't be sure that it is going to come out the way you anticipate, but we make these estimates based on fairly firm data. We have the trends of the past, and we know something about the plans of our existing customers for their expansions in the future, and the estimates are as good as we can make them.

Our experience in the past has been more often that we have underestimated than overestimated, I believe. It goes both ways, but in general, our estimating has been pretty good.

One of the criticisms being leveled nationally at the electric utilities industry now is that it is not doing or has not done its advance planning. We have tried to do that in TVA, and so far, quite successfully.

And this is where our estimates fit in. It is why we have the capacity now that we need; it is why we need the additional bonding authority, so that we can start the capacity now that we are going to need in 1976 and the years beyond.

The question of the amount of leadtime that is required is a little hard to estimate. At the present time, we think it will be 6 years. Not very long ago, 4 years was enough but this is a problem that affects the estimates.

Another problem that affects them is what will happen to interest rates, and that affects not only us but consumers in the region.

Senator COOPER. Well, your statement noted that TVA is providing power for 11 Federal plants. I assume that the largest would be the AEC plants at Oak Ridge and at Paducah?

Mr. WAGNER. That is correct.

Senator COOPER. Do you have a term contract to provide those installations with power for a number of years ahead?

Mr. WAGNER. Yes; we have contracts with them, and we start capacity to serve them only when we have firm contracts at hand.

Now, they do indicate to us what their planning is for the future, and when I said that the $3.5 billion would last us from 2 to 4½ years, a part of that range is accounted for by this situation. If AEC continues to take power only under the present contracts, the longer period of time would be applicable, somewhere in the neighborhood of 4.5 years.

If, however, they should require power to meet the largest planning programs that they have discussed with us, we could run out of bonding authority in 2 years or a little more.

Senator COOPER. I have information that you are currently providing 1,340 megawatts to Oak Ridge and Paducah, and that this load will increase by the spring of 1976 to 3,165 megawatts. Is that correct?

Mr. WAGNER. Yes; that is correct.

Senator COOPER. Well, there is a steady increasing demand for power from those two plants.

Mr. WAGNER. That is correct. And the capacity that we now have under construction will enable us to meet that demand.

Senator COOPER. Will the facilities you intend to construct to meet your future power requirements be all atomic plants?

Mr. WAGNER. No, sir; we have under construction two large atomic plants, a large coal-burning plant, and we are beginning construction of a pump storage facility. Those are the large ones that are now under construction.

Senator COOPER. From here on out, do you expect to build only nuclear plants?

Mr. WAGNER. I didn't get the question, sir.

Senator COOPER. Looking ahead, with respect to new facilities that must be built to supply power, will they be only nuclear plants?

Mr. WAGNER. I don't think we would say that at this point, Senator. It depends on what the relative competitive position is. We will build whatever kind of plant that will provide energy for the consumers at the lowest cost.

When we undertook our first large nuclear plant at Brown's Ferry, we took alternate bids on a coal-burning plant and its fuel supply and a nuclear plan and its fuel supply, and in that instance, the nuclear plant came out cheaper, and so we went nuclear.

Subsequently, when we looked at our next nuclear plant, the costs were about a standoff, and in view of our capacity need, we started to build both a nuclear plant and a coal-burning plant.

We now have bids before us for two more nuclear units, with options for additional units. At the time we took those bids, we also invited bids on a coal supply, to see if we could make a comparison again. We got no bids for the coal.

So the direction we go in the future will depend on the availability of alternate sources of fuel, and the relative cost. I think it is generally believed that nuclear technology, being relatively new, will improve, can be improved to a greater extent than fossil fuel technology, and that consequently, a substantial part of the additions in the future will be nuclear plants, but at this point in time, and looking at the figures that come to us, I don't think you can say positively it is going one way of the other.

Senator COOPER. Congress has passed strict legislation dealing with water pollution.

Mr. WAGNER. Yes, sir.

Senator COOPER. And soon will pass a bill much stricter than any we have had thus far.

Mr. WAGNER. Yes.

Senator COOPER. Let me turn to thermal pollution. Are you taking any steps now to refit or requip your existing facilities so that they will meet these standards?

Mr. WAGNER. On thermal pollution, did you say?

Senator COOPER. Yes.

Mr. WAGNER. Or on general pollution?

Senator BAKER. Thermal.

Mr. WAGNER. On the question of thermal pollution, our existing plants have not created any problem. We did have some difficulty at the Paradise plant in western Kentucky, and there we added cooling towers, so that the water temperatures in the river would not be raised to a harmful degree. With our new plants, we are going to great lengths to deal with warm water, and we believe that these will take care of the problem adequately.

If they don't, we will do whatever it takes to take care of it.

Senator COOPER. Concerning the expenditures required to reequip the old plants, do the funds come from operating revenues or from the sale of bonds?

Mr. WAGNER. Well, the money to equip our old plants, and there we are doing some reequiping by putting in electrostatic pre-

cipitators to clean the air out, and we will ultimately, I am sure, develop some equipment to take the sulfur oxides out. That equipment will be paid for partly from power revenues and partly from borrowed funds both, but the bulk of our funds for capital improvements of that kind now must come from borrowings, Senator Cooper, so that as we run into these added costs for environmental protection, both atmospheric and water, it will add substantially to our needs for borrowing authority.

Senator COOPER. I have some questions concerning coal.

Normally, what reserves of coal stock does TVA have on hand?

Mr. WAGNER. Well, we would like to have a 60-day supply in our stockpiles, so that if we run into difficulties of any kind, we can keep going.

Senator COOPER. What is your current supply?

Mr. WAGNER. The supply now is down to 10 days, if we had it uniformly distributed between our plants, but at some plants we are down to 4 days.

Mr. WATSON. The lowest one is 3.1.

Mr. WAGNER. Mr. Watson reminds me that as of this morning we are down to 3.1 days at one plant, 4.1, 5.1, 4.7, and 5.5 days at others.

Senator COOPER. Do you have any assurances that you will be able to get enough coal to keep these plants running?

Mr. WAGNER. Well, this is where you hope and pray, I think, Senator.

Senator COOPER. You mean you haven't contracted for all your requirements?

Mr. WAGNER. We have contracts, but let me tell you, when we get word that a rail strike is threatened, or that there is trouble in any of our coalfields, our blood pressure goes up considerably. We are in a very tenuous position in this regard.

Senator COOPER. Would you say, then, you do not have contracts to provide you with sufficient coal?

Mr. WAGNER. Oh, yes, sir, we have the contracts, but we are currently getting about 70 percent—is it, Mr. Watson?—of the coal that we have under contract.

One of the problems is that the railcars are not available to deliver it, and another problem is that it just doesn't come out of the mines, for one reason or another.

Senator COOPER. Didn't the TVA bring a suit against one coal company to require them to live up to their term contract and provide the coal?

Mr. WAGNER. Yes, sir, we did.

Senator COOPER. What does it state?

Mr. WAGNER. Let me ask Mr. Marquis.

Mr. MARQUIS. That case was settled, Senator, and we are now getting coal deliveries from that company, after they first stopped. But we are not getting as much coal from them as we once did.

Senator COOPER. I believe that the TVA is the largest purchaser of coal in the United States; is that correct?

Mr. WAGNER. I think that is correct, yes, sir.

Senator COOPER. Your testimony will be very helpful in giving us information on what you consider are the reasons for this short supply of coal. Now we have had problems in securing adequate numbers of coal cars ever since World War II. Every time there has been a coal shortage, we talk about insufficient cars.

Do you consider that as one element contributing to the coal shortage?

Mr. WAGNER. Yes, sir; and in the immediate picture, a very important element.

Senator COOPER. Does the TVA own any cars?

Mr. WAGNER. No, sir; we do not own any coal cars.

Senator COOPER. You do own coal reserves?

Mr. WAGNER. Yes, sir.

Senator COOPER. I recall the last time that you came before the committee when you testified that the TVA owned about 129,000 acres of coal reserves. Have you added to the reserves since then?

Mr. WAGNER. We have only two large reserves, Senator, one in east Tennessee and one in western Kentucky, and—

Senator COOPER. The old Camp Breckenridge?

Mr. WAGNER. Yes, sir; we bought these reserves on a competitive bidding basis when the General Services Administration sold them, and we are moving now to get those reserves mined.

Senator COOPER. The last time you testified, you stated that TVA owns about 129,000 acres of coal reserves. You state you are getting ready to have this coal mined on the old Camp Breckenridge site?

Mr. WAGNER. That is correct, we have a contract for it with the Peabody Coal Co., and they will open the mines and mine the coal.

We are also mining some of the coal in east Tennessee, on the former Koppers property, and I should add that we are continuing to look for coal reserves. They are extremely hard to find. And this gets to another one of the long-term problems in the coal supply.

Senator COOPER. Is the Paradise steam plant operating in Muhlenburg County?

Mr. WAGNER. Yes, sir, the Paradise steam plant is operating, and we have there a very good coal supply.

Senator COOPER. Would this coal from the Camp Breckenridge site be transported to the Paradise steam plant?

Mr. WAGNER. No, the Camp Breckenridge coal will essentially go to the new plant that we are building at Cumberland City. This is the one that is now under constuction.

Senator COOPER. Where is that?

Mr. WAGNER. It is on the Cumberland River, in Tennessee, near the town of——

Mr. WATSON. Fifty miles west of Nashville.

Senator COOPER. Are there any other reasons why you can't get coal?

Mr. WAGNER. Yes.

Senator COOPER. Have a number of small mines closed down in eastern Tennessee?

Mr. WAGNER. Some of the small mines have closed down because they were unable to meet the requirements of the mine safety legislation. The larger mines are meeting it. It is adding to their cost, and also, it is reducing the rate at which they can produce coal for us.

There is another important factor, we think; when we used to buy coal, we would invite bids, and if we were going to buy a hundred thousands tons a week, we would get offerings of maybe two, three, four, or five times that amount, and we would take the low bids, and go on.

We have reached a point now, though, as in the case I indicated where we were trying to buy coal to assess the competitive position of nuclear and coal for these new units we are weighing, we invite bids and we don't get any bids, or we get just a very small amount offered. One of the problems that we think is contributing to this is that the coal companies, the large ones, are being bought up by oil companies and a couple of large metal companies. Eight of the 10 largest coal-producing companies in the country now are owned by either oil companies or large metal companies.

And we are told by some of their management that they are not interested in selling coal at profit margins that were considered satisfactory by the old coal companies, that they want profit margins that are more comparable with what they are making on their other products. As a consequence of that, coal which was costing us, a year ago, maybe $4.50 a ton, is now offered to us on a negotiated basis at $7 or $8 or $9 a ton, and with our stockpiles as low as they are, you can see that we have no alternative but to buy it.

In other terms, Senator Cooper, we operated for years at coal costs of about 18 to 19 cents per million B.t.u. We buy our coal on a heat content basis. This gradually crept up through normal price rises and inflationary pressures to about 21.5 cents last year. Now for coal we recently had to buy we paid 35 cents a million B.t.u. for some of it, and 38 cents for some more of it.

We bought some yesterday at 40 cents, and we even had one offer, which we are not going to accept, at 68 cents.

Now we have some general ideas about what has happened to the cost of producing coal. We have them because of our work on mining the reserves that we own ourselves, and also because under a gross-inequities provision in some of our long-term contracts, we have had to go back and renegotiate prices. The companies in these cases have to demonstrate to us what their increased costs are.

Now, excluding the mine safety costs, those costs have gone up, and we have had to add maybe 50 or 75 cents a ton, but not $3 or $4 or $5 a ton. Mine safety costs will add more money; we don't know at the moment how much. We are getting demands anywhere from 75 cents to $1.40.

We have not yet been able to examine those claims to see how much fat there may be in them, but even those, added to the 50 or 75 cents a ton that we have renegotiated, do not justify, in our minds, the kind of prices that we are being asked to pay now.

We think this is extremely important, not only to TVA but to the whole Nation, because this country lives and breathes on electric energy. We have looked at alternate sources of fuel—oil, gas, uranium. The oil companies, of course, own the oil and gas reserves now, and they are buying into uranium reserves and uranium fuel processing. This is a situation which can become very difficult, and which concerns us, Senator.

Senator COOPER. I beg the indulgence of the committee, in taking up this subject of coal supplies. I know Senator Baker is, very interested in this matter. Your testimony will give us a good chance to find out what some of the causes are for the present coal shortage.

Now, first you have noted the old question of shortage of coal cars. Secondly, some mines are shut down, because of the Mine Safety law. I know that has happened in my State.

Third—and I am very glad you brought this out—I have heard comments about this, too—that a great number of the big coal companies are now owned by oil companies, and there is a serious question, whether those companies want to increase their production of coal, or whether they want to limit production because of their oil business.

I think it is a subject that will have to be investigated and should be investigated by the Congress.

Concerning the effects of the Mine Safety Act on coal production I must state that what we predicted has come true, particularly in Kentucky and Tennessee, where we have what we call nongassy mines. Many of these small mines have closed down, because it wouldn't be economically possible for them to re-equip the mine as required by the new law. And now many of them have gone into strip mining which is what I predicted would happen.

Senator Baker questioned you about the provisions you place in your contracts with mining companies from whom you purchase

coal requiring them to reclaim the land. This policy has been in effect since 1965, hasn't it?

Mr. WAGNER. That is correct.

Senator COOPER. I know that you require that the supplier reclaim the land within a period of 24 months after the contract is completed.

Mr. WAGNER. Yes, sir.

Senator COOPER. Now, what means do you have of enforcing that contract?

Mr. WAGNER. Well, all I can say is that so far we have been able to get compliance. It is written into the contract. Generally, these contracts require the contractor to provide a performance bond. No doubt this would provide TVA considerable leverage in obtaining compliance with the reclamation provisions. Moreover, the State strip mine reclamation laws require the operator to post a bond as a condition of obtaining a mining permit.

We could refuse to take subsequent bids from operators who violate the reclamation clauses in future instances. I would say, Senator, that fortunately, we have not had to resort to those methods. I think that we have found that the coal producers, if they realize they are going to be paid for it, are willing to do the job.

Senator COOPER. Can you state to the committee that the coal companies have carried out these provisions of their contracts and have reclaimed the land?

Mr. WAGNER. I asked the man who inspects reclamation. He is a very able individual who is not in our office of power, but is a conservationist in our forestry organization, so that we have a sort of an independent check on this thing.

He says that the reclamation results so far vary all the way from poor to excellent, but the ones that are poor, we are working on, and even there, we are getting, by what is normally understood to be reclamation, pretty good results. This is adding to the cost of coal.

Senator COOPER. It ought to.

Mr. WAGNER. Yes, sir; that is right.

Senator COOPER. Under the Kentucky law, which is considered to be one of the best in the country, the State authorities carry on a continuing inspection of these operations.

Does the TVA carry on a continuing inspection to see that the companies are living up to the contract?

Mr. WAGNER. Yes, we do. Yes, sir.

Senator COOPER. And they close them down in Kentucky, if they are not. Do you ever cancel a supplier's contract if he isn't living up to his contract?

Mr. WAGNER. We have not yet canceled any because of reclamation violations. I should point out that these are long-term contracts, and a contractor usually gets equipment committed for the life of the contract. If we look at the mined area and say, "Look, you have got to do some more work here," he generally does it.

Senator COOPER. Does he reclaim the land as he proceeds with his stripping operations?

Mr. WAGNER. As closely following it as can be done; yes, sir, and a part of it, you realize, is done almost as a part of the mining operations. For instance, one of the requirements is that the strip bench be graded so that the water that falls on it will flow toward the high wall, and is then carried to the natural drains, down the mountainside.

He is required to cover the iron pyrites promptly so that sulfuric acid isn't formed, and you don't get acid drainage. The extent to which material can be dumped over the outside bank is controlled, and then he is required to revegetate this area quite promptly.

Senator COOPER. In 1966, you testified and provided the committee with a statement describing the requirements for reclamation included in your contracts. Would you furnish the committee with this information together with a list of companies the contracts of which contain this information?

Mr. WAGNER. Yes, sir; I will be glad to.

Senator COOPER. What I am saying is that if you do not enforce these provisions day by day, or at least period by period, over the life of your contracts—which are long-term contracts—then the damage will be done. It will certainly be done as far as the water levels are concerned.

Mr. WAGNER. We will be glad to provide you with a copy of the requirement in the contract, and I would want to add that we do make continuing inspections, Senator, and we work also with the States on this, very closely.

(The information subsequently furnished follows:)

RECLAMATION PROVISION IN TVA COAL PURCHASE CONTRACT

Strip Land Reclamation. Contractor agrees to perform in accordance with the following standards and to the satisfaction of TVA reclamation and conservation work upon all the lands which are affected by the strip mining (including surface auger) of any coal supplied under this contract.

a. Contractor shall, as closely as practicable following the mining operation, cover coal faces and bury all toxic materials including coal wastes and strongly acid shales.

b. Contractor shall seal off any breakthrough to former underground mines.

c. Contractor shall conduct the mining in such manner as to keep the drainage free of spoil.

d. Contractor shall control water from the mines and haul roads by:

(1) Channeling runoff into drainage either naturally non-eroding or made that way through construction of checks, or

(2) By impoundments, or

(3) A combination of (1) and (2).

e. Contractor shall cover all holes at the face that have been made by augers.

f. Contractor shall grade the spoil banks as necessary to provide for the reestablishment of vegetation.

g. Contractor shall conduct mining and reclamation so that any spoil placed on the slope below the bench will be handled with the objective of preventing landslides. This provision will generally control the bench width of the first cut in relation to the steepness of slope, the total volume of overburden which may be cast downslope, and the natural and proposed drainage pattern.

h. Contractor shall revegetate the disturbed area with trees (but with TVA's approval grasses, legumes, and shrubs may be substituted) so as to ensure that the disturbed area will be covered by vegetation well distributed throughout the entire area.

i. To the maximum extent practicable, the foregoing work shall be performed at the same time the mining operation is taking place, and all the above work shall be completed no later than 24 months after the delivery of all the coal supplied under this contract unless TVA agrees to a longer period of time.

TVA shall have the right to inspect the Contractor's mining operation and the lands involved from time to time to determine the Contractor's compliance with the foregoing standards. TVA shall at all times be the sole judge as to whether Contractor is complying with the standards above set out. TVA, in its discretion, may accept as fulfillment of the requirements of this contract compliance by the Contractor with applicable reclamation laws having standards comparable to the foregoing.

Terms and Conditions. The attached Terms and Conditions and Conditions of Bid constitute parts of this contract.

COAL SUPPLIERS COVERED BY TVA RECLAMATION REQUIREMENTS

Contractor	County	Mine
Tennessee, Southeast:		
Allen Bros. Coal Co	Van Buren, Sequatchie, Bledsoe	No. 7, No. 9.
Arnold Coal Co	Van Buren	Arnold, Van Buren.
C. R. & B. Coal Co	do	No. 11.
L. P. Phipps & Son	Grundy	Commando.
Walden Ridge Coal Co	Van Buren, Bledsoe, Sequatchie	No. 1, No. 2.
Waters Coal and Construction Co.	Van Buren	R-8.
Tennessee, East:		
Blue Diamond Coal Co	Campbell	Sou. Imperial, Emerald.
Abe Cofer Coal Co	do	Abe Cofer.
Crass Coal Co	Anderson	Crass.
Dean Coal Co	Campbell	Red Ash.
Farco Co., Inc	do	Farrell.
G. & F. Coal Co., Inc	Morgan	G. & F.
Kew Mining Co	do	Kew.
H. & B. Construction Co	do	H. & B.
H. & B. and Lueking Coal Co	Morgan, Anderson	Lueking.
Jackson Mining Co	Anderson	Jackson.
Lueking Coal Co	Anderson, Morgan	Lueking No. 2.
Mountain Mining Co	Anderson	Mountain.
Price Coal Co	Morgan, Campbell	Price.
Radar Coal Co	Anderson	Radar.
W. B. Spradlin	Campbell	W. B. Spradlin.
Tedder Coal Co	Morgan, Cumberland	Tedder.
Tennco, Inc	Anderson	Tennco.
Tennessee Auger	do	New River.
Fred Walt Coal Co	Morgan	Fred Walt Nos. 3, 4.
Wolf Ridge Coal Co	Anderson	W. & S.
W. R. Coal Co	Anderson, Morgan	W. R.
Premium Coal Co., Inc	Anderson	Premium.
Alabama:		
Ramsey Coal Co., Inc	Jackson	No. 1.
Farco Co., Inc	do	Fies No. 1.
Arch Mineral Co., Inc	do	Do.
Kentucky:		
Adventure Coal Co	Bell	No. 1, No. 2.
Carbon Coal Co., Inc	Bell, Ohio	Carbon.
Kentucky Oak Mining Co	Perry, Letcher, Breathitt, Knott, Leslie.	Various.
Pioneer Fuel Sales	Bell	Do.
Scotia Coal Co	Letcher	Sou. Imperial.
PeeWee Mining Co	McCreary	West.
West Coal Corp	do	Do.
West Kentucky:		
Arel Coal Sales, Inc	Hopkins	Arel.
Burge Coal Co	Ohio	Burge.
Cherokee Coal Co	do	Do.
Hazel Creek Coal Co	Muhlenberg	Hazel Creek.
Island Creek Coal Sales Co	Hopkins	Boone, Pleasant View, Shamrock.
Cimarron Coal Co	do	Volunteer.
Kirkpatrick Coal Co	Muhlenberg	Wright, Caney Creek.
Pittsburg & Midway	Hopkins, Muhlenberg	Colonial, Paradise.
Peabody Coal Co	Muhlenberg, Ohio	Sinclair, River Queen, Ken, Homestead, Gibraltar.
O'Keefe Bros. Coal Co	Ohio	Salem.
Randall Fuel Corp	do	Williams Creek.
Royal Fuel Corp	Hopkins, Christian	Arel.
Russell Badgett, Jr. Coal Co	Hopkins	Little Jose.
Walker & Sons	Ohio	Walker.
Weskol Mining Co	Hopkins	Weskol No. 2.
American Metal Climax	Muhlenberg	Ayrgem.

COAL SUPPLIERS COVERED BY TVA RECLAMATION REQUIREMENTS—Continued

Contractor	County	Mine
Illinois:		
Peabody Coal Co.	Gallatin	Eagle.
Eads Coal Co.	Jefferson	Eads.
Virginia:		
Blair Fork Coal Co.	Wise	Sou. Imperial.
Kentucky-Virginia Coal Co.	Lee	No. 1.
Wright Mining Co.	do	Wright No. 1.
Victory Coal Co.	Wise	No. 2.
Dean Jones Coal Co.	Lee	No. 5.

Senator COOPER. Is the Paradise plant on the Green River, considered to be the largest of its type in the world?

Mr. WAGNER. The generating station, you mean?

Senator COOPER. The Peabody Coal Co. stripped acres and acres of land there before your conservation requirements came into effect in 1965.

Mr. WAGNER. That is correct.

Senator COOPER. I don't know that I can say that it is your fault, but one of the purposes, as I understand it, of the TVA is that it deals with conservation and tries to make a better environment. Yet in Muhlenberg County and Ohio County, where Peabody Coal strip mines—I think it is the second-largest coal company in the United States—those counties look like what we once thought the surface of the moon would look like—terrible. And the TVA did take that coal, and did nothing about reclamation or conservation.

Is there any way you can help now to repair the damage that was done in those two counties?

Mr. WAGNER. Senator, let me take just a few minutes on that point.

We did not buy all of that coal. We bought some of it. One of the reasons that we did not require reclamation in our contracts until 1965 was because in the States where we bought coal—at the time we were buying only about 17 percent of the total strip-mined coal, and we felt that what was required was State legislation that would go to all of the coal that was stripped for all consumers. We felt that if TVA required it, people would say the problem was solved, and it wouldn't be, so we worked very hard to try to get State regulations to require reclamation.

Now some of it was strip mined for us, that's correct. All I can say is that at the present time we do require reclamation there and everywhere else. We have made some proposals, and will continue to make proposals, for reclamation of the strip-mined areas.

Our current proposal does not go to west Kentucky, but certainly work should be done there, and we agree that that land ought to be reclaimed, and ways must be found to do it.

Senator COOPER. One other subject: TVA is announcing an increase in its rates.

Mr. SMITH. Senator, if I may interrupt at that point, one of the reasons that the reclamation clause is in the TVA contract is because of some discussions that you had with some of the members of the TVA Board.

Mr. COOPER. Well, I would hope the clause has had some effect. I am going to look at it again.

Mr. WAGNER. I hope we got into it what you wanted, Senator.

Senator COOPER. I will repeat what I said, when you set up your requirement procedures, then—and I do want to study them—is there any way we can protect these areas and be sure that reclamation has been performed as required by the contract? I think we ought to do it. I am talking about my own State. I know that you don't get all your coal from Kentucky. I also know there is going to be a lot of coal mined at the site of Camp Breckenridge. I recall the long dispute among the residents there as to who owned the coal rights.

Mr. WAGNER. Camp Breckenridge coal will be produced by underground mining, Senator. It is not going to be strip mining.

Senator COOPER. Now TVA has recently announced an increase in its power rates, quite a large increase, as I recall.

Mr. WAGNER. That is true.

Senator COOPER. Is it about 26 percent?

Mr. WAGNER. It is about a 23-percent average increase, Senator. This increase is not as large in comparison with other figures as one first might think. The percentage is as large as it is because our base rates are so low now.

Electricity in the Tennessee Valley costs the average residential consumer about a cent a kilowatt-hour. In the Nation as a whole, it costs about 2 cents, or a little better, for a kilowatt-hour, so if we were applying the TVA increase to the national average electric bill, it would be an 11½-percent increase instead of a 23-percent increase.

Senator COOPER. How do your rates compare with the privately owned companies in the area?

Mr. WAGNER. The average cost to the residential consumer for electricity before this increase has been about 1 cent per kilowatt-hour in TVA, about 2.1 cents in the Nation. So our rates are about half, and they will still be substantially below, even after this increase goes into effect.

Senator COOPER. Will you supply to the committee a statement comparing your rates with the rates of other utilities in the area?

Mr. WAGNER. Yes, we will be glad to do that, Senator.

(The information later supplied follows:)

COMPARABILITY OF TVA RATES WITH THOSE OF UTILITIES IN SURROUNDING AREAS

The three attached tables contain a summary comparison of TVA's rates for residential and general power consumers with those applied by neighboring utilities.

Residential rate comparison

Table 1 shows a comparison of residential consumer costs for selected monthly and annual energy uses. Costs under the TVA middle schdule (R–4) after the August and October 1970 increases are compared with those under the rates now being applied by neighboring utilities. Over half of the residential consumers in the Tennessee Valley are being served on this or a lower rate schedule.

Industrial power rate comparison

Table 2 compares the unit power costs to industrial customers using a range of load sizes and load factors. For the Tennessee Valley costs were determined under the basic TVA general power rate (C–2) after the August and October 1970 increases. This schedule was selected for comparison purposes because all TVA schedules are identical for loads in excess of 5,000 kw and this schedule also applies to directly served customers with prevailing rate contracts. The currently effective rates of neighboring utilities were used and information is included on the amount of fuel adjustments that were included in the unit price calculations.

Increases proposed by neighboring utilities

Table 3 contains detailed data concerning proposed rate increases by neighboring utilities during fiscal year 1970. The last line indicates comparable data for TVA.

TABLE 1.—COMPARISON OF RESIDENTIAL POWER COSTS—TVA AND NEIGHBORING UTILITIES—BASED ON RATES PUBLISHED IN FPC NATIONAL ELECTRIC RATE BOOK OR LATER RATES OBTAINED FROM STATE UTILITY COMMISSIONS

Use kilowatt-hour	Tennessee Valley Authority	Alabama Power Co.	Appalachian Power Co.	Carolina Power & Light Co.	Georgia Power Co.	Kentucky Utilities Co.	Mississippi Power Co.	Mississippi Power & Light Co.
Designated rate schedule	R-4	FD	R.S.[3]	R-4B[1]	A-12[4]	RS-1	R-2	RD-18C[1]
Effective date of schedule	Feb. 1969 / Sept. 1970[2]	Sept. 1968	Nov. 1966	Dec. 1965	Dec. 1968	July 1967	Jan. 1970	Feb. 1970
A Monthly bills:								
50	$1.38 / $1.65	$2.15	$2.31	$1.95	$2.03	$2.70	$2.45	$2.44
100	2.56 / 3.04	3.25	3.84	3.40	3.58	4.20	4.17	4.24
250	5.18 / 6.16	6.25	7.01	6.50	6.16	7.40	7.66	6.97
500	7.71 / 9.21	9.65	10.80	9.00	8.76	11.90	10.69	9.50
750	9.60 / 11.46	12.65	12.79	12.00	11.37	15.65	13.50	12.05
1,000	11.48 / 13.71	15.65	16.08	15.38	14.48	19.40	16.28	14.58
1,500	15.25 / 18.21	21.65	22.16	22.13	21.74	26.90	21.89	19.66
2,000	19.02 / 22.71	27.65	28.04	28.88	28.48	34.40	27.48	24.74
3,000	26.56 / 31.71	39.65	38.19	42.38	41.96	49.40	38.67	34.89
4,000	34.10 / 40.71	51.65	48.35	55.88	55.44	64.40	49.87	45.04
Designated rate schedule	R-4	FDE	R.S.[3]	R-2E	TE-2	FERS-1	RA-2	RS-17E
Effective date of schedule	February 1969 / September 1970	June 1969	November 1966	December 1965	December 1968	July 1967	January 1970	February 1970
B Annual bills (all-electric home): 24,000	$228.21 / $272.52[2]	$329	$328.21	$304.30	$326.75	$376.80	$298.72	$269.02
Fuel and money cost adjustments used:								
Cents per kilowatt-hour	0.074		0.01575		0.02		0.0664	0.00625
Date of adjustment	(5)		(5)		(5)		(5)	(7)
Other adjustments used								

[1] Includes water heater and/or high use discounts.
[2] Modified rates effective Oct. 2, 1970.
[3] August 1970.
[4] December 1969.
[5] April 1970; rate 2.172 percent (Dec. 18).
[6] August 1970; tax 0.262 percent (August 1970).
[7] August 1970; tax 0.9 percent (August 1970).

TABLE 2.—COMPARISON OF INDUSTRIAL POWER COSTS—TVA AND NEIGHBORING UTILITIES, BASED ON RATES PUBLISHED IN FPC NATIONAL ELECTRIC RATE BOOK OR LATER RATES OBTAINED FROM STATE UTILITY COMMISSIONS[1]

[In mills per kilowatt-hour]

		Tennessee Valley Authority		Alabama Power Co.	Appalachian Power Co.	Carolina Power & Light Co.	Georgia Power Co.	Kentucky Utilities Co.	Mississippi Power Co.	Mississippi Power & Light Co.
PEAK DEMAND 1,000 KILOWATTS AND 1,176 KILOVOLT-AMPERES										
Designated rate schedule		C-2	C-2	LPL	LPC	G-2D	C-9	HLF	LP-2	C-111
Effective date of schedule		February 1969.	September 1970.	Sept. 1, 1968	Nov. 1, 1966	Feb. 4, 1965	Dec. 16, 1968	Jan. 1, 1967	Jan. 20, 1970	Feb. 1, 1970.
Percent load factor	100	5.62	6.78	7.19	7.86	7.60	8.47	7.91	9.72	8.15.
Do	90	5.87	7.12	7.52	8.20	7.89	8.73	8.37	10.02	8.52.
Do	80	6.18	7.54	7.93	8.61	8.25	9.04	9.92	10.40	8.98.
Do	70	6.58	8.07	8.46	9.15	8.72	9.45	9.58	10.89	9.58.
Do	60	7.09	8.75	9.16	9.86	9.31	9.99	10.46	11.54	10.40.
Do	50	7.79	9.07	10.15	10.85	9.97	10.75	11.65	12.46	11.08.
Do	40	8.84	11.13	11.63	12.68	10.97	11.88	13.36	13.80	12.12.
Fuel cost adjustment used		0.29		0.02	0.21		0.27	0.30	0.664	0.0625.
Money cost adjustment used		[2] $0.15								
Effective date of adjustments		August 1970		April 1970	December 1969.	July 1969	April 1970	April 1970	August 1970	August 1970.
PEAK DEMAND 5,000 KILOWATT AND 5,790 KILOVOLT-AMPERES										
Designated rate schedule		C-2	C-2	LPL	LCP	HLF-1D	C-10	HLF	LP-2	C-11
Effective date of schedule		February 1969	September 1970	Sept. 1, 1966	Nov. 1, 1966	Feb. 4, 1965	Dec. 16, 1968	Jan. 1, 1967	Jan. 20, 1970	Feb. 1, 1970
Percent load factor	100	5.26	6.42	6.40	7.18	6.81	7.13	7.66	8.91	7.13
Do	90	5.47	6.71	6.65	7.44	7.12	7.40	8.09	9.13	7.53
Do	80	5.73	7.08	6.95	7.76	7.51	7.74	8.62	9.40	8.02
Do	70	6.06	7.55	7.34	8.17	8.01	8.18	9.23	9.74	8.65
Do	60	6.51	8.18	7.86	8.72	8.68	8.76	10.05	10.20	9.40
Do	50	7.13	9.05	8.58	8.50	9.62	9.44	11.16	10.84	10.23
Do	40	8.07	10.36	9.68	10.98	11.02	10.24	12.75	11.81	11.33
Fuel cost adjustment used		0.29		0.02	0.21		0.27	0.30	0.664	0.0625
Money cost adjustment used		[2] 0.15								
Effective date of adjustments		August 1970		April 1970	December 1969	July 1969	April 1970	April 1970	August 1970	August 1970
PEAK DEMAND 20,000 KILOWATTS AND 21,579 KILOVOLT-AMPERES										
Designated rate schedule		C-2	C-2	LPL	LCP	HLF-1D	C-10	HLF	LP-2	C-11.
Effective date of schedule		February 1969.	September 1970.	Sept. 1, 1968	Nov. 1, 1966	Feb. 4, 1965	Dec. 16, 1968	Jan. 1, 1967	Jan. 20, 1970	Feb. 1, 1970.
Percent load factor	100	4.92	6.08	6.22	6.66	6.71	6.63	7.23	8.75	6.95.
Do	90	5.12	6.37	6.45	6.86	7.01	6.85	7.61	8.95	7.24.
Do	80	5.37	6.72	6.73	7.11	7.38	7.13	8.08	9.19	7.78.
Do	70	6.68	7.17	7.08	7.43	7.86	7.48	8.62	9.51	8.38.
Do	60	6.11	7.77	7.56	7.86	8.51	7.94	9.33	9.93	9.24.
Do	50	6.70	8.62	8.23	8.46	9.41	8.60	10.29	10.52	10.03.
Do	40	7.59	9.87	9.23	9.67	10.76	9.58	11.67	11.40	11.65.
Fuel cost adjustment used		0.29		0.02	0.21		0.27	0.30	0.664	0.0625.
Money cost adjustment used		[2] $0.15								
Effective date of adjustments		August 1970		April 1970	December 1969.	July 1969	April 1970	April 1970	August 1970	August 1970

[1] The above rates were computed on the basis of a 730-hour month, and minimum power factors permitted under TVA's C-2 rate without penalty so as to be more comparable to TVA's rate. The lowest rate was used for comparison in cases where 2 or more rates might apply to industries of the same size load.

[2] Kilowatts.

TABLE 3.—RATE INCREASES PROPOSED BY NEIGHBORING UTILITIES DURING FISCAL YEAR 1970

Utility	Date announced	Reported amounts (millions)	Percent increase	Installed capacity (megawatts)	Sales billions (kilowatt-hours)	Customers (thousands)	Increase mills/ kilowatt-hours (sales)
Mississippi Power Co	Jan. 19, 1970	1.9	3.70	887	3.0	132	0.6
Duke Power Co	May 26, 1970	55.64	18.00	5,053	24.6	1,005	2.3
Georgia Power [1]	June 4, 1970	12.2	34.00	3,510	4.8		2.5
Carolina Power & Light	do	23.5	14.00	2,671	11.3	525	2.1
Virginia Electric & Power	June 11, 1970	22.4	9.00	4,039	17.0	946	1.3
Cincinnati Gas & Electric	June 5, 1970	6.7	14.00	1,560	7.2	398	.9
Missouri Public Service Co	July 28, 1969	5.3	20.00	177	1.1	92	4.8
Kansas City Power & Light	Aug. 4, 1969	7.3	7.20	1,108	3.2	207	2.3
Union Electric	Nov. 10, 1969	10.2	4.90	2,986	13.2	682	.8
Tennessee Valley Authority	July 17, 1970	[2] 99.4	2.43	19,395	89.0	2,100	1.3

[1] Applicable to wholesale customers only.
[2] Increase effective October 1970—Reported amount is for 9 months ending June 1971.

Sources: Electrical World, FPC News Digest, Wall Street Journal, Congressional Record, Utility Reports, other trade and news publications. Statistics from FPC reports and McGraw-Hill Directory of Electric Utilities.

Senator COOPER. I understand that the TVA Act itself requires that your rates shall be sufficient to cover operations and maintenance, payments in lieu of taxes, debt service, payments to U.S. Treasury, and a certain margin. Was this rate required to meet the provisions of section 15d(f)?

Mr. WAGNER. Yes, sir; this rate increase is precisely required to meet that requirement of the TVA Act.

Senator COOPER. The second requirement of section 15d(f) provides that a 5-year aggregate net power income at least equal the total of your Treasury dividend payments during the same 5 years.

Mr. WAGNER. If this rate increase is granted, we will be able to meet both requirements.

Senator COOPER. While not a part of the law, I understand that you have a covenant in the bonds themselves which requires before you can issue additional bonds that your net power income over the preceding 5 years must at least equal $200 million, plus $15 million for each one-quarter percent that the U.S. Treasury interest costs averages in excess of 3¼ percent?

Mr. WAGNER. That is correct.

Senator COOPER. Now will you be able to meet this requirement?

Mr. WAGNER. Senator Cooper, preliminary figures that we have for 1970, the year just back of us, indicate that we apparently failed to meet that test by a very narrow margin.

Senator COOPER. Having failed you would not be able to sell bonds in fiscal 1971?

Mr. WAGNER. Yes, sir. But if the final audited figures confirm that, they will indicate that we did fail on that test, in the past year. And this again is one of the matters that concerns us very greatly.

Senator COOPER. I will ask that you submit for the record the past results and your estimates concerning these three tests or re-

quirements together with the applicable provision of the statute or bond covenant.

Mr. WAGNER. Yes, sir; we will be glad to do that.

(The information requested follows:)

RATE TEST (SECTION 15D(F) TVA ACT AND SECTION 3.2 OF BOND RESOLUTION)

The Corporation shall charge rates for power which will produce gross revenues sufficient to provide funds for operation, maintenance, and administration of its power system; payments to States and counties in lieu of taxes; debt service on outstanding bonds, including provision and maintenance of reserve funds and other funds established in connection therewith; payments to the Treasury as a return on the appropriation investment pursuant to subsection (e) hereof; payment to the Treasury of the repayment sums specified in subsection (e) hereof; and such additional margin as the Board may consider desirable for investment in power system assets, retirement of outstanding bonds in advance of maturity, additional reduction of appropriation investment, and other purposes connected with the Corporation's power business, having due regard for the primary objectives of the Act, including the objective that power shall be sold at rates as low as are feasible. (16 U.S.C. sec. 831n–4.)

	1965	1966	1967	1968	1969	1970	[1] 1971
Revenues	$296.0	$326.8	$351.1	$383.7	$403.4	$479.6	$523.5
Less:							
Operation and maintenance excluding depreciation	165.7	197.2	216.8	222.5	243.7	282.7	352.2
Payments in lieu of taxes	9.1	10.4	11.9	13.1	14.5	16.1	20.0
Debt service	14.6	17.8	23.5	30.2	41.2	60.7	118.4
Treasury payments:							
Dividend	42.6	43.9	47.1	46.8	53.1	57.7	66.1
Repayment	10.0	15.0	15.0	15.0	15.0	15.0	20.0
Margin	54.1	42.5	36.8	56.1	35.9	47.4	(53.2)

[1] 1971 estimates are without rate increase scheduled for Oct. 1, 1970.

PROTECTION OF BONDHOLDER INVESTMENT TEST (SECTION 15D(F) TVA ACT AND SECTION 3.3 OF BOND RESOLUTION)

In order to protect the investment of holders of the Corporation's securities and the appropriation investment as defined in subsection (e) hereof, the Corporation, during each successive five-year period beginning with the five-year period which commences on July 1 of the first full fiscal year after the effective date of this section, shall apply net power proceeds either in reduction (directly or through payments into reserve or sinking funds) of its capital obligations, including bonds and the appropriation investment, or to reinvestment in power assets, at least to the extent of the combined amount of the aggregate of the depreciation accruals and other charges representing the amortization of capital expenditures applicable to its power properties plus the net proceeds realized from any disposition of power facilities in said period. (16 U.S.C. sec. 831n–4.)

In effect this requires that successive (beginning with FY 1961) five-year aggregate of net power income be at least equal to the total of Treasury dividend payments during the same five-year period.

1. This test applies in successive five-year periods. Following is a table showing the results of the five-year block ending in 1970. The next time this test will be controlling will be in 1975.

[In millions of dollars]

Fiscal year	Return on appropriation investment	Net power income
1966	$43.9	$47.9
1967	47.1	40.7
1968	46.9	59.1
1969	53.1	50.7
1970	57.6	74.6
Total	248.6	27.30

Note: In the 5-year period ending in 1970 the margin under this test was $26.4 million.

2. Although the test will not be applied until 1975, following is the estimated result of the first year (Fiscal 1971) of that five-year block. The estimate does not include income from the rate increase proposed for October 1, 1970.

	Millions
Net power income	$16.3
Less return on appropriation investment	−66.1
Margin	−49.8

Thus without the rate increase TVA would start the next five-year period under this test with a minus balance.

LIMITATION ON ISSUANCE OF ADDITIONAL BONDS

(Section 3.4 of Bond Resolution)

"The amount of Bonds outstanding may not be increased at any time unless, as evidenced by a certificate of the Comptroller of the Corporation filed with the Trustee, net power income (after interest expenses and depreciation charges but before payments as a return on or in reduction of the Appropriation Investment) for the latest five fiscal years has aggregated at least $200,000,000, plus $15,000,000 for each ¼ percent or major fraction thereof by which the average for those five years of the computed average interest rate payable by the United States Treasury upon it total marketable public obligations as of the beginning of each of such years has exceeded 3¼ percent." ("Bonds" as used in this test means bonds of equal rank to those issued under authority of this resolution.)

I. Application: FY 1969 (governs ability to sell bonds in FY 1970):

1. 5-year average U.S. interest:

	Percent
Cost	4.103
Less	3.250
Excess of average interest cost over 3¼ percent	.853

0.853 ÷ ¼ percent = 3.4; 3 increments.

$200 million + 3 × 15 = $245 million net power income required.

2. 5-year net income (millions of dollars):

Fiscal year:	Net power income
1965	55.0
1966	47.9
1967	40.7
1968	[1] 59.1
1969	50.7
Total	253.4

[1] Adjusted to exclude Hales Bar Writeoff.

3. Margin: $253.4 million—$245 million = *$8.4 million.*

II. Application: FY 1970 (governs ability to sell bonds in FY 1971):

1. 5-year average U.S. interest:

	Percent
Cost	4.418
Less	6.250
Excess of average interest cost over 3¼ percent	1.168

1.168 ÷ ¼ percent = 4.67+; 5 increments.

$200 million + 5 × $15 million = $275 million net power income required.

2. 5-year net income (millions of dollars):

Fiscal year:	Net power income
1966	47.9
1967	40.7
1968	[1] 59.1
1969	50.7
1970	74.6
Total	273.0

[1] Adjusted to exclude Hales Bar Writeoff.

3. Margin: $273.0 million—$275 million = *$(2.0) million.*

III. Application: FY 1971 (governs ability to sell bonds in FY 1972):

1. 5-year average U.S. interest:

	Percent
Cost	4.855
Less	3.250
Excess of average interest cost over 3¼ percent	1.605

1.605 percent ÷ ¼ percent = 6.42; 6 increments.

$200 million + 6 × $15 million = $290 million net power income required.

2. 5-year net income (million of dollars):

Fiscal year:	Net power income
1967	40.7
1968	[1] 59.1
1969	50.7
1970	74.6
1971	[2] 16.3
Total	241.4

[1] Adjusted to exclude Hales Bar Writeoff.

[2] Estimated (without rate increase scheduled for Oct. 1, 1970).

3. Margin: $241.4 million—$290.0 million = *$(48.6) million.*

Senator COOPER. Mr. Chairman, I have taken a long time, and I certainly thank you for your indulgence.

Senator YOUNG. Senator Jordan? Do you have some questions?

Senator JORDAN. Just two or three, Mr. Chairman.

Senator YOUNG. Take your time.

Senator JORDAN. Who determines the rate that you do charge? You put this increase in, and I am certain it is justified. Let me go back. North Carolina has a utilities commission, and the power people recently applied for a rate increase under the coal clause and I believe the utilities commission turned it down. Now who sets yours?

Mr. WAGNER. Well, under the provisions of the TVA Act, the rates are set by the TVA Board. This is done after extensive consultations with our distributors, and of course, the advice and calculation by our distributors, and of course, the advice and calculation by our own power people. We operate essentially on a non-profit basis. The requirements of the law, as Senator Cooper has cited, say that we must meet certain costs, and in order to meet those costs, we know where the rate level has to be set, and the TVA Board has under the law final responsibility for setting those rates.

Now this has occasioned some comment, I might say. It seems to us that the final test of the effectiveness of any rate-setting device, or rate regulation is the cost to the consumer, since the purpose of regulating rates is to protect the consumer interest. It seems to me that the fact that rates are still about half the national average in the Tennessee Valley would indicate that the control device is working.

Senator JORDAN. Well, there is no question about the rates being way lower in Tennessee than they are in North Carolina. No argument about that, I know that.

Mr. WAGNER. I should add, Senator Jordan, that the TVA Act says that we shall set these rates, with due regard for the primary objectives of the act including the objective that power shall be sold at rates as low as are feasible, so that we have a legal compulsion to sell power at the lowest feasible rates.

Senator JORDAN. But you are supposed to break even on your power.

Mr. WAGNER. We have to.

Senator JORDAN. Yes. When you sell these bonds, do you have to compete with the private power companies in the interest rate that these bonds bring?

Mr. WAGNER. We sell them in the same market that they do, and generally, our interest rates will be just a shade below what they pay.

How much below, Mr. Watson?

Mr. WATSON. Well, the last $50 million issue of 25-year bonds, we sold at a cost to us of about 9.3, and on the same day, the New Jersey Bell Telephone Company sold one at 9.35, so they are very comparable.

Senator JORDAN. You are comparable.

Mr. WAGNER. Yes.

Senator JORDAN. You sell them to the same people?

Mr. WAGNER. That is correct.

Senator JORDAN. Well, I presume your increase in rates which you are now putting in or proposing to put in is due largely to your coal cost?

Mr. WAGNER. It is due largely to our coal cost. About 18 percent of it is interest costs, money costs, our payments to Treasury, and our interest on our bonds. Fifteen percent of it is due to delay in getting one of our large nuclear plants into operation. We had trouble with deliveries of equipment there, and so we have to buy more power to replace what that plant would have produced. And about 9 or 10 percent of it is general cost increases in equipment and materials and labor, and so forth.

Senator JORDAN. The Federal Power Commission sets the price at which the oil companies can sell or the gas people can charge for their gas. Is that correct?

Mr. WAGNER. Wholesale prices.

Senator JORDAN. I am talking about wholesale prices, at the wells.

Mr. WAGNER. That is correct.

Senator JORDAN. If I am not mistaken, the Utilities Commission of North Carolina—I know they were up here, because they met with me and some others—is trying to get more gas. There is a shortage of gas in North Carolina as well as in some other places, too, and the reason that the oil companies or the gas companies say they can't supply more or won't supply more is that the Federal Power Commission won't grant an increase in rate to them. They are just not going to produce gas just for the fun of producing it, and I can understand that thoroughly. I am just wondering if the Federal Government is getting in the way of the consumer that they are claiming to protect.

Mr. WAGNER. I don't know whether I am qualified to give you a comment on that, Senator. I know that there are pressures to increase the price of gas. I have read just recently a statement, I believe it was in the August 1 issue of Business Week, that the people in the gas business were saying that they were not willing to sell gas unless they could get the prices up to where their profit margin was comparable with what they were making on other commodities. I don't really have the facts to know where truth and justice lie in this instance, but from our standpoint, we regret any increase in the cost of raw energy sources of any kind used in the production of electric power, which is essential to the growing economy and the security of this country.

Senator JORDAN. Well, I think there is no question about that. As long as wages are increasing and costs are rising for everything you buy, the consumer is going to have to pay for it or else Uncle Sam is going to have to dig it up out of his taxes, because you can't do that under your contract.

Now you spoke about some of these oil companies buying big coal mines. I am certain they are just like any other individual that has got a business; they are not going to mine coal and sell it at a loss, or not make any money. They would be plain foolish and stupid to do that.

Mr. WAGNER. I am sure that is right.

Senator JORDAN. So I think some effort has got to be made to see that they are not tied down to the extent that they don't make any profit. The same thing with gas. I am sure they would produce all the gas everybody wanted it they could sell it at a profit. It is a natural, ordinary way to run a business.

That is all I have, Mr. Chairman.

Senator YOUNG. Senator Baker, do you have any further questions?

Senator BAKER. Mr. Chairman, thank you very much. Senator Cooper very kindly let me put my questions before he proceeded with his very excellent line of questions, and I have no further questions, except to say that I am impressed with the thoroughness with which Senator Cooper explored the reasons for the increase of coal costs, and the understanding of the general situation that the distinguished Chairman of TVA has shown in his testimony.

I would make this final observation, apropos the remarks by Senator Jordan. Frequently there are unintended results of Federal legislation, and as Senator Cooper pointed out in his questioning a moment ago, there are only a few of us on the floor of the Senate who warned of adverse consequences of some of the provisions of the Mine Safety Act. Everybody is for mine safety, but some of the provisions of the Mine Safety Act are so uncertain, so vague, and, in some cases, so impossible of performance, that many, many coal operators, to my own certain personal knowledge, have simply gone out of the coal business, rather than try to comply with the impossible or uncertain situation.

I put this last question. Would it be fair to say, Mr. Chairman, that the increases in the costs of coal are attributable in whole or in part to these factors? No. 1, as Senator Cooper said, a shortage of mine cars; No. 2, the dedication of some coal reserves, and the export of coal, to foreign markets; No. 3, the Coal Mine Health and Safety Act, with its uncertainty and rigid requirements; No. 4, the requirements for restoration of strip coal production; No. 5, general inflation; No. 6, the failure of delivery of nuclear capacity on schedule. Would those generally encompass the factors that contribute to the increase in coal prices?

Mr. WAGNER. That, as well as concentration of coal ownership, certainly gets the major ones.

Senator BAKER. Is the uncertainty or the difficulty of performance of provisions of the Mine Safety Act a significant factor in the increases of the costs of coal and the shortage of coal?

Mr. WAGNER. The Mine Safety Act?

Senator BAKER. Yes, sir.

Mr. WAGNER. It is a significant factor; yes, sir. Certainly it is a significant factor in the availability of coal. We don't yet know precisely what it will add to costs, but as I indicated earlier, the requests that we have before us run from 50 cents to $1.40 a ton, something like that.

Senator BAKER. Thank you, Mr. Chairman.

Senator JORDAN. Mr. Chairman, may I ask one more question?

Senator YOUNG. Yes.

Senator JORDAN. For my own information—and I think the Congress in general would like to know—is it your opinion that Congress should take some action to restrict the amount of coal that can be exported? To anybody. I know what has happened to the large tonnage of coal just leaving. I know that, because you are not the only people that are in trouble because of the shortage. I am seriously concerned about what is happening to the coal that is being exported while our own people are doing without power.

Mr. WAGNER. Well, Mr. Chairman, I wouldn't be so presumptuous as to try to advise the Congress, and my knowledge of all the problems related to coal and export market is limited, of course. I can say that from the standpoint of producing the electric power requirements of this country, the coal that is being exported is limiting the ability of TVA and other utilities to meet those demands, and if the coal going into export was available here for use in this country, we would have less of a problem with fuel supply than we have.

Now as I say, whether you limit exports or not, I am sure, depends on factors that I am not familiar with, and with which you are familiar, so I could only advise you from our standpoint.

Senator JORDAN. Well, this is no factor that is entirely your problem. It is a problem to all the people who are producing power by steam. Is that correct?

Mr. WAGNER. Yes, sir.

Senator JORDAN. All of them?

Mr. WAGNER. Yes, sir; that is correct, and I think to many of them it is a greater problem than it is to us.

Senator JORDAN. I am sure of that, because I have been into that situation with the people who are consumers of coal in the vast quantities which you are familiar with, and it is a very serious situation. I don't think that we ought to shut off air conditioning units in this country and cut out lights to light something up in Japan. I am just not sold on that, up to this point. I think we ought to look after ourselves first, and then if we have got some to spare, let them have it.

Senator BAKER. Mr. Chairman, may I make a remark in that respect? It is really not a question to the Chairman of TVA, because I am sure he doesn't want to get embroiled in this, but I point out that Senator Jordan and I have had similar and mutually supporting words about the restraint of imports into the United States, especially of textiles, but now exports are a little different horse, and what we have here is a reflection of the nationwide hunger for fuel and energy, and the fact that somebody abroad will buy our coal, at a high price, or that they will loan money, interest-free as the Japanese Government is doing, in order to get coal from the United States, really reflects the fact that the law of supply and demand is making the cost of energy go up and up. The answer to it, it seems to me, is not necessarily to restrict output, or export, but rather to get the volume of energy up, by increasing capacity, so that we won't have that choice.

Senator JORDAN. Well, of course, I am just as interested in our exports, because that is where we get dollars.

Senator BAKER. We are both fond of them.

Senator JORDAN. That is right. But I can't believe that we should export anything that we have to the extent we are seriously hurt-

ing the economy of this country or the people of this country. The same thing goes for the imports.

Senator YOUNG. Chairman Wagner, Senator Thomas Eagleton of Missouri, a member of the Public Works Committee, will address a number of questions in writing to the TVA and as soon as you receive those questions, the Chair expresses the hope that you and your associates will answer them as promptly as possible, so that we may complete this record.

Mr. WAGNER. I can assure you we will be prompt, Mr. Chairman, because this legislation is of urgent importance to us.

Senator YOUNG. And then at that time, should there be anything further you wish to add to the testimony given today, you may just include that in that communication.

Mr. WAGNER. Thank you very much.

(Subsequent to the hearing the following exchange of correspondence occurred:)

U.S. SENATE, COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., August 19, 1970.

Hon. AUBREY J. WAGNER,
Chairman, Tennessee Valley Authority,
Washington, D.C.
(Attention: Mr. Jacob Vreeland).

DEAR MR. CHAIRMAN: I regret that previous commitments made it impossible for me to clarify the matters raised in this letter with representatives of TVA at the hearing before the Subcommittee on Flood Control and Rivers and Harbors of the Public Works Committee on the proposed amendments to Section 15(d) of the Tennessee Valley Authority Act.

The matters which I would appreciate your clarifying for me relate to the recent transfers of TVA electric power to the Consolidated Edison Company of New York City and the Commonwealth Edison Company of Chicago, and reported transfers to other privately-owned utility companies. However, they may take on a broader significance in terms of the allocation and distribution of benefits from publicly-owned facilities, if the low reserve situation which reportedly exists in those and other privately-owned power systems persists or worsens, and requests are made of TVA for power to serve the customers of privately-owned systems in the future.

Under Section 12 of the TVA Act, surplus TVA power which is not sold to preference customers defined in section 10 of the Act may be sold to persons or corporations engaged in the distribution and resale of electricity for profit. Section 12 provides, however, that any such sales shall be on condition that any resale of such electric power by such persons or corporations shall be made to the ultimate consumer of such power at prices that do not exceed a schedule fixed by the Board of Directors of the Tennessee Valley Authority as just, reasonable, and fair. Contracts between the Board and the distributor of such electricity are made voidable at the election of the Board if a person or corporation charges the ultimate consumer of TVA power rates in excess of those fixed by the Board.

The final proviso to section 12 also authorized the Board to contract with other power systems for the mutual exchange of unused excess power, upon suitable terms, for the conservation of stored water, and as an emergency or breakdown relief.

Taking the transfer of power to Consolidated Edison as an example, I understand that there was no contract between Consolidated Edison and TVA for the power made available to that company, but that the power was transmitted through the Appalachian Power Company and Allegheny Power Company systems and the Pennsylvania-New Jersey Power Pool to Consolidated Edison Company pursuant to the existing interconnection agreement between Appalachian Power Company and the Tennessee Valley Authority.

The agreement between Appalachian Power and TVA defines the types of emergency situations with which it deals as "any temporary conditions on the system of the party affected arising from causes beyond its control which interfere with or jeopardize its ability to meet adequately the requirements of *its system*." (Emphasis supplied.) In your view, then, was the transfer of power to Appalachian Power for the ultimate benefit of Consolidated Edison the kind of "emergency" situation contemplated by the agreement between Appalachian Power and TVA?

Remarks attributed to Mr. Donald C. Cook, President of the American Electric Power Company (which is the parent company of the Appalachian Power Company), suggest that there was no power shortage situation in his companies' systems at the time of the transfer of TVA power to Consolidated Edison Company. Moreover, he is reported to have said that there was at that time sufficient reserve capacity existing in the privately owned power pools from which Consolidated Edison can draw power to serve Consolidated Edison's power needs with an accepted safety reserve.

In view of the foregoing, I would appreciate your views as to whether the transfer of power to Consolidated Edison should have been conditioned upon its sale to the ultimate consumer at rates no higher than those approved by the Board of Directors of TVA. If it is your conclusion that the transfer was an emergency transfer of power within the meaning of section 12 of the TVA Act and the agreement between TVA and the Appalachian Power Company or that the transaction otherwise was exempt from the requirements of the third proviso of section 12 of the TVA Act, I would appreciate your describing the basis for that conclusion.

I would also appreciate your views as to whether the provision of service to Consolidated Edison Company indirectly through Appalachian Power Company and intervening systems is fully consistent with the letter and spirit of both the restrictions on sales and delivery and on exchanges of power contained in section 15(d) of the TVA Act, as amended.

Press accounts of the transfer of TVA power to Consolidated Edison indicate that some or all of the power furnished to Consolidated Edison was delivered from Atomic Energy Commission facilities. I understand that the reduction in power to the AEC facilities may have resulted in some decrease in the operating efficiency of those facilities and that AEC may seek recourse against TVA for resulting losses which may have been incurred by AEC or its contractors. If the AEC or its contractors should bill or otherwise seek recourse against TVA for any losses incurred as the result of reductions in power available to the AEC facilities, I would appreciate your identifying the source against which any such bill or charge would be satisfied. Would the charge be passed on to Consolidated Edison under the interchange agreement with Appalachian Power, or would it be charged against TVA's operating revenues, or would it be satisfied in some other way?

In view of recent reports that the Bureau of Reclamation may have reduced the amounts of electricity available to its preference customers in order to assist a power-short private power company in the midwest, I would appreciate your advice whether any of TVA's preference customers sustained power reductions at the time power was being transfererd to Appalachian Power Company for the ultimate benefit of Consolidated Edison Company.

Additionally, I would appreciate your identifying the specific authority under the applicable portions of section 12 or any other pertinent sections of the TVA Act under which the classes of power to be furnished by TVA pursuant to the Service Schedules attached to the TVA-Appalachian Power Company Agreement will be made available to Appalachian Power.

The authority for Service Schedule A seems clear, but I am unclear about the authority for transfers under Service Schedule B (which deals with "Economy Interchange" and "Non-replacement energy"), Service Schedule C (which deals with "short-term power"), and Service Schedule D (which deals with "Diversity Capacity power"). I am particularly interested in the authority for Service Schedule D in view of its section 3.7 which indicates that each party's (including TVA's) obligation to make diversity capacity and energy associated with it available under the Schedule is deemed to be equivalent to such party's obligation to supply power and energy to its firm power consumers.

Finally, I have been unable to find in the TVA-Appalachian Power Company contract any reference to the condition concerning rates to ultimate consumers of surplus TVA power made available to persons and corporations engaged in the distribution and resale of electricity for profit which is contained in the third proviso to section 12 of the TVA Act. Is there no "surplus power" being sold by TVA to Appalachian Power?

I realize that power interchanges are complex transactions, and I greatly appreciate your assistance in clarifying these matters for me.

Sincerely,

THOMAS F. EAGLETON,
U.S. Senator.

(Mr. Wagner's response follows:)

TENNESSEE VALLEY AUTHORITY,
OFFICE OF THE BOARD OF DIRECTORS,
Knoxville, Tenn., August 25, 1970.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: This is in response to your letter of August 19, 1970, requesting clarification of TVA's power exchange arrangements with privately owned utility companies, particularly from the standpoint of the use of such arrangements to meet recent emergency power needs of Consolidated Edison Company of New York City and power needs of Commonwealth Edison Company of Chicago. We are pleased to have this opportunity to furnish you information about our power exchange arrangements and the legal basis for such arrangements. We believe that some discussion of the pertinent provisions of the TVA Act to which you referred in your letter will be helpful in clarifying the matters which you have discussed.

Section 10 of the TVA Act authorizes TVA to enter into long-term contracts for sales of power to states, counties, municipalities, corporations (which would include utility companies), partnerships, or individuals, but both section 10 and section 12 of the Act place certain restrictions upon such sales contracts with private companies purchasing power for resale. Such contracts must provide for cancellation by the TVA Board upon five years' written notice and must require that the resale of such power to the ultimate consumers be at prices determined by the TVA Board to be reasonable, just and fair. Following these provisions of sections 10 and 12 of the Act which relate specifically to long-term contracts for sales of power, there is a further specific proviso in section 12 which authorizes TVA to enter into contracts with other power systems for exchanges of unused excess power upon suitable terms, for the conservation of stored water, and as an emergency or breakdown relief. This authorization for exchange power arrangements is separate from that for power sales contracts and there is no requirement that an exchange power arrangement include the resale provisions referred to above. In fact, the inclusion of such provisions would not be practicable. A privately owned company

could hardly be expected to bind itself to maintain specific rates in exchange for those benefits which it might derive from an exchange arrangement with TVA.

Section 15d of the TVA Act (16 U.S.C. Sec. 831n–4), which was added to the Act in 1959, recognized and reaffirmed this distinction between power sales contracts and exchange arrangements, while at the same time placing limitations on TVA's entering into such contracts and arrangements. This section provides in part:

"Unless otherwise specifically authorized by Act of Congress the Corporation shall make no contracts for the sale or delivery of power which would have the effect of making the Corporation or its distributors, directly or indirectly, a source of power supply outside the area for which the Corporation or its distributors were the primary source of power supply on July 1, 1957 * * *.

* * * * *

"Nothing in this subsection shall prevent the Corporation, when economically feasible, from making exchange power arrangements with other power-generating organizations with which the Corporation had such arrangements on July 1, 1957 * * *.

We think it is clear from the above-quoted provisions that Congress recognized that TVA's participation in exchange power arrangements and the use by privately owned companies of the power received from TVA under such arrangements do not have the effect of making TVA "directly or indirectly" a source of power supply outside the area to which TVA service is limited by section 15d.

TVA's power exchange arrangements with neighboring utility companies have effected savings of millions of dollars to the parties, and to their ultimate consumers, by enabling TVA and the companies to avoid construction of additional generating capacity to meet summer or winter peak loads on their systems. In addition, mutual savings have also resulted from interchanging power produced by the most economical generating units on the interconnected systems and from assistance to each other during emergencies so that each will need less reserve capacity for that purpose.

When the loss by Consolidated Edison of its 275-mw Indian Point unit and its 1,000-mw Ravenwood unit caused a projected shortage of power in Consolidated Edison's area, the Atomic Energy Commission received a request from the Office of the President of the United States that it reduce its loads at Oak Ridge, Paducah, and Portsmouth to release power for transfer to the New York area. In response to this request, AEC and TVA arranged for a reduction in the AEC loads served by TVA and for the delivery of equivalent amounts of power to the Appalachian Power Company to facilitate the transfer of power by Appalachian Power Company to other companies with which it is interconnected. Thus, TVA's exchange of power is with Appalachian Power Company, not Consolidated Edison. This arrangement is implemented by the delivery of TVA power to Appalachian Power Company as nonreplacement energy under Article IV of Service Schedule B of the interchange agreement between TVA and Appalachian Power Company. Under the circumstances, we believe that it is appropriate to deliver such power to Appalachian Power Company under this service schedule and that such deliveries are fully consistent with the letter and spirit of the pertinent provisions of the TVA Act. Such deliveries certainly do not constitute the kind of long-term sales of power which are subject to the restrictions on term and resale rates discussed above.

We are unfamiliar with the factual situation relating to Mr. Cook's statements about the availability of sufficient reserve capacity in privately owned pools to relieve the capacity shortage of Consolidated Edison. We can only assume that if the private companies had so informed Consolidated Edison or the Office of the President, that the request for AEC load reductions could not have been made.

We understand, as your letter suggests, that the reduction in AEC's load has resulted in a decrease in the operating efficiency of its facilities, resulting in financial losses to AEC. However, TVA's arrangements with AEC do not in any way obligate TVA to pay for these losses. It was our understanding that the losses would be picked up by Consolidated Edison and TVA's obligation is limited to paying over to AEC any payments received with respect to such losses.

With regard to your further questions about the effects of the transfer of power to Consolidated Edison upon the consumers of TVA power, no customers of TVA with the exception of AEC's reduction, or TVA's municipal or cooperative distributors sustained reductions or curtailments of power supply in any way caused by or related to the delivery of power to Appalachian Power Company in connection with the transfer of power to Consolidated Edison.

The transfers of power to Commonwealth Edison Company referred to in your letter also have been handled by transferring the power from one interconnected system to another. In this case, however, the available blocks of power existed on the system of Public Service Company of Oklahoma instead of the TVA system. TVA's position in connection with this transaction is much the same as Appalachian Power Company's position in the transfer to Consolidated Edison.

Finally, you have requested that we establish the specific authorization for the various service schedules attached to the TVA-Appalachian Power Company exchange agreement. The authorization for the agreement and service schedules is, as indicated above, the last proviso of section 12 of the Act as reaffirmed by section 15d. TVA has always interpreted these provisions of the TVA Act as authorizing participation in all of the types of power exchange arrangements used in the utility industry generally. We believe the legislative history of these provisions establishes that Congress intended to authorize such exchange arrangements. Without such authorization TVA's ability to contribute to the development of arrangements for the reliability of bulk power supply would be seriously hampered. Moreover, we believe that power exchange arrangements such as TVA now has are appropriate because they result in benefits to the TVA power system and its consumers and enables us to achieve the objectives of providing an abundant and reliable supply of electricity at the lowest possible cost. The purpose of the provision in Schedule D which equates the parties' obligations thereunder to their obligation to supply energy to their firm power consumer is for the specific purpose of indicating the extent to which the parties expect to rely upon one another for exchange of seasonal capacity. This reliance is necessary if the agreement is to accomplish the desired purpose of avoiding the necessity of construction of additional generation facilities.

We hope that we have answered to your satisfaction the questions which you have raised. We appreciate, as you do, that power exchange arrangements are complex transactions. We will be happy to provide you with further information if you should desire it.

Sincerely yours,

AUBREY J. WAGNER,
Chairman.

Senator YOUNG. If there is nothing further, this committee will adjourn subject to call.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock tomorrow morning.

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

(Later in the day the order was changed to provide for the Senate to adjourn until 10 a.m. tomorrow.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. FANNIN) laid before the Senate the following letters, which were referred as indicated:

PROPOSED ELECTRIC POWER ENVIRONMENTAL POLICY ACT OF 1970

A letter from the Chairman, Federal Power Commission, transmitting a draft of proposed legislation to secure electric power supplies adequate to the demands of the Nation compatible with environmental quality (with accompanying papers); to the Committee on Commerce.

PROPOSED DESIGNATION OF LEGAL PUBLIC HOLIDAYS TO BE OBSERVED IN THE DISTRICT OF COLUMBIA

A letter from the Commissioner, District of Columbia, Washington, D.C., transmitting a draft of proposed legislation to designate the legal public holidays to be observed in the District of Columbia (with an accompanying paper); to the Committee on the District of Columbia.

REPORT ON PURCHASES AND SALES OF GOLD

A letter from the Acting Secretary of the Treasury, transmitting, pursuant to law, a report on purchases and sales of gold, for the period January 1 through June 30, 1970 (with an accompanying report); to the Committee on Foreign Relations.

REPORT ON ACTIVITIES UNDER FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

A letter from the Acting Director, U.S. Information Agency, transmitting, pursuant to law, a report on activities under the Federal Property and Administrative Services Act of 1949, for the fiscal year 1970 (with an accompanying report); to the Committee on Government Operations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A joint resolution of the Legislature of the State of California; to the Committee on Aeronautics and Space Sciences:

"SENATE JOINT RESOLUTION NO. 16—RELATIVE TO EDWARDS AIR FORCE BASE

"WHEREAS, The hub of NASA's future space plans is the earth-orbited manned space station, from which interorbital ferries and planetary expeditions will depart, and hopefully, it will prove to be the precursor for the module that will eventually carry men to Mars and back; and

"WHEREAS, In order to support the station and its subsequent additions, an earth-to-orbit shuttle is required; and

"WHEREAS, Together, the space station and shuttle are the keystones to the next major accomplishments of the nation's space program; and

"WHEREAS, The year-round climatic conditions are ideal at Edwards Air Force Base, in Kern County, California, for the earthside operations of the so-called "shuttle ship" to the future United States space station; and

"WHEREAS, The many dry lakebeds in the vicinity provide the best possible physical conditions for receiving such a craft in any event of an emergency reentry landing; and

"WHEREAS, There already exists the necessary open space, uncluttered by suburban congestion, for all phases of the project to launch and receive the vehicle; and

"WHEREAS, The basic facilities for the project are already installed there; and

"WHEREAS, Existing West Coast aerospace manufacturing firms can supply project components at the lowest possible transportation cost; and

"WHEREAS, Sufficient technical personnel required for the project already reside on or near the West Coast, thus providing the necessary project manpower with the least degree of dislocation of workers' families and the attendant least private and governmental expense to locate them there; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States, and requests the National Aeronautics and Space Administration, to permanently locate the launch and reentry facilities for the space station shuttle ship project at Edwards Air Force Base in Kern County, California; and be it further

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

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

"SENATE JOINT RESOLUTION NO. 32—RELATIVE TO THE 1971 WHITE HOUSE CONFERENCE ON AGING

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Congress of the United States to appropriate sufficient funds for the scheduled 1971 White House Conference on Aging, including funds for use by local committees which will attend the White House Conference in order that such local committees may hold local conferences in preparation for the national conference; and be it further

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

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

"SENATE JOINT RESOLUTION NO. 28—RELATING TO THE BATTLESHIP U.S.S. MISSOURI.

"WHEREAS, 1970 marks the 25th anniversary of the end of World War II; and

"WHEREAS, The citizens of Martinez, California, have undertaken the creation of a peace shrine and a living memorial to the veterans of World War II with the organization of a committee to bring the U.S.S. Missouri to that city; and

"WHEREAS, This famed ship upon whose decks the documents ending hostilities with Japan were signed on September 2, 1945, bringing peace to a war-weary world, now languishes in the Bremerton, Washington, Navy Yard; and

"WHEREAS, Battleships of this class are fitted with every type of facility that serves a community such as a bakery, carpentry shop, plumbing and pipefitting shop, paint shop, machine shop, theater and even a hospital, all resources that well might be utilized for federal or state job-training programs; and

"WHEREAS, Such a ship has great potential in disaster relief as it is able to produce vast amounts of fresh water and electric power; and

"WHEREAS, The harbor of the City of Martinez is an appropriate site for the location of this ship because Camp Stoneman (later Parks Air Force Base) and Camp Shoemaker in Contra Costa County were the principal points of embarkation for the Pacific Theater both in World War II and the Korean conflict, because Port Chicago has served for 28 years as the major Pacific Coast naval ammunition depot, and because nearby are other military installations that also played vital roles in the World War II victory effort; and

"WHEREAS, The committee organizing the citizen effort behind this project envisions the creation of a nonprofit foundation to raise the necessary funds to move the vessel from its present moorings to San Francisco Bay, prepare a site offered by the City of Martinez, and fit the vessel for public inspection, the revenue from tours and sale of souvenirs making the ship self-supporting with profits going to the U.S. Navy Relief Fund; and

"WHEREAS, This project has been endorsed by the Martinez Chamber of Commerce, the Martinez City Council, the Contra Costa County Board of Supervisors, the City-State Waterfront Committee and the Contra Costa Council of the Navy League; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the citizens of Martinez are to be commended for their initiative and leadership in endeavoring to bring this renowned "fighting ship" to San Francisco Bay, and their project is hereby endorsed by the California Legislature; and be it further

"Resolved, That the appropriate local, state and federal agencies whose sanction is required to move this vessel to the City of Martinez are urged to give speedy approval to this proposal so that the anniversary of the conclusion of World War II may be appropriately commemorated by the anchoring of this flagship of the United States Navy in Carquinez Straits; and be it further

"Resolved, That the Secretary of the Senate is directed to transmit a copy of this resolution to the President and Vice President of the United States, the Secretary of Defense, Secretary of the Navy, Chief of Naval Operations, the commandants of the 12th and 13th Naval Districts, the Members of the United States Senate and House of Representatives from California, and to the Battleship "Missouri" Committee of the Martinez Chamber of Commerce."

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

"SENATE JOINT RESOLUTION NO. 21—RELATIVE TO FEDERAL INCOME TAX DEDUCTION

"WHEREAS, The people of the United States, through all levels of government, have placed great emphasis on the maintenance of a free public education system; and

"WHEREAS, Through the years these public schools have provided the opportunity for many great leaders to develop, regardless of their family background; and

"WHEREAS, The modern industrial complex is demanding young people of ever increasing knowledge and training to the point where a baccalaureate degree has become almost a necessity; and

"WHEREAS, The cost of higher education has forced the various states to impose increasing fees and tuition for attendance at public institutions of higher learning; and

"WHEREAS, The middle income taxpayers are suffering more than any other group in this inflationary period and are experiencing increasing difficulty in providing funds for the college education of their sons and daughters; and

"WHEREAS, Because statistics show that the average college graduate earns far more during his working years than the high school graduate and pays correspondingly higher taxes; and

"WHEREAS, For many other reasons it is greatly to the advantage of the federal government to encourage the higher education of our youth in every way possible; now, therefore, be it

"Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation providing relief from the increasing cost of higher education, including but not limited to making a portion of the cost of tuition at institutions of higher learning deductible under the Federal income Tax Law; and be it further

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

"SENATE JOINT RESOLUTION NO. 22—RELATIVE TO VETERANS' UNEMPLOYMENT COMPENSATION BENEFITS

"WHEREAS, Returning veterans who receive upon separation from the armed forces, pay for unused accrued leave are being denied unemployment compensation benefits for a period of time equal to the number of days of accrued leave as per Section 8524 of Title V of the U.S. Code; and

"WHEREAS, A returning serviceman who has bravely defended his country, returns home, and finds it difficult to find a job has enough difficulties without being penalized for being prudent in his use of leave time while in the service; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the present law so that our returning servicemen will not be denied unemployment compensation benefits under the circumstances described above; and be it further

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

A joint resolution of the Legislature of the State of California to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION NO. 13—RELATIVE TO THE RELEASE OF PRISONERS OF WAR

"Whereas, North Vietnam is holding many Americans as prisoners of war; and

"Whereas, North Vietnam is not honoring the terms of the Geneva Convention and is abusing these prisoners; and

"Whereas, Almost one-fourth of the total number of prisoners and personnel missing in action are from California; and

"Whereas, Many thousands of Americans are expressing their concern and mobilizing world public opinion to urge North Vietnam to honor the spirit of the Geneva Convention and end abuse of prisoners; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the

Governor of this State, the President of the United States, and the Congress of the United States are requested to do all that can be done to obtain the release or better treatment of prisoners held by North Vietnam; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to Governor Ronald Reagan, President Richard M. Nixon, the Vice President, the Speaker of the House of Representatives, and each Member of the Congress of the United States from California."

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

"SENATE JOINT RESOLUTION NO. 33—RELATIVE TO GUARANTEED MINIMUM WATER FLOW FOR THE LOWER AMERICAN RIVER

"WHEREAS, The lower American River is a unique combination of a beautiful river in the midst of a highly urbanized area, and provides recreation and aesthetic value to the people of northern California; and

"WHEREAS, In October, 1964, Sunset Magazine published a six-page report commending the dedicated community effort to preserve a natural parkway along the American River, and millions of dollars of both public and private funds have been invested to establish parks and other recreational facilities along the river; and

"WHEREAS, There is deep concern that the proposed Folsom South Canal will reduce the water level below the minimum necessary to maintain fishlife, aesthetic beauty, and boating safety on the river; and

"WHEREAS, Sunset Magazine, in a postscript to its 1964 article, has recently observed that, although the American River Parkway had received nationwide acclaim as a working blue-print for a successful community program of environmental control, projected water withdrawal demands on the reservoirs that provide the river's downstream flow endanger not only the fisheries, wildlife, and recreational opportunities of the river but also the ecological integrity of the entire parkway; and

"WHEREAS, The City of Sacramento, by resolution of the Sacramento City Council, dated May 14, 1970, voiced its concern that the construction of the proposed Folsom South Canal, with its resultant diversion of water from that portion of the river below Nimbus Dam, posed a grave threat to the maintenance of the necessary minimum water flow; and

"WHEREAS, Numerous organizations, such as the Audubon Society, California Fly Fishermen Unlimited, the Save the American River Association, cosponsored by 129 organizations, the Sierra Club, and the Valley Council of Diving Clubs, consisting of 14 organizations, have similarly expressed their alarm; and

"WHEREAS, Year-around operational criteria for Nimbus Dam will need to be established and such criteria will necessarily include minimum flow releases for the lower American River; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Bureau of Reclamation of the Department of the Interior to establish and guarantee the minimum water flow for the lower American River necessary in order to protect and maintain the recreational and aesthetic values of the river, taking into account the water supply requirements of the Folsom-South Canal service area; and be it further

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

"SENATE JOINT RESOLUTION NO. 35—RELATIVE TO THE SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

"Whereas, The citizens of California, particularly those living in the San Francisco Bay area, have repeatedly expressed their strong belief that the bay must be protected from gradual and needless destruction through unnecessary filling and development of the bay shoreline that is not in the best public interest; and

"Whereas, The California Legislature last year adopted, and Governor Reagan signed into law, legislation requiring that any person or governmental agency wishing to place fill in San Francisco Bay or make a substantial change in the shoreline use must first obtain a permit from the San Francisco Bay Conservation and Development Commission; and

"Whereas, Although this requirement may not legally apply to agencies of the federal government, it is nevertheless the intent of the Legislature that, unless there are overriding reasons of national security or other national interest involved, federal agencies should be asked to comply with the provisions of state law regarding bay filling and shoreline use; and

"Whereas, The National Environmental Policy Act of 1969, Public Law 91-190, requires that a detailed statement be prepared for the public on federal actions significantly affecting the quality of the human environment; and

"Whereas, The President's Council on Environmental Quality has issued interim guidelines which provide that, to the fullest extent possible, the National Environmental Policy Act of 1969 (P.L. 91-190) should be applied to major federal actions having a significant effect upon the environment even though they arise from projects initiated prior to the enactment of Public Law 91-190 on January 1, 1970; and

"Whereas, California law requires any person or government agency wishing to place, fill, or extract materials from the bay or make any substantial change in the bay or in the 100-foot shoreline band around San Francisco Bay to first secure a permit from the San Francisco Bay Conservation and Development Commission; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the members request all federal agencies to cooperate with the San Francisco Bay Conservation and Development Commission by submitting any plans for projects that would affect the bay or the shoreline within the jurisdiction of the commission to the same review by the commission that would be required by any other similar project within the jurisdiction of the commission; and be it further

"Resolved, That no action be taken by a federal agency until the San Francisco Bay Conservation and Development Commission completes such a review; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of the Navy, to the Secretary of the Army, to the Secretary of Defense, to the Secretary of the Interior, to each Senator and Representative from California in the Congress of the United States, and to all federal agencies within the area under the jurisdiction of the San Francisco Bay Conservation and Development Commission."

"SENATE JOINT RESOLUTION NO. 36—RELATIVE TO OPEN HEARINGS

"WHEREAS, The Los Padres National Forest is a valuable land owned and operated by the federal government in the State of California; and

"WHEREAS, The U.S. Gypsum Co. has applied for a mineral extraction lease on certain portions of the forest in the Sespe Creek Watershed of Ventura County under terms of the Federal Mineral Leasing Act of 1920 and proposes to excavate approximately 400 acres within a 2,434-acre lease to a depth of 50 to 400 feet and a length of four or more miles for open-pit mining of phosphate compounds; and

"WHEREAS, There is much public concern that the proposed mining operation and associated roads, processing plants and other facilities may adversely affect the environment, water purity, air quality, and wildlife and recreation use of the forest; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States and the Secretary of the Interior to order the Bureau of Land Management to hold public hearings into the matter of the proposed lease for open-pit mining by the U.S. Gypsum Co. in the Sespe Creek Watershed of the Los Padres National Forest; and be it further

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

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

"SENATE JOINT RESOLUTION NO. 20—RELATIVE TO PLEDGE OF ALLEGIANCE TO THE FLAG

"Whereas, The right of school children to voluntarily salute the Flag of the United States in the public schools is being threatened; and

"Whereas, The children of this country, now more than ever, need the right to voluntarily reaffirm their love and respect for the flag of this country; and

"Whereas, In our proper concern for the rights of minorities we must not ignore the fact that patriotism is a privilege which may not be taken away from the majority; and

"Whereas, It is in the public interest to amend the Constitution of the United States to specifically insure that the children of this country shall have the right to salute the Flag of the United States in public schools; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to utilize all their powers to bring about the passage of an amendment of the Constitution of the United States which shall assure to every child the right to voluntarily pledge allegiance to the Flag of the United States in any public school; and be it further

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

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

"SENATE JOINT RESOLUTION NO. 37—RELATIVE TO AIR POLLUTION FINANCING

"Whereas, California has pioneered in the research and development of controls for motor vehicular and other sources of air pollution; and

"Whereas, This pioneering and continuing effort has established California's reputation

as the national and worldwide leader for scientific and technical expertise in air pollution research and control; and

"Whereas, The financial burden for air pollution research and control has been largely borne by the citizens of the State of California and its motor vehicle owners and operators; and

"Whereas, The benefits of this research and control have been made available to and received by the citizens of all of these United States; and

"Whereas, Air pollution is an acute and serious nationwide problem, as witnessed by recent smog alerts in other major urban areas of the country; and

"Whereas, California is allocating a disproportionate amount of its resources and funds in its efforts to reduce this menace to the health and welfare of mankind, notwithstanding the fact that 90 percent of the nation's motor vehicles are owned and operated by residents of other states; and

"Whereas, The federal government, as well as these other states, should be called upon to bear a more appropriate share of this burden whose benefits are received by the citizens of all states; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and the Congress of the United States to augment and increase its funding for research and development being carried out by California's many highly qualified scientists and institutions, both public and private, engaged in this activity; and be it further

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with amendments:

S. Res. 399. A resolution relating to the creation of a World Environmental Institute to aid all the nations of the world in solving common environmental problems of both national and international scope (Rept. No. 91–1255).

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

S. 3389. A bill to provide for the protection, development, and enhancement of the public recreation values of the public lands (Rept. No. 91–1256).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

H.R. 18731. A bill to increase from $20 to $40 per day the per diem allowance authorized in lieu of subsistence for members of the American Battle Monuments Commission when in a travel status (Rept. No. 91–1257).

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

H.R. 140. An act to authorize the establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes (Rept. No. 91–1258); and

H.R. 15012. An act to authorize a study of the feasibility and desirability of establishing a unit of the national park system to commemorate the opening of the Cherokee Strip to homesteading, and for other purposes (Rept. No. 91–1259).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with amendments:

S. 4090. A bill to preserve and promote the resources of the Connecticut River Valley, and for other purposes (Rept. No. 91–1260).

By Mr. MAGNUSON, from the Committee on Commerce, with amendments:

H.R. 10634. An act to amend the Interstate Commerce Act and the Federal Aviation Act of 1958 in order to exempt certain wages and salaries of employees from withholding for income tax purposes under the laws of States or subdivisions thereof other than the State or subdivision of the employee's residence (Rept. No. 91–1261).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. GOLDWATER, from the Committee on Armed Services:

Richard J. Borda, of California, to be an Assistant Secretary of the Air Force.

By Mr. MAGNUSON, from the Committee on Commerce:

George Frank Mansur, Jr., of Texas, to be Deputy Director of the Office of Telecommunications Policy; and

Willard J. Smith, of Michigan, to be an Assistant Secretary of Transportation.

Mr. MAGNUSON. Mr. President, from the Committee on Commerce, I report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and ask unanimous consent, to save the expense of printing them on the Executive Calendar, that they lie on the Secretary's desk for the information of any Senator.

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

The nominations, ordered to lie on the desk, are as follows:

Michael J. Schiro, and sundry other persons, for promotion in the Coast Guard.

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. MONDALE:

S. 4420. A bill for the relief of Elisabeth Mueller; to the Committee on the Judiciary.

By Mr. COTTON (by request):

S. 4421. A bill to secure electric power supplies adequate to the demands of the Nation compatible with environmental quality; to the Committee on Commerce.

By Mr. MAGNUSON (by request):

S. 4422. A bill to revise and improve the laws relating to the documentation of vessels; to the Committee on Commerce.

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

By Mr. FANNIN:

S. 4423. A bill to amend section 837 or title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and penalties with respect thereto, and for other purposes; to the Committee on the Judiciary.

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

By Mr. ERVIN:

S.J. Res. 239. Joint resolution proposing an amendment to the Constitution of the United States to abolish legal discrimination against women in respect to education or employment; to the Committee on the Judiciary.

S. 4422—INTRODUCTION OF VESSEL DOCUMENTATION ACT

Mr. MAGNUSON. Mr. President, at the request of the Secretary of Transportation, I introduce for appropriate reference, a bill to revise and improve the laws relating to documentation of vessels. I ask unanimous consent that the bill, the letter of transmittal from the Secretary of Transportation, the accompanying section-by-section analysis and comparative text, and the text of statutes repealed by the bill, be printed in the RECORD.

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

The bill (S. 4422) to revise and improve the laws relating to the documentation of vessels, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 4422

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vessel Documentation Act".

SEC. 2. Definitions. As used in this Act—

(1) "documented vessel" means a vessel for which a certificate of documentation has been issued under this Act; and

(2) "Secretary" means the head of the department in which the Coast Guard is operating.

SEC. 3. Port of documentation. The Secretary shall designate ports of documentation in the United States where vessels may be documented and instruments affecting title to, or interest in, documented vessels may be recorded. The Secretary shall specify the geographic area to be served by each designated port, and he may discontinue, relocate, or designate additional ports of documentation.

SEC. 4. Vessels eligible for documentation. Any vessel of at least 5 net tons, which is not registered under the laws of a foreign country, is eligible for documentation if it is owned by—

(1) an individual who is a citizen of the United States;

(2) a partnership or association whose members are all citizens of the United States;

(3) a corporation created under the laws of the United States, or of any State, territory or possession thereof, or of the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands; whose president or other chief executive officer and chairman of its board of directors are citizens of the United States and no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum;

(4) the United States Government; or

(5) the government of any State, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands.

SEC. 5. Home Ports. (a) The port of documentation selected by an owner for the documentation of his vessel shall, with the approval of the Secretary and subject to such regulations as he may prescribe, be the vessel's home port.

(b) Once a vessel's home port has been fixed as provided in subsection (a), it may only be changed with the approval of the

Secretary and subject to such regulations as he may prescribe.

SEC. 6. Name of vessel. (a) At the time of application for initial documentation of a vessel, the owner shall provide a name for the vessel. Subject to the approval of the Secretary, that name shall, upon the issuance of a certificate of documentation, become the vessel's name of record.

(b) Once a vessel's name of record has been fixed as provided in subsection (a), it may only be changed with the approval of the Secretary and subject to such regulations as he may prescribe.

(c) The Secretary may prescribe a reasonable fee for changing a documented vessel's name of record.

SEC. 7. Certificate of documentation; application; issuance; form; exhibition. (a) Upon application by the owner of any vessel eligible for documentation, the Secretary shall issue a certificate of documentation of a type specified in section 10, 11, 12, 13, or 14 of this Act.

(b) The Secretary may prescribe the form, manner of filing, and the information to be contained in, applications for certificates of documentation

(c) Each certificate of documentation shall—

(1) contain the name, the home port, and a description of the vessel for which it is issued;

(2) identify its owner; and

(3) be in such form and contain such additional information as the Secretary may prescribe.

(d) The Secretary shall, by regulation, prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation issued under this Act.

(e) The owner and the master of each documented vessel shall make the vessel's certificate of documentation available for examination by such persons and at such times and places as may be required by law and as the Secretary may prescribe.

SEC. 8. Numbers; signal letters; identification markings. (a) The Secretary shall maintain a numbering system for the identification of documented vessels and assign a number to each documented vessel.

(b) The Secretary may maintain a system of signal letters for documented vessels.

(c) The owner of each documented vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary, the number assigned under subsection (a) and such other identification markings as the Secretary may prescribe.

SEC. 9. Purpose of documentation. A certificate of documentation issued under this Act is—

(1) conclusive evidence of nationality for international purposes, but not in any proceeding conducted under laws of the United States;

(2) in the case of a license, evidence of qualification to be employed in a specific trade; and

(3) not conclusive evidence of ownership in any proceeding in which ownership is in issue.

SEC. 10. Certificate of documentation: registry. (a) A registry may be issued for any vessel which is eligible for documentation.

(b) A vessel for which a registry is issued may be employed in foreign trade or trade with the Islands of Guam, Tutuila, Wake, or Midway or Kingman Reef.

(c) The Secretary may, upon application of the owner of any vessel which qualifies for a coastwise license under section 11 of this Act, a Great Lakes license under section 12 of this Act, or a fishery license under section 13 of this Act, issue a registry appropriately endorsed authorizing the vessel to be employed in the coastwise trade, the Great Lakes trade, or the fisheries, as the case may be.

SEC. 11. Certificate of documentation; coastwise license. (a) A coastwise license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel which—

(1) is eligible for documentation;

(2) was built in the United States; and

(3) qualifies under laws of the United States to be employed in the coastwise trade.

(b) A vessel for which a coastwise license or an appropriately endorsed registry, is issued may, subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade; and

(2) the fisheries.

SEC. 12. Certificate of documentation: Great Lakes license.

(a) A Great Lakes license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel which—

(1) is eligible for documentation;

(2) was built in the United States; and

(3) qualifies under the laws of the United States to be employed in the coastwise trade.

(b) A vessel for which a Great Lakes license or an appropriately endorsed registry is issued may, on the Great Lakes and their tributary and connecting waters and subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade;

(2) trade with Canada; and

(3) the fisheries.

SEC. 13. Certificate of documentation; fishery license.

(a) A fishery license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel which—

(1) is eligible for documentation;

(2) was built in the United States; and

(3) qualifies under the laws of the United States to be employed in the fisheries.

(b) A vessel for which a fishery license, or an appropriately endorsed registry, is issued may, subject to the laws of the United States regulating the fisheries, be employed in that trade.

SEC. 14. Certificate of documentation: yacht license. A yacht license may be issued for any pleasure vessel which is eligible for documentation.

SEC. 15. Vessel limited to trade covered by certificate of documentation; exemptions; penalty. (a) A documented vessel may not be employed in any trade other than a trade covered by the certificate of documentation issued for that vessel. However, any certificate of documentation may, under regulations prescribed by the Secretary, be exchanged for any other type of certificate of documentation, or appropriately endorsed for any trade, for which the vessel qualifies.

(b) A non-self-propelled vessel which is qualified to be employed in the coastwise trade may, without being documented, be employed in trade exclusively within a harbor or on the rivers or inland lakes of the United States, or on the internal waters of any State.

(c) Whenever a documented vessel is employed in a trade that is not covered by the certificate of documentation issued for that vessel, the vessel, together with its equipment is liable to seizure and forfeiture to the United States.

(d) A documented vessel may not be placed under the command of a person other than a citizen of the United States.

SEC. 16. Falsification in documentation; fraudulent use of document; penalty. (a) Whenever the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or presentation in connection with the documentation of his vessel under this Act, in addition to any other penalty provided by law, that vessel, together with its equipment, is liable to seizure and forfeiture to the United States.

(b) Whenever a certificate of documentation is knowingly and fraudulently used for any vessel, that vessel, together with its equipment, is liable to seizure and forfeiture to the United States.

SEC. 17. Certificate of documentation; termination of validity.

(a) A certificate of documentation becomes invalid if the vessel for which it is issued—

(1) no longer meets the requirements in this Act and the regulations prescribed under it pertaining to that certificate of documentation; or

(2) is placed under the command of a person who is not a citizen of the United States.

(b) Except as provided by section 961(a) of title 46, an invalid certificate of documentation shall be surrendered to the Secretary in accordance with regulations prescibed by him.

SEC. 18. Provisional Registry. (a) The Secretary and the Secretary of State, acting jointly may provide for the issuance of a provisional registry for any vessel procured outside the United States which meets the ownership requirements of section 4 of this Act.

(b) A vessel for which a provisional registry is issued may proceed to the United States and, subject to such limitations as the Secretary prescribes, engage en route in the foreign trade or trade with the Islands of Guam, Tutuila, Wake, or Midway or Kingman Reef. Upon the vessel's arrival in the United States the provisional registry shall be surrendered to the Secretary.

(c) A vessel for which a provisional registry is issued is subject to the jurisdiction and laws of the United States. However, the Secretary may suspend the application of any vessel inspection law administered by him, or any regulation thereunder, if he considers the suspension to be in the public interest.

SEC. 19. Recording of U.S. built vessels. The Secretary may provide for the recording and certifying of such information pertaining to vessels built in the United States as he finds to be in the public interest.

SEC. 20. Registration of funnel marks and house flags. The Secretary shall provide for the registration of funnel marks and house flags by owners of vessels.

SEC. 21. List of documented vessels. The Secretary shall publish periodically a list of all documented vessels together with such information pertaining to them as he considers pertinent and useful.

SEC. 22. Reports. To ensure compliance with this Act and the laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners and masters of documented vessels to submit reports in such form and manner as the Secretary may prescribe.

SEC. 23. Violations; penalty. (a) Whoever violates any provision of this Act or any regulation thereunder for which no other penalty is specifically provided, is liable to a civil penalty of not more than $500 for each violation.

(b) The Secretary may compromise any civil penalty provided for in this Act.

SEC. 24. Delegations and regulations. The Secretary may—

(1) delegate, and authorize successive redelegations of, any of the duties or powers conferred on him in this Act; and

(2) prescribe regulations to carry out this Act.

SEC. 25. Related terms in other laws. Whenever used with respect to the documentation of a vessel in any law, regulation, document, ruling, or other official act—

(1) "certificate of registry", "registry", and "register" are considered to mean a registry as provided for in section 10 of this Act;

(2) "license", "enrollment and license", "license for the coastwise (or coasting) trade", and "enrollment and license for the coastwise (or coasting) trade" are considered to mean a coastwise license as provided for in section 11 of this Act;

(3) "enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea" is considered to mean a Great Lakes license as provided for in section 12 of this Act;

(4) "license for the fisheries" and "enrollment and license for the fisheries" are considered to mean a fishery license as provided for in section 13 of this Act; and

(5) "yacht license" and "yacht enrollment and license" are considered to mean a yacht license as provided for in section 14 of this Act.

SEC. 26. Amendments to other laws. (a) Section 4131 of the Revised Statutes, as amended (46 U.S.C. 221), is amended to read as follows:

"No person who is not a citizen of the United States may serve as master, chief engineer, or officer in charge of a deckwatch or engineering watch on any vessel documented under the laws of the United States. However, if a documented vessel is deprived of the services of any officer, other than the master, while on a foreign voyage, a person who is not a citizen of the United States may, until the vessel's first return to a United States port where a United States citizen replacement can be obtained serve in—

(1) the vacancy; or

(2) any vacancy resulting from the promotion of another to fill the original vacancy."

(b) Section 4148 of the Revised Statutes, as amended (46 U.S.C. 71), is amended by striking out the first sentence of subsection (a) and inserting in place thereof:

"The Secretary of the Department in which the Coast Guard is operating shall provide for the admeasuring of each vessel documented under the Vessel Documentation Act and each vessel recorded under section 19 of that Act. Except in cases where the Secretary of the Department in which the Coast Guard is operating has, by regulation, otherwise provided, a vessel must be admeasured before a certificate of documentation or a certificate of record is issued for that vessel".

(c) Section 4311 of the Revised Statutes, as amended (46 U.S.C. 251), is amended by striking out the first sentence of subsection (a).

(d) Section 4320 of the Revised Statutes, as amended (46 U.S.C. 262), is amended by—

(1) striking out the word "licensed" in the first sentence and inserting in place thereof the word "documented"; and

(2) striking out the last sentence.

(e) Section 4377 of the Revised Statutes, as amended (46 U.S.C. 325), is amended by striking out the second sentence.

(f) Section 7 of the Act of June 19, 1886, as amended (24 Stat. 81; 46 U.S.C. 319); is amended by—

(1) striking out the first sentence and inserting in place thereof:

"Whenever a vessel is employed in a trade for which certificates of documentation are issued under the Vessel Documentation Act, other than a trade covered by a registry, the vessel is liable to a civil penalty of $30 for each port at which it arrives without the proper certificate of documentation, and it has on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, the vessel, together with its equipment and cargo is liable to seizure and forfeiture."; and

(2) striking out the last sentence.

SEC. 27. *Repeals.* The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act:

Revised statutes section	Revised statutes section	Revised statutes section
4132	4167	4318
4136	4168	4319
4137	4169	4321
4138	4170	4322
4139	4171	4323
4141	4174	4324
4142	4176	4325
4143	4177	4326
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[1] Only the part amending R.S. 4315, 4318 and 4319.
[2] Only the part amending R.S. 4132.
[3] Public Law 67–157.
[4] Public Law 69–219.

NOTE.—Sec. 28. Effective date. This act becomes effective on the 1st day of the 6th month following the month in which it is enacted.

The material presented by Mr. MAGNUSON is as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., August 20, 1970.

Honorable SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill "To revise and improve the laws relating to documentation of vessels", together with a section-by-section analysis.

This proposed bill would supplant the statutes pertaining to the documentation of American vessels, other than motorboats, now administered by the Coast Guard.

One of the earliest Acts of the First Congress was the establishment of a system of vessel documentation. The procedures spelled out in the Act of September 1, 1789, are still the foundation of our vessel documentation program today. Succeeding Congresses added to that foundation additional laws intended to meet the variety and change of conditions attending our waterborne commerce.

From its inception until 1967, documentation of vessels was supervised by a succession of Federal agencies although during those 178 years field activities were continuously performed by local officials of the Bureau of Customs. On February 24, 1967, by virtue of Treasury Department Order No. 167–81, full responsibility for vessel documentation was transferred to the Commandant of the Coast Guard in anticipation of the pending transfer of the Coast Guard from the Treasury Department into the new Department of Transportation on April 1, 1967.

When the Coast Guard assumed responsibility for vessel documentation there were 124 separate locations throughout the United States where documents were being issued. A few of those locations, where the volume of activity is low, are being discontinued as "ports of documentation" and their activities consolidated with those of more active nearby "ports of documentation". At present 126 Coast Guard employees are performing over 100,000 transactions a year in connection with nearly 70,000 American documented vessels. The annual budget for vessel documentation is slightly in excess of $1,000,000.

During the three and one half years that the Coast Guard has been responsible for its administration we have examined the procedures and public transactions involved in the vessel documentation process with a view to cost-reduction, modernization, and improvement. Unfortunately, most of the procedural changes that could produce improvements and increase efficiency are legally barred under the existing accumulation of laws.

Amendment of selected portions of the existing laws could, of course, allow implementation of specific procedural improvements. However, this sort of limited treatment would fall far short of producing a coherent and rational body of law. A number of the existing obstacles to modern and efficient administration are directly attributable to the piecemeal amending that has resulted in today's patchwork of statutes.

The proposed bill would extract from the existing laws, and restate in a concise and orderly arrangement, the purposes and objectives of vessel documentation and the related substantive policies. It would abandon the restricting administrative detailedness of the existing law. Instead it would delegate responsibility, and co-extensive authority, for administration of the vessel documentation program, within specific guidelines.

Enactment of the proposed bill would not result in any increased Government costs. It would, moreover, allow introduction of modern procedures and business techniques commonly used elsewhere in the Government. This would in turn, lead to more effective use of funds budgeted for this program and possible cost reductions in subsequent years.

The Office of Budget and Management advises that from the standpoint of the Administration's program there is no objection to the submission of this draft legislation for the consideration of the Congress.

Sincerely,

JOHN A. VOLPE.

Enclosures.

SECTION-BY-SECTION ANALYSIS OF A BILL

To revise and improve the laws relating to the documentation of vessels.

Sec. 1. *Short Title.* This section cites the Act as the "Vessel Documentation Act".

Sec. 2. *Definitions.* This section defines the

terms "documented vessel" and "Secretary" for the purpose of their use in this Act.

Sec. 3. *Ports of Documentation.* This section provides for the designation by the Secretary of ports of documentation in the United States where vessels may be documented and instruments of title recorded and for the designation of the geographic area to be served by each designated port. It also authorizes the discontinuance and relocation of ports of documentation and the designation of additional ports of documentation. This section is a general re-statement of the existing law concerning the authority of the Secretary in regard to ports of documentation. The authority of the Secretary in regard to ports of documentation derived through reorganization plans, implication from related statutes, intradepartmental delegation orders, and transfers of functions from other governmental agencies is made more explicit.

Sec. 4. *Vessels Eligible for Documentation.* This section is a clarification and general restatement of existing law providing that vessels of at least 5 net tons, not registered under the laws of a foreign nation, are eligible for documentation if owned by citizens, partnerships, or corporations of the United States or by the Federal or State Governments. It expressly prescribes the 5 net ton limitation on vessels eligible for documentation rather than leaving it to implication.

Sec. 5. *Home Ports.* This section defines a vessel's home port as the port of documentation selected by an owner for the documentation of his vessel with the approval of the Secretary and provides that a vessel's home port may only be changed with the approval of the Secretary. It is a general re-statement of existing law but leaves the detailed procedures for fixing and changing a vessel's home port to regulations to be prescribed by the Secretary.

Sec. 6. *Name of Vessel.* This section provides that the name of record of the vessel to be documented will be the name provided by the owner subject to the approval of the Secretary and that the name may only be changed with approval of the Secretary. It is a re-statement of existing law except to the extent that the procedural details of the transactions now in the statute, such as the publication of notices of change of name in newspapers, will be governed by regulations prescribed by the Secretary. The authorization for a reasonable fee, to be prescribed by the Secretary, for changing a documented vessel's name of record takes the place of the graduated fee schedule now set forth in detail in the existing statute and allows the fee to be specified in regulations.

Sec. 7. *Certificate of Documentation; Application; Issuance; Form; Exhibition.* This section provides that a certificate of documentation shall be issued upon application by the owner of any vessel eligible for documentation on the form and in the manner prescribed by the Secretary and that such certificate of documentation shall be available for examination. The entire text of registers, enrollments and licenses, and licenses are now set forth at length in existing statutes. To provide flexibility and take advantage of savings afforded by modern forms and record keeping procedures this section provides only that each certificate of documentation shall contain the name, the home port, the description of the vessel; identity of its owner; and be in such form and contain such additional information as the Secretary may prescribe. The provision in this section that the Secretary shall, by regulation, prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation will provide a means for updating vessel documents through the submission of occasional reports rather than continue the presently required annual endorsement of renewals of licenses and enrollments and licenses and the endorsements of changes of master.

Sec. 8. *Numbers; Signal Letters; Identification Markings.* This section provides for continuing the present system of assigning official numbers, signal letters, and identification markings to documented vessels.

Sec. 9. *Purpose of Documentation.* This section does not modify existing law but for clarity contains express provisions that a certificate of documentation is conclusive evidence of nationality but not conclusive evidence of ownership in any proceeding in which ownership, determined by State law, is in issue. It also gives express recognition to the special nature of "license" type documents.

Sec. 10. *Certificate of Documentation Registry.* This section provides that the issuance of a certificate of documentation in the form of a registry may be issued to any vessel meeting the requirements of section 4 entitling it to be employed in the same foreign trade in which it may now be employed under existing law.

Sec. 11. *Certificate of Documentation; Coastwise License.* This section provides for the issuance of a certificate of documentation in the form of a coastwise license for any vessel which is eligible for documentation, built in the United States; and qualifies under the laws of the United States to be employed in the Coastwise Trade. This license takes the place of the "Consolidated Certificate of Enrollment and License" and the "License of Vessel Under 20 Tons" now issued under existing law for the coastwise Trade and also for the Coastwise Trade and Mackerel Fishery when appropriately endorsed.

Sec. 12. *Certificate of Documentation; Great Lakes License.* This section provides for the issuance of a Certificate of Documentation in the form of a Great Lakes License to take the place of the "Consolidated Certificate of Enrollment and License (Northern and Northwestern Frontiers of the United States Other Than by Sea)" now issued under existing law.

Sec. 13. *Certificate of Documentation; Fishery License.* This section provides that a certificate of documentation in the form of a fishery license may be issued for any vessel which is eligible for documentation, was built in the United States, and qualifies under the laws of the United States to be employed in the fisheries. This license takes the place of a "Consolidated Certificate of Enrollment and License" and a "License of Vessel Under Twenty Tons" now issued under existing law for the trades of whale fishery, cod fishery, and mackerel fishery.

Sec. 14. *Certificate of Documentation; Yacht License.* This section provides for the issuance of a yacht license to any vessel which is eligible for documentation and is to be used exclusively for pleasure. The yacht license takes the place of the "Consolidated Certificate of Enrollment and Yacht License" and the "License of Yacht Under Twenty Tons" now issued under existing law.

Sec. 15. *Vessel Limited to Trade Covered by Certificate of Documentation; Exemption; Penalty.* This section which is a re-statement of existing law provides that a vessel is limited to the trade covered by her certificate of documentation; exempts certain non-self-propelled vessels from documentation; requires that the master must be a citizen; and continues the present penalty for violations.

Sec. 16. *Falsification in Documentation; Fraudulent Use of Document; Penalty.* This section continues the existing penalty of seizure and forfeiture in existing law for false statements of representations in connection with the documentation of vessels and for fraudulent use of a certificate of documentation.

Sec. 17. *Certificate of Documentation; Termination of Validity.* This section continues the provisions of existing law providing that a certificate of documentation becomes invalid if the vessel for which it is issued no longer meets the requirements for issuance of the certificate or is placed under the command of a person who is not a citizen of the United States. It also continues the requirement for the surrender of invalid certificates but recognizes the protection accorded preferred mortagagees by section 961(a) of title 46.

Sec. 18. *Provisional Registry.* This section authorizes the Secretary of Transportation and the Secretary of State to provide for the issuance of a provisional registry for a vessel procured by a citizen outside of the United States. This enables the vessel to proceed directly to the United States and to trade en route with the requirement that the provisional registry shall be surrendered upon the vessel's arrival in the United States. The present statutory authority of Consular Officers and persons designated by the President to issue provisional registers which are automatically valid for a period of six (6) months or until arrival in the United States is eliminated. This section does not continue the present automatic statutory exemption of a vessel with a provisional registry from laws relating to officers, inspections, and admeasurement but it authorizes the Secretary to suspend application of those vessel inspection and admeasurement laws if he considered the suspension to be in the public interest.

Sec. 19. *Recording of U.S. Built Vessels.* This section authorizes the Secretary to provide for the recording and certifying of such information pertaining to vessels built in the United States as he finds to be in the public interest. It thereby continues provisions in the existing law providing for the recording and certifying of essential information pertaining to vessels built in the United States for foreign owners.

Sec. 20. *Registration of Funnel Marks and House Flags.* This section continues the provisions of the existing law providing for the registration of funnel marks and house flags by owners of vessels.

Sec. 21. *List of Documented Vessels.* This section continues the requirement for publication of a list of all documented vessels.

Sec. 22. *Reports.* This section authorizes reports to be required of owners and masters of documented vessels to ensure compliance with this act and the laws governing the qualification of vessels to engage in the coastwise trade and fisheries. These reports will also keep the vessel data current and certificates of documentation up to date. They will take the place of annual endorsements of renewals of enrollments and licenses and endorsements of changes of masters on the certificate of documentation.

Sec. 23. *Violations, Penalty.* This section provides a civil penalty of not more than $500.00 for each violation of this act. It takes the place of numerous specific statutory penalties now included in the individual statutes. This section also authorizes the Secretary to compromise any civil penalty provided in order that only the appropriate penalty need be assessed. The assessment of the maximum penalty in minor cases where the penalty will later be mitigated will no longer be required.

Sec. 24. *Delegations and Regulations.* This section retains the provisions of existing law by authorizing the Secretary to delegate and authorize successive re-delegations of any of the duties or powers conferred in him in this act. It also authorizes the Secretary to prescribe regulations to carry out this act.

Sec. 25. *Related Terms in Other Laws.* This section defines the new types of certificates of documentation provided for in this act to ensure that their changed names have no legal effect.

Sec. 26. *Amendments to Other Laws.*

Sec. 26(a) restates the existing 46 U.S.C. 221 in terms of "vessels documented under the laws of the United States" to conform to the terminology of this bill.

Sec. 26(b) authorizes the Secretary to prescribe conditions under which a vessel may be documented before being admeasured until such time as the vessel is available for complete admeasurement. This amends the existing statutory requirement that a vessel must be admeasured before being documented.

Sec. 26(c) eliminates the references in 46 U.S.C. 251 to statutes pertaining to documentation that will be repealed by this bill and eliminates the provisions in that statute that only documented vessels shall be deemed vessels of the United States.

Sec. 26(d) eliminates the detailed statutory language prescribing oaths now required for the issuance of licenses.

Sec. 26(e) eliminates the provision of 46 U.S.C. 325 that vessels licensed for the "mackeral" fishery to be employed in other fisheries since section 13 provides for a single fishery license covering all fisheries.

Sec. 26(f) restates the first sentence and eliminates the last sentence of 46 U.S.C. 319 to conform to the terminology of this bill.

Sec. 27. *Repeals.* The corresponding sections of the United States Code are listed below for each of the Revised Statutes and Statutes at Large repealed by this section.

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4179	50
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4182	55
4183	56
4187	58
4189	60
4190	61
4191	62
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4217	105
4312	252
4313	253
4314	254
4315	255
4318	258
4319	259
4321	263
4322	264
4323	265
4324	266
4325	267
4326	268
4327	269
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STATUTES AT LARGE

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29	491, 492	46
32	398, 399	20
33	1, 032	496
34	136	260
35	426	49
37	70	260
37	189	63
37	315	103
37	562	11
38	698	11
38	812	14
38	1193	12
38	1218	496
41	436, 437	51
43	947	18
49	528	60
49	1367	263
52	437	11
53	794	276
53	795	267
53	798	496
75	392	35
79	892	74

Sec. 28. Effective date. This section prescribes the effective date of the act as the 1st day of the 6th month following the month in which it is enacted.

COMPARATIVE TEXT OF STATUTES FOR AMENDMENT BY A BILL

To revise and improve the laws relating to the documentation of vessels.

(Omissions are indicated by brackets and additions are underscored).

Section 26(a) of the Bill amends Revised Statute 4131, as amended (46 U.S.C. 221).

Comparative text—

[Vessels registered pursuant to law and no others, except such as shall be duly qualified according to law for carrying on the coasting or fishing trade, shall be deemed vessels of the United States; and entitled to the benefits and privileges appertaining to such vessels; but no vessel shall enjoy such benefits and privileges longer than it shall continue to be wholly owned by a citizen or citizens of the United States or a corporation created under the laws of any of the States thereof, and be commanded by a citizen of the United States. And all of the officers of vessels of the United States who shall have charge of a watch, including pilots, shall in all cases be citizens of the United States. The word "officers" shall include the chief engineer and each assistant engineer in charge of a watch on vessels propelled wholly or in part by steam; and no person shall be qualified to hold a license as a commander or watch officer of a merchant vessel of the United States who is not a native-born citizen, or whose naturalization as a citizen shall not have been fully completed. In cases where on a foreign voyage, or on a voyage from an Atlantic to a Pacific port of the United States, any such vessel is for any reason deprived of the services of an officer below the grade of master, his place, or a vacancy caused by the promotion of another officer to such place, may be supplied by a person not a citizen of the United States until the first return of such vessel to its home port; and such vessel shall not be liable to any penalty or penal tax for such employment of an alien officer.] *No person who is not a citizen of the United States may serve as master, chief engineer, or officer in charge of a deckwatch or engineering watch on any vessel documented under the laws of the United States. However, if a documented vessel is deprived of the services of any officer, other than the master, while on a foreign voyage, a person who is not a citizen of the United States may, until the vessel's first return to a United States port where a United States citizen replacement can be obtained serve in—*

(1) the vacancy; or

(2) any vacancy resulting from the promotion of another to fill the original vacancy.

Section 26(b) of the Bill amends Revised Statute 4148(a), as amended (46 U.S.C. 71 (a)).

Comparative text—[Before a vessel is documented under the laws of the United States or issued a certificate of record she shall be admeasured by the Secretary of the Treasury as provided in subsection (b) or (c) of this section.] *The Secretary of the Department in which the Coast Guard is operating shall provide for the admeasuring of each vessel documented under the Vessel Documentation Act and each vessel recorded under section 19 of that Act. Except in cases where the Secretary of the Department in which Coast Guard is operating has, by regulation, otherwise provided, a vessel must be admeasured before a certificate of record is issued for that vessel.* A vessel which has been admeasured need not be readmeasured solely to obtain another document, unless it is a vessel admeasured under subsection (b) of this section which is required to be readmeasured under subsection (c) of this section; but a vessel which is intended to be used exclusively as a pleasure vessel may at the owner's option be readmeasured under subsection (b) of this section.

Section 26(c) of the Bill amends Revised Statute 4311(a), as amended (46 U.S.C. 251 (a)).

Comparative text—[Vessels of twenty tons and upward, enrolled in pursuance of sections 251–255, 258, 259, 262–280, 293, 306–316, 318, 321–330 and 333–335 of this title, and having a license in force, or vessels of less than twenty tons, which, although not enrolled, have a license in force, as required by such sections, and no others, shall be deemed vessels of the United States entitled to the privileges of vessels employed in the coasting trade or fisheries.] Except as otherwise provided by treaty or convention to which the United States is a party, no foreign-flag vessel shall, whether documented as a cargo vessel or otherwise, land in a port of the United States its catch of fish taken on board such vessels of the high seas or fish products processed therefrom, or any fish or fish products taken on board such vessel on the high seas from a vessel engaged in fishing operations or in the processing of fish or fish products.

Section 26(d) of the Bill amends Revised Statute 4320, as amended (46 U.S.C. 262).

Comparative text—No *documented* vessel shall be employed in any trade whereby the revenue laws of the United States shall be defrauded. [The master of every such vessel shall swear that he is a citizen of the United States and that such license shall not be used for any other vessel or any other employment than that for which is was specially granted, or in any trade or business whereby the revenue of the United States may be defrauded; and if such vessel be less than twenty tons burden, the husband or managing owner shall swear that she is wholly the property of citizens of the United States; whereupon it shall be the duty of the collector of the district comprehending the port whereto such vessel may belong to grant a license.]

Section 26(e) of the Bill amends Revised Statute 4377, as amended (46 U.S.C. 325.)

Comparative text—Whenever any licensed vessel is transferred, in whole or in part, to any person who is not at the time of such transfer a citizen and resident within the United States, or is employed in any other trade than that for which she is licensed, or is employed in any trade whereby the revenue of the United States is defrauded, or is found with a forged or altered license, or one granted for any other vessel, or with merchandise of foreign growth or manufac-

ture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, such vessel with her tackle, apparel and furniture, and the cargo, found on board her, shall be forfeited. [But vessels which may be licensed for the mackerel fishery shall not incur such forfeiture by engaging in catching cod or fish of any other description whatever.] For the purposes of this section, marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found upon any vessel, shall be prima facie evidence of the foreign origin of such merchandise.

Section 26(f) of the Bill amends Section 7 of the Act of June 19, 1886, as amended (24 Stat. 81; 46 U.S.C. 319).

Comparative text—[Every vessel of twenty tons or upwards, entitled to be documented as a vessel of the United States, other than registered vessels found trading between district and district, or between different places in the same district, or carrying on the fishery, without being enrolled and licensed, and every vessel of less than twenty tons and not less than five tons burden found trading or carrying on the fishery as aforesaid without a license obtained as provided by this chapter, shall be liable to a fine of $30 at every port of arrival without such enrollment or license, and if she have on board any merchandise of foreign growth or manufacture (sea stores excepted, or any taxable domestic spirits, wines or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, she shall, together with her tackle, apparel and furniture, and the lading found on board, be forfeited.] *Whenever a vessel is employed in a trade for which certificates of documentation are issued under the Vessel Documentation Act, other than a trade covered by a registry, the vessel is liable to a civil penalty of $30 for each port at which it arrives without the proper certificate of documentation, and it has on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, the vessel, together with its equipment and cargo is liable to seizure and forfeiture.* Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found on board such vessels, shall be prima facie evidence of the foreign origin of such merchandise. [But if the license shall have expired while the vessel was at sea, and there shall have been no opportunity to renew such license, then said fine or forfeiture shall not be incurred.]

TEXT OF STATUTES FOR REPEAL BY A BILL

To revise and improve the laws relating to the documentation of vessels.

Section 27 of the Bill repeals the following laws:

REVISED STATUTES

Sec. 4132: Vessels built within the United States, and belonging wholly to citizens thereof, and vessels which may be captured in war by citizens of the United States, and lawfully condemned as prize, or which may be adjudged to be forfeited for a breach of the laws of the United States, being wholly owned by citizens, and no others, may be registered as directed in this Title.

Sec. 4136: The Secretary of the Treasury may issue a register or enrollment for any vessel built in a foreign country, whenever such vessel shall be wrecked in the United States, and shall be purchased and repaired by a citizen of the United States, if it shall be proved to the satisfaction of the Secretary that the repairs put upon such vessel are equal to three-fourths of the cost of the vessel when so repaired.

Sec. 4137: Registers for vessels owned by any incorporated company may be issued in the name of the president or secretary of such company and such register shall not be vacated or affected by sales of any shares of stock in such company.

Sec. 4138: Upon the death, removal, or resignation of such president or secretary of any incorporated company owning any vessel, a new register shall be taken out for such vessel.

Sec. 4139: Previously to granting a register for any vessel, owned by any company, the president or secretary thereof shall swear to the ownership of the vessel, by such company, without designating the names of the persons composing the company; and the oath shall be deemed sufficient, without requiring the oath of any other person interested or concerned in such vessel.

Sec. 4141: Every vessel, except as is hereinafter provided, shall be registered by the collector of that collection-district which includes the port to which such vessel shall belong at the time of the registry, which port shall be deemed to be that at or nearest to which the owner, if there be but one, or, if more than one, the husband or acting and managing owner of such vessel, usually resides.

Sec. 4142: In order to the registry of any vessel, an oath shall be taken and subscribed by the owner, or by one of the owners thereof, before the officer authorized to make such registry, declaring, according to her best of the knowledge and belief of the person so swearing, the name of such vessel, her burden, the place where she was built, if built within the United States, and the year in which she was built; or that she has been captured in war, specifying the time, by a citizen of the United States, and lawfully condemned as prize, producing a copy of the sentence of condemnation, authenticated in the usual forms; or that she has been adjudged to be forfeited for a breach of the laws of the United States, producing a like copy of the adjudication of forfeiture; and declaring his name and place of abode, and if he be the sole owner of the vessel, that such is the case; or if there be another owner, that there is such other owner, specifying his name and place of abode, and that he is a citizen of the United States, and specifying the proportion belonging to each owner; and where an owner resides in a foreign country, in the capacity of a consul of the United States, or as an agent for and a partner in a house or copartnership consisting of citizens of the United States, actually carrying on trade within the United States, that such is the case, that the person so swearing is a citizen of the United States, and that there is no subject or citizen of any foreign prince or state, directly or indirectly, by way of trust, confidence, or otherwise, interested in such vessel, or in the profits or issues thereof; and that the master thereof is a citizen, naming the master, and stating the means whereby or manner in which he is a citizen.

Sec. 4143: If any of the matters of fact alleged in the oath taken by an owner to obtain the registry of any vessel, which within the knowledge of the party so swearing are not true, there shall be a forfeiture of the vessel, together with her tackle, apparel, and furniture, in respect to which the oath shall have been made, or of the value thereof, to be recovered, with the costs of suit, of the person by whom the oath was made.

Sec. 4144: If the master of a vessel is within the district where a registry thereof is to be made; when application is made for registering the same, he shall, himself instead of the owner, or of the agent or attorney, as hereinafter mentioned, make oath touching his being a citizen, and the means whereby or manner in which he is a citizen; in which case, if the master shall knowingly swear to anything untrue, no forfeiture of the vessel, on account of such false oath, shall be incurred, but the master shall be liable to a penalty of one thousand dollars.

Sec. 4146: The conditions of the bond given to obtain the registry of a vessel shall in each case be that the certificate of such registry shall be solely used for the vessel for which it is granted, and shall not be sold, lent, or otherwise disposed of, to any person whomsoever; and that, in case such vessel shall be lost, or taken by an enemy, burned, or broken up, or shall be otherwise prevented from returning to the port to which she may belong, the certificate, if preserved, shall be delivered up, within eight days after the arrival of the master or person having the charge or command of such vessel, within any district of the United States, to the collector of such district; and that if any foreigner, or any person for the use and benefit of such foreigner, shall purchase or otherwise become entitled to the whole or any part or share of or interest in such vessel, the same being within a district of the United States, the certificate shall, in such case, within seven days after such purchase, change, or transfer of property, be delivered up to the collector of the district; and that if any such purchase, change, or transfer of property shall happen when such vessel shall be at any foreign port or place, or at sea, then the master or person having the charge or command thereof, shall, within eight days after his arrival within any district of the United States, deliver up the certificate to the collector of such district.

Sec. 4147: In order to the registry of any vessel built within the United States, it shall be necessary to produce a certificate, under the hand of the principal or master carpenter, by whom or under whose direction the vessel has been built, testifying that she was built by him or under his direction, and specifying the place where, the time when, and the person for whom, and describing her build, number of decks and masts, length, breadth, depth, tonnage, and such other circumstances as are usually descriptive of the identity of a vessel; which certificate shall be sufficient to authorize the removal of a new vessel from the district where she may be built to another district in the same or an adjoining State, where the owner actually resides, provided it be with ballast only.

Sec. 4150: The registry of every vessel shall express her length and breadth, together with her depth and the height under the third or spar deck, which shall be ascertained in the following manner: The tonnage-deck, in vessels having three or more decks to the hull, shall be the second deck from below; in all other cases the upper deck of the hull is to be the tonnage-deck. The length from the fore part of the outer planking on the side of the stem to the after part of the main stern-post of screw-steamers, and to the after part of the rudder-post of all other vessels measured on the top of the tonnage-deck, shall be accounted the vessel's length. The breadth of the broadest part on the outside of the vessel shall be accounted the vessel's breadth of beam. A measure from the under side of the tonnage-deck plank, amidships, to the ceiling of the hold (average thickness), shall be accounted the depth of hold. If the vessel has a third deck, then the height from the top of the tonnage-deck plank to the underside of the upper-deck plank shall be accounted as the height under the spar-deck. All measurement to be taken in feet and fractions of feet; and all fractions of feet shall be expressed in decimals.

Sec. 4154: When the several matters hereinbefore required, in order to the registering of any vessel, have been complied with, the collector of the district comprehending the

port to which she belongs shall make and keep in some proper book a registry thereof, and shall grant a certificate of such registry, as nearly as may be, in the form following:

In pursuance of chapter one, Title XLVIII, "Regulation of Commerce and Navigation," of the Revised Statutes of the United States (inserting here the name, occupation, and place of abode of the person by whom the oath was made), having taken and subscribed the oath required by law, and having sworn that he or she, and if more than one owner, adding the words, "together with," and the name or names, occupations, place or places of abode, of the owner or owners, and the part or proportion of such vessel belonging to each owner) is (or are) the only owner (or owners) of the vessel called the (inserting here her name), of (inserting here the port to which she may belong), whereof (inserting here the name of the master) is at present master, and is a citizen of the United States, and that the said vessel was (inserting here when and where built), and (inserting here the name and office, if any, of the person by whom she shall have been surveyed or measured) having certified that the said vessel has (inserting here the number of decks) and (inserting here the number of masts), and that her length is (inserting here the number of feet), her breadth (inserting here the number of feet), her depth (inserting here the number of feet), and that she measures (inserting here the number of tons); that she is (describing here the particular kind of vessel, whether ship, brigantine, snow, schooner, sloop, or whatever else, together with her build, and specifying whether she has any or no galley or head); and the said (naming the owner, or the master, or other person acting in behalf of the owner or owners, by whom the certificate of measurement has been countersigned, as aforesaid) having agreed to the description and measurement above specified, and sufficient security having been given, according to law, the said vessel has been duly registered at the port of (naming the port where registered). Given under my hand and seal, at (naming the said port), this (inserting the particular day) day of (naming the month), in the year (specifying the number of the year, in words, at length).

Sec. 4156: When the master of such vessel himself makes oath touching his being a citizen, the wording of the certificate shall be varied so as to be conformable to the truth of the case. When a new certificate of registry is granted in consequence of any transfer of a vessel, the words shall be so varied as to refer to the former certificate of registry for her measurement.

Sec. 4157: It shall be the duty of the Secretary of the Treasury to cause to be provided blank certificates of registry and such other papers as may be necessary, executed in such manner and with such marks as he may direct. No certificate of registry shall be issued, except such as shall have been so provided and marked.

Sec. 4158: The Secretary of the Treasury shall cause to be transmitted, from time to time, to the collectors of the several districts, a sufficient number of forms of the certificates of registry, attested under the seal of the Treasury and the hand of the Register thereof, with proper blanks, to be filled by the collectors, respectively, by whom also the certificate shall be signed and sealed, before they are issued; and where there is a naval officer at any port, they shall be countersigned by him; and where there is a surveyor, but no naval officer, they shall be countersigned by him. A copy of each certificate issued shall be transmitted to the Register, who shall cause a record to be kept of the same.

Sec. 4159: Whenever any citizen of the United States purchases or becomes owner of any vessel entitled to be registered, such vessel being within any district other than the one in which he usually resides, such vessel shall be entitled to be registered by the collector of the district where she may be, at the time of his becoming owner thereof, upon his complying with the provisions hereinbefore prescribed, in order to the registry of vessels. And the oath which is required to be taken may, at the option of such owner, be taken either before the collector of the district within which such vessel may be, either of whom is hereby empowered to administer such oath.

Sec. 4160: Whenever any vessel, registered in pursuance of the provisions of the preceding section, shall arrive at the district comprehending the port to which she belongs, the certificate of registry so obtained, shall be delivered up to the collector of such district, who, upon the requisites of this Title in order to the registry of vessels, being complied with, shall grant a new one in lieu of the first. The certificate so delivered up shall forthwith be returned by the collector who receives the same, to the collector who granted it. If the first-mentioned certificate of registry is not delivered up, as above directed, the owner and the master of such vessel, at the time of her arrival within the district comprehending the port to which she may belong, shall severally be liable to a penalty of one hundred dollars, and the certificate of registry shall be thenceforth void.

Sec. 4161: Whenever any vessel entitled to be registered is purchased by an agent or attorney for or on account of a citizen of the United States, such vessel being in a district of the United States more than fifty miles distant, taking the nearest usual route by land, from the one comprehending the port to which, by virtue of such purchase, and by force of this Title, such vessel ought to be deemed to belong, it shall be lawful for the collector of the district where such vessel may be, and he is hereby required, upon the application of such agent or attorney, to proceed to the registering of the vessel, the agent or attorney first complying, on behalf and in the stead of the owner thereof, with the requisites prescribed by this Title in order to the registry of vessels, except that, in the oath taken by the agent or attorney, instead of swearing that he is agent or attorney for the owner thereof, and that he has, in good faith, purchased the vessel for the person whom he names and describes as the owner thereof.

Sec. 4162: Whenever any vessel registered in pursuance of the provisions of the preceding section, shall arrive within the district comprehending the port to which she belongs, the certificate of registry so obtained shall be delivered up to the collector of such district, who, upon the requirements of this Title in order to the registry of vessels being complied with, shall grant a new one in lieu of the first. The certificate, so delivered up, shall forthwith be returned to the collector, who shall transmit the same to the collector who granted it. If the first-mentioned certificate of registry is not delivered up, as above directed, the owner and the master of such vessel, at the time of her arrival within the district comprehending the port to which she may belong, shall severally be liable to a penalty of one hundred dollars, and the certificate of registry shall be thenceforth void.

Sec. 4163: If any of the matters of fact alleged in the oath taken by an agent or attorney to obtain the registry of a vessel which are within the knowledge of the party so swearing, are not true, there shall be a forfeiture of vessel, together with her tackle, apparel, and furniture, in respect to which the same was made, or of the value thereof, to be recovered, with costs of suit, of the person by whom such oath was made.

Sec. 4164: Whenever it appears, by satisfactory proof, to the Secretary of the Treasury, that any vessel has been sold and transferred by process of law, and that the register of such vessel is retained by the former owner, the Secretary may direct the collector of the district to which such vessel may belong to grant a new register, under such sale, on the owners complying with such terms and conditions as are by law required for granting such papers; excepting only the delivering up of the former certificate of registry. But nothing in this section shall be construed to remove the liability of any person to any penalty for not surrendering the papers belonging to any vessel, on a transfer or sale of the same.

Sec. 4166: When any vessel, registered pursuant to any law of the United States, shall, while she is without the limits of the United States, be sold or transferred in whole or in part to a citizen of the United States, such vessel on her first arrival in the United States thereafter, shall be entitled to all the privileges and benefits of a vessel of the United States: Provided, That all the requisites of law, in order to the registry of vessels, shall be complied with, and a new certificate of registry obtained for such vessel, within three days from the time at which the master or other person having the charge of command of such vessel is required to make his final report upon her first arrival afterward.

Sec. 4167: Whenever the certificate of the registry of any vessel is lost, destroyed, or mislaid, the master, or other person having the charge or command thereof, may make oath before the collector of the district where such vessel shall first be after such loss, destruction, or mislaying, in the form following. "I, (inserting here the name of the person swearing), being master (or having the charge or command) of the ship or vessel called the (inserting the name of the vessel), do swear (or affirm) that the said vessel hath been, as I verily believe, registered according to law, by the name of (inserting again the name of the vessel), and that a certificate thereof was granted by the collector of the district of (naming the district where registered), which certificate has been lost (or destroyed, or unintentionally and by mere accident mislaid, as the case may be); and (except where the certificate is alleged to have been destroyed) that the same, if found again, and within my power, shall be delivered up to the collector of the district in which it was granted." Such oath shall be subscribed by the party making the same; and upon such oath being made, and the other requisites of this Title in order to the registry of vessels being complied with, it shall be lawful for the collector of the district before whom such oath is made, to grant a new register, inserting therein that the same is issued in lieu of the one lost or destroyed.

Sec. 4168: Whenever a register is granted in lieu of one lost or destroyed, by any other than the collector of the district to which the vessel actually belongs, such register shall, within ten days after her first arrival within the district to which she belongs, be delivered up to the collector of such district, who shall, thereupon, grant a new register in lieu thereof. And in case the master or commander shall neglect to deliver up such register within the time above mentioned, he shall be liable to a penalty of one hundred dollars; and the former register shall become null and void.

Sec. 4169: In every case in which a vessel is required to be registered anew, if she shall not be so registered anew, she shall not be entitled to any of the privileges or benefits of a vessel of the United States. And if her former certificate of registry is not delivered up, except where the same may have been destroyed, lost, or unintentionally mislaid, and an oath thereof shall have been made, as hereinbefore prescribed, the owner of such vessel shall be liable to a penalty of

five hundred dollars, to be recovered with costs of suit.

Sec. 4170: Whenever any vessel, which has been registered, is, in whole or in part, sold or transferred to a citizen of the United States, or is altered in form or burden, by being lengthened or built upon, or from one denomination to another, by the mode or method of rigging or fitting, the vessel shall be registered anew, by her former name, according to the directions hereinbefore contained, otherwise she shall cease to be deemed a vessel of the United States. The former certificate of registry of such vessel shall be delivered up to the collector to whom application for such new registry is made, at the time that the same is made, to be by him transmitted to the Register of the Treasury, who shall cause the same to be canceled. In every such case of sale or transfer, there shall be some instrument of writing, in the nature of a bill of sale, which shall recite, at length, the certificate; otherwise the vessel shall be incapable of being so registered anew.

Sec. 4171: When the master or person having the charge or command of a registered vessel is changed, the owner, or one of the owners, or the new master of such vessel, shall report such change to the collector of the district where the same has happened, or where the vessel shall first be after the same has happened, and shall produce to him the certificate of registry of such vessel, and shall make oath, showing that such new master is a citizen of the United States, and the manner in which or means whereby he is so a citizen. Thereupon the collector shall indorse upon the certificate of registry a memorandum of such change, specifying the name of such new master, and shall subscribe the memorandum with his name; and if other than the collector of the district by whom the certificate of registry was granted, shall transmit a copy of the memorandum to him, with notice of the particular vessel to which it relates; and the collector of the district, by whom the certificate shall have been granted, shall make a like memorandum of such change in his book of registers, and shall transmit a copy thereof to the Register of the Treasury. If the change is not reported, or if the oath is not taken, as above directed, the registry of such vessel shall be void, and the master or person having the charge or command of her shall be liable to a penalty of one hundred dollars.

Sec. 4174: Every certificate of registery which is delivered up to a collector on the loss, destruction, or capture of a vessel, or the transfer thereof to a foreigner, shall be forthwith transmitted to the Register of the Treasury, to be canceled; who, if the same shall have been delivered up to a collector other than of the district in which it was granted, shall cause notice of such delivery to be given to the collector of such district.

Sec. 4176: The collector of each district shall progressively number the certificates of the registry by him granted, beginning anew at the commencement of each year, and shall enter an exact copy of each certificate in a book to be kept for that purpose; and shall, once in three months, transmit to the Register of the Treasury copies of all the certificates which shall have been granted by him, including the number of each.

Sec. 4177: The Secretary of the Treasury shall have the power, under such regulations as he shall prescribe, to establish and provide a system of numbering vessels so registered, enrolled, and licensed; and each vessel so numbered shall have her number deeply carved or otherwise permanently marked on her main beam; and if at any time she shall cease to be so marked, such vessel shall be no longer recognized as a vessel of the United States.

Sec. 4178: The name of every registered vessel, and of the port to which she shall belong, shall be painted on her stern, on a black ground, in white letters, of not less than three inches in length. If any vessel of the United States shall be found without having her name and the name of the port to which she belongs so painted, the owner or owners shall be liable to a penalty of fifty dollars; recoverable one-half to the person giving the information thereof, the other half to the use of the United States.

Sec. 4179: No master, owner, or agent of any vessel of the United States shall in any way change the name of such vessel, or by any device, advertisement, or contrivance to deceive or attempt to deceive the public, or any officer or agent of the United States, or of any State, or any corporation or agent thereof, or any person or persons, as to the true name or character of such vessel, on pain of the forfeiture of such vessel.

Sec. 4180: Every vessel built in the United States, and belonging wholly or in part to the subjects of foreign powers, in order to be entitled to the benefits of a ship built and recorded in the United States, shall be recorded in the office of the collector of the district in which such vessel was built, in the manner following: The builder of every such vessel shall make oath before the collector of such district in manner following: "I, (inserting here the name of such builder), of (inserting here the place of his residence), shipwright, do swear (or affirm) that (describing here the kind of vessel, as whether ship, brig, scow, schooner, sloop, or whatever else) named (inserting here the name of the ship or vessel), having (inserting here the number of decks), and being in length (inserting here the number of feet) in breadth (inserting here the number of feet), in depth (inserting here the number of feet), and measuring (inserting here the number of tons), having (specifying whether any or no) galley, and also (specifying whether any or no) head, was built by me or under my direction at (naming the place, county, and State), in the United States, in the year (inserting here the number of the year)." Which oath shall be subscribed by the person making the same, and shall be recorded in a book to be kept by the collector for that purpose.

Sec. 4182: A certificate of the record, attested under the hand and seal of the collector, shall be granted to the master of every such vessel, as nearly as may be, of the form following: "In pursuance of chapter one, Title XLVIII, 'Regulation of Commerce and Navigation,' of the Revised Statutes of the United States, I (inserting here the name of the collector of the district), of (inserting here the name of the district), in the United States, do certify that (inserting here the name of the builder), of (inserting here the place of his residence, county, and State), having sworn (or affirmed) that the (describing the ship or vessel, as in the certificate of record) named (inserting here her name), whereof (inserting here the name of her master) is, at present, master, was built at (inserting here the name of the place, county and State where built), by him or under his direction, in the year (inserting here the number of the year); and (inserting here the name of the surveyor, or other person, by whom the measurement shall have been made) having certified that the said ship or vessel has (inserting here her number of decks), is in length (inserting here the number of feet), in breadth (inserting here the number of feet), in depth (inserting here the number of feet), and measures (inserting here the number of tons): And the said builder and (naming and describing the owner, or master, or agent for the owner or owners, as the case may be, by whom the said certificate shall have been countersigned) having agreed to the said description and admeasurement, the said vessel has been recorded, in the district of (inserting here the name of the district where recorded), in the United States. Witness my hand and seal this (inserting here the day of the month) day of (inserting here the name of the month), in the year (inserting here the number of the year)." Which certificate shall be recorded in the office of the collector, and a duplicate thereof transmitted to the Register of the Treasury to be recorded in his office.

Sec. 4183: Whenever the master or the name of a vessel so recorded is changed, the owner, part owner, or consignee of such vessel shall cause a memorandum thereof to be indorsed on the certificate of the record, by the collector of the district where such vessel may be, or at which she shall first arrive if such change took place in a foreign country; and a copy thereof shall be entered in the book of records, a transcript whereof shall be transmitted by the collector to the collector of the district where such certificate was granted, if not the same person, who shall enter the same in his book of records, and forward a duplicate of such entry to the Register of the Treasury; and in such case, until the owner, part owner, or consignee shall cause the memorandum to be made by the collector, in the manner above prescribed, such vessel shall not be deemed a vessel recorded, in pursuance of this Title.

Sec. 4187: Every collector or officer who knowingly makes, or is concerned in making, any false register or record, or who knowingly grants or is concerned in granting, any false certificate of registry or record of or for any vessel, or any other false document whatever touching the same, contrary to the true intent and meaning of this Title, or who designedly takes any other or greater fees than are by this Title allowed, or who receives any voluntary reward or gratuity for any of the services performed, pursuant thereto; and every surveyor or other person appointed to measure any vessel, who willfully delivers to any collector or naval officer a false description of such vessel, to be registered or recorded, shall be punishable by a fine of one thousand dollars, and be rendered incapable of serving in any office of trust or profit under the United States.

Sec. 4189: Whenever any certificate of registry, enrollment, or license, or other record or document granted in lieu thereof, to any vessel, is knowingly and fraudulently obtained or used for any vessel not entitled to the benefit thereof, such vessel, with her tackle, apparel, and furniture, shall be liable to forfeiture.

Sec. 4190: No sea-letter or other document certifying or proving any vessel to be the property of a citizen of the United States shall be issued, except to vessels duly registered, or enrolled and licensed as vessels of the United States, or to vessels which shall be wholly owned by citizens of the United States, and furnished with or entitled to sea-letters or other custom-house documents.

Sec. 4191: Every person who knowingly makes, utters, or publishes any false sea-letter, Mediterranean passport, or certificate of registry, or who knowingly avails himself of any such Mediterranean passport, sea-letter, or certificate of registry, shall be liable to a penalty of not more than five thousand dollars, and, if an officer of the United States, shall thenceforth be incapable of holding any office of trust or profit under the authority of the United States.

Sec. 4214: The Secretary of the Treasury may cause yachts used and employed exclusively as pleasure-vessels, and designed as models of naval architecture, if entitled to be enrolled as American vessels, to be licensed on terms which will authorize them to proceed from port to port of the United States, and by sea to foreign ports, without entering or clearing at the customhouse. Such license shall be in such form as the Secretary of the

Treasury shall prescribe, conditioned that the vessel shall not engage in any unlawful trade, nor in any way violate the revenue laws of the United States, and shall comply with the laws in all other respects. Such vessels so enrolled and licensed shall not be allowed to transport merchandise or carry passengers for pay. Such vessels shall, in all respects, except as above, be subject to the laws of the United States, and shall be liable to seizure and forfeiture for any violation of the provisions of this Title.

Sec. 4217: For the identification of yachts and their owners, a commission to sail for pleasure in any designated yacht belonging to any regularly organized and incorporated yacht club, stating the exemptions and privileges enjoyed under it, may be issued by the Secretary of the Treasury, and shall be a token of credit to any United States official, and to the authorities of any foreign power, for privileges enjoyed under it.

Sec. 4312: In order for the enrollment of any vessel, she shall possess the same qualifications, and the same requirements in all respects shall be complied with, as are required before registering a vessel; and the same powers and duties are conferred and imposed upon all officers, respectively, and the same proceedings shall be had, in enrollment of vessels, as are prescribed for similar cases in registering; and vessels enrolled, with the masters or owners thereof, shall be subject to the same requirements as are prescribed for registered vessels.

Sec. 4313: Enrollments and licenses for vessels owned by any incorporated company may be issued in the name of the president or secretary of such company; and such enrollments or licenses shall not be vacated or affected by any sale of shares of stock in such company.

Sec. 4314: Previously to granting enrollment and license for any vessel, owned by any company, the president or secretary of such company shall swear to the ownership of such vessel, by such company, without designating the names of the persons composing such company; which oath shall be deemed sufficient, without requiring the oath of any other person interested or concerned in such vessel.

Sec. 4315: Upon the death, removal, or resignation of the president or secretary of any incorporated company owning any steamboat or vessel, a new enrollment and license shall be taken out for such steamboat or vessel.

Sec. 4318: Any vessel of the United States, navigating the waters on the northern, northeastern, and northwestern frontiers, otherwise than by sea, shall be enrolled and licensed in such form as other vessels; such enrollment and license shall authorize any such vessel to be employed either in the coasting or foreign trade on such frontiers, and no certificate of registry shall be required for vessels so employed. Such vessel shall be, in every other respect, liable to the regulations and penalties relating to registered and licensed vessels.

Sec. 4319: The record of the enrollment of a vessel shall be made, and an abstract or copy thereof granted, as nearly as may be in the following [form]: Enrollment. In conformity to Title L, "Regulation of vessels in Domestic Commerce," of the Revised Statutes of the United States (inserting here the name of the person, with his occupation and place of abode, by whom the oath or affirmation is to be made) having taken and subscribed the oath (or affirmation) required by law, and having sworn (or affirmed) that he (or she, and if more than one owner) adding the words "together with," and (the name or names, occupation or occupations, place or places of abode of the owner or owners, and the part of proportion of such vessel belong to each owner) is (or are) a citizen (or citizens) of the United States, and sole owner (or owners) of the ship or vessel called the (inserting here her name) of (inserting here the name of the port to which she may belong), whereof (inserting here the name of the master) is at present master, and is a citizen of the United States, and that the said ship or vessel was (inserting here when and where built), and (inserting here the name and office, if any, of the person by whom she shall have been surveyed and measured), having certified that the said ship or vessel has (inserting here the number of decks), and (inserting here the number of masts), and that her length is (inserting here the number of feet), her breadth (inserting here the number of feet), her depth (inserting here the number of feet), and that she measures (inserting here her number of tons); that she is (describing here the particular kind of vessel, whether ship, brigantine, scow, schooner, sloop, or whatever else together with her build, and specifying whether she has any or no galley or head) and the said (naming the owner or master, or other person acting in behalf of the owner or owners) by whom the certificate of measurement shall have been countersigned, having agreed to the description and measurement above specified, and sufficient security having been given, according to the said title, the said ship or vessel has been duly enrolled at the port of (naming the port where enrolled). Given under my hand and seal, at (naming the said port), this (inserting the particular day) day of (naming the month), in the year (specifying the number of the year, in words, at length)."

Sec. 4321: The form of a license for carrying on the coasting-trade or fisheries shall be as follows:

"License for carrying on the (here insert 'coasting trade,' 'whale-fishery,' 'mackerel-fishery,' or 'cod-fishery,' as the case may be).

"In pursuance of Title L, 'Regulation of vessels in Domestic Commerce,' of the Revised Statutes of the United States (inserting here the name of the husband or managing owner, with his occupation and place of abode, and the name of the master, with the place of his abode), having given bond that the (insert here the description of the vessel, whether ship, brigantine, scow, schooner, sloop, or whatever else she may be), called the (insert here the vessel's name), whereof the said (naming the master) is master, burden (insert here the number of tons, in words) tons, as appears by her enrollment, dated at (naming the district, day, month, and year, in words at length, but if she be less than twenty tons, insert, instead thereof, 'proof being had of her admeasurement'), shall not be employed in any trade, while this license shall continue in force, whereby the revenue of the United States shall be defrauded, and having also sworn (or affirmed) that this license shall not be used for any other vessel, or for any other employment, than is herein specified, license is hereby granted for the said (inserting here the description of the vessel) called the (inserting here the vessel's name), to be employed in carrying on the (inserting here 'coasting-trade,' 'whale-fishery,' 'mackerel-fishery,' or 'cod-fishery,' as the case may be), for one year from the date hereof, and no longer. Given under my hand and seal, at (naming the said district), this (inserting the particular day) day of (naming the month), in the year (specifying the number of the year, in words, at length)."

Sec. 4322: The collectors of the several districts may enroll and license any vessel that may be registered, upon such registry being given up, or may register any vessel that may be enrolled, upon such enrollment and license being given up.

Sec. 4323: When any vessel shall be in any other district than the one to which she belongs, the collector of such district, on the application of the master thereof, and upon his taking an oath that, according to his best knowledge and belief, the property remains as expressed in the register or enrollment proposed to be given up, and upon his giving the bonds required for granting registers, shall make the exchange of an enrollment for a register or a register for an enrollment; but in every such case, the collector to whom the register or enrollment and license may be given up shall transmit the same to the Register of the Treasury; and the register, or enrollment and license, granted in lieu thereof, shall, within ten days after the arrival of such vessel within the district to which she belongs, be delivered to the collector of the district, and be by him canceled. If the master shall neglect to deliver the register or enrollment and license within such time, he shall be liable to a penalty of one hundred dollars.

Sec. 4324: No license, granted to any vessel, shall be considered in force any longer than such vessel is owned, and of the description set forth in such license, or for carrying on any other business or employment than that for which she is specially licensed.

Sec. 4325: The license granted to any vessel shall be given up to the collector of the district who may have granted the same, within three days after the expiration of the time for which it was granted, in case such vessel be then within the district, or if she be absent at that time, within three days from her first arrival within the district afterward, or if she be sold out of the district, to the collector of such district, taking her cerificate therefor; and if the master thereof shall neglect or refuse to deliver up the license, he shall be liable to a penalty of fifty dollars.

Sec. 4326: If such license, however, shall have been previously given up to the collector of any other district, as authorized by this Title, and a certificate thereof under the hand of such collector be produced by such master, or if such license be lost, or destroyed, or unintentionally mislaid, as he verily believes, and that the same, if found, shall be delivered up, as is herein required, then the penalty prescribed in the preceding section shall not be incurred. If such license shall be lost, destroyed, or unintentionally mislaid, before the expiration of the time for which it was granted, upon the like oath being made and subscribed by the master of such vessel, the collector, upon application being made therefor, shall license such vessel anew.

Sec. 4327: The owner of any licensed vessel may return such license to the collector who granted the same, at any time within the year for which it was granted; and thereupon the collector shall cancel the same, and shall license such vessel anew, upon the application of the owner, and upon the conditions hereinbefore required being complied with.

Sec. 4328: Whenever it becomes necessary for the owner of any vessel of the United States navigating the western rivers or the waters on the northern, northeastern, and northwestern frontiers of the United States otherwise than by sea, and being in a district other than that to which such vessel belongs, to procure her enrollment and license, or license, or renewal thereof, the same proceedings may be had in the district in which the vessel then is, as are required by law on application for such enrollment and license, or license, or renewal thereof, as the case may be, in the district to which such vessel belongs, excepting the giving of bond and the enrollment and issuance of license; and the officer before whom such proceeding is had shall certify the same to the collector of the district to which such vessel belongs, who shall thereupon, on the owner giving bond as required in other cases, duly enroll the vessel and issue license in the same form as if the application had originally been made in his office; and shall either deliver the license to the owner, or forward it by

mail to the officer who certified to him the preliminary proceedings; and in the latter case, such officer shall deliver the license to the owner or master of the vessel.

Sec. 4329: Whenever it appears, by satisfactory proof, to the Secretary of the Treasury that any vessel has been sold and transferred by process of law, and that the certificate of enrollment or license of such vessel is retained by the former owner, the Secretary may direct the collector of the district to which such vessel belongs to grant a new certificate of enrollment or license, on the owner's, owner such sale, complying with such terms and conditions as are by law required for granting of such papers, excepting only the delivering up of the former certificate of enrollment or license. But nothing in this section shall be construed to remove the liability of any person to any penalty for not surrendering up the papers belonging to any vessel, on a transfer or sale of the same.

Sec. 4330: No license, or enrollment and license, or renewal of either, shall hereafter be issued to any vessel until the collector to whom application is made for the same is satisfied, from the oath of the owner or master, that all equipments and repairs, made in a foreign port within the year immediately preceding such application, have been duly accounted for, and the duties accruing thereon duly paid; and if such owner or master shall refuse to take such oath, or take it falsely, the vessel shall be seized and forfeited.

Sec. 4331: Before any vessel, of the burden of five tons, and less than twenty tons, shall be licensed, the same measurement shall be made of such vessel, and the same provisions observed relative thereto, as are to be observed in case of measuring vessels to be registered or enrolled; but in all cases, where such vessel or any other licensed vessel shall have been once measured, it shall not be necessary to measure such vessel anew, for the purpose of obtaining another enrollment or license, unless such vessel shall have undergone some alteration as to her burden, subsequent to the time of her former license.

Sec. 4333: The collector of each district shall progressively number the licenses by him granted, beginning anew at the commencement of each year, and shall make a record thereof in a book, to be by him kept for that purpose, and shall, once in three months, transmit to the Register of the Treasury copies of the licenses which shall have been so granted by him; and also of such licenses as shall have been given up or returned to him, respectively, in pursuance of this Title. Whenever any vessel is licensed or enrolled anew, or being licensed or enrolled is afterward registered, or being registered is afterward enrolled or licensed, she shall, in every such case, be enrolled, licensed, or registered by her former name.

Sec. 4335: Whenever the master of any licensed vessel, ferry-boats excepted, is changed, the new master, or, in case of his absence, the owner or one of the owners thereof, shall report such change to the collector residing at the port where the same happens, if there be one; otherwise, to the collector residing at any port where such vessel next arrives, who, upon the oath of such new master, or, in case of his absence, of the owner, that such master is a citizen of the United States, and that such vessel shall not, while such license continues in force, be employed in any manner whereby the revenue of the United States may be defrauded, shall indorse such change on the license, with the name of the new master. Whenever such change is not reported, and indorsed, as herein required, such vessel, if found carrying on the coasting-trade or fisheries, shall be subject to pay the same fees and tonnage as a vessel of the United States having a register, and the new master shall be liable to a penalty of ten dollars.

Sec. 4337: If any vessel, enrolled or licensed, shall proceed on a foreign voyage, without first giving up her enrollment and license to the collector of the district comprehending the port from which she is about to proceed on such voyage, and being duly registered by such collector, every such vessel, together with her tackle, apparel, and furniture, and the merchandise so imported therein, shall be liable to seizure and forfeiture.

Sec. 4338: If the port from which any vessel, so enrolled or licensed is about to proceed on a foreign voyage, is not within the district where such vessel is enrolled, the collector of such district shall give to the master of such vessel a certificate, specifying that the enrollment and license of such vessel has been received by him, and the time when it was so received; which certificate shall afterward be delivered by the master to the collector who may have granted such enrollment and license.

Sec. 4339: All vessels which may clear with registers for the purpose of engaging in the whale fishery shall be deemed to have lawful and sufficient papers for such voyages, securing the privileges and rights of registered vessels, and the privileges and exemptions of vessels enrolled and licensed for the fisheries.

Sec. 4372: If any vessel be at sea at the expiration of the time for which the license was given, and the master of such vessel shall swear that such was the case, and shall also, within forty-eight hours after his arrival, deliver to the collector of the district in which he shall first arrive the license which shall have expired, the forfeiture prescribed in the preceding section shall not be incurred, nor shall the vessel be liable to pay the fees and tonnage therein required.

Sec. 4384: All vessels subject to enrollment or license shall be liable to the payment of the fees established by law for services of customs offices incident thereto.

Sec. 4385: Nothing in this Title shall be construed to extend to any boat or lighter not being masted, or if masted and not decked, employed in the harbor of any town or city.

Sec. 4495: Every steam-vessel of the United States, in addition to having her name painted on her stern, shall have the same conspicuously placed in distinct, plain letters, of not less than six inches in length, on each outer side of the pilot-house, if it has such, and in case the vessel has side-wheels, also on the outerside of each wheel-house; and if any such steamboat be found without having her name placed as required; she shall be subject to the same penalty and forfeitures as provided by law in the case of a vessel of the United States found without having her name, and the name of the port to which she belongs, painted on her stern.

Sec. 4498: No license, register, or enrollment shall be granted, nor any other papers be issued, by any collector or other chief officer of the customs, to any vessel propelled in whole or in part by steam, until he shall have satisfactory evidence that all the provisions of this Title have been fully complied with.

STATUTES AT LARGE

Apr. 17, 1874, ch. 106, 18 Stat. 30: That the provisions of the act relating to the enrollment and license of vessels navigating the western rivers and the waters on the northern, northeastern, and northwestern frontiers of the United States, otherwise than by sea, approved February twenty-eighth, eighteen hundred and sixty-five, are hereby extended to include all vessels of the United States navigating the waters of the United States.

Feb. 27, 1877, ch. 80, Sec. 1 (part amending sections 4315, 4318, and 4320 of the Revised Statutes), 19 Stat. 250:

Section forty-three hundred and fifteen is amended by inserting, in the second line, before the word "vessel," the words "steamboat or,"

Section forty-three hundred and eighteen is amended by striking out, in the sixth line, the word "register," and inserting the word "registry."

Section forty-three hundred and nineteen is amended by inserting, in the third line, after the word "following," the word "form:" and by striking out, in the thirty-first line, the word "act," and inserting the word "title."

Section forty-three hundred and twenty is amended by striking out, in the last line, the words "the duty of six cents per ton being first paid."

June 30, 1879, ch. 54, Stat. 44: That the provisions of title fifty of the Revised Statutes of the United States shall not be so construed as to require the payment of any fee or charge for the enrolling or licensing of vessels built in the United States and owned by citizens thereof, not propelled by sail or by internal motive power of their own, and not in any case carrying passengers, whether navigating the internal waters of a state or the navigable waters of the United States, and not engaged in trade with contiguous foreign territory, nor shall this or any existing law be construed to require the enrolling, registering or licensing of any flat boat, barge or like craft for the carriage of freight, not propelled by sail or by internal motive power of its own, on the rivers or lakes of the United States.

Mar. 3, 1883, ch. 133, Sec. 1, 22 Stat. 566: That section forty-two hundred and fourteen of the Revised Statutes of the United States be amended so as to read as follows:

"Sec. 4214. The Secretary of the Treasury may cause yachts used and employed exclusively as pleasure vessels or designed as models of naval architecture, if built and owned in compliance with the provisions of sections forty-one hundred and thirty-three to forty-one hundred and thirty-five, to be licensed on terms which will authorize them to proceed from port to port of the United States, and by sea to foreign ports, without entering or clearing at the customhouse, such license shall be in such form as the Secretary of the Treasury may prescribe. The owner of any such vessel, before taking out such license, shall give a bond in such form and for such amount as the Secretary of the Treasury shall prescribe, conditioned that the vessel shall not engage in any trade, nor in any way violate the revenue laws of the United States; and shall comply with the laws in all other respects. Such vessels, so enrolled and licensed, shall not be allowed to transport merchandise or carry passengers for pay. Such vessels shall have their name and port placed on some conspicuous portion of their hulls. Such vessels shall, in all respects, except as above, be subject to the laws of the United States, and shall be liable to seizure and forfeiture for any violation of the provisions of this title: Provided, That all charges for license and inspection fees for any pleasure vessel or yacht shall not exceed five dollars, and for admeasurement shall not exceed ten cents per ton."

June 26, 1884, ch. 121, Sec. 21, 23 Stat. 58: That the word, "port," as used in sections forty-one hundred and seventy-eight and forty-three hundred and thirty-four of the Revised Statutes, in reference to painting the name and port of every registered or licensed vessel on the stern of such vessel, shall be construed to mean either the port where the vessel is registered or enrolled, or the place in the same district where the vessel was built or where one or more of the owners reside.

July 5, 1884, ch. 221, Sec. 4, 23 Stat. 119: That the Commissioner of Navigation shall annually prepare and publish a list of vessels of the United States belonging to the commercial marine, specifying the official num-

ber, signal letters, names, rig, tonnage, home port, and place and date of building of every vessel distinguishing in such list sailing-vessels from such as may be propelled by steam or other motive power. He shall also report annually to the Secretary of the Treasury the increase of vessels of the United States, by building or otherwise, specifying their number, rig, and motive power. He shall also investigate the operations of the laws relative to navigation, and annually report to the Secretary of the Treasury such particulars as may, in his judgment, admit of improvement or may require amendment.

June 19, 1886, ch. 421, Sec. 6, 24 Stat. 81: That from the close of section forty-one hundred and seventy-seven of said statutes the following word shall be stricken out, to wit: "Such vessel shall be no longer recognized as a vessel of the United States;" and in lieu thereof there shall be inserted the words following: "Such vessel shall be liable to a fine of thirty dollars on every arrival in a port of the United States if she have not her proper official number legally carved or permanently marked."

Feb. 21, 1891, ch. 250, Sec. 1, 26 Stat. 765: That section forty-one hundred and seventy-eight, of the Revised Statutes be, and the same is hereby, amended to read entire as follows:

"Sec. 4178. The name of every documented vessel of the United States shall be marked upon each bow and upon the stern, and the home port shall also be marked upon the stern. These names shall be painted, or carved and gilded, in Roman letters in a light color on a dark ground, or in a dark color on a light ground, and to be distinctly visible. The smallest letters to be used shall not be less in size than four inches. If any vessels of the United States shall be found without these names being so marked the owner or owners shall be liable to a penalty of ten dollars for each name omitted; Provided, however, that the names on each bow may be marked within the year eighteen hundred and ninety-one.

Jan. 16, 1895, ch. 24, Sec. 2, 4, Stat. 624, 625: Sec. 2. That section forty-one hundred and forty-six of the Revised Statutes is hereby amended so as to read:

"Sec. 4146. A certificate of registry shall be solely used for the vessel for which it is granted, and shall not be sold, lent, or otherwise disposed of, to any person whomsoever; and in case the vessel so registered shall be lost, or taken by an enemy, burned, or broken up, or shall be otherwise prevented from returning to the port to which she may belong, the certificate, if preserved, shall be delivered up within eight days after the arrival of the master or person having the charge or command of such vessel within any district of the United States, to the collector of such district; and if any foreigner, or any person for the use and benefit of such foreigner, shall purchase or otherwise become entitled to the whole, or any part or share of, or interest in such vessel, the same being within a district of the United States, the certificate shall, within seven days after such purchase, change, or tranfer of property, be delivered up to the collector of the district; and if any such purchase, change, or transfer of property shall happen when such vessel shall be at any foreign port or place, or at sea, then the master or person having the charge or command thereof shall, within eight days after his arrival within any district of the United States, deliver up the certificate to the collector of such district. Any master or owner violating the provisions of this section shall be liable to a penalty of not exceeding five hundred dollars, and the certificate of registry shall be thenceforth void. The Secretary of the Treasury shall have the power to remit or mitigate such penalty if in his opinion it was incurred without willful negligence or intention of fraud."

Sec. 4. That no bond shall be required on the licensing of yachts; no licensed yacht shall engage in any trade, nor in any way violate the revenue laws of the United States; and every such yacht shall comply with the laws in all respects. Section one of the Act approved March third, eighteen hundred and eight-three, amending section forty-two hundred and fourteen, Revised Statutes, and so forth, is amended accordingly.

Jan. 20, 1897, ch. 67, Sec. 1, 2, 29 Stat. 491, 492: That the Act entitled "An Act to amend section forty-one hundred and seventy-eight, Revised Statutes, in relation to the marking of vessels' names at bow and stern, and also to provide for marking the draft," approved February twenty-first, eighteen hundred and ninety-one, is hereby amended to read as follows:

"That section forty-one hundred and seventy-eight of the Revised Statutes be, and the same is hereby amended to read entire as follows:

"Sec. 4178. The name of every documented vessel of the United States shall be marked upon each bow and upon the stern, and the home port shall also be marked upon the stern. These names shall be painted or gilded, or consist of cut or carved or cast roman letters in light color on a dark ground, or in a dark color on a light ground, secured in place, and to be distinctly visible. The smallest letters used shall not be less in size than four inches. If any such vessel shall be found without these names being so marked the owner or owners shall be liable to a penalty of ten dollars for each name omitted: Provided, however, that the names on each bow may be marked within the year eighteen hundred and ninety-seven.

"Sec. 2. That the draft of every registered vessel shall be marked upon the stem and stern post, in English feet or decimeters, in either arabic or roman numerals. The bottom to each numeral shall indicate the draft to that line."

June 24, 1902, ch. 1155, Sec. 1, 2, 32 Stat. 398, 399: That section forty-one hundred and thirty-nine of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

Sec. 4139. Previous to granting a register for any vessel owned by any incorporated company, or by an individual or individuals, the president or secretary of such company, or any other officer or agent thereof, duly authorized by said company in writing, attested by the corporate seal thereof, to act for the company in this behalf, or the managing owner, or his agent duly authorized by power of attorney, when such vessel is owned by an individual or individuals, shall swear to the ownership of the vessel without designating the names of the persons composing the company, when such vessel is owned by a corporation, and the oath of either of said officers or agents shall be deemed sufficient without requiring the oath of any other person interested or concerned in such vessel."

Sec. 2. That section forty-three hundred and fourteen of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

"Sec. 4314. Previous to granting enrollment and license for any vessel owned by an incorporated company, or by an individual or individuals, the president or secretary of such company, or any other officer or agent thereof, duly authorized by said company in writing, attested by the corporate seal thereof, to act in its behalf, or the managing owner, or his agent duly authorized by power of attorney, when such vessel is owned by an individual or individuals, shall swear to the ownership of such vessel without designating the names of the persons composing such company, when such vessel is owned by a corporation, which oath shall be deemed sufficient without requiring the oath of any other person interested or concerned in such vessel."

Mar. 3, 1905, ch. 1457, Sec. 9, 33 Stat. 1032: That section forty-four hundred and ninety-eight of the Revised Statutes of the United States be, and it is hereby, amended to read as follows:

"Sec. 4498. A register, enrollment, or license shall not be granted or other papers be issued by any collector or other chief officer of customs to any vessel subject by law to inspection under this title until all the provisions of this title applicable to such vessel have been fully complied with and until the certificate of inspection required by this title for such vessel has been filed with said collector."

Apr. 24, 1906, ch. 1865, Sec. 1, 2, 34 Stat. 136: That under the direction of the Secretary of Commerce and Labor the Commissioner of Navigation is hereby authorized and directed from time to time to consolidate into one document in the case of any vessel of the United States of twenty net register tons or over, the form of enrollment prescribed by section forty-three hundred and nineteen of the Revised Statutes and the form of license prescribed by section forty-three hundred and twenty-one of the Revised Statutes, and such consolidated form shall hereafter be issued to a vessel of the United States in lieu of the separate enrollment and license, now prescribed by law, and shall be deemed sufficient compliance with the requirements of laws relating to the subject.

Sec. 2. That section forty-three hundred and twenty-five of the Revised Statutes is hereby amended to read:

"Sec. 4325. The license granted to any vessel shall be presented for renewal by endorsement to the collector of customs of the district in which the vessel then may be within three days after the expiration of the time for which it was granted, or, if she be absent at that time, within three days from her first arrival within a district. In case of change of build, ownership, district, trade, or arrival under temporary papers in the district where she belongs the license shall be surrendered. If the master shall fail to deliver the license he shall be liable to a penalty of ten dollars, which shall not be mitigated."

May 28, 1908, ch. 212, Sec. 7, 35 Stat. 426: That thirty days after the passage of this Act if a shipowner desires to use for the purpose of a private code any rockets, lights, or other similiar signals, he may register those signals and house flags and funnel marks with the Commissioner of Navigation, who shall give public notice from time to time of the signals, house flags, and funnel marks so registered in such manner as he may think requisite for preventing those signals from being mistaken for signals for distress or signals for pilots. The Commissioner of Navigation may refuse to register any signals which in his opinion can not easily be distinguished from signals of distress, signals for pilots, or signals prescribed by laws for preventing collisions.

Feb. 29, 1912, ch. 47, 37 Stat. 70: That section one of the Act entitled "An Act to simplify the issue of enrollments and licenses of vessels of the United States," approved April twenty-fourth, nineteen hundred and six, is hereby amended by striking out the words "of twenty net register tons or over," so that it will read as follows:

"That under the direction of the Secretary of Commerce and Labor the Commissioner of Navigation is hereby authorized and directed from time to time to consolidate into one document in the case of any vessel of the United States the form of enrollment prescribed by section forty-three hundred and nineteen of the Revised Statutes and the form of license prescribed by section forty-three hundred and twenty-one of the Revised Statutes, and such consolidated

form shall hereafter be issued to a vessel of the United States in lieu of the separate enrollment and license now prescribed by law, and shall be deemed sufficient compliance with the requirements of laws relating to the subject."

July 9, 1912, ch. 220, 37 Stat. 189: That upon affidavit by a reputable shipbuilder of the United States than an unrigged wooden vessel of the United States has been rebuilt, giving the date and place of such rebuilding, is sound and free from rotten or doted wood in structural parts, properly fastened and calked and in strength and seaworthiness as good as new, the Commissioner of Navigation shall include in the List of Merchant Vessels a notation to that effect.

Aug. 20, 1912, ch. 307, Sec. 1, 37 Stat. 315: That sections forty-two hundred and fourteen and forty-two hundred and eighteen of the Revised Statutes be, and the same are hereby, amended to read as follows:

"Sec. 4214. The Secretary of Commerce and Labor may cause yachts used and employed exclusively as pleasure vessels or designed as models of naval architecture, if built and owned in compliance with the provisions of sections forty-one hundred and thirty-three to forty-one hundred and thirty-five, to be licensed on terms which will authorize them to proceed from port to port of the United States and to foreign ports without entering or clearing at the customhouse; such license shall be in such form as the Secretary of Commerce and Labor may prescribe. Such vessels, so enrolled and licensed, shall not be allowed to transport merchandise or carry passengers for pay. Such vessels shall have their name and port placed on some conspicuous portion of their hulls. Such vessels shall, in all respects, except as above, be subject to the laws of the United States, and be liable to seizure and forfeiture for any violation of the provisions of this title."

"Sec. 4218. Every yacht, except those of fifteen gross tons or under, visiting a foreign country under the provisions of sections forty-two hundred and fourteen, forty-two hundred and fifteen, and forty-two hundred and seventeen of the Revised Statutes shall, on her return to the United States, make due entry at the customhouse of the port at which, on such return, she shall arrive: Provided, That nothing in this act shall be so construed as to exempt the master or person in charge of a yacht or vessel arriving from a foreign port or place with dutiable articles on board from reporting to the customs officer of the United States at the port or place at which said yacht or vessel shall arrive, and deliver in to said officer a manifest of all dutiable articles brought from a foreign country in such yachts or vessels."

Aug. 24, 1912, ch. 390, Sec. 5 (part), 37 Stat. 562: Sec. 5 * * * That section forty-one hundred and thirty-two of the Revised Statutes is hereby amended to read as follows:

"Sec. 4132. Vessels built within the United States and belonging wholly to citizens thereof; and vessels which may be captured in war by citizens of the United States and lawfully condemned as prize, or which may be adjusted to be forfeitured for a breach of the laws of the United States; and seagoing vessels, whether steam or sail, which have been certified by the Steamboat-Inspection Service as safe to carry dry and perishable cargo, not more than five years old at the time they apply for registry, wherever built, which are to engage only in trade with foreign countries or with the Philippine Islands and the islands of Guam and Tutuila, being wholly owned by citizens of the United States or corporations organized and chartered under the laws of the United States or of any State thereof, the president and managing directors of which shall be citizens of the United States or corporations organized and chartered under the laws of the United States or of any State thereof, the President and managing directors of which shall be citizens of the United States, and no others, may be registered as directed in this title. Foreign-built vessels registered pursuant to this Act shall not engage in the coastwise trade: Provided, That a foreign built yacht, pleasure boat, or vessel not used or intended to be used for trade admitted to American registry pursuant to this section shall not be exempt from the collection of ad valorem duty provided in section thirty-seven of the Act approved August fifth, nineteen hundred and nine, entitled 'An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes.' That all materials of foreign production which may be necessary for the construction or repair of vessels built in the United States and all such materials necessary for the building or repair of their machinery and all articles necessary for their outfit and equipment may be imported into the United States free of duty under such regulations as the Secretary of the Treasury may prescribe: Provided further, That such vessels so admitted under the Act of March third, eighteen hundred and ninety-one, entitled 'An Act to provide for ocean mail service between the United States and foreign ports, and to promote commerce,' so long as such vessels shall in all respects comply with the provisions and requirements of said Act."

Aug. 18, 1914, ch. 256, Sec. 1, 38 Stat. 698: That the words "not more than five years old at the time they apply for registry" in section five of that Act entitled "An Act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone," are hereby repealed.

Feb. 24, 1915, ch. 57, 38 Stat. 812: That section forty-one hundred and thirty-six of the Revised Statutes of the United States be reenacted and revised to read as follows:

"Sec. 4136. The Secretary of Commerce may issue a register or enrollment for any vessel wrecked on the coast of the United States or her possessions or adjacent waters, when purchased by a citizen or citizens of the United States and thereupon repaired in a shipyard in the United States or her possessions, if it shall be proved to the satisfaction of the Secretary of Commerce, if he deems it necessary, through a board of three appraisers appointed by him, that the said repairs put upon such vessels are equal to three times the appraised salved value of the vessel: Provided: That the expense of the appraisal herein provided for shall be borne by the owner of the vessel: Provided further, That if any of the material matters of fact sworn to or represented by the owner, or at his instance, to obtain the register of any vessel are not true, there shall be a forfeiture to the United States of the vessel in respect to which the oath shall have been made, together with tackle, apparel, and furniture thereof."

Mar. 4, 1915, ch. 172, Sec. 1, 38 Stat. 1193: That consular officers of the United States and such other persons as may from time to time be designated by the President for the purpose are hereby authorized to issue provisional certificates of registry to vessels abroad which have been purchased by citizens of the United States, including corporations, as defined in section forty-one hundred and thirty-two, Revised Statutes, as amended by the Panama Canal Act and the Act of August eighteenth, nineteen hundred and fourteen.

(a) Such a provisional certificate shall entitle the vessel to the privileges of a vessel of the United States in trade with foreign countries or with the Philippine Islands and the islands of Guam and Tutuila until the expiration of six months from its date or until ten days after the vessel's arrival at a port of the United States, whichever first happens, and no longer. On arrival at a port of the United States the vessel shall become subject to the laws relating to officers, inspection, and measurement, as amended by the Act of August eighteenth, nineteen hundred and fourteen.

(b) The Secretary of Commerce shall prescribe the conditions in accordance with which such provisional certificates shall be issued and the manner in which they shall be surrendered in exchange for certificates of registry at ports of the United States.

(c) The form of such provisional certificate shall be prescribed by the Commissioner of Navigation and shall include the name of the ship and of the master, time and place of purchase and names of purchasers, and the best particulars respecting her tonnage, build, description, and inspection or survey which the consular officer is able to obtain.

(d) Copies of such provisional certificates shall be forwarded as soon as practicable by the issuing officer to the Commissioner of Navigation.

Mar. 4, 1915, ch. 184, Sec. 5, 38 Stat. 1218: That section forty-four hundred and ninety-eight of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

"Sec. 4498. A register, enrollment, or license shall not be granted, or other papers be issued by any collector or other chief officer of customs to any vessel subject by law to inspection under this title until all the provisions of this title applicable to such vessel have been fully complied with and until the copy of the certificate of inspection required by this title for such vessel has been filed with said collector or other chief officer of customs."

Feb. 19, 1920, ch. 83, Sec. 1–3, 41 Stat. 436, 437: That the Commissioner of Navigation shall, under the direction of the Secretary of Commerce, be empowered to change the names of vessels of the United States on application of the owner or owners of such vessels when in his judgment there shall be sufficient cause for so doing.

Sec. 2. That the Commissioner of Navigation, with the approval of the Secretary of Commerce, shall establish such rules and regulations and procure such evidence as to age, condition, where built, and pecuniary liability of the vessel as he may deem necessary to prevent injury to public or private interests; and when permission is granted by the Commissioner of Navigation, he shall cause the order for the change of name to be published at least in four issues in some daily or weekly paper at the place of documentation, and the cost of procuring evidence and advertising the change of name to be paid by the person or persons desiring such change of name.

Sec. 3. That for the privilege of securing such changes of name the following fees shall be paid by the owners of vessels to collectors of customs, to be deposited in the Treasury by such collectors as navigation fees: for vessels ninety-nine gross tons and under, $10; for vessels one hundred gross tons and up to and including four hundred and ninety-nine gross tons, $25; for vessels five hundred gross tons and up to and including nine hundred and ninety-nine gross tons, $50; for vessels one thousand gross tons and up to and including four thousand nine hundred and ninety-nine gross tons, $75; for vessels five thousand gross tons and over, $100.

Feb. 16, 1925, ch. 235, Sec. 1, 43 Stat. 947: That for the purposes of the navigation laws of the United States and of the Ship Mortgage Act, 1920, otherwise known as section 30 of the Merchant Marine Act, 1920, every vessel of the United States shall have a "home port" in the United States, including Alaska, Hawaii, and Puerto Rico, which port the owner of such vessel, subject to the approval of the Commissioner of Navigation of the Department of Commerce, shall spe-

cifically fix and determine, and subject to such approval may from time to time change. Such home port shall be shown in the register, enrollment and license, or license of such vessel, which documents, respectively, are hereinafter referred to as the vessel's document. The home port shown in the document of any vessel of the United States in force at the time of the approval of this Act shall be deemed to have been fixed and determined in accordance with the provisions hereof. Section 4141 of the Revised Statutes is hereby amended to conform herewith.

Aug. 5, 1935, ch. 438, Sec. 310, 49 Stat. 528: Section 4189 of the Revised Statutes (U.S.C., title 46, sec. 60) is amended by striking out the words "not entitled to the benefit thereof".

May 20, 1936, ch. 434, 49 Stat. 1367: That section 4321, Revised Statutes of the United States (U.S.C., title 46, sec. 263), be, and is hereby, amended to read as follows:

"The form of a license for carrying on the coasting trade or fisheries shall be as follows:

"License for carrying on the (here insert 'coasting trade', 'whale fishery', 'mackerel fishery', or 'cod fishery', as the case may be).

"In pursuance of title L (Revised Statutes 4311–4390), 'Regulation of Vessels in Domestic Commerce,' of the Revised Statutes of the United States (inserting here the name of the husband or managing owner, with his occupation and place of abode, and the name of the master, with the place of his abode), having sworn that the (insert here the description of the vessel, whether ship, brigantine, scow, schooner, sloop, or whatever else she may be), called the (insert here the vessel's name), whereof the said (naming the master) is master, burden (insert here the number of tons, in words) tons, as appears by her enrollment, dated at (naming the district, day, month, and year, in words at length, but if she be less than twenty tons, insert, instead thereof, 'proof being had of her admeasurement') shall not be employed in any trade, while this license shall continue in force, whereby the revenue of the United States shall be defrauded, and having also sworn (or affirmed) that this license shall not be used for any other vessel, or for any other employment, than is herein specified, license is hereby granted for the said (inserting here the description of the vessel) called the (inserting here the vessel's name), to be employed in carrying on the (inserting here 'coasting trade,' 'whale fishery', 'mackerel fishery,' or 'cod fishery,' as the case may be), for one year from the date hereof, and no longer. Given under my hand and seal, at (naming the said district), this (inserting the particular day) day of (naming the month), in the year (specifying the number of the year in words at length):": Provided, That vessels of five net tons and over entitled under the laws of the United States to be enrolled and licensed or licensed for the coasting trade may be licensed for the "coasting trade and mackerel fishery," and shall be deemed to have sufficient license for engaging in the coasting trade and the taking of fish of every description, including shellfish: Provided further, That the provisions of sections 4364 and 4365, Revised Statutes of the United States (U.S.C., title 46, secs. 310 and 311), shall be, and are hereby, made applicable to vessels so licensed: And provided further, That vessels operating on the Great Lakes and their connecting and tributary waters under enrollment and license issued in conformity with the provisions of section 4318, Revised Statutes of the United States (U.S.C., title 46, sec. 258), shall be deemed to have sufficient license for engaging in the taking of fish of every description within such waters without change in the form of enrollment and license prescribed under the authority of that section.

May 24, 1938, ch. 265, 52 Stat. 437: That the first sentence of section 4132 of the Revised Statutes as amended (U.S.C., 1934 edition, title 46, sec. 11), is hereby amended to read as follows:

"Vessels built within the United States and belonging wholly to citiezns thereof; and vessels which may be captured in war by citizens of the United States and lawfully condemned as prize, or which may be adjudged to be forfeited for a breach of the laws of the United States; and seagoing vessels, whether steam or sail, which have been certified by the Bureau of Marine Inspection and navigation as safe to carry dry and perishable cargo, wherever built, which are to engage only in trade with foreign countries, with the Philippine Islands, the Islands of Guam, Tutuila, Wake, Midway, and Kingman Reef, being wholly owned by citizens of the United States or corporations organized and chartered under the laws of the United States, or of any State thereof, the president and managing directions of which shall be citizens of the United States, and no others, may be registered as directed in this title."

May 31, 1939, ch. 159, 53 Stat. 794: That section 4335 of the Revised Statutes (U.S.C. 1934 edition, title 46, sec. 276) is hereby amended to read as follows:

"(a) Whenever the master of any licensed vessel, ferryboats excepted, is changed, the new master, or, in case of his absence, the owner or one of the owners thereof, shall report such change to the collector residing at the port where the same happens, if there be one: otherwise, to the collector residing at any port where such vessel next arrives, who, upon the oath of such new master, or, in case of his absence, of the owner, that such master is a citizen of the United States, and that such vessel shall not, while such license continues in force, be employed in any manner whereby the revenue of the United States may be defrauded, shall endorse such change on the license, with the name of the new master. Whenever such change is not reported, and endorsed, as herein required, such vessel, if found carrying on the coasting trade or fisheries, shall be subject to pay the same fees and tonnage as a vessel of the United States having a register, and the new master shall be liable to a penalty of $10: Provided. That the Secretary of Commerce may authorize the endorsement of not more than two alternate masters in addition to the one already endorsed on the license, whenever in his judgment the condition of employment of the vessel warrants such action: Provided further, That in the case of vessels navigated within the limits of the harbor of any town or city, the name of the owner or some responsible person acting for the owner who otherwise meets all requirements of the laws of the United States with regard to masters, may be endorsed on the license of such vessel, although not actually employed thereon, in accordance with rules and regulations prescribed by the Secretary of Commerce: And provided further, That in the case of unrigged vessels which are not required by law to have on board a certificate of inspection, the name of the owner or any responsible person acting for the owner who otherwise meets all requirements of the laws of the United States with regard to masters, may be endorsed on the license of such vessel, although not actually employed thereon, in accordance with rules and regulations prescribed by the Secretary of Commerce: And provided further, That in the case of unrigged vessels which are not required by law to have on board a certificate of inspection, the name of the owner or any responsible person acting for the owner who otherwise meets all requirements of the laws of the United States with regard to masters, may be endorsed on the license of such unrigged vessel although not actually employed on board the vessel.

"(b) In the case of those vessels on the licenses of which there are endorsed the names of more than one master, the master actually in charge of the vessel shall assume all of the duties and responsibilities imposed by any statute upon masters of vessels, and incur the liabilities provided by any law against masters of vessels during any period in which he is in charge of the vessel.

"(c) The term 'unrigged vessel' as used herein, means any vessel that is not self-propelled."

May 31, 1939, ch. 160, 53 Stat. 795: That section 4325 of the Revised Statutes, as amended (U.S.C., 1934 edition, title 46, sec. 267), is hereby amended to read as follows:

"The license granted to any vessel shall be presented for renewal by endorsement to the collector of customs of the district in which the vessel then may be within three days after the expiration of time for which it was granted, or, if she be absent at that time, within three days from her first arrival within a district. In case of change of build, ownership, district, trade, or arrival under temporary papers in the district where she belongs the license shall be surrendered. If the master shall fail to deliver the license he shall be liable to a penalty of $10. Such penalty on application may be mitigated or remitted by the Secretary of Commerce."

June 2, 1939, ch. 168, 53 Stat. 798: That section 4498 of the Revised Statutes, as amended (U.S.C., 1934 edition, title 46, sec. 496), is hereby amended to read as follows:

"A register, enrollment, or license shall not be granted, or other papers be issued by any collector or other chief officer of customs to any vessel subject by law to inspection under this title (R.S. 4399–4500) until all the provisions of this title applicable to such vessel have been fully complied with and until the copy of the certificate of inspection required by this title for such vessel has been filed with said collector or other chief officer of customs: *Provided*, That the license granted to any vessel, if presented to any collector of customs at any time within thirty calendar days prior to the date of expiration shown thereon, may be renewed by the endorsement by the collector of customs for a period of one year from the date of expiration shown on the license, if there be on file in the office of the collector at that time a copy of the certificate of inspection required by title LII of the Revised Statutes, which is in force on the date renewal is made."

Aug. 17, 1961, Pub. L. 87–157, 75 Stat. 392: That section 4166 of the Revised Statutes (U.S.C., 1958 edition, title 46, sec. 35) is amended to read as follows:

"A vessel of the United States which, while outside the limits of a customs collection district of the United States and not in any port designated as a port of documentation outside any such customs collection district, is sold or transferred in whole or in part to a citizen of the United States, may be documented anew as a vessel of the United States in such manner and upon such conditions as may be prescribed by the Secretary of the Treasury: *Provided*, That, if any vessel so sold or transferred is not redocumented while abroad, it shall nevertheless be entitled to all the privileges and benefits of a vessel of the United States up to and for the purpose of its first arrival thereafter within a customs collection district or within a designated port of documentation outside any such customs collection district.

Sept. 29, 1965, Pub. L. 89–219, Sec. 10, 79 Stat. 892: Section 4149 of the Revised Statutes (46 U.S.C. 72) is amended to read as follows:

"Sec. 4149. The Secretary of the Treasury shall prescribe how evidence of admeasurement shall be given."

ADDITIONAL COSPONSORS OF BILLS

S. 4044

At the request of the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. SMITH), was added as

a cosponsor of S. 4044, to establish an independent commission to evaluate and assess developments in the fields of commerce and technology and to accumulate and disseminate data relevant thereto.

S. 4325

At the request of the Senator from New Jersey (Mr. WILLIAMS), the Senator from Nevada (Mr. BIBLE), the Senator from Washington (Mr. JACKSON), and the Senator from New York (Mr. JAVITS), were added as cosponsors of S. 4325, to prohibit flight in interstate or foreign commerce to avoid prosecution for the killing of a policeman or fireman.

S. 4348

At the request of the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Utah (Mr. BENNETT), and the Senator from Illinois (Mr. SMITH) were added as cosponsors of S. 4348, to make assaults on State and local law-enforcement officers, firemen, and judges a Federal crime.

S. 4404

At the request of the Senator from Colorado (Mr. DOMINICK), the Senator from Ohio (Mr. SAXBE) was added as a cosponsor of S. 4404, to assure safe and healthful working conditions for working men and women; by providing the means and procedures for establishing and enforcing mandatory safety and health standards; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, October 1, 1970, he presented to the President of the United States the following enrolled bill and joint resolution:

S. 3730. An act to extend for 1 year the act of September 30, 1965, as amended by the act of July 24, 1968, relating to high-speed ground transportation, and for other purposes; and

S.J. Res. 110. Joint resolution to amend the joint resolution entitled "Joint resolution to establish the first week in October of each year as National Employ the Physically Handicapped Week," approved August 11, 1945 (59th Stat. 530), so as to broaden the applicability of such resolution to all handicapped workers.

PROPOSED AMENDMENT OF THE CONSTITUTION RELATIVE TO EQUAL RIGHTS FOR MEN AND WOMEN—AMENDMENT

AMENDMENT NO. 1001

Mr. ERVIN submitted an amendment, in the nature of a substitute, intended to be proposed by him, to the joint resolution (H.J. Res. 264) proposing an amendment to the Constitution of the United States relative to equal rights for men and women, which was ordered to lie on the table and to be printed.

DEPARTMENT OF TRANSPORTATION APPROPRIATION BILL, 1971—AMENDMENT

AMENDMENT NO. 1002

Mr. PROXMIRE (for himself, Mr. BYRD of Virginia, Mr. COOK, and Mr. PERCY) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes, which was ordered to lie on the table and to be printed.

TREATMENT AND REHABILITATION OF DRUG ABUSERS AND DRUG DEPENDENT PERSONS—AMENDMENTS

AMENDMENT NO. 1003

Mr. HUGHES submitted amendments, intended to be proposed by him, to the bill (H.R. 18583) to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse, which were ordered to lie on the table and to be printed.

IMPROVEMENT OF OPERATION OF THE LEGISLATIVE BRANCH—AMENDMENT

AMENDMENT NO. 1004

Mr. PACKWOOD submitted an amendment, intended to be proposed by him, to the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, which was ordered to lie on the table and to be printed.

FEDERAL-AID HIGHWAY ACT OF 1970—AMENDMENTS

AMENDMENTS NOS. 1005 THROUGH 1007

Mr. COOPER submitted three amendments, intended to be proposed by him, to the bill (S. 4418) to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, which were ordered to lie on the table and to be printed.

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 Maryland (Mr. TYDINGS), was added as a cosponsor of amendment No. 905 to Senate Joint Resolution 1, proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

AMENDMENT NO. 932 TO S. 4268

At the request of the Senator from Illinois (Mr. PERCY), the Senator from Illinois (Mr. SMITH), and the Senator from New York (Mr. GOODELL) were added as cosponsors of amendment No. 932 to S. 4268, to authorize Export-Import Bank credits for military sales to Israel.

NOTICE OF HEARINGS ON CORRECTIONAL REFORM

Mr. BURDICK. Mr. President, the National Penitentiaries Subcommittee of the Senate Judiciary Committee will conduct hearings on correctional reform October 7 and 8.

The purpose of these hearings will be to review the major findings of recent commissions and task forces on correctional reform and to determine what Congress can do to stimulate implementation of appropriate proposals and to give correctional reform the high priority it deserves.

Some of the witnesses who have accepted invitations to testify are: Norman Carlson, Director, Bureau of Prisons; Richard Velde, Associate Administrator, Law Enforcement Assistance Administration; Dr. Preston Sharp, executive director, American Correctional Association; Milton Rector, Executive Director, National Council on Crime and Correction; Richard J. Hughes, chairman, ABA Council on Correctional Reform; Norval Morris, director, Center for Studies in Criminal Justice, the University of Chicago; and Robert Kutak, former member of the President's Task Force on Prisoner Rehabilitation.

The hearings will be held in room 3106, New Senate Office Building, commencing at 10 a.m.

ADDITIONAL STATEMENTS OF SENATORS

NEW YORK TIMES MAGAZINE ARTICLE ON THE EQUAL RIGHTS FOR WOMEN AMENDMENT

Mr. ERVIN. Mr. President, very few people have studied the House-passed Equal Rights for Women Amendment in depth. Thus, it was with great interest that I recently read the article entitled "That Equal-Rights Amendment—What, Exactly, Does It Mean?" written by Robert Sherrill and published in the New York Times Magazine of September 20.

Mr. Sherrill has surveyed the entire history of the amendment and the arguments made for and against it. In his article, Mr. Sherrill prepared a case study on the dangers of legislating in haste, and he has done a magnificent job.

Because of the urgency with which the Senate is preparing to consider the Equal Rights for Women Amendment, I respectfully ask that if a Senator has time to read only one article on the subject, he read Mr. Sherrill's.

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

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

THAT EQUAL-RIGHTS AMENDMENT—WHAT, EXACTLY DOES IT MEAN?

(By Robert Sherrill)

The great question that has never been answered, and which I have not yet been able to answer despite my 30 years of research into the feminine soul, is: What does a woman want?—SIGMUND FREUD

WASHINGTON.—Last month, the United States House of Representatives, in one of its irregular fits of conscience or regular fits of opportunism, voted 346 to 15 for an amendment designed to give women equal rights, just in case they don't already have them. This month the Senate will be asked to follow the House. With 81 of the 100 Senators co-signing the bill, odds are that it will soon be on its way to the state legislatures, and if three-fourths of them ratify it, the Constitution will be patched for the 26th time.

What a very strange job of legislating it has been. Ordinarily the work of Congress is done in committee, where staff members have time to research important issues and both sides are given a chance to call expert witnesses. The House held no hearings on this amendment, which was rushed to a vote after only one hour of floor debate. Proponents got 45 minutes and opponents 15. That, needless to say, isn't much time, but considering their preparation, it would have been embarrassing for either side to have had more.

The Senate is in little better shape. Its last flurry of interest was in the early nineteen-fifties—before most of the current Senators were elected, much less familiar with the problem. In the last four months, Judiciary Committee members have thrown together a total of six days of hearings distinguished by such insights as this from Gloria Steinem, the writer and thinker: "Penis envy is clinically disappearing. Just as black people envied white skins, 19th-century women envied penises." The Senators were left to do with that what they could.

Whatever else can be said of it, the equal-rights amendment's journey down the corridors of Congress has so far been an impressive demonstration of what can be achieved through almost total ignorance. No one in Congress can make even a reasonably good guess as to the amendment's probable effect on laws covering such matters as wife support, child support, military conscription and property division. According to the American Law Division of the Library of Congress, "no definitive legal analysis has ever been made" to find out what effects such an amendment would have.

"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex." That's how the House amendment reads. It sounds simple, but what does it mean?

Proponents of the amendment say it means women will have as much chance as men for fun, travel and adventure in the armed services. But when it gets right down to the pinch, they begin to wobble. The chairman of the Woman's party, Mrs. Marjorie Longwell, a cheerful, grandmotherly Californian, was asked if she really wanted her sex to be subject to military conscription. "Why, certainly, she replied. "If I were between the ages of 18 and 26 I'd be ashamed if I weren't willing to fight for my country against the Communists."

Did she mean that women should actually be drafted for the front lines? "Well," she said, "I don't think any lady would want to shoot another lady's son."

Proponents of the amendment say it will mean that laws prohibiting women from being bartenders, miners, bellhops and truck drivers will be declared unconstitutional—permitting the ladies to upgrade themselves through those jobs—as will laws that impose minimum wages, maximum hours and maximum weight-lifting requirements on women workers in some states. They say women want to be free of this protective legislation. But they might appreciate a few exceptions. Says Congresswoman Catherine May, a supporter of the bill: "No one questions special laws for veterans or for the blind or for various segments of our society. It would certainly not be inconsistent to still have special laws for mothers or mothers-to-be."

This kind of talk, is beside the point, as the proponents will generally admit if you talk to them long enough. Vigorous action on the part of the Equal Employment Opportunities Commission in obtaining compliance with Title VII (no sex discrimination in jobs) of the Civil Rights Act has outlawed restrictive job statutes in many states, and the rest seem ready to follow suit shortly—prodded by Federal Court decisions.

Amendment or no amendment, the military is not likely to move much further than it has already; the Navy recently bowed to a court ruling that to discharge a pregnant unmarried Wave would be unfairly discriminatory since the Navy does not discharge unmarried impregnators. As for the likelihood of front-line combat for women, every serious advocate of the equal-rights amendment concedes that the Federal judiciary is not likely to interpret any law in such a way that it does not coincide with what the armed forces indicate are their personnel needs. So that's all rhetoric.

The proponents can hardly be accused of hard-sell reasoning. Says Congresswoman Shirley Chisholm of New York: "The direct economic effects of the amendment would be minor. Social and psychological effects will be initially more important than legal or economic results." Senator Eugene McCarthy, the chief sponsor of the amendment on his side of the Capitol, agrees with Mrs. Chisholm that the major blessings would come, if at all, with the long-term erosion of old social attitudes. "It won't have a revolutionary effect," he says. "It will just put pressure on state legislatures and on courts in some cases, and I think also on extra-governmental activities—corporations, big insurance companies and so on—all those places where there is discrimination which can't be explained in any terms of sex—the essence of sex, not a state of life or professional training or whether you are strong or weak."

Congresswoman Martha Griffiths of Detroit, the mastermind of the strategy that whisked the legislation through the House, also says that the main thing she is shooting for is psychological uplift. Indeed, she adds, the "1964 Civil Rights Act granted far more rights to women and other minorities than this amendment ever dreamed of." Pressed to think up possible benefits other than the psychological, she discloses that one of her main reasons for pushing the amendment is preventative: "It will mean that you cannot go backward. Oh yes, we could go backward—Germany did, you know. If this is enacted into law and you started to go backward, started to have discriminatory laws against women, then the Supreme Court would have to stop it. Didn't Hitler come along and say, 'Every woman into the kitchen'? In the Depression, one of the standard regulations of school boards throughout the country was that a married woman couldn't teach school. This morning, unemployment in Michigan is 9.1 per cent, so we are always running this risk, and the real freedom in any country, as the Supreme Court said in 1915, is the right to make a living at the occupation of your choice."

Opponents, on the other hand, argue that the imagined hardships that could befall women without the amendment under a dictator or in a major depression are few indeed, compared to the damages that will result from the amendment in normal times. Paul Freund, a Harvard professor of law who has been among the most outspoken foes of the equal-rights proposal for a quarter century, warns: "It will open a pandora's box of legal complications. The amendment expresses noble sentiments, but I'm afraid it will work much mischief in actual application. Once you open the door, where will it lead? Boston has a Girls' Latin School and a Boys' Latin School. They are very prestigious, and the city is very proud of them. Would this amendment force them to blend?" Some legal scholars believe the measure would breed "endless litigation," in the words of Soia Mentschikoff, a University of Chicago law professor. Even Senator Birch Bayh, a stubborn backer of the amendment, agrees in part: "The women are underestimating the size of the job. It may not have to be pursued through the courts case by case, but I think it will be by each class of discrimination." The same fear has been expressed since the amendment was bouncing around the United States Senate in the early fifties. At that time a dozen such legal pashas as Roscoe Pound and Charles Warren signed a statement predicting that the amendment would force "every provision of law concerning women" down the long, long trail to the U.S. Supreme Court.

"It is difficult if not impossible to compress all the relationships of men and women into one brief formula, one motto or slogan, like this amendment," says Freund. "Some will argue, 'Well, we worked it out for the blacks, so let's follow that formula for women, too.' It isn't that simple. Jail cells can no longer be segregated along racial lines. Does this mean we would no longer be able to segregate jail cells along sex lines?"

Shortly before the House acted, Rita E. Hauser, U.S. representative to the United Nations, told an American Bar Association gathering that the amendment might kill state laws banning marriages between homosexuals. Her statement was immediately denounced by Congressman Clement Zablocki of Wisconsin as "an example of the moral rot infecting the nation," but in fact she was theorizing no more wildly than have a number of law-school professors, Freund included.

Senator Sam Ervin of North Carolina, who is sometimes considered a constitutional authority, at least by Senate standards, adds other spooks to the line-up: "This would absolutely destroy the law in every state which makes it the primary duty of the husband to support the wife and children. For a person to have a right, it means somebody else must have a corresponding legal duty. To say the right of man and woman, husband and wife, should be equal in respect to who's going to support the other—that destroys any responsibility on either one of them's part, and consequently neither one of them has any right.

"This amendment would destroy all state alimony laws and all child-custody laws. In addition to that, we have laws requiring separate restrooms for boys and girls in public schools. These would be annulled."

And what about rape? Mrs. Griffiths assured the House: "This law does not apply to criminal acts capable of commission by only one sex. It does not have anything to do with the law of rape or prostitution. You are not going to have to change those laws." That's not the way Senator Ervin understands either biology or the statutes of his home state, which he says are much like the laws in every state.

North Carolina law decrees that anybody convicted of raping a "female of the age of 12 or more" or sexually abusing "any female child" under 12 should be executed. Ervin

is fairly certain that if the equal-rights amendment passes, a man convicted under that statute could justifiably appeal on the grounds of discrimination. But, says Ervin, that does not end this line of complexities because at present an adult male who lives with a 14-year-old girl can be convicted of statutory rape while an adult female found in a similar love nest with a boy would be convicted only of contributing to the delinquency of a minor. In which direction does one correctly equalize, if it can be done at all?

Besides, say Ervin and the others, this amendment is useless because it does nothing but repeat the essence of the 14th Amendment's equal-protection guarantees.

You get the idea. Everything is up in the air. At this point neither side really knows what it is talking about because, as a February release of the Labor Department's Women's Bureau acknowledged, "There are a great many questions concerning the equal-rights amendment, but very few answers."

Having failed to canvass the 50 state attorneys general for their opinions and having failed in every other way to balance the good or evil that will come from the new law, why did the House act with such flashy abandon.

Ervin makes one guess that some others share: "I wouldn't say it's happening because Congressmen are frightened exactly, but I would say that they are fidgety. If we need any new constitutional amendment, it would be to ban Congress from passing any legislation in election years."

A Congressman who understandably asks anonymity explains his own uneasiness: "The amendment is of no great concern to me, one way or the other. But what you're dealing with here is some women with time on their hands, and nothing can be more dangerous than an idle woman. She loves a cause. She loves to ring doorbells. She loves to get on the telephone. And I don't want that kind of woman working against me."

This may be mainly an imagined threat, but the advocates of the amendment naturally encouraged Congressional belief in it. After Representative Florence Dwyer of New Jersey acknowledged in a speech to the House that "the women of America are not beating on the doors of Congress demanding passage of the equal-rights amendment," she warned: "But do not be missled. Women are as sensitive to their rights as men, and I cannot imagine that American women will welcome being repudiated by Congress." Later, the warning was spelled out more clearly by Mrs. Lucille Shriver, national director of the Business and Professional Women. "If this amendment is defeated," she said, "we would cooperate with other major women's groups in trying to get rid of those Congressmen who fought us. That's where we would direct our campaign this fall." But she conceded that she really didn't know how much clout the women's groups would have.

The source of the Congressional fidgets is obvious—the Women's Liberation movement. Until recently, the Congressional concept of "militant women" was shaped by such things as the annual gathering of ex-suffragettes around the statue of Susan B. Anthony in the basement of the Capitol on that gallant lady's birthday. Otherwise the almost quiescent feminist movement came to the legislators' attention only through small delegations from polite women's organizations who continued to prowl the Senate and House office buildings over the years, lobbying for more rights and being received like Puerto Ricans who want independence.

To be sure, every year at least 100 or so Congressmen popped women's rights bills into the hopper, but this perfunctory gesture was easily forgotten. In the last couple of years the legislators had become vaguely aware of guerrilla fighting in more barbarous parts of the nation, such as New York City, where amid the smoke of burning brassieres and shrill cries for free abortions, the clash of armies was heard by night; but all that, our Congressmen were confident, would never reach their doors. To them, the movement was still centered in the old Woman's party, which maintained its headquarters in the Belmont House, two blocks away, through the graciousness of Senators who have not yet torn the place down to extend a parking lot.

Then came the Lib movement, which even Mrs. Longwell, the party chairman, admitted "has helped rather than hindered us, though they have done some rather embarrassing things like—well, you know what they've done—burn those things." That's putting it mildly. The Liberation movement absolutely ignited the old Establishment outfits like Business and Professional Women, and they in turn began to put the heat on Congress as never before. Suddenly it was difficult to find a member of either house of Congress who didn't think that NOW (the National Organization for Women) meant him and right now, and never mind the deliberation.

For 47 years, even since the ratification of the 19th Amendment gave women the right to vote, militant feminists have been trying to write into the Constitution something that would force the courts to recognize all their rights as being on a par with men's. The hangup was not in the Senate, which has passed the amendment three times in the last 20 years, though not in a version that was satisfactory to the women. The hangup was in the House; to be precise, in the Judiciary Committee, which for 23 years has been ruled by white-haired Emanuel Celler of New York, a foe not only of all efforts to legislate female rights but also, on at least two occasions, of proposals to write them into the national Democratic platform.

Every year for 23 years somebody in the House introduced an equal-rights resolution, which automatically went to Celler's committee for burial without ceremony. Since 1959, Congresswoman Griffiths had been one of those who engaged in the futility. "I never went to Mr. Celler formally and requested that he hold hearings, but I would see him in the hall and bring up the matter. He would just laugh." Then came the spring of 1970, and Congresswoman Griffiths began to notice a new stirring among her colleagues. Instead of the usual 100 to 150 *pro forma* introductions of equal-rights amendments, the count began to climb toward and then past 200.

At that point, she started thinking crafty thoughts about bypassing Celler with a discharge petition. It is a hard trick to pull off, and especially hard to do in the committee controlled by the House's dean. In the past 60 years, 825 discharge petitions have been filed to free legislation from committee bottlenecks, but only 34 received enough signatures. Of these, only 15 passed the House.

On June 11 (noticing by then that an amazing 254 similar resolutions for women's rights had been introduced by other members), an undaunted Mrs. Griffiths filed her petition for discharge, fearing only that "If I filed it, and failed, I would be giving the Supreme Court aid and comfort. The Supreme Court could have made this whole thing unnecessary 100 years ago. If I couldn't get enough signatures on the discharge petition, would I hurt my cause? I was risking an awful lot, and I knew how much."

Six days later, she sent out a "Dear Colleague" letter to all members, asking their support. She got it overwhelmingly. There is ordinarily a fatal ebb and flow in discharge-petition signatures. The first 150 come easy; but once the movement goes much beyond that, many of the first signers, who didn't really mean it, began to withdraw their names. With Mrs. Griffiths' petition, it was just the opposite: Once past the 150 mark the signing picked up and not one signer removed his name. To measure the full size of Mrs. Griffiths' victory, one must also consider that among the signers were 12 committee chairmen, who never openly turn on a brother chairman except under the most unusual pressures. It did not exactly hurt her cause that Wilbur Mills, Chairman of Ways and Means and possibly the most powerful man in the House, helped solicit names for the petition, as did Charles Vanik of Ohio, James Byrne of Pennsylvania and, according to Mrs. Griffiths, "all the California delegation." She says Republican Leader Gerald Ford "supplied some real moxie, too: He lined up 15 or 16 names right at the end."

Mrs. Griffiths was also busy elsewhere. "The minute I filed the dicharge petition," she says, "I began getting women's organizations involved. They responded immediately with an avalanche of letters to Congress. The Business and Professional Women were tremendously helpful. Right at the end of the filing, they were having a convention in Hawaii, and it was announced every day how many new names had been added. NOW was especially helpful. Also, I went out and talked to all the state presidents at an American Association of University Women convention."

The letters arrived in such quantities that some Congressmen asked Mrs. Griffiths to "call off the women" (at any rate, that's what her staff says). One Congressman got so much mail that he was forced to answer by Robotype—a kind of mass production that House members rarely have to resort to for "issue" mail. One should understand, however, that Congressmen scare rather easily. Fifty letters a day on one subject is enough to convince almost any Congressman—if he is ready to be convinced—that he is hearing the thunderous, unified *vox populi*.

Exactly one month after Mrs. Griffiths launched her juggernaut, Celler surrendered—announcing that he would hold hearings on the amendment—but by this time Mrs. Griffiths, apparently feeling that she deserved some vengeance after all the years of waiting, did not want to stop. And so, on Aug. 10, the House heard the debate.

It often resembled something picked up in pieces from the floor of the M.G.M. cutting room. Mrs. Griffiths pleaded that all she wanted was to lift women to the level of equality to which the Supreme Court had long ago raised a Chinese laundryman, an alien Japanese fisherman and an alien Austrian cook (referring to three court cases, none more recent than 1948, the oldest going back to 1886). Congressman Ford said that, judging from the years of delay in passing the amendment: "You would almost think there had been a conspiracy." Against insinuation that women are less stable than men, Congressman John Anderson of Illinois inserted in the record his courtly irritation: "I found it disturbingly ironic that in a nation which put three men on the moon, we should somehow be concerned with the mental aberrations of women because of the so-called lunar cycle." And so it went.

Some prominent women's organizations—the National Council of Jewish Women, the National Council of Negro Women and the National Council of Catholic Women, for example—are actively opposing passage of the amendment. The United Auto Workers favor it, but several powerful A.F.L.-C.I.O. unions, including the Communications Workers of America and the Amalgamated Clothing Workers, oppose it. Of notable individual opponents, Mrs. Leon Keyserling, former head of the Women's Bureau, is typical. She buttresses her position by quoting Mrs. Eleanor Roosevelt, who opposed a special amendment because she believed the Constitution as it stood gave women equal rights.

But most of the 72 million American wom-

en over the age of 16 do not take sides; they respond to the Congressional debate with an interest that equals the enthusiasm Spiro Agnew might be expected to show at a hairdressers' convention.

The excitment of the crusade is generated by a leadership representing probably less than 2 per cent of women. The power behind the drive is supplied by professional elitists, women who can afford the luxury of crusades. Whom do they speak for except others at their level? This was the question put to Bayh's Constitutional Amendments subcommittee by Myra Wolfgang, vice president of the Hotel and Restaurant Employes and Bartenders International Union. She was furious that the militant feminists were proposing an end to all protective labor laws for women. "My concern," she told Bayh, "is for the widowed, divorced mother of children who is the head of her family and earns less than $3,500 a year for working as a maid, laundry worker, hospital cleaner or dishwasher. There are millions of such women. Only one out of ten women in the work force has had four or more years of college. The rights of women who are unable to work excessive overtime, who are not covered by the equal-employment-opportunities provision of the civil-rights act and who consider overtime a punishment, not a privilege, must also be protected. The equal-rights amendment will make it impossible to do so."

Until this year, the commissions appointed by every President of the sixties had recommended working through the Supreme Court with test cases to expand the coverage of the 14th Amendment rather than seeking another amendment. President Kennedy's Commission on the Status of Women was made up of a broad spectrum of interests, including wage-earners. Its successor, the present Citizens' Advisory Council on the Status of Women, picked by Nixon, is made up solidly *of* Establishment types, women who have been so successful that one may understandably wonder what they are complaining about: the president of a gas-pipeline company, an executive of a petroleum corporation, the vice president of a dairy and ice-cream company, a newspaper publisher, a couple of university professors, three attorneys, the vice president of a drug-store chain and several who are identified only as "civic leaders." There isn't a working stiff or a representative of working stiffs in the bunch.

The Nixon-appointed Task Force on Women's Rights and Responsibilities, which reported back this year in angry tones, is broader in its make-up, but it is dominated by college presidents, telephone-company executives and attorneys.

Yet both groups are far more militant and far less responsive to Presidential whim than the women Kennedy picked. An executive in the Department of Labor's Women's Bureau who worked closely with these groups tells why:

"The movement picked up tremendous steam when President Nixon came in and didn't do the things he promised. The women really got mad. A lot of Republican Establishment women are real leaders in this. Most of the women on the Presidential task force have been state Republican committeewomen or on committees for Nixon and Agnew. The Citizens' Advisory Council is also a very political outfit. But the White House has been completely intransigent—please dont' use my name—and that intransigence has built up anger and support for the amendment. The Johnson Administration knew they had a problem. They were much more sensitive politically. They gave just enough to keep women from really getting uptight. When the Republicans came in, they didn't know they had a problem; they wouldn't even approve a bill to extend equal pay to executive and professional administrative women. That kind of thing gets around, and it made women so damned mad they wanted to do something."

One of the things they did was turn out sometimes inaccurate poop sheets. Probably the most persuasive of these, since it had little competition, was the 16-page memorandum put out in March by the Citizens' Advisory Council. A copy wound up in just about every Congressional office and served as the basis for a number of the speeches given in the debate. Not that the women propagandists can be blamed entirely for what was said in the House; much of it was also the result of sloppy Congressional staff work and the customary failure of members to do their homework.

It might all be chalked up as no more important than just another day of orations, but in this case it is more than that. If the sex amendment is eventually ratified, the Federal courts will have to interpret the law according to "Congressional intent," and to do this they will have to be guided at least in part by the statements made in the House on Aug. 10.

Some guidance *that* was.

Mrs. Griffiths, for example, emphasized in offering her resolution that it would "restrict only governmental action, and would not apply to purely private action." Among other things, she said, it would shape laws affecting government employment, but it would have no direct bearing on private policies, as the 1964 Civil Rights Act did. The 1964 measure, she insisted, "applies against private industry. This amendment applies only against government."

That's clear enough, yet along comes Minority Leader Ford a few minutes later to tell the House: "This amendment will give [women] those most valued of rights—the rights to a job, to a promotion, to a pension . . . to all the fringe benefits of *any* job."

Such bungling male help was not appreciated. An executive of the Women's Bureau said: "One of our biggest problems is that people don't know what they're talking about, but I understand from people who are up on the Hill a lot that this is generally true, and it makes me sick. Ford is absolutely wrong. The only employment situation—hiring and promotion—the amendment will have any effect on is public employment. It would affect Federal and state government jobs and school teachers."

For another example, Mrs. Griffiths assured the House that "for 26 years both parties in their political conventions have endorsed it; the Republican party has endorsed it for 30 years." Sorry, that's wrong. In recent conventions the issue has been treated as no longer pertinent. Researchers at Republican National Headquarters say that as late as 1956 the party's platform contained a plank urging Congress to pass an equal-rights amendment for *men and women*, but in 1960 it was cut down to an amendment for women alone and the 1964 and 1968 G.O.P. platforms dropped all mention of it. Officials at Democratic National Headquarters acknowledged without apparent guilt that their '64 and '68 platforms also ignored the issue.

One of the claims made by the Citizens' Advisory Council and repeated in the House was that state colleges and universities, either by law or practice, discriminate against women applicants. The council gives no supporting data. I called Dr. Todd Furniss, director of the American Council on Education's Office of Academic Affairs, and asked about such discrimination. "I personally certainly don't know of any," he said. "I doubt that it exists. So far as practices are concerned, the only kind of controls that would exclude women would be availability of dormitories—sort of a controlled exclusion—but that's a pretty thin thread to hold up a discrimination complaint. Last spring my daughter, who will be applying for college this year, got a lot of flak from seniors in her school about being turned down by colleges. I suggested she do a paper on it. But it turned out to be a very complicated thing, and the discrimination picture just didn't come together. I've had some complaints from professional schools where women felt they had been turned down. But apparently what they had run into was some tough, realistic advice: 'This profession is a hard one for women. It's traditionally a man's profession and you will run into walls.' That sort of thing: They interpreted the advice as refusal."

One of the legislators who argued that college and university registrars turn away women in arbitrary waves was Mrs. Edith Green, Oregon's influential voice on the House Education Committee. Mrs. Green told the House: "I am advised that last year in Virginia 21,000 girl applicants for college were rejected. Not one single boy was rejected."

Pretty impressive statistics.

I called Dr. Daniel Marvin, associate director of the Virginia Council of Higher Education, to verify them. "In the fall of 1969," he said, "of the 29,708 male freshmen who applied to all state colleges and universities, 22,410 were accepted. The state schools received 22,234 applications from girls, and 16,567 were accepted. In other words, about 75 per cent of the men were accepted and about 75 per cent of the women were accepted. They have been accepted at that rate for several years."

How had Mrs. Green been so misinformed? "I really can't explain it," she said, being too kind to accuse a staff member of stupidity; the statistical information she used had come from a six-year-old report of the Virginia Commission of Education.

One of the favorite outrages of pro-amendment Congressmen is that some state laws require heavier penalties for females than for males convicted of the same crime. Congresswoman Shirley Chisholm was so smitten by that alleged injustice that she mentioned it twice in the same speech, apparently borrowing the information from the Citizen's Advisory Council's memorandum. The Presidential Task Force also repeats it.

Is there any factual basis for the claim? One of the Congressmen who used the charge in floor debate was Paul Findley of Illinois. I asked his administrative aide, Robert Wichser, what states and what laws Findley was talking about. Wichser said, "I think it's prostitution, but where, I don't know. My wife wrote that speech. I'll ask her and call you back." He did; prostitution, it turned out, was not the crime. Neither he nor his wife nor Findley knew what crimes were involved; as for the states, they had been referring to Pennsylvania and Connecticut—but both states had repealed the offending laws two years ago. Wichser said one state, Arkansas, still discriminates against women by sending them to prison for as long as three years for dope addiction and drunkenness, whereas men cannot be imprisoned as users. But he admitted that this isolated example from one of the most backward states hardly adds up to a national pattern. Even the Arkansas Commission of Corrections acknowledges the unconstitutionality of the law and is encouraging a test case.

But that is not the way the Congressional Record reads on this point.

Since Findley had been guided by the Citizens' Advisory Council's memorandum, I telephoned Miss Sarah Jane Cunningham, chairman of the council's study group, which supervised the writing of the propaganda booklet. Miss Cunningham practices law in McCook, Neb. Our conversation will indicate the kind of scholarship that went into the sex amendment:

Q. Miss Cunningham, where do they give women stiffer jail sentences than men for the same crime?

A. As I recall, the biggest offender was Pennsylvania.

Q. But they've changed that law, haven't they?

A. I couldn't tell you.

So much for the chairman. She recommended that I talk to Mary Eastwood because "the report was actually compiled back there." So the question was put to Miss Eastwood, a lawyer for the Justice Department who was borrowed by the Women's Bureau for 20 hours, she says, to write the booklet. Her answer: "Pennsylvania and Connecticut used to. I think there are still some other states, but I don't know which ones." So much for the technical expert.

When the Supreme Court gets around to reading the record, it will find Congressmen arguing that one of the principal examples of sex discrimination is shown in "dual pay schedules for men and women public-school teachers." That's right out of the memorandum, too, so I asked the chairman of the council's study group, Miss Cunningham, to name the states that have double pay standards. She said: "I think you'd find it in nearly every state, so far as I know." The council's legal expert, Miss Eastwood, said: "I understand it's quite common. I know it's still in use in the state of Wisconsin because I have friends who teach school there. They have a separate pay schedule for women than for men, on the theory that men have families to support. But you'd better double-check that. Ask the N.E.A."

I did. The National Education Association's spokesman told quite a different story: "In the 1968–1969 school year, we found that only five out of the nation's 1,200 school systems surveyed—and these would be the larger systems—had dual pay schedules. That's such a small percentage we didn't even bother to resurvey last year. As I recall the dual pay schedules tended to be in Kansas and Wisconsin.

Dr. C. T. Whittier, Kansas Commissioner of Education, responded, "That has all been cleared up." And William Kahl, Wisconsin School Superintendent, said: "I've been in the state department 20 years, and I can't recall a dual pay schedule ever being the state policy. There might have been scattered situations where the school boards negotiated individual contracts with teachers, but for the past five years the rule has been collective bargaining with men and women getting equal pay for the same work."

There were some rather yeasty lumps of demagogy on both sides of debate. Poor old Celler, failing to equip himself with much factual opposition to the amendment, cranked out wisecracks like, "There's as much difference between men and women as between horse chestnuts and chestnut horses." Matching that on the proponents' side was Congressman Roman Pucinski's plea that to refuse the amendment would be yet another smudge on the nation's record. "It is a sad mark in our history," he complained, "that the United States was the last of the so-called enlightened governments in the world to recognize women as human beings fully entitled to participate in electing officials to public office."

As a matter of fact, while Australia had preceded us by 18 years and New Zealand by 27, the United States gave the full vote to women eight years before Britain took that step. France didn't get around to it until 1946, Italy not until 1947, and a number of other major countries that Pucinski might not consider "enlightened" (China and Japan, for instance) also withheld the vote from their women until after World War II. Switzerland, the only Central European country to avoid participation in any modern wars, still does not permit its women to vote. (It is possible, of course, that there is no connection.)

Taking it all in all, it was a remarkable hour in the life of Congress. And the legislative history written during that time, under the guidance of Congresswoman Griffiths and the Citizens' Advisory Council and Presidential Task Force, gives ample proof that when it comes to preparing jerry-built debate, women are indeed the equal of men.

A word should also be said to the credit of Mrs. Griffiths as a floor tactician. She was superb. Knowing that the liberals in the House were almost obliged to go along with any amendment sounding so helpful as this one, her opening remarks were apparently aimed at nailing down the conservative votes, especially those from the South. That region and Mrs. Griffiths had accidentally worked well together once before, though not for the same purpose, in inserting the sex anti-discrimination wording of the 1964 Civil Rights Act. The Southerners had pushed it partly as a joke and partly as a diversionary tactic, but they had been momentarily useful nonetheless. Now Mrs. Griffiths was ready to use her strange allies again.

What arm of Government is most detested by Southern Congressmen? Exactly. So Mrs. Griffiths, within the first minute, drew the lines accordingly. "It is time," she said, "that in this battle with the Supreme Court, that this body and the legislatures of the states come to the aid of women by passing this amendment." And lest any of the allies she sought were still asleep, as was unlikely, she elaborated: "We will show you that the Supreme Court, *which has readily moved to change the boundaries of your school district*, has not on one single occasion granted to women the basic protection of the 5th and 14th Amendments."

Right in on cue came some of the rowdies of the old civil-rights fight, such men as Albert Watson of South Carolina, needling Celler for helping blacks but not women and sonorously calling for passage of the amendment as tribute due the "pioneering spirit" of American women, "the backbone of the American family" to whom "the nation owes its very life."

Next stop, the Senate. From that chamber we will doubtless once again hear of well-documented injustices.

Gerald Ford told the House, "Men are not generally speaking antiwomen, it simply appears to work out that way." It sure does. Whether in private or public employment, women get shorted. Women who spend four years in college may hope, on the average, to earn about $1,200 a year less than men who quit after high school. Women have little trouble getting jobs in the Federal Government as secretaries, but above that level their difficulties begin. They hold 30 percent of the jobs with a beginning salary of $6,548, but up at the program-management level where pay is around $15,000, they hold only 6.9 percent of the positions. Women fill less than 1 percent of the top career jobs paying $35,000. Civil service officials insist that antiquated masculine attitudes account for only a fraction of the fall-off; often, they say, women prefer to drop out for marriage or to raise families rather than to stay around for promotions. But the statistics clearly indicate that, even with a new constitutional amendment for leverage, women would have trouble dislodging official deadweight resistance.

The attitude creating this situation begins at the top. Every President since Franklin Delano Roosevelt has talked a good line, but only twice were they moved to appoint women to their Cabinets: Frances Perkins, Secretary of Labor under F.D.R., and Oveta Culp Hobby, Secretary of Health, Education and Welfare under Eisenhower.

Once beyond statistics like that, the Senate will doubtless plunge into guesswork. But one pleasant change awaits the observer in the upper chamber: A member who is candid about his own ignorance and who is willing to assign the same characteristics to his colleagues, though it violates protocol.

"Frankly," said Ervin shortly before the Senate Judiciary Committee's hearings opened 10 days ago, "I'm not supposed, as a Senator, to say anything derogatory about the House, but I doubt if anybody except the chief proponent of the bill gave more than 15 minutes' study and research to this business before they voted. And when we hold our hearings I'm not going to be as prepared as I would like. To tell you the truth, I never expected this thing to ever come up, and consequently I didn't make any preparation to fight it. I was astounded when the thing passed the House.

"This is a tremendous thing. I've written to the attorneys general of all the states asking what the amendment will do to their laws, but I won't have many of the answers by then. I won't be able to offer a national view of what this will do to our laws. All I can do is hit the high spots of a few states and point out a few things—like, if the amendment becomes law we'll either have to close down West Point, Annapolis and the Air Force Academy or convert them into co-educational war colleges. Someone told me that the Attorney General of Arizona said that if the House-passed amendment becomes law, his state would have to rewrite its Constitution, and it would take 10 years of litigation to find out what in the devil this thing meant. I agree with that."

Of Ervin, Mrs. Griffiths said: "I trust that he goes down to a graceful and gracious defeat." Well, in some ways Ervin is a very gracious fellow, but at present he shows it best in the way he cuts down women lobbyists. He enjoys it. "I had two very charming ladies in my office the other day," he says, "trying to persuade me to withdraw my opposition. They told me that women wanted to be drafted into the Army, I said, 'Ladies, I always try to be a gentleman, and I never make any reference to a lady's age. But despite your apparent youthfulness, I would have to draw the conclusion you were a few months or a few years above the draft age. Now, if you want to convince me that ladies desire to be drafted, you send me some sweet young things in here of draft age and let them tell me that.' "

When the women tell Ervin that because the amendment has languished without attention in Congress for 47 years it should be passed immediately, without further study, "I tell them," says Ervin, "I tell them, 'Why, ladies, any bill that lies around here for 47 years without getting any more support than this one has got in the past obviously shouldn't be passed at all. Why, I think that affords most conclusive proof that it's unworthy of consideration.' "

Does Ervin stand a chance of stopping the amendment, at least until some national view of the problem and the probable effect of the amendment can be obtained? It's a long shot. If he can persuade the Senate to add enough new language to the amendment, it would have to go to a conference committee for compromising the differences between the House and Senate versions. That could do it, for the conference committee would be presided over by that famous executioner, Congressman Celler. But in the Senate Ervin's support seems light. Some are telling him privately that they think he's right, but not many are volunteering to stand beside him publicly. One of the bold ones is Senator Edward Kennedy, who, like Ervin, fears the chaos that could be dealt to state laws.

Undismayed by the odds, Ervin is preparing a number of stratagems. Most important is his own amendment, which he hopes to substitute for the House version. It is somewhat reminiscent of the amendment once offered by former Senator Carl Hayden of Arizona. Ervin recalls with pleasure: "It was before I got to the Senate, but Senator Hayden told me about it. He said he was sitting back there when the amendment came

up in the Senate, and he got to thinking about the law in Arizona that barred women from working in the mines and he thought that was a pretty good law, so he scribbled off his change with a pencil and a piece of paper and sent it up and it was unanimously adopted. Of course, the Hayden insertion nullified the entire amendment because it said that no law now in effect or hereafter passed giving women any rights, privileges or exemptions shall be affected by this amendment. That nullified the whole thing."

Women militants still talk of the Hayden amendment with deep bitterness. And if Ervin has his way, they will in future years speak darkly of the one he has written.

Not that Ervin's sounds bad, in fact, the power of it is that it sounds, and indeed is, very good. It reads: "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex. This article shall not impair, however, the validity of any law of the United States or any state which exempts women from compulsory military service or which is reasonably designed to promote the health, safety, privacy, education or economic welfare of women, or to enable them to perform their duties as homemakers or mothers."

Which leaves the men, theoretically at least, still one ahead, not in rights but in creativity. The women may have the votes in this affair, but that is a gross accomplishment. On an individual basis, *mano a mano*, where is the women, in Congress or out, with the talent to write a lovingly deadly amendment like that?

SENATOR SCOTT SPEAKS OUT FOR ITALIAN-AMERICANS

Mr. SCOTT. Mr. President, I am distressed by the use of the terms "Mafia" and "Cosa Nostra" in discussions on organized crime. Italian-Americans have made a tremendously rich contribution to the fabric of American society and I have emphasized this fact to those who carelessly overshadow this record of achievement by associating Italian-Americans with the underworld.

Several years ago, I led the Senate floor fight during the antidefamation campaign. At that time I wrote both the Attorney General and the Secretary of the Treasury, insisting that the Government cease making unfounded discriminatory charges.

Last year, I was a sponsor of the legislation that created a national holiday in commemoration of Christopher Columbus. The day on which Columbus discovered this new world is now receiving the respect and prestige it deserves from our entire Nation. I am gratified that 37 States have already voted to celebrate Columbus Day under this Federal legislation.

Recently, I joined as a sponsor of the Ethnic Heritage Studies Center Act. With me when I announced this legislative action were Mr. Guy V. Mendola, national president, Italian Sons and Daughters of America, and other ethnic leaders from Pittsburgh, Pa. This proposed act would authorize grants to public and private nonprofit educational agencies and organizations to study our Nation's rich ethnic heritage and to distribute information on our ethnic groups to elementary and secondary schools. I strongly support the concept of ethnic studies. A person who is proud of his heritage and that of his fellow citizen is proud of himself and his country.

I have now urged Senators and the Government to avoid using the expressions "Mafia" and "Cosa Nostra" in reports and speeches dealing with organized crime. I was delighted to announce several weeks ago that, following my recommendations, Attorney General Mitchell instructed his Department to discontinue this use of these repugnant expressions. Italian-Americans want an end to crime as much as any other American. To connect these fine Americans with the criminal underworld, however unintentionally, is a gross injustice.

PROBLEMS OF THE GHETTOS

Mr. GOLDWATER. Mr. President, on Wednesday, September 30, it was my distinct pleasure to appear before the Washington Booksellers Association. During the course of the meeting several of us who have recenly written books discussed the subjects of our different writings.

I was extremely impressed by the remarks made by a young man, John Hough, who has written an excellent book entitled, "A Peck of Salt." This young man who was a volunteer in VISTA, a program that I have confidence in, even though it has had its ups and downs. He spent a year in the west side of Detroit in what he calls a neglected, impoverished, and savage neighborhood.

In listening to his exceedingly fine presentation, I scribbled on the flyleaf of his book which was before me, "There has to be an answer." Frankly, I do not think we have found the answer, and I do not know whether we are even headed in the right direction, because it should be obvious to all by now that money alone is not going to solve the problems of our ghettos. I have always felt that as much as money is needed in these projects, it must be accomplished by understanding, sympathy, and love, for only in this way can man ever live in peace with his brothers. I have often stated that legislation cannot create these three ingredients; that they must come from the heart. I know that some day these things will come to pass, but that "some day" will more quickly come if each of us determines to contribute the needed help from our own hearts and lives.

So that people who read the CONGRESSIONAL RECORD might have the opportunity to read what this brilliant young author had to say, I ask unanimous consent that his remarks be printed in the RECORD.

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

PROBLEMS OF THE GHETTOS

My book is called A Peck of Salt. It's about the year I spent as a Vista volunteer in a school on the West Side of Detroit in a neglected, impoverished, and savage neighborhood. That year I worked in and lived in what white Americans call a black ghetto.

I left Detroit late in the summer of 1969, and that fall I came to Washington to work for a United States Senator. I was here for six months.

Tonight I'd like to describe briefly how it felt to spend back to back seasons of my life in the ghetto and on Capitol Hill.

I grew up on Cape Cod. My family and friends treated me with love and decency, and taught me to treat others the same. They taught me that it was a pleasant world. In school there was a slight variation on this lesson. In school, I learned that there was a disproportionate quantity of pleasantness in America. America had been built on the most just war of all, and as soon as that war had ended, America had decided to set an example to the rest of the world. America from then on had made it her business to deal freedom and plenty to everyone who lived here, and to take all the leftover freedom and plenty and deal them to the people of other, less reliable countries. I figured this was true, for America had handed me all the freedom and plenty I could use.

To support this, there was the poem by Emma Lazarus which is inscribed on the base of the Statue of Liberty. It was printed in my American history book. It goes like this:

Give me your tired, your poor,
Your huddled masses yearning to breath free,
The wretched refuse of your teeming shore,
Send these, the homeless, tempest-tost to me,
I lite my lamp beside the golden door!

In 1968 I went into Vista and began a year in which very little of my past was useful to me. Least of all, Emma Lazarus's poem.

The old people were tired. I remember a mother who had five children and no husband. Her legs were arthritic and she had trouble walking. Every month she received a welfare check for $175. She lived in a decrepit tenement building, and all day she sat and stared at the traffic in the street below. She spoke timidly to me when I came, and always called me Sir. She was tired.

I found myself in a position to use some government money to hire kids for a summer tutoring program. This is from my book:

"You had to be poor to join the Neighborhood Youth Corps. If there were three in your family and the annual income was more than $2,500, you were too rich to qualify. If there were six in your family and the income was more than $4,200, you were too rich. You were too rich if there were nine in your family and you made more than $5,800 a year."

"Almost all of the kids who came to me were poor enough. I had to tell most of them that all the jobs were taken. There were hundreds of them below the poverty line, unable to find work."

The kids were not tired, but they were poor.

This also is from my book:

"On a Friday in midwinter I asked Robert if he would like to go with me to the Zefirelli movie of *Romeo and Juliet*.

" 'Where's it at?' Robert asked.

" 'The Studio Eight Theater,' I said.

" 'What kind of neighborhood?' Robert asked. 'Colored or white'

" 'White,' I said.

Robert lifted his head and stared into the shadows at the end of the hall. 'I don't want to go,' he said.

" 'Why not?'

" 'I'm scared.'

I came to Washington for the same innocent reasons I joined Vista. I was curious, and I believed I could accomplish something. I liked Washington. I spent a graceful and regenerative season here. I accompanied the Senator as he went to make speeches and to visit his constituents. I went to committee hearings, was allowed onto the Senate floor. I worked on some legislative projects and helped the Senator's press secretary.

I got a glimpse of the machinery of our government. And this is what it looked like to me. It looked like a monstrous machine composed of some of the finest intellects and quickest wits I've ever encountered. Everyone worked long and hard. It was a sophisticated community, both ideological and pragmatic.

This was the machine that my high-school history book had taught me was the greatest,

fairest, most humane government in the history of the world. And it might be.

But something worries me. For while this splendid and powerful machine rumbles in Washington, while men struggle with their obligations, their judgments, and their integrities, while the decisions are made and the acts are passed, nothing is changing on the West Side of Detroit.

I know that now, a year later, I could go back to Detroit and this is what I would find:

I would find Robert, age 16, with his wife and child, still afraid to go to school, still afraid to leave his own savage neighborhood to go where there are white people.

I would find Jamie, age 11, still out on the street all night, splitting his days among school, sleeping, and babysitting his six brothers.

I would find Jamie's mother still earning $75 a week for her family of seven.

I would find Taylor, age 16, selling drugs, because it is still the surest, most honorable way of making money.

I would find the rats and cockroaches and the unendurable heat.

I spent a year there, and I was able to change none of these things. I didn't have the power and the money to change them—That power and that money are here in Washington.

Publisher's Weekly, which didn't like my book, called it disheartening. I think this is wrong, and I hope you think so too. If you expect, as I expected at the beginning, to see me transform lives and yearly incomes, then you will be disheartened. If you expect to hear that the ghetto is a pretty place, you will be disheartened. But if you are surprised, as I was, by the courage and resolution amidst this brutality and poverty and desolation, you will not be disheartened.

I'd like to leave you with a few of the things I've written about. I want you to know that they are out there, and that if some of us or all of us would try harder than we are, these things could help fulfill our greatest hopes.

I remember little Jamie, who had never learned to read, struggling through tears and tantrums and fatigue to finish a 6th grade book about King Arthur.

I remember Robert, who hadn't finished 8th grade, demanding a chance to read Shakespeare. I gave him a paperback of *Macbeth*, and he carried it in his hip pocket till it was shredded. It took him two weeks to read all of it.

I remember parents streaming in by the dozen to sign up their children for the summer reading program.

I remember Karl the morning after he had seen his father stabbed to death, telling me calmly that everything would be all right, that he could take care of his mother.

I remember the ecstasy and purity of their dancing and basketball, exuberant celebrations of living.

These things, I think, make my book heartening. They are symptoms of a determination to try. And that is what the book is about—people who tried when there was almost nothing to try for. I hope I'm around when there is something to try for on the West Side of Detroit. I'd hate to miss it.

PRESIDENT NIXON'S DECISION NOT TO ATTEND PRESIDENT NASSER'S FUNERAL

Mr. DOLE. Mr. President, earlier this week, the Washington Post ran an emotional editorial in which it lashed out at President Nixon for his decision not to attend the funeral of Egypt's President Nasser.

It seems to me that the editorial was ill-considered for two reasons. First, was the obviously insurmountable security problems that would attend a Presidential appearance in the emotionally charged atmosphere of Cairo.

Second, was the importance of the President's visit to Yugoslavia which would have been necessarily canceled by a diversion to Egypt. This importance was underscored by the decision of President Tito—a close friend of President Nasser—not to attend the funeral either.

The President's visit to Yugoslavia is serving to point out dramatically American support for that country's independence. President Nixon's decision to hold to his original itinerary was a wise one from the point of view of our national interest.

THE UNITED STATES SHOULD RATIFY GENOCIDE CONVENTION IN COMMEMORATION OF THE 25TH ANNIVERSARY OF THE UNITED NATIONS

Mr. PROXMIRE. Mr. President, later this month we will join the other 120 member nations in commemorating the 25th anniversary of the United Nations. Recently the President's Commission for the observance of this anniversary released an interim report. The report said that the U.N. "has facilitated the independence of hundreds of millions of people formerly under colonial rule; it has, through its developmental programs contributed to the economic and social advancement of many nations; and has produced conventions on human rights."

It is obvious to me from this report that many of the successful endeavors of the United Nations have been in the field of human rights.

The report also pointed out that the United States is one of the principal founders of the U.N. and the host state. But above all else, the United States is the largest financial contributor to the organization.

Yet, despite the fact that we are the major supporter of the U.N., we have not given the U.N. our full support in its work in the field of human rights.

It is true that we were very active in the drafting of the human rights documents of the U.N., in particular the Genocide Convention. In 1948, the then Assistant Secretary of State, Ernest Gross, in a speech to the U.N. General Assembly said:

> It seems to the U.S. delegation that, in a world beset by many problems and great difficulties, we should proceed with this convention before the memory of recent horrifying genocidal acts has faded from the minds and conscience of man. Positive action must be taken now. My government is eager to see a genocide convention adopted at this session of the Assembly and signed by all member states before we quit our labors here.

However, the United States has yet to ratify this major human right convention.

I cannot think of a better way to commemorate the 25th anniversary of the U.N. than for us to ratify the first human rights document produced by the U.N. By ratifying the Genocide Convention we would effectively nullify the disparity between our words and our action. I urge the Foreign Relations Committee to bring the Genocide Convention to the floor of the Senate for ratification in the near future.

PRESIDENT NIXON'S VISIT TO YUGOSLAVIA

Mr. HANSEN. Mr. President, President Nixon's trip to Yuogoslavia is an exercise in personal diplomacy of which all Americans can be proud. The warm greeting extended to an American President by President Tito and his countrymen is indicative of the value they place on this trip.

Yugoslavia has successfully retained its independence from Moscow for 22 years, and President Nixon aptly pointed out the importance of this achievement in a state dinner in Belgrade when he said:

> The great question today is not whether a nation is aligned or nonaligned, but whether it respects the rights of others to choose their own paths—and Yugoslavia, by its example, has given heart to those who would choose their own paths.

President Tito is rightfully proud of his country's independence, and American support for his position can only bolster his determination to keep his country free. President Nixon made a wise decision in choosing to demonstrate openly our support for this Balkan nation.

POLITICAL VIABILITY IN VIETNAM

Mr. THURMOND. Mr. President, an editorial entitled "Political Viability in Vietnam" was published in the Greenville News of September 16, 1970. The Greenville News is recognized as one of the leading newspapers throughout the South and is well respected by those acquainted with it.

This very fine editorial presents encouraging evidence that the democratic process is taking hold in Vietnam.

The editorial staff of the Greenville News should be commended for their outstanding work and contributions toward informing the public. I recommend the editorial to every Member of the Congress and ask unanimous consent that it be printed in the RECORD.

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

POLITICAL VIABILITY IN VIETNAM

Recent senatorial elections in South Vietnam offer encouraging evidence that democratic processes are taking hold in that tortured land.

For one thing, the resounding success of the militant Buddhist party (which opposes the government) gives the lie to the oft-repeated charge that the duly-elected government is "totalitarian."

If President Thieu were a dictator the Buddhists could not have been on the ballot, let alone finish first in a field of 16 slates. Could any opposition party get on a ballot in Communist North Vietnam (even if the Reds would permit any sort of election)?

So much for the "totalitarianism" propaganda constantly drummed up by Vietnam's critics in the United States.

More important, active participation by the Buddhists in the electoral process is quite an accomplishment in itself. Militant Buddhists boycotted Vietnam's first elections. The turnout this time is definite indication of a growing faith in democracy on the part of the South Vietnamese.

The facts are these:

The Thieu government has managed to give South Vietnam a greater sense of security, enabling Vietnamese to move about and get together for political purposes.

The Vietnamese are beginning slowly to sort themselves out into viable parties, developing the political dialogue and healthy competition which make democracy work.

—Despite its critics, the Thieu government is becoming an increasingly responsible government, confident in itself and at the same time open to legitimate political challenge.

Although Communist terrorism and continued military harassment from North Vietnam continues to threaten South Vietnam, what more could be asked of any struggling young nation than what happened in the recent senatorial voting?

THE PRESIDENT'S TRIP

Mr. DOLE. Mr. President, I do not believe it is possible to overestimate the significance of the President's trip abroad.

For once again this President is making it clear to the world that the United States now has a leader who is willing to face up to America's proper role in the world.

At the same time he is telling the world that the United States is not so preoccupied with Vietnam that it cannot also pay attention to the cause of peace and understanding in the Mideast, the Mediterranean, and in Eastern Europe.

From this trip, the world also receives a further message. It is being told plainly that the President of the United States once again dares to move about the world just as he once again dares to move about his country.

Mr. President, I believe none of this is wasted on our friends, on those who would like to be our friends, or on those who wish us ill.

What the President has done is to show America's strength—not just the strength of the 6th Fleet, but her strength of will; her determination to take what steps must be taken, both in displaying the flag and in extending the hand of friendship; to insure not only peace but also the rights of other free and independent nations to remain free and independent.

Mr. President, in less than 2 years President Nixon has twice penetrated the Iron Curtain with good will gestures that in no way have sacrificed American principles or have weakened our ties with our allies in Western Europe.

The effect of this in lessening world tensions is inestimable.

At the same time, the President's desire to lessen world tensions has not led him to take the kinds of actions and make the kinds of statements the rest of the world can take for weakness or timidity.

In fact, just the opposite. The world knows America remains strong. It knows the American President will not be bluffed or intimidated.

In sum, President Nixon continues to make it clear that the United States stands for peace, but not peace at any price; for friendship, but not for servility; and for keeping her commitments to her allies.

We have come a long way, Mr. President, in the last 21 months.

ADDITIONAL DEATHS OF CALIFORNIANS IN VIETNAM

Mr. CRANSTON. Mr. President, between Friday, August 28, and Thursday, September 10, 1970, the Pentagon has notified 8 more California families of the death of a loved one in Vietnam and Southeast Asia.

Those killed: Sgt. Richard A. Bowers, son of Mr. and Mrs. James W. Bowers of Long Beach.

WO1 Patrick G. Fitzsimmons, son of Mr. and Mrs. Wilbert G. Fitzsimmons of Ventura.

Sp4 Joe Luna, Jr., son of Mrs. Vera R. Luna of Azusa.

Capt. Michael J. McGerty, husband of Mrs. Karen J. McGerty of Fullerton.

Pfc. Michael L. Morgan, son of Mrs. Eileen M. Morgan of Encino.

Sgt. Luis Ramos, husband of Mrs. Luis Ramos of Colton.

Sp4c. Jerrold L. Vesey, son of Mr. and Mrs. Virgil L. Vesey of Palo Alto.

Pfc. Duane E. Waldron, son of Mrs. Catherine C. Waldron of Inglewood.

They bring to 4,214 the total number of Californians killed in the war.

CAMPUS VIOLENCE

Mr. THURMOND. Mr. President, there is much dissension today concerning the report of the President's Commission on Campus Unrest. Views differ as to who is responsible and what steps should be taken to rectify the growing dissent and violence on our Nation's campuses.

Those who place the blame for recent campus turmoil with the Nixon administration display a profound distortion of the historical steps leading to these events. An excellent editorial entitled "Remember Riots at Berkeley?" was published in The Columbia Record, S.C., on September 28, 1970. The editorial clearly depicts the sad history of the disruptions on our campuses.

I ask unanimous consent that the editorial be printed in the RECORD.

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

REMEMBER RIOTS AT BERKELEY?

To blame President Nixon, Vice President Agnew, the Vietnam War or the draft for campus turmoil and violence is an act of intellectual dishonesty, rabid rationalization, and deliberate distortion of history.

The whole sad and sordid history of this brief chapter in America's academe can be traced back to minor rumblings under President Kennedy, serious disruptions amidst excessive permissiveness by bewildered administrators in 1963 and 1964, and a spiraling series of riots culminating in the 1969–70 academic year.

In 1963 and 1964, troubles on the swollen campus of Berkeley began in earnest. In March of 1964, F.B.I. director J. Edgar Hoover warned University of California President Clark Kerr, Penn State President Eric A. Walker and other administrators to expect violence on their campuses. Hoover was right. It came.

Violence came to the campus and both administrators and faculty acted with tender care in chastising young revolutionaries who occupied buildings, shed blood and committed crimes against person and property. "If only we had better lines of communications," the faculty and administrators said in those distant years, "everything would be all right." They reckoned on the radical students observing the fundamental niceties of reason, whereas the students were determined to destroy the university—by whatever means possible.

In October of 1964 there was a terrible riot at Berkeley with "free speech" and off-campus "involvement" as the surface issues. The issues were flimsy. Remember that at that time, and in 1963, President Johnson was an immensely popular man on the campus, the Vietnam War wasn't really a "talking point" and the draft—although always an obnoxious botherance to students—wasn't that nettlesome. Destroying the university was the singular purpose of the small group of radicals, who attracted larger groups of students under the false banners to their "popular fronts."

Before President Nixon even became an official candidate, universities and colleges stared in astonishment as students broke into buildings, destroyed files, burned buildings and classrooms, threatened faculty members and presidents with assassinations, physically attacked faculty members on campus, disrupted classes, injured campus and off-campus police (some for life). San Francisco State? Does the name of the school ring an alarm bell?

Try Duke. It's closer. There the students drove President Douglas Knight to the hospital and to resignation; Taylor Cole to resign as provost and return to the security of teaching.

Radical students began their threat to academic freedom as early as 1962. Reform and change, within reason, has given the student a greater voice than ever before in affairs behind America's ivied walls. But radicals still will pursue their goals: destruction of American society (and universities as part of the "Establishment") by whatever means are at hand.

Academic freedom can be and will be preserved by contemplative faculties and administrators who are willing to discipline, with meritorious degrees of harshness, the radicals within the college community—whether they be students or faculty.

IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

Mr. JACKSON. Mr. President, since the enactment of the National Environmental Policy Act of 1969 less than 9 months ago a great many departments and agencies of the Federal Government have undertaken comprehensive reviews of the policies and procedures under which they operate. On August 13 the Senate Interior and Insular Affairs Committee reviewed with the Council on Environmental Quality the progress that is being made in implementation of the act.

The Department of Transportation has, in my view, worked especially hard to incorporate the philosophy of the new act into their decisionmaking procedures. The most recent issue of the American Institute of Planners newsletter and a recent speech by Mr. Michael Cafferty, Deputy Assistant Secretary for Environ-

ment and Urban Systems, discuss the Department's efforts to make the quality of man's environment an integral part of transportation policy. Mr. President, I ask unanimous consent that both the articles and the speech be printed in the RECORD.

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

DOT'S OFFICE OF ENVIRONMENT AND URBAN SYSTEMS WORKS FOR MORE RESPONSIVE TRANSPORTATION POLICIES

Coordination and evaluation of some major concerns of planners today are responsibilities of the Office of the Assistant Secretary for Environment and Urban Systems in the federal Department of Transportation. This office is DOT's central point for the department's responsibilities under the Environmental Policy Act of 1969 which requires all federal agencies to consider the effect of their activities on the environment with these environmental considerations a part of the basic planning and decisionmaking process.

The office is also in charge of the current major evaluation of Section 134 of the Highway Act of 1962 which requires a Cooperative, Comprehensive and Continuing transportation planning process in metropolitan areas.

Also, this office has a major responsibility for coordinating the resources of DOT to achieve balanced, intermodal urban transportation systems.

It is the interrelationship of the above three responsibilities which makes this new office of special interest to planners. And, it is generally within this context that AIP is working with the Office of Environment and Urban Systems on this fall's workshops on metropolitan transportation planning.

COORDINATOR AND EVALUATOR

The Assistant Secretary of DOT's Office of Environment and Urban Systems is James D. Braman, former Mayor of Seattle. Creation of this office was DOT Secretary John Volpe's first official act when he assumed responsibilities as Secretary of Transportation in 1969. (DOT itself was established under federal legislation in 1967.) Its stated purpose was to make the offices and agencies within DOT more responsive to the needs of local governments and more sensitive to the need for the protection and enhancement of the environment.

Secretary Volpe also is a former elected official. He was Governor of Massachusetts prior to his appointment to head DOT. Both Volpe and Braman, therefore, had had recent first hand experience with transportation controversies involving environmental, social and intergovernmental issues.

Braman has said, "Our office becomes by definition a coordinator and evaluator of the major operating administrations of the department—highways, rail, urban mass transportation, aviation and the Coast Guard . . .

"Our office is also designed to be a focus for research in the environmental aspects of transportation system development. We have a clear mandate to improve the state of knowledge on the relationship between transportation and urban and environmental goals and problems. Further, we will be developing planning methods to assure that national urban and environmental policies are effectively implemented through federal transportation programs . . ."

The office was already in existence when President Nixon signed the Environmental Policy Act of 1969 on January 1, 1970. It was immediately charged with DOT's implementation of this Act, and to date this is the only federal department with these responsibilities assigned specifically to a single Assistant Secretary. This office represents DOT on the Environmental Quality Council set up by the Act, and it was DOT's representative to the Urban and Rural Affairs Councils. It will continue this role with the White House Domestic Council formed by the President through Reorganization Plan No. 2 this year. The office also serves as DOT's prime coordinator on the Model Cities Program, which includes working with HUD on the Model Cities Program, which includes working with HUD on the programs and the commitment of the department's resources to specific Model Cities.

ENVIRONMENTAL CONCERNS

The environmental concerns are probably the major workload at present in Assistant Secretary Braman's office. Because so much in planning and other programs is tied to environmental considerations today, it is hard to attempt to delineate as separate many of the responsibilities of this office. However, the functions discussed in this section are primarily attached to the environmental responsibilities of this office.

The Office of Environment and Urban Systems is responsible for DOT's implementation of Section 4(f) of the Highway Act of 1966 and of the Environmental Policy Act of 1969.

SECTION 4(f)

Section 4(f) of the 1966 Act which created DOT says that the Secretary shall not approve any transportation project which requires the use of any publicly owned land from a public park, recreation area or wildlife refuge, or any land from an historic site unless there is no feasible alternative to the use of such land and that such a project includes all possible planning to minimize harm to these lands.

The Office of Environment and Urban Systems is working to develop policies, criteria and methodology to insure full consideration of non-quantitative values—for example, the value of a park as a park. Resolving such conflicts during the earliest planning stages of a transportation project would be less expensive and less divisive within the community than last-minute confrontations.

In implementation of Section 4(f), the Office has been something of a crisis center for highway projects already underway which have come up against serious opposition on environmental grounds. The office is called in upon request and after discussion with local officials, planners or other groups worried about the impact of a proposed highway. Three major examples of the intervention of the Office of Environment and Urban Systems are:

Federal funds were withdrawn from the expansion of the Miami, Florida, Jetport beyond its use as a training facility. Expansion of the facility into an international airport, plus related commercial development, would have had an adverse and perhaps irreversible effect on the rare and unique wildlife of the Everglades National Park, including alligators in danger of eventual extinction.

The Department refused to approve Interstate Highway construction through the scenic and historic Franconia Notch in New Hampshire's White Mountain National Forest. The Highway would have impinged on the quality of the whole area which includes the famous Old Man of the Mountain, one of the scenic treasures of New England.

Federal funds were withdrawn from the Riverfront Expressway in New Orleans, Louisiana, effectively stopping its construction. Completion of the expressway would have unfavorably and irreparably affected the appearance, atmosphere and environment of the Vieux Carré, the historic French Quarter of the city.

ENVIRONMENTAL POLICY ACT

The purposes of The Environmental Policy Act of 1969 (Public Law 91-190) are "To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the nation; and to establish a Council on Environmental Quality."

Section 102 of the Act states, in part:

"The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the federal government shall—

"(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

"(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

"(C) include in every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on (i) the environmental impact of the proposed action, (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented, (iii) alternatives to the proposed action, (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

"Prior to making any detailed statement, the responsible federal official shall consult with and obtain the comments of any federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, state, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public . . . and shall accompany the proposal through the existing agency review processes;

"(D) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources . . .

"(F) make available to states, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

"(G) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

"(H) assist the Council on Environmental Quality established by this Act."

Section 103 of the Act states:

"All agencies of the federal government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act."

Largely in an effort to improve DOT's response to the Act, as related to improved urban transportation planning, the Office of the Assistant Secretary for Environment and Urban Systems is in the process of directing seven technical studies, all of which are to be finished by about mid 1971. In addition to the grant to AIP (see page one story), the study grants and the recipient groups are:

Study of the impact of the Environmental Policy Act on DOT policy, programs and structure, partcularly inter-disciplinary planning Arthu D. Little, Inc. of Boston.

Simulation of inter-disciplinary transpormental Policy Act. Applied Systems Developtation planning as called for in the Environment, Inc. of Cambridge, Mass.

An analysis of the state-of-the-art in urban transportation planning, particularly how social and environmental values should be weighed in transportation decisions. Real Estate Research Corp, of Chicago.

Study of a joint planning process, stressing student participation, for transit station design. Temple University, Philadelphia.

Case studies in transit planning focused on identifying urban areas on the brink of transit investment. (Not yet let.)

Study of environmental factors in airport and airport access planning. (Not yet let.)

INTERMODAL SYSTEMS

DOT must report to the Congress next year with a national transportation policy recommendation, under the new Airport and Airways Development Act of 1970 (Public Law 91-258). President Nixon also asked DOT for such a recommended policy. Secretary Volpe has often said this year that he and his department are tending toward the goals of common funding and balanced intermodal transportation systems.

Assistant Secretary Braman's office has a key role in development of such a national transportation policy. Based on work done during the past year and preliminary results of the evaluation of Section 134, the office currently intermodal transportation planning at the metropolitan level, with perhaps a single grant application and unified funding. This approach would be possible in many present and future DOT programs, but could not, of course, change the use of the Highway Trust Fund monies without a change in the Congressional mandates. (See June *AIP Newsletter*.) This might also be tied to a single focus in the Department itself for administering and monitoring the urban transportation planning process.

A key focus of the office now is DOT's major evaluation of urban transportation planning as it exists, with emphasis on Section 134 of the Highway Act of 1962. (See May *AIP Newsletter*.) Some of the preliminary results of the 134 evaluations indicate a response from the mayors generally in favor of more local planning control in transportation matters as well as more intermodal flexibility.

Since the aim of the transportation evaluation is to come up with an ideal comprehensive urban transportation planning process, the consideration of national transportation policy alternatives is closely related to the study. An ideal urban transportation planning process, as seen by the Office, might well be through a single metropolitan agency responsible for consideration of the environmental, social and land use factors of transportation planning. It would also serve as a coordinator for an area's total transportation system.

Some of the concerns and questions which are part of the study include:

What should be the DOT strategy to rationalize the separate modal planning assistance programs and how can true multimodal planning be assured?

What kind of local institution should be encouraged to assume the leading role in managing the planning process and acting as a forum for all transportation decisions?

What kind of state organization is best suited to administer DOT planning assistance?

How can DOT be assured that regional and community goals and objectives, both for land-use and social welfare, are clear before federal-aid transportation decisions are made irrevocably?

What can DOT do to assure that new technology demonstrations are built into the urban transportation planning process?

How can DOT assure that citizens are meaningfully involved in the grass-level transportation decisions, before project confrontations?

How can DOT assure that all of its transportation planning funds are used to further orderly growth?

"THE URBAN TRANSPORTATION/INNOVATION PROBLEM: CAN NEW CONCEPTS HELP?—THE INSTITUTIONAL RESPONSE"

(By Michael Cafferty)

Many of the discussions of the American Society of Civil Engineers Transportation Conference, and especially those of its panel on the question, "Can New Concepts Help?" have been directed toward technological innovation and its promise as a solution, or even the solution to today's worsening urban transportation problem.

Unquestionably many of the solutions to the transportation problems which confront cities and transportation experts will come through the development and application of new systems, new technology for moving people and goods in the urban areas. There is talk of tracked air cushion vehicles, personal rapid transit systems, dual mode vehicles, automated guideways, new propulsion systems—the possibilities are enormous.

Technology in transportation can only be successful when it is a component of a total system, a system which incorporates economic, social and environmental factors into the end product. It is a cliche in transportation today that we can get men to the moon but in most of our metropolitan areas, we cannot move men across town with any degree of predictability, to say nothing of comfort or choice as to the way in which we do it. The situation is simply (or not so simply) that the traffic problems which one encounters between here and the moon are not like the traffic problems between downtown and the suburbs at any rush hour. And city dwellers aren't even wearing space suits.

Moon vehicles aside, on earth transportation problems are problems stemming from failures in the processes by which society and technology interact and from failures in the institutions which have been created to promote or, in some cases, to deter such interaction. And I suggest that many of our problems are subject to institutional solutions. Among areas in which institutional innovation offers promise, I should include the way transportation systems work, the way they are used and, most important, the way they are planned.

There are three important new considerations, new concepts, which affect the programs of the Department of Transportation, all institutional by nature.

First of these is the new focus on the environment and on the national desire to preserve and enhance the quality of the environment with whatever tools we may adapt to serve that goal. This effort is supported by the Environmental Policy Act of 1969, signed by the President on January 1, 1970. It is also supported by Secretary Volpe's own concern about environmental quality and by steps which he has taken to establish within the Department of Transportation new mechanisms for coping with the need to assign a high priority to environmental factors in transportation planning, policy and programs.

Second, the Bureau of the Budget came to the Department last year with a request that we evaluate the urban transportation planning process to see where and how it might be improved. Here again many of the improvements will probably be institutional. Here again technological solutions alone cannot serve the need completely.

Third and finally, when Secretary Volpe came to Washington, he identified another problem area—the need for urban systems—which he considered subject to institutional rather than solely to technological solutions. The Department of Transportation itself was created in an effort to bring together and to rationalize into a system a collection of transportation modes, techniques, methods of funding. Nowhere was the need greater than in the Nation's urban areas which were reacting to the impact of a variety of factors including urban freeways and urban freeway revolts, Interstate highways funded 90% by the trust fund, faltering and failing municipal and private transit systems, increasing reliance on airports and increasing concern about aircraft noise, and an automobile population explosion which matched the people-population explosion.

These new considerations, these institutional innovations, have already been reflected in transportation philosophy at the Federal level. Secretary Volpe, upon his arrival in Washington, created the new Office of Assistant Secretary for Environment and Urban Systems, headed by J. D. Braman, until then Mayor of Seattle. Mayor Braman is the highest subcabinet Presidential appointee in Government whose responsibilities, by title, include environmental concerns.

Secretary Volpe established this new Office because his own experience as Governor of this State and, before that, as Commissioner of Public Works convinced him of the importance of the impact of transportation on the physical environment in which we live.

Too often in the past, transportation planners have devoted their efforts solely to considerations of balancing cost and benefit. Too often in the past such planners have given more thought to eliminating the problems of automobile congestion than they have given to the need for eliminating the effects of automotive pollution. They have given more thought to transportation efficiency in the narrow sense than they have given to transportation as an environmental consideration which might profoundly affect the quality of life.

The efforts of Secretary Volpe within the Department of Transportation have been reinforced substantially by the directives resulting from the Environmental Policy Act. In signing the Act, President Nixon said, "its literally now or never." He added "we are determined that the decade of the 70's will be known as the time when this country regained a productive harmony between man and nature . . ."

In the National Environmental Policy Act of 1969, Congress directed all Federal agencies to improve and coordinate their planning functions, programs and resources in order to:

(1) "fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;"

(2) "assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;"

(3) "attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;"

(4) "preserve important historic, cultural, and natural aspects of our national heritage, and maintain, whatever possible, an environment which supports diversity and variety of individual choice;"

(5) "achieve a balance between population and resource use which will permit high

standards of living and a wide sharing of life's amenities;" and

(6) "enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources."

With this legislation, the Congress has, for the first time, attempted to treat governmental actions and their relationship to a broad range of environmental values. The policies, regulations and public laws which Departments propose are required to give positive consideration to their impact upon the environment in which they operate. To this end all agencies of the Federal establishment are required to:

(1) "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment."

(2) "identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations."

The Council on Environmental Quality has been working with all agencies in an effort to identify and develop those methods and procedures which will make it possible to insure that what we call "unquantified environmental amenities and values" are given equal consideration in design planning equal to that given to cost benefit and technological feasibility. Further, in proposing legislation or in "other major Federal actions" which significantly affect the environment, Federal agencies must prepare and submit to the Council on Environmental Quality statements on environmental impact before they submit legislation to the Congress or before they approve or move forward on Federal programs and projects. This is called "the 102 statement" and it is designed to factor environmental considerations into the process early enough to make intelligent choice a possibility. This "102 statement" must set forth:

(1) the environmental impact of the proposed action;

(2) any adverse environmental effects which cannot be avoided should the proposal be implemented;

(3) alternatives to the proposed action;

(4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(5) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Obviously, this is pervasive legislation. Federal agencies are just now taking steps to incorporate these very specific environmental considerations into their planning and their programs. There will be cases where implementation of the Environmental Policy Act will require painful readjustments in the old ways of doing business. The Department of Transportation, under the leadership of Secretary Volpe, has been a prime mover among Federal agencies in terms of response to the Act's statutory requirements for action. Because the Department created an Office of Assistant Secretary with environmental responsibilities, it has a one year lead over other Federal departments in this very important area.

The second institutional innovation, another major effort of the Department which the Office of the Assistant Secretary for Environment and Urban Systems is also directing, is an evaluation of the comprehensive urban transportation planning process. There seems to be almost common agreement about the need for something better than that which exists today.

The Department's evaluation is based on the process as outlined in Section 134 of the 1962 Highway Act which called for "a continuous coordinated comprehensive transportation planning process" for those metropolitan areas with more than 50,000 population. This evaluation is aimed at rationalizing all Departmental planning assistance programs in urban areas. It involves all elements of the Department—not just the Office of the Secretary, but also the Federal Aviation Administration, the Federal Highway Administration, the Urban Mass Transportation Administration, and in some cases, the Federal Railroad Administration. It is the first such effort, the first attempt, to rationalize Federal planning assistance programs for transportation. Once such urban transportation planning is rationalized, the Department of Transportation will have made a significant step toward allowing local government to establish intermodal *urban systems*. Further, the Department will have made a significant response to a charge of the Congress at the time the Department of Transportation was established—the establishment of transportation systems, rather than the transportation fragments or the transportation segments which have characterized efforts in the past.

In evaluating the urban transportation planning process, the Department has sent questionnaires to 40 Mayors, 25 Councils of Government, 50 State Highway Departments, and 250 urban transportation planning agencies and other groups as well. While focusing on structure, financing, and organization, the questionnaire also allowed for a free flow of opinion on and evaluation of the planning process based on the perspective of the respondent.

Through the study participants, the Department hopes to gain the benefit of a first-hand local perspective on urban transportation planning. We believe that responses to the questionnaire * will help the Department build a concept of an ideal urban transportation planning process. Perhaps more important, the study may lead to a melding of existing highway planning policies and procedures with other planning assistance programs in the FAA and in the Urban Mass Transportation Administration. The goal—a metropolitan development agency with planning and programing authority for all modes of transportation in urban areas, not just streets and highways, not just airports and airport access routes, not just bus and rail rapid transit facilities, but all of them.

The Office of Environment and Urban Systems has already reached some very preliminary conclusions as a result of the early returns on its questionnaire.

The major strengths in the urban transportation planning process which has resulted from Section 134 include its serving as the first major Federal stimulation of functional planning for highway, transportation and land use planning in most urban areas. It has enabled planners to gather economic data to use in highway forecasting.

Further, it has provided a formal structure by which State highway departments and local governments can relate to each other and cooperate on highway planning projects. In general, in spite of its shortcomings, it has provided the best highway transportation planning process which has been developed up until this time.

Preliminary findings as to weaknesses in the process have indicated that in most urban areas intermodal transportation planning as a part of area-wide planning is largely a fiction because planning is dominated by the availability of funds for highway programs. Citizens groups and committees seem to have had little impact on coordinating and guiding transportation planning in most urban areas especially in those early stages when many of the major decisions are reached. Questionnaires indicate that existing planning procedures give too little consideration to new technology and to experimentation with new transportation techniques. Further, most urban transportation study groups do no comprehensive transportation planning and give too little attention to problems relating to public transportation, airport development, transportation by water, and to parking and pedestrian problems. Responses indicate that at this time environmental factors play little part in the transportation planning process. Most urban transportation planning groups lack capability to evaluate their own programs because they have neither standards nor goals for their planning activities. And, finally, replies to the questionnaire seem to indicate that many urban transportation study groups are confused about the roles of the Department of Transportation and the Department of Housing and Urban Development in financing planning and planning for transportation.

From the standpoint of the Department itself, responses to the questionnaire have made it possible to reach certain conclusions also. *First, the Secretary of Transportation may well wish to consider the possibility of establishing within the Department of Transportation a single focus for administering and nurturing intermodal urban transportation planning.*

A new concept of urban transportation planning, emphasizing the transportation system as an urban development and environmental tool, is badly needed. Urban transportation planning in many areas has developed into a complex and technical process of self-fulfilling prophesies and demand forecasting techniques rather than into a process promoting new systems by which urban areas use transportation to meet other goals for land use, growth, and lifestyle.

The various elements of the Department are now examining alternatives, aiming at a single DOT policy statement and guidelines for all Federal-aid urban transportation planning.

Second, the Department of Transportation may also wish to consider the establishment of a single urban transportation planning assistance fund and program. The fund would have no modal identification and would be used to finance urban transportation planning by single metropolitan planning agencies with basic responsibility for comprehensive physical and social planning in their urban areas.

The central target of DOT urban transportation planning assistance should be the development of metropolitan institutions capable of dealing effectively with increasing Federal aid for airports, airport access, highways, and public transportation. Criteria for receipt of Federal-aid urban transportation planning funds may well include:

(2) Capability within one metropolitan institution to reflect accurately the political majorities of each participating local jurisdiction in a uniform and reasonable way and to maintain a viable metropolitan forum for bargaining and decision-making to occur.

(3) Capability of staff to deal with intermodal urban transportation planning and systems planning and to reflect balanced staff capability to deal with performance and external characteristics of various modes and systems.

Those knowledgeable in urban transportation planning will quickly point out that few such metropolitan institutional mechanisms exist at this time. However, alternative strategies to identify and promote viable metropolitan institutions which may have the capability to meet such needs are now being developed. Federal planning aid can help to bring about this institutional response.

* A copy of the questionnaire is given at the end of this article.

In any new urban transportation planning effort, the States will have a central role. Intermodal planning funds administered by the Secretary would be allocated to States on the basis of population and reallocated to metropolitan agencies based on a formula yet to be devised but relying heavily on growth, population, and other indices of transportation problems. Some method for measuring the degrees of congestion would need to be a part of the process, giving the DOT a better idea of relative degrees and mixes of problems.

Current transportation planning funds appropriated to the Secretary for use by the various modal Administrations represent the source of the Department's new urban transportation Planning Program. Based on the premise that balanced, intermodal planning should be no modal distortion of local decisions on transportation by federal aid, it may develop that any planning fund should avoid modal identification or association.

A new impetus for urban growth through transportation and land use planning and control could be provided by this new program. Since urban form is shaped by transportation systems, each mode having its peculiar effect on land use, then metropolitan areas should have the opportunity to plan and achieve more diversity and opportunity for their people. A larger more flexible transportation planning fund, accompanied by carefully conceived federal criteria and data on the potential growth and environmental effects of various modes in each the unique situation, would give new life to the urban planning process.

In addition, the Department's 1972 National Transportation Plan now being launched will represent still another stimulus for beginning now to build truly intermodal planning at the metropolitan level. This exercise will require a central focus for articulating metropolitan transit, airport and highway needs. Again a metropolitan planning and development authority or mechanism is necessary to deal with this problem if the sort of haphazard Federal investment in transportation which has characterized past efforts is to be avoided.

The study of Section 134 and the planning process is being tied to the other research efforts which the Office of Environment and Urban Systems has undertaken which also seek to relate the articulation of transportation goals to urban needs and desires for transportation *systems*. Such systems should give full consideration to the service which they provide, to the environment in which they operate and to their interrelationship with other metropolitan programs and agencies such as housing, the need for medical and hopefully facilities, and educational programs.

Among these research efforts are:

EDUCATION PACKAGE FOR TRANSPORTATION PLANNING

The purpose of this project is to provide an educational package useful to DOT as a mechanism to improve communication among planners and other professionals engaged in the metropolitan planning process, and to insure that all those engaged in the planning process become aware of the implications of the Environmental Policy Act for planning.

The contractor, the American Institute of Planners, will develop an educational package for an interdisciplinary approach to urban/regional transportation planning based upon research involving the following six cities: San Jose, Denver, Indianapolis, Cleveland, Miami, and Springfield, Massachusetts. The product will include a profile on each metropolitan area, background on the metropolitan transportation planning process in each area, and information on the coordination of the input of local professionals generated by the study in each area.

DOT POLICY AND PROCEDURES ON ENVIRONMENTAL POLICY

The objective of this project is to analyze and report on the impact of the National Environmental Policy Act of 1969 on DOT, particularly with regard to its transportation assistance and grant programs. The study is designed to produce a set of alternative recommended actions which the Secretary can utilize to execute the Act. Also to be included is an evaluation of the role and appropriate structure of Office of Environmental and Urban Systems, both for its functions in DOT and for its external relationships.

The contractor, Arthur D. Little Company of Boston, will conduct an analysis of the Act and other current DOT legislation, identifying basic inconsistencies and common points, and prepare a tabular comparison. He will prepare a written report discussing policy alternatives available for consideration, and a draft manual for gathering groups related to transportation, on the definition and interpretation of the Act, and prepare a list of groups to be contacted.

ENVIRONMENTAL, SOCIAL AND AESTHETIC FACTORS IN URBAN TRANSPORTATION PLANNING

The purpose of this project is to develop a recommended system of methods and procedures for fostering a representative and comprehensive transportation planning process for urban communities, incorporating consideration of presently unquantified values such as environmental, aesthetic, and social factors, and maximizing the opportunity and scope for citizen participation in the planning process.

The contractor, Real Estate Development Corporation of Chicago, will provide direct on-site study of transportation planning in four cities, to be selected by the Government from a list of 15 cities chosen by the contractor. He will prepare a manual and graphic layouts, and presentation materials summarizing pertinent experience in the four selected cities and developing systematic recommended procedures and techniques to improve the transportation planning process and provide for informed and effective participation by citizens, groups, and local decision-makers. This should include general conclusions pertinent to other cities facing similar transportation planning situations.

CASE STUDIES IN TRANSIT PLANNING

The purpose of this study is to provide case studies of the rapid transit planning process and systems design in selected North American cities that have mass transit systems in operation or in cities where city officials are considering various proposals for transit. The study shall also identify the environmental effects and the economic and physical development impacts of these systems.

The contractor will conduct a study in two parts. Part one will involve case studies of 25 cities, including the transit planning process and the actual transit system and how it relates to comprehensive planning programs of each city. This will be done in coordination with the DOT study of the effectiveness of Section 134 of the 1962 Highway Act. The second part of the study will consist of an examination of the current transit planning process in North America from a standpoint of broad applicability to numerous localities.

TRANSPORTATION PLANNING SIMULATION

The objective of this project is to develop a transportation planning simulation (game) that simulates the activities, procedures, and decisions involved in transportation planning as it affects the environment of a city such as New Orleans or Cleveland.

The contractor, Applied Decision Systems Incorporated of Boston will develop and furnish a transportation planning game, in the form of a program design. He will prepare and furnish a film of significant sessions of the game, and train three to five individuals to conduct subsequent plays of the game.

A STUDY TO PRODUCE A JOINT PLANNING PROCESS STRESSING PARTICIPATION FOR THE REDESIGN OF A SUBWAY STATION

The purpose of this study is to demonstrate joint transportation planning efforts which involve students, and to develop an advanced, yet practical, approach to transit station and related development. This will be used by DOT as an aid for planning similar facilities.

The contractor, Temple University, will perform studies and analyses of techniques appropriate to the redesign of the subway station at the intersection of Broad and Columbia in Philadelphia. With the aid of university students in appropriate disciplines, he will develop a joint planning process and a group to implement it. He will also prepare media to present to interested groups produce a display for the subway station, and prepare a report discussing in detail the activities and procedures involved in planning.

ENVIRONMENTAL FACTORS IN AIRPORT SITE SELECTION

The purpose of this study is to identify and describe environmental factors which should be considered in connection with airport planning. This will be in the form of a handbook for airport planners that identifies and quantifies the effects on intermodal transportation planning problems, water and air pollution, noise pollution, aesthetics, community disruption, and the surrounding land-use and development.

The contractor will produce a handbook which indicates awareness of the effects on residential, community, and commercial facilities and which identifies methodolgy and suggests procedures that deal with the aspects of airport planning mentioned above, in addition to a description of environmental control techniques to be considered and a description of institutional participants in the airport planning process. The subject will be researched in an interdisciplinary context, using case studies where relevant.

The Department of Transportation and its Office of the Assistant Secretary for Environment and Urban Systems do not suggest that these research projects and studies will establish new urban transportation systems in the near future but the Office of Environment and Urban Systems is confident that new factors have been brought to bear on transportation planning and on the use of transportation as a tool for urban development.

Further, the Department is confident that it is closer to the development of urban transportation *systems* than it has been possible to be in the past.

And the Department and its leadership are confident that progress has been made toward the development of tools which will make it possible to consider environmental factors in all transportation planning and in all transportation programs.

None of these efforts is narrowly technological. All of these efforts are broadly focused on the process of the institution within which the process works. All of these considerations are very important to all those who are engaged in transportation planning at whatever level. Further, they promise to have even greater significance for those who care about the quality of life in our America's cities and its towns.

U.S. DEPARTMENT OF TRANSPORTATION, QUESTIONNAIRE—AN EVALUATION OF THE CONTINUING COMPREHENSIVE TRANSPORTATION PLANNING PROCESS REQUIRED BY THE 1962 FEDERAL-AID HIGHWAY ACT

I. GENERAL

A. Regional Transportation Planning Agency Name: Area population, Reporting Official. Central City, Year Agency Established.

B. Has an areawide transportation plan been publicly issued? When? Yes, No.

C. Are there existing or planned arrangements for reviewing transportation improvement programs for conformity with the plan as issued? Has a process been established for such review? Yes, No.

D. Does the transportation plan include priorities for improvement? If so, how were the priorities developed? Briefly define priorities. Yes, No.

E. How will the transportation plan or system recommendation be reviewed and approved by each of the following?

Affected local governments, metropolitan planning or development agency, county governments, State highway department, Council of Governments.

F. Does a short-term multi-year program (up to 10 years) of areawide transportation capital improvements result from the urban transportation planning process? Yes, No.

G. Has the region or its communities issued a statement of goals and objectives? Yes, No.

H. Is there an official areawide development plan reflective of regional goals and objectives? Yes, No.

II. ADMINISTRATION

A. Please indicate which of the following best describes the principle or core group responsible for conducting the operations of the transportation planning process.

1. Special Organization for Transportation Planning.

2. Regional or Metropolitan Planning Commission.

3. State Highway Department Unit.

4. Consultant(s).

5. Coordinated Multi-Agency Arrangement.

6. Council of Government.

7. Other (please specify).

B. Which of the above arrangements will be utilized for the continuing phase of the planning process (after initial transportation plan is developed). How is the plan updated?

C. Which of the following committees have been established to provide guidance and coordination of the transportation planning process: Policy Committee, Coordinating Committee, Technical Advisory or Coordinating Committee, Citizens Committee. Other Citizen's Committees (please identify).

D. How is the study director chosen? To what group does the study director normally report study affairs and from whom does he receive direction? Policy Committee, Coordinating Committee, Technical Committee, State Highway Department, Planning Commission, Other (please specify).

III. STUDY FINANCING

A. What has the total cost been for conducting the transportation study up to the present time?

B. What is the estimated cost of advancing the transportation planning process through the initial plan stage?

C. What is the estimated annual cost for the continuing transportation planning program after the initial plan is developed?

D. What are the current allocations of cost among the financial participants of the transportation planning process—for what period?

Local Government, City, Other $———.

State Government, Highway Dept. Other agencies $———.

Federal Government, Highway Adm., HUD, Other $———.

For what period are above costs cited?

E. If a formula is used to pro-rate the cost of the transportation study among local governments, which of the following characteristics are used to determine financial shares?

Land area, population, property valuation, motor vehicle registrations, other (please specify).

IV. ORGANIZATION AND APPROACH

A. Does the transportation planning study agency also act as the areawide agency under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966? If not, what is the Section 204 agency? Yes, no.

B. Describe how the following elements are incorporated into the urban transportation planning process: 1. Highways, 2. Airports and Airport Access, 3. Public Transportation, 4. Water Transportation, 5. Parking, 6. Other.

C. Describe how citizen groups are incorporated into the planning process:

D. Please indicate current or planned approaches to interdisciplinary planning by showing the number of regular or consultant staff with the following disciplines: Urban Transportation Planners, Highway Engineers, Urban Planners, Economists, Sociologists, Mathematician-Statisticians, Architects, Ecologists, Lawyers, Psychologists, Other Disciplines.

E. What formal mechanisms have been established for securing the advice and participation of elected local government officials on a continuing basis? If none, how is such advice and participation secured?

F. Describe how environmental or ecological considerations such as noise, aesthetics, air and water pollution are involved in the urban transportation planning process. Are data and guidelines available or generally lacking in these areas?

V. EVALUATION

Does the urban transportation planning process, as it has evolved under the 1962 Highway Act, need change? How, from your perspective, should it be changed? Is the process adequately financed? Does the process produce good urban transportation planning? Yes, No.

QUESTIONNAIRES TO 40 CITIES AND COUNCILS OF GOVERNMENT

CITIES

Albuquerque, N. Mex., Arlington, Tex., Atlanta, Baltimore, Birmingham, Boston, Cincinnati, Chicago, Cleveland.

Dallas, Denver, Detroit, Flint, Greensboro, N.C., Hartford, Conn., Houston, Tex., Indianapolis, Jackson, Miss., Jacksonville.

Los Angeles, Madison, Memphis, Tenn., Miami, Milwaukee, Minneapolis, Nashville, New Haven, New Orleans, Norfolk.

Omaha, Nebr., Philadelphia, Phoenix, Portland, Oreg., Rochester, N.Y., San Antonio, San Diego, San Jose, Seattle, Springfield, Washington, D.C.

COUNCILS OF GOVERNMENT

Birmingham Metropolitan Planning Commission, Birmingham, Alabama, Maricopa Association of Government, Phoenix, Arizona, Association of Bay Area Government, Berkeley, California, Sacramento Regional Area Planning Commission, Sacramento, California, Denver Regional Council of Governments, Denver, Colorado, Capital Regional Planning Agency, Hartford, Connecticut, Metropolitan Washington Council of Governments, Washington, D.C., Atlanta Region Metropolitan Planning Comm., Atlanta, Georgia, Greater Portland Council of Governments, Portland, Maine.

Baltimore Regional Planning Commission, Baltimore, Maryland, Metropolitan Area Planning Council, Boston, Massachusetts, Southeast Michigan Council of Governments, Detroit, Michigan, Metropolitan Council, Twin Cities, Minnesota, Omaha-Council Bluffs Metropolitan Area Planning Agency, Omaha, Nebraska, Middle Rio Grande Council of Governments, Albuquerque, New Mexico, Genesee Finger Lakes Regional Planning Board, Rochester, New York, Piedmont Traid Council of Governments, Greensboro, North Carolina, O-I-K Regional Planning Authority, Cincinnati, Ohio.

Miami Valley Regional Planning Commission, Dayton, Ohio, Columbia Region Association of Governments, Portland, Oregon, Delaware Valley Regional Planning Commission, Philadelphia, Pennsylvania, North Central Texas Council of Governments, Arlington, Texas, Alamo Area Council of Governments, San Antonio, Texas, Southeastern Virginia Planning District Commission, Norfolk, Virginia, Puget Sound Governmental Conference, Seattle, Washington.

STATEMENT BY JOE HIGGINS AT AIR FORCE ASSOCIATION NATIONAL CONVENTION

Mrs. SMITH of Maine. Mr. President, recently the Dodge sheriff, Joe Higgins, made a statement that I wish every American would read—a statement that I wish every television station would carry.

It needs to be repeated many, many times.

I know it will be of interest to the Members of this body.

I ask unanimous that the address by Joe Higgins at the luncheon of the Air Force Association's National Convention on September 22, 1970, be printed in the RECORD.

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

REMARKS BY JOE HIGGINS

Ladies and gentlemen—this is a real pleasure. I have participated in many Air Force and AFA events over the years—from Dining Ins to Dining Outs—but to officiate, so to speak, at this annual luncheon for the Chief of Staff—with so many Air Force Commanders present . . . well, it is a great thrill.

I am on the road constantly these days—appearing in major cities and small towns—meeting and talking with people—seeing the so-called "revolution," and hearing its protests at close range.

Yes—and seeing and hearing something else . . .

I find a wave of reaction . . . yes, a negative response to the protestors—but more than that—a strong positive wave of . . . well, I can't say it any other way . . . a wave of fundamental Americanism.

I say that this convention—what we say and how we feel—represents, by a wide margin, the prevailing mood in America today—despite the louder, more publicized chants of the dissenters.

Of course, our nation is caught up in strong cross-currents.

Of course, our government and its people are up tight over diverse priorities.

But, these priorities . . . ranging from defense to ecology and back again . . . are being treated as "either-or" propositions by the anti-militarists.

As they would have it, we are building a garrison state bristling with arms but foundering in social and economic decay. Hogwash!

And let's face it—a social utopia incapable of defending itself is an even greater negation of the American dream.

The dawn of positive reaction is appearing

without the rank and file of our people realizing that world balance of power is, in fact, tilting toward the other side . . . without recognizing, except through gut feelings, the true nature of the Soviet threat.

Is it any wonder they don't feel the threat?

Year after year they were told, over and over again, that if the Russians didn't wear white hats, they were, at worst, slightly gray in color . . . that technology as well as people could be manipulated to achieve a stand-off—"detente" was the fancy word for it—between Soviet Russia and the United States. So, Mr. and Mrs. America, enjoy yourselves . . . all is well in the international arena.

That was the frightful message that came out of those seven long, dark years of the civilian junta under the Whiz Kids . . .

Is it any wonder we were lulled to the soft and dangerous sleep of complacency.

But—my message is—Mr. and Mrs. America are waking up. And they need our help.

They need what is said in the Statement of Policy adopted yesterday at this convention.

The Statement addresses itself to the growing threat posed by the military buildup of the Soviet Union. The Statement contends that the solution to America's internal problems cannot be paid for by retreating from external realities. And the Statement challenges America—in the case of freedom both home and abroad—to tighten its fist once again as a world power.

I encourage all of you to read AFA's latest policy statement. It is one more reason why I am so proud to be a part of the Air Force Association.

MIGRANT AND SEASONAL FARMWORKER HEALTH STATUS DOCUMENTED

Mr. MONDALE. Mr. President, on July 20, the members of the Migratory Labor Subcommittee were exposed to a shocking experience that I hope we will never have to go through again.

We had learned that a team of renowned medical doctors and technicians, sponsored by the Field Foundation, had conducted an extensive investigation of the general health and living conditions of migrant and seasonal farmworkers in various sections of the country. They were invited to appear before the subcommittee on the basis of their preliminary reports which indicated terribly shocking survey results.

As chairman of the Migratory Labor Subcommittee, I wish to share the doctors' statements. Dr. Raymond M. Wheeler, as chief spokesman for the team, described conditions generally prevalent in areas of farmworker concentration in Florida and Texas. Dr. Harry Lipscomb, director of the institute for health services research at the Baylor College of Medicine in Houston described the details of the doctors' findings in Texas. He documented the polio epidemic in Texas, and the existence of nutritional and degenerative diseases, dental problems, and speech, hearing, and vision defects that were all too common. Dr. Ramiro Casso, who has dedicated himself to serving farmworkers on a day to day basis in the Rio Grande Valley confirmed the validity of the findings of the team of physicians.

And finally, Dr. Gordon Harper, a young resident just completing his medical training, told of his experience traveling in the stream with immigrant farmworker families, and how medical care delivery systems are just as highly inadequate in the home base areas as they are in the stream States.

I wish that all of my colleagues could have been in the hearing room as these doctors testified, for it is impossible to recount to you the hushed silence as they enumerated their findings. It is impossible to capture today their rage at having to recount their own experiences. There were few men and women that could sit through the testimony with dry eyes, insensitive to the realities of how we are daily destroying human beings. The muffled clapping of hands that followed each doctor's statement reflected the shocked emotions of all compassionate human beings—emotions mixed with outrage over the injustices perpetrated on farmworkers—emotions harboring the hope that something will be done.

The words of Dr. Wheeler are worth special mention:

I doubt that any group of physicians in the past thirty years has seen, in this country, as many malnourished children assembled in one place as we saw in Hidalgo county.

The children we saw that day have no future in our society. Malnutrition since birth has already impaired them physically, mentally, and emotionally. They do not have the capacity to engage in the sustained physical or mental effort which is necessary to succeed in school, learn a trade, or assume the full responsibilities of citizenship in a complex society such as ours.

The younger children, especially, were undersized, thin, anemic, and apathetic. The muscles of their arms were the size of lead pencils—a sign of gross protein malnutrition.

What is different in Florida and Texas from the rest of the rural South is the deliberate, cruelly contrived, and highly effective system which has been devised to extract the maximum work and productivity from other human beings for the cheapest possible price.

How can the Congress and our nation's leadership pretend to be related in any sane way to the world around them when they spend their time and the nation's wealth building roads and guns and planes and elaborate governmental buildings while families live 10 or 12 in one room without water, heat, ventilation or even a place to wash their hands?

They have not given up the hope that we, who can help, will some day raise our voices and say that there are some things in our country which are intolerable, that these things can be changed, and must be changed. Our time is running out.

In view of the great public interest concerning the testimony of the doctors, and the importance of this testimony to the work of the Congress if we are to act positively on a legislative program to insure that such a report never again has to be presented, I ask unanimous consent that their statements be printed in the RECORD.

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

STATEMENT OF RAYMOND M. WHEELER, M.D.

My name is Raymond M. Wheeler. I am a physician engaged in the private practice of Internal Medicine in Charlotte, N.C. I am a member of the American Medical Association, a Fellow of the American College of Physicians, and am certified as a specialist in Internal Medicine by the American Board of Internal Medicine. I am also President of the Southern Regional Council, an organization of black and white Southerners, who for twenty-five years have sought and worked for equal opportunity for all citizens of our region.

During the past three years I have studied the health and living conditions of the poor in North Carolina, Mississippi, Alabama, Florida, Southwest Texas, Appalachia, and in the ghettoes of Northern cities. I have examined children, talked to their parents, and visited their homes and schools. I have served as a member of the Citizens' Board of Inquiry into Hunger in the United States which published the report entitled *Hunger, U.S.A.* I have testified before committees of both the House and Senate of the United States concerning the existence of hunger and malnutrition throughout this country.

In January and again in April of this year I traveled with other medical colleagues in Southern Florida observing the health and living conditions of migrant farm workers. In March of this year, my colleagues here today and I visited Hidalgo county in Southwest Texas. We were part of a medical team of about twenty-five physicians, medical students and technicians. There we spent five days examining farmworkers and their families, talking with them and other members of the community, and visiting homes and labor campus in which the people live.

Beginning with our visits to Mississippi and Alabama in 1967 and including our trips to Florida and Southwest Texas this year, the efforts of all the physicians involved in this work have been sponsored and encouraged by the Field Foundation. The purpose of our studies and our reports has always been the same. We have sought to observe and study the life situations of children of the poor, in order to bring their condition to national attention. Their condition is one of sickness and poverty, isolation and neglect, indifference and exploitation, resulting in tens of thousands of children who exist in our country today without hope, denied their basic rights as human beings, and condemned to lives of pain, frustrations, and despair. In our minds there can be no question about this fact. It seems equally certain that this tragic situation is directly related to another. In our affluent, money-oriented society, human needs of children have been subordinated to political and economic interests.

It would not be consistent with our beliefs or our purpose to portray those interest as intrinsically evil. Rather, we see them as basically uninformed, insensitive, and uncaring about the vast and irreparable harm that is being done not only to children, but to the very fabric of a society in which these children must live and take their places as adult citizens.

Wherever we went, in the South, the Southwest, Florida, or Appalachia the impact was the same—varying only in degree or in gruesome detail.

We saw countless families with large numbers of children, isolated from the mainstream of American culture and opportunity, possessing none of the protections of life and job and health which other Americans take for granted as rights of citizenship.

If the farmworker is injured in the field or if he becomes ill from exposure to pesticides (we heard of and saw many instances of both situations), he does not receive Workmen's Compensation. If he is sick or cannot find work (and there are many days when work is not available) he does not receive unemployment insurance. There is no realistic minimum wage to guarantee him adequate pay for his work. If Social Security payments are deducted from his wages, few records are kept by the crew boss on which he can later base a claim. He has no health or hospital insurance to provide him with minimal medical care and he does not earn enough to purchase it. The farmer is not even pro-

hibited from working young children in the fields if the parents, desperate for enough money to buy food and shelter, choose to take their children out of school or bring along their pre-school age children to pick the vegetables.

We saw housing and living conditions horrible and dehumanizing to the point of our disbelief. In Florida and in Texas, we visited housing projects, built with public funds, which defy description. We saw living quarters constructed as long cinder-block or wooden sheds, divided into single rooms by walls which do not reach to the ceilings. Without heat, adequate light or ventilation, and containing no plumbing or refrigeration, each room (no larger than 8 x 14 feet) is the living space of an entire family appropriately suggesting slave quarters of earlier days. I doubt if the owners of fine racing horses or dogs along the East Florida coast would think of housing their animal property in such miserable circumstances.

We saw many different kinds of housing and perhaps some of the worst from the standpoint of structural soundness (owned by those who lived there) did not create in me the feeling of outrage that some of the "better" housing did. For example in Dade County we looked at quarters operated by the Homestead Housing Authority with public funds. There someone had sat down at a drawing board and deliberately and callously designed a living unit which consisted of a single room with concrete block walls, divided partially by a block partition which jutted out in the center of the room. There was one door and one small window high up under the ceiling. The room was dark and damp at mid-day. There was nothing in that unit to make it habitable. There was not one gesture toward providing either comfort or basic human needs—no source of water, no toilet, no refrigeraton, no heat, and the lighting was so dim that no child could have possibly been able to read or study. This was the creation of a public authority, a place in which it was willing for other human beings to live.

Can you imagine the effects on a child of living in such a situation—the physical discomfort of the heat, the cold, the dampness? The absence of fresh air and the crowding greatly increases the likelihood of transmission of contagious diseases. This is why so many have tuberculosis as well as chronic respiratory infections. How is it possible for a child to study and perform in school when it is impossible for him to read by the light available to him? How can he possibly be emotionally well-adjusted when he has no privacy—when he lives in a cage? How can he possibly stay awake in school the following day when he has attempted to sleep in a bed with three or four of his brothers and sisters?

How can this be, in a society such as ours, with the values we are presumed to cherish?

In all of the areas we visited, the nearly total lack of even minimally adequate medical care and health services was an early and easily documented observation. Again, that which most Americans now agree to be a right of citizenship, was unavailable to most of the people whom we saw. The standard procedure of requiring cash for services and a cash deposit before hospital admission, places an impossible burden upon those least able to afford the high cost of being sick. Documentation of discrimination in medical services and denial of medical care will be described during the course of the hearings.

We saw hundreds of people whose only hope of obtaining medical care was to become an emergency which could not be turned away. We heard countless stories of driving 50 or 100 miles to a city general hospital after refusal of care at a local hospital. Mexican-American citizens of the U.S. told us of crossing the border into Mexico for dental and medical treatment which was less expensive and for care which was kinder, more humane than they could obtain in their own communities. We heard of diagnoses and treatment by nurses, endless waiting for simple procedures such as immunization of small children, and degrading treatment by medical personnel.

A few statistics substantiate our observations. The migrant has a life expectancy twenty years less than the average American. His infant and maternal mortality is 125% higher than the national average. The death rate from influenza and pneumonia is 200% higher than the national rate and from tuberculosis, 250% higher than the national rate. The accident rate among migrant farmworkers is 300% of the national rate.

We know from these statistics alone that the migrant and seasonal farmworkers live shorter lives, have more illnesses and accidents, lose more babies, and suffer more than the rest of us. Everything that we saw and heard in Florida and Southwest Texas bore out this knowledge.

From the moment we set foot in Hidalgo County until we departed, our medical team was engulfed by a seemingly endless procession of distraught and anxious parents, bringing their elderly relatives and their families of six, eight, or ten children—seeking medical treatment which they could not obtain in their own communities. Most of these people live constantly at the brink of medical disaster, hoping that the symptoms they have or the pain they feel will prove transient or can somehow be survived, for they know that no help is available to them. Only two groups have any hope for relief: Those who are somewhat better off financially and those who are most critically ill. Some of the people we say were not seriously ill, or perhaps not ill at all, but none of them knew, and most had never had the opportunity to find out, if they were healthy or whether tomorrow might bring disaster. Our group was not equipped to offer very much in the way of definitive treatment for the vast amount of illness we saw. Perhaps the most constructive and most helpful acts that we performed involved the opportunities to assure some, who had never seen a physician before, that they were, indeed, well and could continue their struggle to survive without the nagging fear of physical disability or death.

For the rest, the majority of the hundreds of people we examined, it was a different, frustrating, and heartbreaking story. We saw people with most of the dreadful disorders that weaken, disable, and torture, particularly, the poor.

High blood pressure, diabetes, urinary tract infections, anemia, tuberculosis, gallbladder and intestinal disorders, eye and skin diseases were frequent findings among the adults.

Almost without exception, intestinal parasites were found in the stool specimens examined. Most of the children had chronic skin infections. Chronically infected draining ears with resulting partial deafness occurred in an amazing number of the smaller children. We saw rickets, a disorder thought to be nearly abolished in this country, and every form of vitamin deficiency known to us that could be identified by clinical examination was reported.

I doubt that any group of physicians in the past thirty years has seen, in this country, as many malnourished children assembled in one place as we saw in Hidalgo County.

There is one place I remember particularly—a labor camp in Weslaco, a small town East of McAllen.

As we walked between the rows of dwelling units, many small children played around us, running about barefooted through mud and pools of stagnant, refuse-filled water—the perfect culture medium for intestinal parasites, polio, and bacteria causing infectious diarrhea which kills so many children.

We stopped and examined children at random and almost every child had some preventable physical defect. We saw tiny youngsters drinking rice water out of bottles because their mothers had no milk to give them. Chronic skin infections, both fungae and bacterial, were practically a "normal" finding. Rickets is supposed to be a rather rare disease these days but we saw one child after another with deformed ribs and legs, thickened wrists which are the classical landmarks of the disease. One youngster, standing apathetically near a group of playing children, had all the stigmata of advanced protein deficiency—sparse, thin, reddish hair, thin drawn face, protuberant abdomen, and thin, wasted extremities.

We stepped into one single-room dwelling unit where lived parents and six children. Amazingly, it was spotlessly clean in spite of the fact that the nearest source of water was a block away.

On the bed lay a 3-month-old infant who weighed less than the average newborn. It was emaciated, restless, wailing, and occasionally pulling at a bottle which we soon discovered contained sour milk. There was no refrigerator in which to keep formula. The child had been ill for weeks, according to its mother but at its last visit to the clinic, a day or two earlier, no medication had been prescribed. A very quick examination disclosed pus pouring from its right ear. We made arrangements for the child to have penicillin and individually packaged feedings of formula which the mother could not afford. I suspect we were too late and I doubt if the child survived.

What I have just attempted to describe in Weslaco is documented on film taken by Martin Carr of NBC. When the decision was made to confine the documentary on the migrant to Florida, that film was not used and remains in the possession of NBC. It is my hope that it will be preserved and made available to the nation, for it portrays conditions which cannot be adequately described by mere words.

Because of the tremendous numbers of people who sought our help in a limited time, we interviewed and examined entire families as a unit. In one tiny rural settlement, with a medical student assisting me, I spent an entire day examining one family after another. It was a shattering experience.

Their dietary histories were all the same—beans, rice, tortillas, and little else. The younger children, especially, were undersized, thin, anemic, and apathetic. The muscles of their arms were the size of lead penciles—a sign of gross protein malnutrition. Many had evidence of multiple vitamin deficiences and almost without exception, their skins were rough, dry, inelastic with the characteristic appearance of Vitamin A deficiency. I remember vividly the shock I received when one young boy was brought in who was well nourished and I touched his skin—warm, soft, resilient—unlike any I had seen all day and I called to the student with me to come and put his hand on that child in order that he might refresh his memory of what a healthy skin feels like.

The children we saw that day have no future in our society. Malnutrition since birth has already impaired them physically, mentally, and emotionally. They do not have the capacity to engage in the sustained physical or mental effort which is necessary to succeed in school, learn a trade, or assume the full responsibilities of citizenship in a complex society such as ours.

In 1967, my medical colleagues and I traveled through the Mississippi Delta and rural Alabama. There, we saw hunger and poverty and human misery to a degree that we had not dreamed possible in affluent America. In 1970, two and one-half years later, we have found in Florida and Texas, rich and

fertile states, other forgotten Americans, living and working in near slavery, their children living and dying in conditions as dreadful as any we had previously encountered.

It is not likely that we saw more malnutrition or more human misery than we had seen in the Delta. Perhaps, in the time that we were there, we did not experience as much hostility expressed by the white community as we had sensed in Mississippi and Alabama.

In the Delta, mechanization of the huge farm industries had rendered thousands of people useless to the economy, and they were left to die or to survive as best they could. In some instances, it seemed clear that there was an unspoken conspiracy to solve the problem by making life so intolerable that people were forced to flee the land and the state in which they could no longer earn a living. No longer needed and unable to secure help from the white community, the black Mississippian at least had the freedom to leave, if he were able, and to seek a better life elsewhere.

In Florida and Texas, the farm worker remains a valuable asset to the owners and operators of the huge farms which produce food and fruit for the nation. Without them, corn and tomatoes would rot in the fields and oranges and grapefruit would shrivel on the trees. There is no way that these farms can be operated without the migrant work force which moves about the area, harvesting the beans and squash this week, moving on to gather the avocadoes another week, in another county. Mechanization has not yet devised a way to replace them.

What is different in Florida and Texas from the rest of the rural South is the deliberate, cruelly contrived, and highly effective system which has been devised to extract the maximum work and productivity from other human beings for the cheapest possible price. Every effort is directed toward isolating the farmworker from the rest of society, maintaining him at the lowest level of subsistance which he will tolerate—then making certain that he has no means of escape from a system that holds him in virtual peonage. And to that end, the grower has the full cooperation of the Federal government, the state, and the local community.

At this point in my report, in order that what I say next will not be misinterpreted, I would like to express my high regard and respect for the members of the Subcommittee on Migratory Labor and my admiration for the hard work, the commitment, and the efforts of all of you in your attempt to better the life of the migrant. No one has done more.

At the same time, I have questions which I feel must be raised or I will not have carried out my responsibility to you or to the people about whom we are both concerned. These questions relate to the reasons for this hearing and the many hearings which have preceded it on the same and related subjects. You are perhaps even more aware than I of the volumes of information and the days of testimony which are already available to you and to the Congress, documenting the fact of children in our midst who are stunted physically, dulled mentally, and warped emotionally—children who are deprived of all opportunity to become productive citizens—children who will grow up to become wards of society or worse—perhaps hostile, alienated, and destructive.

I have here a copy of a report of the President's Commission on Migratory Labor, written and submitted to President Truman in 1951. Even a cursory examination of its pages will reveal that the plight of the migrant has not changed significantly during the intervening nineteen years.

What does it take to make us care about our children? The picture we saw is one of a society thriving on greed, cruelty, alienation, and fear—a society which either never had or has completely abandoned the concerns, the ethics, the ideals which make dignity and freedom possible.

What has to be done to convince the Congress of the United States, the most powerful group of men in the world, that the time has come to put aside its greed, its prejudice, its concern for personal power and prestige—and to be concerned for the kind of society in which our children must live together?

You, and only you, can change all this. How is it possible to justify the endless words and the devious political maneuvers which have delayed and withheld meaningful aid to children who don't have enough to eat, children whose parents have no jobs and no money for food or medical care? How can the Congress and our nation's leadership pretend to be related in any sane way to the world around them when they spend their time and the nation's wealth building roads and guns and planes and elaborate governmental buildings while families live 10 or 12 in one room without water, heat, ventilation or even a place to wash their hands?

And children die—even worse—most of them live, numbed by hunger and sickness, motivated only by an instinct for survival, crowded into the ghettoes of horror which abound in our country which produce desperation and loss of faith in our system. Our answer seems to be more police, more guns, and more punitive laws whenever they protest.

We came away from Florida and Texas with tremendous admiration for the leaders of the people we met. These men, often at great risk, were working to give their people hope and leadership which would dispel their apathy and despair. In many respects these people were stronger than most of us. They endure what seemed to me to be the unendurable, with patience, humor, and understanding. Remarkable in view of the misery which surrounds them and the powerlessness they experience. They have not given up the hope that we, who can help, will someday raise our voices and say that there are some things in our country which are intolerable, that these things can be changed, and must be changed. Our time is running out.

TESTIMONY SUBMITTED BY HARRY S. LIPSCOMB, M.D.

Senator Mondale, distinguished members of the Subcommittee, I am Harry S. Lipscomb, M.D. I am Director of the Institute for Health Services Research, Baylor College of Medicine, Houston, Texas, and member of the Citizens Board of Inquiry into Health Care Services.

You have requested that we tell you of the findings of a group of physicians who recently surveyed the health conditions of migrant and seasonal farmworkers in South Texas.

I do so with reluctance, because I am ashamed, as an American, of what we saw, and concerned, as a physician, that my colleagues and I have failed to act as leaders in the face of demonstrated need, to structure the delivery of our services so as to reach every man, woman, and child in our Nation. Dr. Wheeler has given a broad overview of what our team saw in Texas and Florida. I will now document our findings in the Rio Grande Valley.

From March 3rd through March 8th of this year, our health team examined patients in clinics and "barrios" of Hidalgo and Starr Counties, Texas. Histories and physical examinations were performed on 1400 individuals, the majority of whom were Mexican-Americans living in and around the city of McAllen, Texas. Our health team, which consisted of fifteen physicians, ten medical students, four technicians, and two nurses, saw patients from early morning until midnight for four consecutive days. On a limited number, we performed blood counts, urinalyses, chest X-rays, pelvic examinations, and stool cultures. Additionally, we collected drinking water from 8 "barrios" for bacteriological examination.

It had been our intention to examine 50 families in great depth, but were confronted on March 4th by over 900 people lining the streets around the small clinic in which we worked. We had intended to document, but not treat illness. Within the first hour it became clear that the people had come for treatment, and their manifest need was so overwhelming that we hastily arranged with a neighboring pharmacy to provide medications and vitamins. In four days we prescribed and administered in excess of $6,000 worth of drugs, which were subsequently paid for by the Field Foundation.

The region which we chose was selected in part because of an expressed need of the community and because of an earlier well-documented nutritional study, in the same region, reported to the Select Committee on Nutrition and Human Needs of the U.S. Senate (90th Cong., 2nd Sess., and 91st Cong., First Sess.: "Nutrition and Human Needs", part 3, the National Nutrition Survey, pp. 880–922).

Two years later, 15 months after the inauguration of the Surplus Commodities program, one year after the passage of the Migratory Health Act, little has changed. Disease and malnutrition and human suffering continue. This in the face of over $6 million in farm subsidies, significant civic improvements, new highways and roads, and new hospital construction assisted by Hill-Burton funding.

In short, the Mexican-American is still a disenfranchised person.

This report will simply describe what we were able to document from our clinical impressions, X-rays, and other supporting laboratory data. It would be impossible to identify a specific cause for many of the conditions: We will describe a child with a cleft palate which has not been surgically repaired, a patient who needs glasses and has not gotten them, a mother with cervical infection who has not been treated, or a person who has not had adequate dental care, which all constitute documentable evidence of disease. On the other hand, that these conditions have occurred, or have not been remedied may be ascribed to ignorance, to lack of awareness, to lack of availability of services, or to economic barriers which cannot be identified, in all cases, with certainty. We simply cannot link disease to the reason for the disease except in a few isolated instances. We would like to say that all the malnutrition which we saw was due to an inadequate commodity program in Hidalgo County, or that poor dental care was due to a limited number of dentists and the high initial cost for care, but I do not believe that a survey of this sort can be so used. For every case of health hardship we saw involving lack of physicians or inadequate funds or improper food, we saw a balance of patients who, for sociocultural reasons or lack of educated health "awareness", *failed to seek* care. Perhaps in the culture of poverty, failure to seek reflects the hopelessness of poverty, the apathetic despair of a culture which has done without for so long that even the aspiration for care is lost. This very apathy and despair which has characterized every poor community I have visited is, unfortunately, used as evidence that the poor will not avail themselves of our services if they are provided. I believe the overwhelming turnout of the people of the Valley to our accessible clinic gives the lie to this popular misconception. These people are *hungry* for care. They are dying for want of it.

In analyzing the results of our study, we have been able to classify the conditions which we saw into the following categories:

1. Infectious disease:
   (a) bacterial.
   (b) viral.

(c) spirochaetal.
(d) fungal.
(e) parasitic.
2. Toxic disorders.
3. Metabolic disease.
4. Nutritional disease.
5. Neoplastic disease:
(a) benign.
(b) malignant.
6. Traumatic injury.
7. Congenital disease.
8. Degenerative disease.
9. Dental disease.
10. Speech, hearing, and vision defects.
11. Mental, emotional, developmental and learning disorders.

1. INFECTIOUS DISEASE

The *bacterial* infections which we observed included otitis media, bronchitis, laryngotracheobronchitis in children, conjunctivitis, uveitis, acute and chronic follicular tonsillitis, pyelonephritis, cervicitis, urethritis, and impetigo. Associated inflammatory conditions, perhaps of non-bacterial origin, included cholecystitis, gastritis, and esophagitis. In regard to hygiene, we found nursing mothers with mastitis, and on two occasions we examined bottles of milk for infants, which were contaminated and the milk soured.

Viral diseases were common and many children and entire families were suffering from upper respiratory infections. A number of communicable childhood diseases were seen including rubella. It is of some significance that shortly after we left, an epidemic of poliomyelitis occurred in the Valley resulting in three deaths. This is the only poliomyelitis reported in the United States in 1970. If it is reasoned that the open border into Mexico is an open seeding source, then our very protection lies in immunization. In this population we have failed to provide this protection. A number of patients were reported to have syphilis and this was confirmed by serology.

Fungous infections were common, particularly monilial vaginits, stomatitis, and tinea corporis. Chest X-rays revealed the presence in at least 3 individuals of healed histoplasmosis, and at least two cases of previously undetected active pulmonary tuberculosis were discovered. Sarcoidosis, a disease of uncertain etiology, has been linked to some of the respiratory fungal diseases.

Intestinal parasites were the rule. We personally saw under the microscope pin worms, hook worms, round worms, and amoeba, often occurring in combination in a single patient, and invariably occurring in several members of the same family, when present in one. Of the eight drinking-water sources which we cultured, six were contaminated with fecal organisms. (See picture in text showing two old oil barrels serving as water reservoir for four families—23 people.) Cramped living quarters combined with contaminated drinking water virtually assure the spread of any communicable or parasitic disease.

2. TOXIC DISORDERS

We had reason to suspect that a certain percentage of the migrant workers were exposed to toxic materials, notably pesticides used in the agricultural industry. Acute pesticide poisoning is easily diagnosed. We saw no evidence for this. On the other hand, many patients gave us a history of having been sprayed or been in fields shortly after a rain at which time they suffered numbness and tingling of hands and feet, and many described a seasonal skin rash associated with the use of pesticides, notably organophosphorous compounds and chlorinated hydrocarbons.

3. METABOLIC DISEASES

Metabolic disease in this population included diabetes/mellitis which occurs in high incidence in the Mexican-American. We feel that the examination of urine alone, while relatively unsatisfactory as a diagnostic procedure, uncovered 14 patients with previously undetected glycosuria. These patients must now be studied with glucose tolerance tests to confirm the presence of diabetes. Thyroid disease was common, and several cases of thyrotoxicosis were observed and at least two cases of myxedema (thyroid deficiency) were seen. We were impressed with the palpably enlarged thyroid glands. The McGanity report had earlier emphasized the presence of endemic goiter in this population, and this we confirmed by clinical examination. It is not absolutely certain that the genesis for this is iodine deficiency alone. The possibility exists that this population may have a diet that is itself goiterogenic.

4. NUTRITIONAL DISEASE

Nutritional disease was common and consisted primarily of protein malnutrition. Caloric malnutrition was not seen, and the pathetic wasting of prisoners of war and individuals in certain far eastern countries was absent. On the other hand, extreme obesity due to a predominantly carbohydrate diet and associated changes in hair, skin, and nails reflected significant protein malnutrition. It is a point of pride among the people that they claim to provide meat for their families, but the physical manifestations of protein malnutrition seen in the children do not support this contention. We suspect that meat, like milk, is only available on post-pay weekends. Vitamin deficiencies were extremely common. Evidence of ariboflavinosis, rickets, and pellagra were confirmed by the two nutritionists with us, and painful chewing and swollen bleeding gums suggestive of scurvy were seen in several children.

5. NEOPLASTIC DISEASE

Neoplastic disease was not common. It is not likely that we made a primary diagnosis of malignant disease in any person, and the Papanicolaou smears of cervical mucosa in 27 individuals failed to reveal malignant change, though bacterial and mycotic infections were common. Basal cell carcinomas of the skin was suggestive on several older individuals with heavy actinic exposure. We did examine three patients who were known to have malignant disease, one of whom had been treated intensively for lymphosarcoma and was in a terminal state. Prostatic carcinoma, resected carcinoma of the stomach, and a number of breast malignancies which had been operated were seen.

6. TRAUMATIC INJURIES

Traumatic injuries were common and head injuries, injuries to the cervical and lumbar spine, and thoracic injuries, resulting in fractured ribs, were seen or confirmed on X-ray. It was remarkable how few of these had received what would be considered adequate follow-up care.

7. CONGENITAL LESIONS

Congenital lesions were seen with some frequency. Most commonly, harelip, cleft palate, pilodinal cysts, and two children were seen with congenital cataracts, the genesis of which was not clear. Four children with congenital strabismus were seen. We were disturbed by the fact that one six-year old child with cleft palate had not been operated, and had experienced continuous feeding problems, including reflux of food and liquids through the nose.

8. DEGENERATIVE DISEASE

Degenerative disease in older individuals was common, including arteriosclerotic heart disease, arteriosclerosis obliterans, and osteoarthritis, particularly of the hips, knees and hands. Degenerative and actinic changes of the skin were often associated with small, basal-cell carcinomas which we could document by clinical examination, but which were not biopsied.

9. DENTAL PROBLEMS

Dental problems existed in every individual we examined. These included advanced dental caries, pyorrhea alveolaris and other evidence of periodental and root-canal disease.

10. SPEECH, HEARING, VISION

Speech, hearing and vision defects were common, particularly in children. Congenital and acquired strabismus and cataracts were seen, and the survey team was impressed by the high incidence of hearing loss in children with chronic ear infections which had been untreated.

11. MENTAL, EMOTIONAL, DEVELOPMENTAL, AND LEARNING DISORDERS

Mental and emotional disorders were common, though difficult to assess during our brief examinations. Developmental, behavioral, and learning disorders were also difficult to assess, but we commonly saw children far behind in school, in some cases in which we were able to document previously unrecognized hearing loss or loss of visual acuity.

From the combination of our history and physical examination, coupled to the laboratory and X-ray studies and our overall clinical impression, the following general observations can be made:

1. Malnutrition in adults, particularly the aged and in growing children and infants, was commonplace. This was manifest clinically by the presence of rhagades, chelosis, hyperkeratosis, night blindness, keratitis, blapharitis, photophobia, and skin lesions resembling those of an exfoliative dermatitis. These observations confirm and extend earlier findings by the "Select Study on Nutrition" made in this same community two years earlier. Manifest evidence of vitamin A, D and B-complex deficiencies were clinically observed.

2. Chronic skin disease, including superficial fungal infections, impetigo, and exfoliated dermatitis occurred in a significant number of patients. Many of the older individuals who had worked in the sun most of their life had multiple superficial skin tumors, several of which were thought clinically to be basal-cell carcinoma. We did not see lesions of squamous cell carcinoma.

3. We found a high incidence of visual and hearing loss, particularly in the aged and in school-aged children. Growing evidence suggests that hearing loss in children, arising from untreated or inadequately treated otitis media, may serve as a "tracer" disease reflecting inadequacy of health care. For this reason the National Science Foundation has inaugurated a long-term study of hearing loss.

4. Intestinal parasitism was extremely common and had, in most instances, never been treated, except with home remedies by "curanderos."

5. Metabolic disease, including diabetes mellitis and thyroid disease was frequent, and we were particularly impressed by the number of palpably enlarged thyroids representing endemic goiter.

6. Invariably, the mothers showed evidence of the "multiple pregnancy syndrome," which includes chronic anemia, weakness, in many cases, and evidence of unrepaired cervical lacerations. This is an empiric syndrome which is diagnosed retrospectively in a mother with multiple births over a short span of time. This is largely an intuitive diagnosis, but was commented upon repeatedly by the examining physicians.

7. One of the most disturbing aspects of our survey was the evidence of neglect of dental hygiene and proper oral care. Furthermore, in the presence of this destruction of teeth and gums, we saw little evidence of repair of carious teeth and no evidence of prostheses. Pyorrhea alveolaris was common.

8. We saw uncorrected congenital deformities which would have responded well to appropriate surgical therapy.

9. Rehabilitation of patients with nerve injuries, with fractures, and with strokes

leading to hemiplegie and hemiparesis was unknown. Not one single individual with a residual impairment of gait or motor function had enjoyed the benefits of rehabilitative care, aside from that associated with return to work at a lower level of productivity.

10. We saw patients with a history of seizures. During our clinic visit, one young man of 16 had a grand mal seizure which started as a Jacksonian march, suggesting localization, but no neurological workup had been performed.

11. Multiple back deformities were seen, including scoliosis and kyphosis, occasionally due to injury, but in a number of cases no explanation was forthcoming from the patients as to the genesis of their deformity. Undiagnosed back, hip, and lower-extremity pain was a common symptom in young individuals, but was difficult to document on physical examination. Symptomatically this pain resembled that of degenerative osteoarthritis, usually found in older people.

12. Active pulmonary tuberculosis was discovered by X-ray, as well as sarcoidosis, a pulmonary disease of uncertain etiology.

13. Degenerate diseases of the heart and great vessels was extremely common, as was hypertension.

14. Anemia was not a common finding in these individuals. When it was observed, it was usually due to a combination of iron deficiency, protein malnutrition, and intestinal parasitism. The "multiple pregnancy syndrome" may also have been important in some of the anemia we observed.

In this recounting, it is difficult to convey the overall impression of our group in an objective fashion. Four consecutive days of an endless parade of illness, deformity, disability, and human suffering exerted a profound and demoralizing effect upon our team. While we had reason to question the wisdom of having brought students with us, the demoralizing effect was as profound on older physicians as on young medical students.

The people whom we examined represent an almost "pure culture" of a society totally peripheral to the influence of American health care. In a nation where levels of specialty care in medicine have achieved laudable heights, this group has not yet found its way to our most rudimentary care facilities. Such simple necessities as glasses, false teeth, braces, hearing aids, dental repair, rehabilitation, plastic surgery, repair of congenital deformities, maintenance of simple hygiene, and repair of cervical lacerations following childbirth, this population—uniquely—seems to have never attained. The specialties of plastic surgery, obstetrics and gynecology, pediatrics, surgical ophthalmology, and otorhinoloryngology have no meaning to these people, for they have never had access to this high level of professional care.

The health survey team would wish to stress once more the relative ease with which we were able to document the presence of disease, and the absolute impossibility of ascribing cause to these conditions. This is an important distinction, for if we are to correct these conditions, we must know and understand where the defect lies. If medical and dental care is too expensive, we need to know this. If there are simply not enough physicians and dentists and other health facilities in this region, this must be emphasized. If socio-cultural barriers exist, we need to learn to work within these limits. If religious ethic prevents planned parenthood, we need to find ways to reasonably approach such structures. If there are injustices and cruelties which throw up insurmountable hurdles to the acquisition of food, of transportation to and from health facilities, and of entry into hospitals, we need to know of this.

Of one fact we have become convinced. If we make significant strides in the delivery of health care to these individuals and do not change the social environment in which they exist, including food, clothing, housing, education and sanitization, we will have done little to change the fundamental situation. Because the major causes of these manifold social ills are largely economic in nature, any effort we make must be tempered with an understanding of the deficiencies of our entire social structure, which tend to punish, selectively, the poor of our society. If this Committee addresses itself to medical care problems, specifically the doctor-patient relationship, and fails to grasp the complexity of the deficiency in the total life style and needs of this population, then our myopic attempts to achieve good health care will fail.

In an attempt to achieve objectivity in this report, charges will be linked to suggestions for change. I feel that physicians, and other health providers are individually responsible for a form of apathy and indifference which is generated by long association with illness. Each physician must retain his sensitivity to illness and its effect on the community as a whole. He must be willing to stand up and call attention to urgent local health needs. It requires courage to refuse to tolerate these conditions. He and his colleagues must search for ways to more effectively participate in community health programs. Furthermore, in every poor community I have visited in the past two years, the physician's primary or follow-on fee constitutes the single most significant barrier in the minds of the poor to their seeking early medical help. Physicians collectively, throughout their county, state, and national medical associations, both black and white, are responsible for failing to exert leadership in our country for the development of health care programs which would, at a local level, bring resolution to these problems.

I feel that elected officials, particularly county judges sitting on commissioner courts or in other administrative occupations, hold the key over local options, both in the solicitation of state and federal funds, and more importantly, *how these monies are spent in their counties.*

I believe that hospitals, operating as nonprofit, tax-exempt corporations, both public and private, have failed to exercise innovation and courage in the development of community programs which would reach out to the poor and almost-poor, and eliminate such hurdles to care as the "means" test.

We believe that the Federal Government, through well-intentioned legislation, has in some cases, created absolute barriers to better health care. A recent case in point involves Medicare legislation which requires that registered nurses be on duty on all shifts in hospitals receiving Medicare funds. This has recently resulted in the imminent closing of at least six hospitals serving the Rio Grande Valley, which, while giving limited health care, nevertheless provided a critical service for the migrant worker and his family. Additionally, Medicare legislation does not specifically pay for immunization for those individuals and we are now reaping the harvest of this shortsightedness in our current polio epidemic.

Finally, many corporations in our country have placed self interest too far above community concern and have failed to exert that leadership which their economic strength could have allowed. Insurance carriers have set patterns for health care compensation which have encouraged *over utilization* of our hospitals, and increased costs in insurance premiums, which have become prohibitive for the poor. The renewed attempts of the valley migrants to unionize may provide them the strength to bargain collectively to force such issues as a fair wage and decent living conditions and adequate health care insurance. The recent pressures to develop a form of National Health Insurance and group, pre-paid health coverage may provide a direct, and overdue, remedy for these injustices.

In a wholly different vein, and, perhaps, to move the cynic, a pragmatic approach to the nutritional and health problems of the poor may have greater impact than an appeal to altruistic sentiments. What we are doing to the poor in our country today is simply *bad business.* We are losing valuable man-hours of productive labor by allowing this human wastage to continue. In a recent study, Correa and Cummins (Am.J/Clin. Nutrition; 23:560–565, May 19) demonstrate that increased caloric consumption accounted for 5% of the growth of the nation product, in nine Latin American countries, a contribution nearly as great as education. We have failed to conduct the business of the nation in a businesslike fashion.

The findings described here are not limited to the Rio Grande Valley, to the Mexican-Americans, or to the migrant worker. Disease of this magnitude we have seen in the ghettoes of American cities, and in rural areas throughout the nation. I would state emphatically that enough evidence is now at had for us to roll up our sleeves and get to work.

STATEMENT OF DR. RAMIRO R. CASSO

Senator Mondale, members of the Senate Subcommittee on Migratory Labor, I am Dr. Ramiro R. Casso of McAllen (Hidalgo County), Texas. I am a Doctor of Medicine and have been in the general practice of medicine and surgery in McAllen, Texas, for the past 13 years.

My medical practice consists in treating from 50 to 100 patients per day, the vast majority of whom are poor people. Probably as many as 80% of my patients are farmworkers, some migrants and others ex-migrants who now do farmwork, packing shed labor, or other similar seasonal work locally.

Suffice it to say that my people are among the poorest in this affluent society. Because of their wretched earnings our people suffer all of the consequences of being poor. There is severe malnutrition among large numbers of them and this enhances their susceptibility to all forms of disease. It is no mystery that nutritional anemia, protein malnutrition, diarrheas, tuberculosis, skin infections, influenzas, pneumonia, birth defects, prematurity and neonatal deaths are much more prevalent among the farmworkers' families than among the general population.

Mr. Chairman, the health survey conducted in March 1970, in Hidalgo County by the very eminent physicians assembled by the Field Foundation was a milestone in the area of health in South Texas for several reasons. First, it documented the high incidence of malnutrition, vitamin deficiencies, and disease which was suspected by many to exist. Secondly, a very excellent presentation of the findings was made by Dr. Harry Lipscomb of Baylor Medical College to a meeting of the Hidalgo-Starr County Medical Society. Thirdly, and most important of all, Dr. Lipscomb was successful in challenging the Medical Society and Dr. Carl Love of McAllen, his former student and presently the president of the Hidalgo-Starr County Medical Society, to take the lead in mobilizing the medical community in search of solutions to the enormous medical problems of the area.

Those solutions, if they are implemented, will include ending the present hesitancy of our hospitals to serve all of the people, rich and poor alike. At the McAllen Hospital, where I work, we have the latest x-ray and laboratory equipment, very excellent surgical suites and a completely equipped coronary care unit. Hopefully, in the future more poor patients will be able to avail themselves of these facilities.

Those solutions, if they are implemented, will include an expansion of the public health activities in Hidalgo County. At present, these activities are limited to Tuberculosis detection, follow-up on contagious diseases, and immunization of children. The inadequacy of our immunization program

was pointed out during the past two months when in Hidalgo and Cameron Counties, we had nearly all the suspected to have been due to poliomyeitis. Beyond the efficient carrying out of these activities, we hope the public health officials will provide forms of treatment, outreach, and care which serve the poverty community.

Those solutions, if they are implemented, will also include the expansion of the Migrant Health Program in this area of Texas.

In the meantime, those of us who are concerned, do what we can.

I have been personally operating a Charity Clinic at the Farmworkers Service Center in McAllen at the invitation of Tony Orendain who also heads the Farmworkers organization for Cesar Chavez in the Rio Grande Valley. With the aid of Sister Sharon Stanton, a Catholic nun who is also a Registered nurse, we hold a two-hour clinic 3 times a week. We treat from 40 to 120 patients a week, but are limited by the lack of adequate equipment, examining rooms, and the absence of x-ray or laboratory facilities. At this clinic we treat only those who do not have Medicare, Medicaid or Migrant Health Coverage, and who have no money to see a private physician.

It is very discouraging and depressing to attempt to operate a charity medical clinic with very limited resources. I want to tell you something about how the Farmworkers clinic was started.

Last year, when I received the first letter that Tony Orendain wrote to all the members of the Hidalgo-Starr County Medical Society, asking us to start a medical clinic, I visited the United Farm Workers Service Center in McAllen and discussed the matter with him at length. As it turned out, Tony was able to spare a corner 10 feet wide by 12 feet long and that was where the clinic was started. Tony obtained an old table that I used for an examining table and with a few sheets of sheetrock constructed partitions to provide the necessary privacy for physical examinations.

I obtained some medications and medical supplies from my office and we began to treat the sick. By word of mouth the word was passed in the Colonias, and though many of the sick do not have transportation or do not even know that the clinic exists, yet during the January, 1970, influenza epidemic we were seeing from 45 to 50 patients each day. It became obvious that we couldn't continue this operation out of a 10' by 12' locale, so I offered Tony Orendain that I would personally pay the first month's rent in an adjoining building if he would assume the responsibility thereafter.

He accepted and we moved to our present location which is grossly inadequate in all respects, but which at least gives us 4 to 5 times more space than we had before.

Gentlemen, the lighting in the clinic is very poor. Somebody has to go clear across the room to plug in the single examining lamp that we have. We have no examining tables per se, we have no medical cabinets. We do not have a certain supply of injectable medications except those that I bring from my private office; we have no refrigerator to keep our medicines in; we do not have a laboratory to do a simple blood count or urinalysis or an x-ray machine to take a chest x-ray. Needless to say, a lot of diagnostic guess work takes place in this clinic, but this is better than no clinic at all. I rely heavily on the use of injectables, Gentlemen, because very frequently the medication that I inject into their bodies is the only medication they will receive, since they very frequently do not have the money to fill a written prescription.

The diseases most frequently seen in the Farmworkers Clinic are those seen in any general practice office where poor people are treated, namely, many nutritional anemias, protein malnutrition, upper respiratory infections, draining ear infections, pneumonias, diarrheas with all degree of dehydration, and many skin infections.

Mr. Chairman, we need to attract more physicians to the many pockets of poverty throughout the country. We need to de-emphasize specialization in medicine and encourage more medical graduates to go into general practice. We need a total commitment from the Congress and the Executive to provide the facilities and the manpower to treat the ailments of all of our citizens regardless of their ability to pay. We pray that you, Mr. Chairman, and your colleagues will search for the legal machinery that can bring this about.

STATEMENT OF GORDON HARPER, M.D.

My name is Gordon Harper. I am a physician, in the second year of pediatric training in Boston. I participated in the March trip to McAllen, Texas, and, because the Northerner sojourning and muckraking in the South is legitimately suspect in both Southern and Northern eyes, I have since visited other areas where migrants live and work in Connecticut and Michigan.

Much testimony has already been presented about the number of patients we saw in McAllen, the kinds of diseases they presented, and how these conditions arise from poverty and discrimination. I would like to present a particular case to illustrate what we are talking about.

A BABY WITH CELLULITIS

The first day we were working in Dr. Casso's clinic, a young mother from Pharr brought in a baby, perhaps a year and a half old, complaining that his head and neck were swollen. He had been well, she told us, until three days previously, when insect bites on his scalp became infected. During the succeeding days, the infection spread and the baby grew less active and was not eating well. He developed a fever and now just lay about, showing no interest in those around him. Examining the baby, we found him well developed and fairly well nourished, but acutely ill, "toxic" as we say lying motionless on the examining table. His temperature was 106, his pulse was rapid and his respirations labored. One side of his scalp and neck were red-hot, swollen, and weeping. Huge lymph nodes were palpable in the adjacent areas. Pustules in his scalp, the likely location of the insect bites to which the mother referred, seemed to be the source of the infection. This was cellulitis, a bacterial infection of the skin and subcutaneous tissues, with probably spread of the infection throughout the baby's body—sepsis. We had a very sick baby on our hands.

What had this infection to do with migrant labor? First of all, it began with insect bites, a familiar summer affliction for all of us, but much more common among children who live in substandard housing. In Texas, all of us saw windows without screening, open latrines, inadequate garbage disposal, standing water, and gaping holes in floors and walls. We saw carrot chips used as ground cover—garbage in the front yard. In Michigan I visited a migrant camp, near the Aunt Jane Pickle Factory, a Borden subsidiary, built literally right next to a municipal sewage pool and garbage dump. The stench was suffocating. On all these conditions, insects and rodents thrive and attack the children playing or sleeping nearby. Moreover, once exposed to such bites, babies are much harder to keep clean, and the bites more likely to be infected, if homes have no running water. Not surprisingly, then, both in Texas and Michigan, infected bites are one of the most frequent conditions found in migrant children, directly related to the conditions they must live in. And so was this baby's initially trivial infection. Secondly, the infection,

Secondly, the infection, developing over two days, received no medical attention until the mother came to us on the third day. Superficial skin infections are common problems in children in Boston or Washington as in Texas, especially when the weather is warm as it is most of the year in the Rio Grande Valley. Treated promptly, with good cleansing, a clean dressing, and antibiotics as indicated, such an infection should never reach the proportions we found in McAllen. But we learned there, as you are hearing today, how seldom poor people there see doctors. A visit to a private doctor can cost $10, plus charges for medicines. Dr. Casso has been one of the few physicians in McAllen who would see patients who could not pay, and we have seen under what a heavy case load he functions. This mother, like so many, knew of no free dispensary; there was no outpatient department or free emergency ward like those which we take for granted in the rest of the country, to which she could go. And the mother was reluctant to travel to Mexico, where many obtain cheaper and more sympathetic care, with a baby so ill. I would like you all to understand how it was very difficult for us to believe, as this mother had long since learned, that there was no place, convenient and close by, where she could take her baby when he was sick and she had no money. That was how a minor infection became a life-threatening one.

The third part of this baby's case now unfolds: what could we do about it? Again, in any of the emergency wards where we have worked, where we have been on hand to treat whoever came in, without asking who could pay or how much any indicated therapy would cost, this baby would have been hospitalized and antibiotic therapy begun without delay. But in McAllen we had to ask who could pay. The answer was that there is no Medicaid program in Texas for those not already covered under categorical welfare programs, that there are no free beds in the local hospital only one block away, and that a deposit is required for a patient's admission to that hospital. Many people in McAllen, as we will document, have been told after the birth of a child in hospital: "You pay the bill or we keep the baby." What did we do? The baby received antipyretics and a large intramuscular injection of antibiotics and was observed for six hours in the office. He then looked much better, was given another dose, and was sent home to return next day. This therapy, good bush medicine dictated by expendiency, "worked" this time, but is hard to justify one block from a general hospital, the McAllen General Hospital.

Every parent of a critically ill child, faced with a disease beyond the control of aspirin and cough syrup, feels helpless and alone; for this baby's mother, however, such helplessness was compounded by three facts equally beyond her control, which should have had nothing to do with her baby's getting sick or being treated—and yet which, as we have seen, had everything to do with both: the family was poor, they were migrants, and they were Chicanos in Texas.

THE WAGES OF CONCERN

That was a piece of our experience in Texas. In Michigan, one week ago, I visited several counties where families from the Lower Rio Grande Valley—some of the same families we had seen in March in McAllen—have been picking the strawberries, are now working in the cherries, and soon will begin work with the cucumbers and tomatoes destined for our tables. In several ways, life is a bit less harsh for them there: they have some work; a food stamp program makes it more likely that they and their children may have enough to eat and several counties have programs of medical care. But their housing, in camps maintained by the growers, is often worse than they knew in Texas; I visited a camp on the Old Mission Peninsula where 17 people were living, sleeping, cooking and eating in two rooms 8 by 18 feet under a leaking roof. Most importantly, however, the feeling of not being at home,

of not belonging, of not being a part of the counties where they work, or of the country which enjoys the fruits of their labor—that feeling is still there.

The efforts of the state of Michigan and of many voluntary organizations to improve the migrants' lot is at this time, even last week when I was there, being actively opposed by those who control most aspects of the migrants' lives, the growers. The facts are simple. Federal and state housing codes set standards for migrant camps which must be met before a camp can be licensed to receive migrant-tenants. A federally funded program sponsors law students who act as legal advocates for the migrants in housing and other areas. By reporting alleged violations of the codes to a county health department, a law student earned the wrath of a grower who regarded such action (not only legal but sponsored by the government) as a challenge to his right to run "his" camps and make a profit from the work of "his" migrants as he wishes. The night before I arrived in Michigan this grower, finding the student in question in one of his camps, where he was visiting friends who were tenants there, assaulted him physically. When the student escaped with his friends, leaving his car, the grower broke all the windows in the car with a steel pipe. The atmosphere the next day was tense: "For the first time in five years," said one veteran of the migrant programs, "I'm afraid someone's going to get killed."

The next day I got a taste of the same treatment. I was speaking to migrants at the side of a road, on the edge of a camp, when a grower drove up and ordered me off the premises. He boasted that he had known within three minutes of my arrival, via a fleet of cars with two-way radios which the growers maintain for surveillance, that a stranger was visiting one of his camps. He accused me of trying to ruin his business by "snooping" among the workers, and threatened me with physical harm should I make any more visits to "his" migrants' camps without his approval. "If those do-gooders come on any of my land," he said, "they're never going to make it back to Lansing."

The attitudes of these rough-and-ready growers toward the workers on whose labor their profits depend, and will continue to depend, despite their headlong and much touted rush to mechanized harvesting ("We won't need all these hands a year or two from now," they argue, with the self-appointed plausibility characteristic of the man trying to justify the saving of money at the expense of human health or dignity: "And so why should we invest a lot of money in housing for them now?" are the same as the committee has heard before, and will hear again today and tomorrow, from the dominant classes in Texas and Florida. All of these attitudes serve one selfish purpose: to absolve the grower of any responsibility for the obvious and infamous short life expectancy and apathy which are the migrant's share of the American way of life. The grower will be absolved, of course, if the migrant can be successfully banished from the circle of our sympathy for such is the outcome of prejudice, whether racial, cultural, or economic in the case of Chicano migrants in Michigan, of course, it is all three.

To serve such a purpose, the migrants are dismissed as slovenly. "They live like animals," say growers who give them shacks to live in.

Or again, the growers tell us, "The migrants *like* to travel; they like to drive around and see the country, to get out of the heat of Texas in the summer, to come up to the Midwest to swim." Migrants, of course, can be found who will say they like to travel, but too many mothers show despair as they tell of having to take children out of school in early May, to begin again only in November, to believe the myth of the happy gypsy. How that myth can withstand the image of 33 people and their belongings traveling 1500 miles in an enclosed truck, with children who need rest stops every 45 miles, to pick cherries for eight dollars a day, is a wonder of public relations beyond my comprehension.

Or the migrants, they say, are deadbeats. "I've seen one mail a money order for $500 to Texas the same day he buys $100 worth of food stamps," complains a grower whose indignation at the spectacle of government subsidies does not extend to the payments he and his fellow growers do not hesitate to cultivate.

With the migrants excluded by all these devices from the range of their sympathies, growers are able to indulge in self-pity; they have a huge personal sense of grievance, of being put upon, of not getting what they believe they are entitled to, but the scale of these grievances can only be called grotesque compared to the wasted bodies, destroyed spirits, and shortened lives which are the migrants' lot. One complains, "With what I've got invested, and what I could earn on my own, shouldn't I be getting $60,000 a year, not just $40,000?"

With such an acute sense of personal grievance, a grower may have little sympathy left over for those around him. "Babies die all the time," says one grower, when asked about a notorious case of a nine-month-old who died last year of diarrhea and dehydration, after being refused admission to a hospital in Southwest Michigan; "why should they get so excited when one dies here?"

From this testimony and that presented today from Texas, a picture emerges of the channel in which the migrant stream flows from Texas to the Middle West: it is a hard journey through a land where money and profit move men's hearts more than does human misery, and where all kinds of self-serving rationalizations and spurious slurs on the migrants themselves seek to conceal the fundamental facts of human poverty and need, and justify indifference to them or support active interference with those who come to act on the migrant's behalf.

The kind of information the self-styled vigilantes would keep us from gathering, and the kind of tragedies which mark the migrant's travels, are illustrated by the following case history.

AN IRRITABLE BABY

In Traverse City, I learned from a young father of the illness last month of his three-month-old son. While traveling through Indiana en route to Michigan, where his family would begin the strawberry season, this baby developed diarrhea, fed poorly, and became irritable. Diarrhea and poor feeding are common pediatric symptoms, especially in the Chicano population, where infantile gastroentitis still accounts, as it did one generation ago in the population at large, for the largest part of infant mortality. This very month, when the rest of the country has been congratulating itself on the fact that no one died last year from poliomyelitis, the most serious of the enteric viral infections, three deaths from polio have occurred in South Texas. In the absence of immunization, polio has the same epidemiology, the same relation to poor sanitation, as the less dramatic forms of viral diarrhea. The unprotected outhouses, homes without plumbing, contaminated water supplies, and fields without toilet facilities already mentioned explain the frequency of these diseases; poor nutrition—the protein and vitamin deficiencies we have reported—and lack of adequate care account for the death rate in the easily treated simple diarrhea.

But the other complaint, irritability, is one that gives every doctor pause, because of the possibility of meningitis. Small babies often do not show the physical findings, like stiff neck or resistance of flexion of the leg, which we look for when adults have infections of the meninges, and often the characteristic sign in infants, the bulging fontannel or soft spot, is absent despite the presence of infection. To make the diagnosis, therefore, the doctor has to be suspicious, to size up the baby as a whole, (asking, "Does he look sick?") and perform a spinal tap whenever there is any doubt at all. Anyone who's taken care of children has agonized over this decision many times, for the disease, despite the terror it strikes into parents' hearts, is treatable. Ten days of intravenous therapy with the appropriate antibiotics usually will save a three-month-old baby who would otherwise die.

In this case, however, before a doctor had a chance to consider this diagnosis, another hurdle had to be crossed: the father had to pay. At the beginning of the season, there was only enough money to get to the fields in Michigan, and the father and the hospital people argued about money. In the end, a nurse gave the father an oral medicine to give the baby, and they went out, no doctor having seen the child. They returned the next night, the baby listless and febrile, and he was admitted. Even so, the father said, no doctor saw the baby for several hours and when the diagnosis was made then, it was indeed meningitis. Intensive therapy was begun, but the baby went on to die.

The father spoke this way: "You've got to leave a down payment before you even leave the baby there; but he was sick, man he was going to die. His mother, she suffered a lot. You know, we come over here to help these folks out with the crops, and we help a lot, picking cherries, and planting tomatoes, but they don't help us. And sometimes we need some help, too. That doctor didn't do anything, he knew the baby was going to die, and he didn't want to waste the money. I like white people, black people, but I don't know, man, I don't know."

FDA VERSUS PHYSICIAN

Mr. HATFIELD. Mr. President, a respected professor at the University of Oregon Medical School, Dr. Paul H. Blachly, has written a provocative article in Psychiatric Opinion entitled "FDA Versus Physician: Does the Physician Have a Moral Obligation to Civil Disobedience?"

Senators are aware of my long efforts to see the FDA approve DMSO, the drug developed in Oregon that has been the subject of nationwide research and testing.

Dr. Blachly raises some interesting points in this article. I ask unanimous consent that it be printed in the RECORD.

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

FDA VERSUS PHYSICIAN: DOES THE PHYSICIAN HAVE A MORAL OBLIGATION TO CIVIL DISOBEDIENCE?

(By P. H. Blachly, M.D.)

It is almost a contradiction in terms to think of civil disobedience by physicians, for such activity is associated in the minds of most with underprivileged minorities. Yet in the past six years, interpretations by the Food and Drug Administration (FDA) of legislation passed in 1962 have seriously curtailed the activities of physicians, have limited patients in their ability to obtain treatment, have increased the cost of medical care to taxpayers, and have slowed the acquisition of scientific knowledge.

Physicians are rarely political activists. It is only after five years of fruitless efforts to "go thru channels" that I have looked into legal methods to resolve these difficulties. My interest in civil liberties began quite innocently at the time in a curious way:

By 1963 an impressive body of scientific studies dating from 1949 was unanimous in showing that a simple chemical, lithium carbonate, was extremely effective for the treatment of the manic phase of manic-depressive illness. There was additional if less well-documented evidence (since confirmed) that the regular use of the chemical was of prophylactic value for depressive cycles in manic-depressive illness. Although not the commonest mental illness, accounting for perhaps only 2 to 5 percent of admissions to state hospitals in Oregon, manic-depressive illness is important, for often it episodically strikes competent people at the height of their socially-productive years. It appears to result from an incompletely-understood disorder of the metabolism of sodium, potassium and adrenalin-like chemicals in the brain. Until it was found that lithium carbonate was highly effective for the treatment of this condition, the only treatment was electroshock therapy and tranquilizing drugs, both entailing side effects and considerable expense.

Lithium carbonate is a very old drug, having been used as early as 1841 for the dissolution of certain kidney stones. At the turn of the century when no better drugs were available, lithium in the form of lithium bromide was widely used for the treatment of epilepsy. Lithium received a bad name in the late 1940's when its extensive, uncontrolled use as a salt substitute in food for patients with heart disease resulted in considerable toxicity. In 1949 an Australian physician, J. F. J. Cade, showed that lithium had special value for the treatment of the extreme hyperactivity of manic depressive illness. By 1960 more than 18 studies had been reported showing a consistently beneficial result in manic patients. To my knowledge not one report has indicated that the drug is ineffective for this purpose, nor has it been a dangerous drug when used as recommended. Indeed, Dr. Paul Baastrup, co-investigator in Denmark with Dr. Mogen Schou (who has done the most to show the value of this drug), reports that there are now some 2,000 Danish patients on lithium carbonate with no fatalities and few cases of toxicity.

As Director of the Psychopharmacology Clinic at the University of Oregon Medical School, in 1964 I took steps to bring this inexpensive treatment to our patients by having reagent grade lithium carbonate placed in the recommended sized capsules by a local pharmaceutical manufacturer, and by arranging to have our clinical laboratory do the blood studies necessary when this treatment is used. Being cognizant of recently enacted legislation strengthening the powers of the Food and Drug Administration, I thought it would be wise to first get a statement in writing that the FDA did not consider lithium carbonate a new or experimental drug.

To my surprise, they did state that they considered it an experimental drug and that I could use it provided I completed the necessary forms. Inspection of the forms revealed that it would require a full-time staff and well-financed research project to carry this out. I was also aware that other investigators in this country had already gone to such trouble. But there are only a few such patients in Oregon and they are widely distributed in the state, and my time was largely occupied by other research on projects where, unlike lithium carbonate, the answers were not yet known. There then followed further correspondence with the FDA in an effort to seek a way of treating these patients without violating the law. My argument that the drug was not covered by the FDA regulations—since it had never moved in interstate commerce—was met with the answer that if the chemical had ever moved in interstate commerce it would be covered by the law and that, further, my action would violate the *intent* of the law.

Unlike most new drugs which are commercially sponsored because they are patentable, lithium carbonate is an old and pure inorganic chemical which would bring no profit to a pharmaceutical house. Funds for the active promotion of this drug with the Governmental authorities simply were not available.

Thinking that there was some crucial unanswered point about the use of lithium carbonate that needed further research, I requested of the FDA that they supply reasons why they had not yet given approval for its use. Perhaps I could set up a project to answer some of the remaining questions. But instead of posture suggestions I received only the answer that an anonymous body of experts had not yet deemed it ready. No statement was given supplying reasons for not making it available, no mention was made of when a body of experts had ever met to discuss the matter, if indeed they had, but only the salve that I was free to go ahead and repeat all of the expensive research done elsewhere once I had completed the forms. This just did not make scientific sense.

Appeals to senators and congressmen to get the FDA to change its stand met with sympathy, but they, too, seemed powerless. Indeed, Mr. Bernard Fensterwald, Jr., Chief Council, Senate Subcommittee on Administrative Practice and Procedure, states:

"Can one conceive that the value of vaccination, digitalis, anesthesia, penicillin, or mass polio vaccination, could have been discovered with present regulations of the Food and Drug Administration? The answer most certainly is 'No.' Even one of FDA'S own doctors testified before this Subcommittee that with today's regulations and requirements even aspirin would never be approved by the FDA.

"Changes in the law are needed. I think a step in the right direction is your own Congressman Wendall Wyatt's bill to turn over all drug approval functions from the FDA to the National Academy of Sciences. Another needed change is to provide for a right of appeal from FDA's termination of an IND. As your legal memorandum points out, such a right does not now exist.

"Until such legislative changes are made, however, we will all have to live with this intolerable situation . . .

"Your third alternative would be to restrict your use of lithium carbonate to residents of Oregon, so as to stay outside of the FDA's legal jurisdiction. From what I have seen this is completely unworkable. The FDA would be sure to swoop down on you the first time they could find that the drug moved into interstate commerce. How can you protect yourself from the lying patient who says he lives in Oregon, but really doesn't? What do you do about a former patient who moves out of state but returns to you for treatment and takes the drug back home with him?

"Also, don't forget that the FDA is very vindictive. If they feel that you are trying to get around the Act, they are not above putting pressures on the University, financial or otherwise. They are not above using phony names to try to trap you into shipping the drug interstate."

The restrictive interpretation emerged following the birth of deformed children to mothers who had ingested thalidomide. Perhaps as many as 6,000 children were affected. No one can question the intent of legislation that would prevent such tragedies. Yet legislation is a two-edged sword. More than 20,000 persons commit suicide each year in this country, of whom perhaps 6,000 to 11,000 suffer from the type of depressive illness which is treatable with lithium. One might estimate that since the evidence on the effectiveness of lithium became available, 24,000 persons, four times the number of those crippled by thalidomide, have had needless suicide, not to mention the larger numbers who have experienced the subjective misery and economic and social disruption of manic-depressive illness.

If lithium were the only drug affected, the matter might be of less import. But many drugs are involved. For example:

Gastroenterologists since 1956 have used a simple natural sugar, xylose, for diagnosing defects in absorption from the intestine. About a year ago it was announced that it could no longer be used without an investigator completing a new drug application. No reason was given for this action, and inquiries attempting to discover the testing desired by the FDA met with no satisfactory answer. There was no effort to harass investigators, no apparent malice, but only the endless morass of bureaucratic red tape conducted by persons less scientifically trained than the physician. It has been suggested that if the investigators had referred to xylose as a natural sugar instead of a chemical, then the present investigational requirements would not have been necessary.

Part of the squabble regarding marihuana stems from insufficient medical evidence of benefit or danger from this drug. A major reason for such lack of evidence is that the law dealing with the drug makes medical experimentation extremely difficult.

One of the major breakthroughs in the treatment of heroin addicts is the finding that a drug, methadone, blocks the action of heroin. One of the drawbacks of methadone, however, is that its effects last only 24 hours. Thus, the addict must return to the clinic daily or be given a supply for a few days. But one of the major drawbacks to outpatient treatment of addicts is that one cannot give the addict narcotics for self-administration because he may sell his supply or seduce non-addicts. Yet, there is another drug, 1-acetyl-methadol, known for the past 15 years, whose effects last 72 hours, which would obviate many of the drawbacks of methadone. But use of this drug for treatment of this one, small, otherwise highly-destructive population would require all of the prohibitively-expensive testing necessary for drugs used on larger, more healthy populations. The present costs for development of a new drug and for sending it through the FDA gauntlet are estimated in seven figures. Few companies are willing to invest these sums for a drug which will be limited to a small population. The FDA seems unable or unwilling to feasibly weigh the merits of extensive routine tests against the hazards of the illness. Fortunately, the powers of the FDA have not yet been extended to include medical devices or organs, for if such powers had been in existence we would not now be benefiting from prosthetic heart valves, artificial kidneys, nor from transplanted organs.

The issue in point is that physicians are experiencing de facto control of their traditional right to do what scientific evidence deems best for the patient, and patients suffer from lack of availability of these treatments. If by excessive and unnecessary controls on manufacturers, drugs can not be made available to the doctors, the control over the doctor's right to prescribe is no less complete.

The dilemma of the doctor faced with a treatment which is scientifically proven but governmentally unblessed is that:

If he uses the treatment anyway he may be prosecuted by the government.

If he doesn't use the treatment he is not doing what is best for the patient.

If he attempts to make a governmentally-blessed research project out of an area where scientific information is already adequate he is hypocritical and it takes time and resources away from other areas of service and research.

The basis upon which the FDA makes its decisions is not public information and there is no system of appeal.

Probably these dilemmas will be resolved

through judicial review of a test case, but there is considerable question as to how a test case should be presented. It is conceivable that a wealthy relative of a person who suicided and suffered from manic depressive illness could seek damages on the grounds that the government withheld a proven medication by an arbitrary and capricious decision. Alternatively, a physician could deliberately have himself indicted by sending lithium carbonate across state lines for treatment of his patient, but few physicians wish to spend their days or funds in court. Morally, should the physician be civilly disobedient, treat his patients as he deems best, and await government prosecution to test the law?

If any moral is evident from this sorry tale, it is that laws prohibiting traditional activities should be passed with great caution, for no matter how noble their intent, their long-term effect may be destructive. Surely, Congress had no intent to limit effective treatment; it is in the excessively-literal administrative interpretation of the law, often by laymen and so far untested in the courts, to which physicians must rebel. Few responsible physicians would seek abolition of the FDA, but its actions should be limited to cases where there is a clear and present danger, or there should be a system by which a scientist could get the agency to show cause for its action. In demanding proof of innocence for a drug instead of showing guilt, the FDA has taken a position opposite to that of our judiciary system, which assumes innocence until guilt is proven.

There are many examples outside of medicine where laws passed with laudable intent have been struck down because their evils in the long run outweighed their values. Laws regarding censorship, wire-tapping and the obtaining of confessions are only a few. A similar fate must surely await those laws which presently restrict the physician's right to practice medicine.

There have been other efforts by government to control the traditional relation between doctor and patient. In the famous case in which the State of Connecticut attempted to limit prescription of contraceptives the Supreme Court ruled:

"In other words the State may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge. The right of freedom of speech and press includes not only the right to utter or to print, but the right to distribute, the right to receive, the right to read . . . and freedom of inquiry, freedom of thought and freedom to teach . . . indeed the freedom of the entire university community . . .

"The present case, then, concerns a relationship lying within the zone of privacy created by several fundamental constitutional guarantees. And it concerns a law, which in forbidding the use of contraceptives (lithium carbonate), rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive impact upon that relationship. Such a law cannot stand in light of the familiar principle, so often applied by this court, that a 'governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms . . .'

"In determining which rights are fundamental, judges are not left at large to decide cases in light of their personal and private notions. Rather, they must look to the 'traditions and conscience of our people' to determine if a principle is 'so rooted . . . as to be ranked as fundamental.' "

I submit that the modern, scientifically-trained physician has a deeply-rooted fundamental right, indeed responsibility, to use that treatment which he feels is best. Medical malpractice decisions are quite adequate to control his excesses. As the late Judge Learned Hand stated, "For myself it would be most irksome to be ruled by a bevy of Platonic Guardians, even if I knew how to choose them, which I assuredly do not."

Since this article was written, Lithium has been marketed, exactly ten years after Gershon and Yuwiler published their classic paper in this country, "Lithium Ion: A Specific Psychopharmacological Approach to the Treatment of Mania," Journal of Neuropsychiatry, 1:229-241, May-June, 1960.

A long-acting isomer of methadone, 1-alpha acetylmethadol, is now being investigated, formally delayed perhaps only six months by the FDA, but psychologically delayed for this purpose four or five years. By psychological delay we mean fear in the mind of the investigator that it is useless to even try because of all of the paper work involved.

A REPORT THAT FAILS

Mr. HANSEN. Mr. President, on Saturday, the President's Commission on Campus Unrest submitted its report to President Nixon. Since that time, many of us have had an opportunity to review the report and there has been much public comment on the report itself.

On Monday, the junior Senator from West Virginia (Mr. BYRD) made what I believe to be one of the most noteworthy analyses of that report. On the Senate floor Senator BYRD eloquently and forthrightly expressed the deep disappointment that many of us have experienced on reading the report. The report fails to give central focus to law and order, and all too often seeks excuses for the conduct of a very few who have managed to bring terror and destruction to the campuses of our Nation.

The Scranton report fails to reassure the American workingman that the sacrifice which he makes to pay taxes and support higher education in this Nation is a worthwhile sacrifice. The American people deserve the assurance that their Government will not permit their investment in education to be destroyed by a few radicals who burn, loot, and terrorize in an effort to force their will on society. In pursuing their goals the radicals deny the opportunity for higher education to those who wish to pursue that goal rather than engage in militant activities.

While the Commission condemns violence and terrorism and those who engage in such activity, it condemns with equal force the actions of those persons and institutions which it expects to control and oust the forces of violence. It asks that the weapons used to maintain order be limited in the face of an enemy that at a moment's notice and unexpectedly uses weapons ranging from rocks to bombs, from words to rifles, and from placards to fire.

Mr. President, President Nixon has provided strong leadership to restore peace to the campuses of America. At Kansas State University, where the President was cheered by students he said:

The time has come for us to recognize that violence and terror have no place in a free society, whatever the purported cause or the perpetrators may be. And this is the fundamental lesson for us to remember: In a system like ours which provides the means for peaceful change, no cause justifies violence in the name of change.

The President's Commission on Campus Unrest would have done well to provide the same strong leadership as the President, rather than qualifying and diluting its report with contradictory and incongruous recommendations and findings.

THE CAMPUS AND THE NEW ACADEMIC YEAR

Mr. HATFIELD. Mr. President, not alone among university and college presidents this fall, Dr. Robert D. Clark of the University of Oregon faces a new academic year, and in light of the past year, the myriad issues that lie ahead.

The University of Oregon, under the direction of Dr. Clark, has coordinated efforts that preceded and aline with the recommendations of the Scranton Commission. His programs may provide a vanguard for other institutions of higher learning as they seek to define their roles in society and assimilate the diverse elements that our troubled society has thrust upon them.

A great strength of our Nation lies in the fact that our learning is autonomous and free. In speeches both sensitive and relevant, Dr. Clark addressed the new students and the faculty at the University of Oregon last week.

I ask unanimous consent that the texts of those two speeches be printed in the RECORD.

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

ADDRESS TO NEW STUDENTS

(By Robert D. Clark)

I am pleased to welcome you to the University of Oregon for the beginning of your studies on this campus. This promises to be a good year, an exciting one—not too exciting, I hope.

Many good things have happened to us in recent months: in another week or two we shall have a new foot bridge across the Willamette River that will give you access not only to the stadium, but to the undeveloped park on the north bank; Thirteenth Street has been closed to traffic, at least temporarily; students in architecture last winter led a campaign to clean up the Mill Race and developed plans to increase the flow of water. I hope that we can implement those plans and that we can develop an outlet so that you can paddle your own canoes from the Mill Race to the Willamette River; we have a new urethane surface all-weather track, available not only to the varsity team, but to P.E. classes and unnumbered faculty and student joggers; the grandstands were renovated at minimum cost through the services of friends of the University, including students.

We have a new and beautiful Clinical Services Building, completed last year, a handsome new Law School building opened only this fall. Last year the University of Oregon was elected to membership in the Association of American Universities, a highly selective organization of 48 American universities with programs of recognized excellence. I could go on, but you must already think me unnecessarily boastful.

A month ago I visited the new campus of the University of Guadalajara in Mexico. On the facade of the auditorium for the social sciences is a huge mural, extending across the entire width of the building—typical of Mexico and the splendor of its achievement

in art. The left panel shows mankind distorted in body and spirit, a few with uplifted arms struggling to release themselves from the darkness of ignorance and slavery. The next panels depict the rise of learning, its benign and liberating influence, the brilliant dawn of science, the receding shadows of ignorance. But alas, the final panels show the triumph of technology and bureaucracy, the shattering of art, the breaking of the human spirit and the enslavement of mankind to a new and terrible tyrant.

It is a parable for our times and for your generation. You know it well without having seen the mural. Happily for us, our last panel is yet to be painted and it is in your power to help draw the design. If I understand it correctly, this is what the worldwide "rebellion of the young" is all about. You assert human values and you are determined to achieve them. In the pursuit of that end, I am with you.

It is my intention to comment briefly on several items:

1. An affirmation: I have thought much about your generation—you have given me plenty of reason for reflection—and I think that you are not only the best prepared and most sophisticated generation of students in my university experience, but that you are also more sensitive to humane values, more alert to many of the dangers that threaten our society, more committed to meaningful social change than any of your predecessors whom I have known. This is not simply ritualistic faith or optimistic rhetoric. I know your shortcomings as well as any man, perhaps better than most. But you are going to make a profound change in this society—if you don't muff your chance.

2. I speak of you collectively, as if you were one body. It is true that you do hold some characteristics in common: you are young, and you are university students—or at least you are about to sign up for a course of study. Yet I know that individually you differ widely in your purposes, your abilities, your beliefs. Some of you have your professional or vocational goal clearly in view and will move steadily toward it. Some of you are searching, trying to find your way. A few of you may be here for the rites of passage from youth to adulthood. Some of you who have come not really knowing why, may one day find that something has happened and there is a purpose. And some, I must add, may find that this university—or any university—is not for you, and that the door marked exit is the shortest route to your goal.

In all of these particulars you are like your fathers and mothers and their fathers and mothers before you. But there are among you some who differ from past generations of college students in being more critical of the established order and more sensitive to political and tactical means of change than has been traditional on the American academic scene. Even here you differ widely among yourselves. A graduate student at the University last spring, in a sample poll, found that a big plurality of students thought themselves "moderate", with the remainder scattered right and left, with only a handful committed to the radical tactics of violence. National polls confirm these conclusions for students generally. But both local and national polls show that a large percentage of students agrees with the radicals in many of their goals for social change. That is a remarkable fact about your generation, a fact that sometimes leads to unfortunate exploitation of the majority by the radicals.

3. Let me say that social change—the means of reaching the goals to which you aspire—is a very complex process—one widely discussed by philosophers and bitterly debated by partisans. I shall not go into that—other than to say this: the young, of every generation, have a way of putting all their money on one toss of the coin: Win this election or the world falls apart. Not so. Social change may sometimes result from the cataclysm of war or depression or revolution but even then it is still a matter of bits and pieces, of gain and loss, of unrelenting struggle. You can establish a legal right with a stroke of the pen but it takes a mighty effort, and perhaps several generations, to change human behavior.

Despite your understandable sense of frustration with the world, that same world has seen remarkable social change in the last fifteen years and young people have been in the vanguard: civil rights, the shift in opinion on the war in Vietnam, the electrifying awakening to the dangers of pollution and the urgent need for preservation of the environment. We have a long and tortuous way to go, particularly in extending equal opportunity and equal benefits of our society to minority groups—the number one problem in our nation today. But we have begun and enough of you are sufficiently sensitive and committed to get the job done if you will stand by your commitment.

4. I am frank to say that in effecting change, violence is not an acceptable or useful tool—not for this University or for higher education generally. If opinion polls on this campus and in the nation are representative, the overwhelming majority of you agree with me. The *Oregon Daily Emerald* in its last issue of the summer said it bluntly and truly. "Those who believe that violence can stop the terrible injustice being committed by this country may be sincere; but they are wrong . . ." "Engaging in physical violence and destruction of property", said the *Emerald*, "will only hurt the cause by further alienating the great bulk of Americans."

That does not mean that you should not express your opinions—not at all. Nor, if you cannot otherwise be heard, that you should not demonstrate or protest. But it does mean that wanton and irresponsible attacks on persons or property will be met with reprisals. It does mean, as the *Emerald* said, that "only a non-violent protest will be effective!" Not only non-violent, but one that does not disrupt the legitimate functions of this university.

5. Students—your predecessors—have demanded change not only in the society but in the University. They have told us they want university education to be more meaningful. Relevant is the term—and I judge *that* to mean an education that is meaningful to them—to you—now and in the future—one that helps you to establish a value system, to get your bearings in *this complex society*, and one that prepares you not simply to take a job in the establishment, but that will help you to build a better society.

To accomplish these ends students have demanded a greater participation in the functioning of the University. The University has responded, sometimes reluctantly, not always to the satisfaction of the students, but it has responded. At the University of Oregon, students now sit on nearly all committees of the general faculty, they serve on advisory committees to deans and other administrators and on many school and department committees. Students have taken the initiative in creating a highly imaginative, if occasionally somewhat troublesome curricular program called SEARCH, which permits them to initiate courses of special interest to them through appropriate departmental sponsorship.

I am in favor of these changes. I believe that they will make the University of Oregon a more vital institution, one better able to provide the kind of education young people need. More changes are to come. Some of them may come out of a special committee of faculty and students I have appointed to study and make recommendations on the government of the University.

I have two more items to discuss, both of them more immediate and programmatic.

6. First, the State Board of Higher Education this summer passed a new Code of Conduct, applicable to both faculty and students, proscribing behavior that is disruptive of university functions, destructive of property, or injurious to persons.

With respect to students, nearly every particular is already covered in the University Code, a copy of which is in your handbook. Moreover, the National Student Association, in cooperation with American Association of University Professors, and two organizations of student deans, several years ago recommended that colleges and universities develop specific codes, spelling out precisely behavior that was not acceptable on the campus. Prior to that time, and even to this day, discipline codes contained such vague phrases as conduct "in poor taste," or conduct not "conforming to the requirements of good manners and good morals," or "conduct prejudicial to the school," or "conduct unbecoming a student,"—all actual phrases from discipline codes. The University of Oregon Student Conduct Code, developed before the NSA report was published, and now largely affirmed by the State Board of Higher Education, has become a model for many colleges and universities.

One proposed regulation of the Board, to be acted upon next month, does, however, represent a sharp departure in procedures. This regulation provides that if the disciplinary procedures of any college or university in the Oregon State System of Higher Education break down, the President is instructed to appoint a hearing officer and proceed with the case outside the jurisdiction of the student-faculty courts. That is a procedure already adopted by many universities and required by the legislature in one or two states.

I doubt that we shall have reason to need this procedure. It is true that our student court system broke down almost completely last spring. But that was the first time it had been put to the test of handling cases of disruptive behavior. Students and faculty have been at work since spring on changes in the procedures designed to make the courts effective. I believe they will be.

What this all adds up to is this: A university as a center of inquiry and learning must be free. A university must be open to the expression of ideas, even if some—even many—believe those ideas to be wrong. It must combat error with reason and not with violence or coercion or disruption. There is no other way for a university to maintain its integrity. If there are those within the community who would destroy the university or impair its orderly functioning, then the University community must act. That is what the discipline code is all about.

7. Finally, I want to say a word about political activities for the fall term. The tragedies of last spring—Kent State, Jackson State, and the invasion of Cambodia, stirred students across this nation as they have never before been stirred. Some campuses erupted in protest and violence. Oregon was among the universities to respond with a positive program—discussions on campus and in the community, a petition drive that netted 60,000 signatures in a week's time. And students began to look forward to the fall election campaign.

The so-called "Princeton plan" calls for the closing of that university for two weeks before the November election. Only a few schools, mostly private, have adopted it. Requiring an early beginning or late closing of the fall semester, it is too costly for most students who attend our public institutions, and the two-week break is too interruptive for the short term of the quarter system. The University of Oregon will not close its classrooms or its doors for the campaign. Nonetheless, with the cooperation of the

student body president I have appointed a faculty-student committee to plan a program for fall term. The details will be made known to you shortly. It is enough to say now that the University is conscious both of student interest in public events and of its obligation to proceed with its educational program.

But let me add this word: many members of the general public are very anxious about the prospective events; indeed, many persons throughout our state were quite upset with the University and with the students who conducted the petition campaign last spring. I have tried to say to people, whenever the occasion permitted, that whether they agree or not, they ought to applaud the students' effort to make the American system work. The right to petition the government for the redress of grievances is clearly working within the system; it is one of the rights set forth in the First Amendment to the Constitution. But if your objective is to effect change, and not simply to assert your rights or to defy your elders, you will devote some of your effort this fall to evaluating the means to effect change.

I welcome you to the University of Oregon for what I hope will be a great year and a great experience for you. One of the great joys of life is discovery and of all discoveries in this world the discovery of knowledge is among the most exciting and rewarding. And so may it be with you.

REMARKS TO THE FACULTY

I am glad to welcome you at the beginning of this new year. As an old schoolmaster, I find that my pulse still quickens to the return of students to the campus and, despite the anxieties and tribulations of recent years, it is not a pulse that beats loud with anger or faint with trepidation. These have been troublesome years but exciting ones, and out of the student unrest, I believe, will emerge a stronger and better university—one more responsive to student and societal needs, but one no less committed to the search for truth and the acquisition and use of knowledge for humane purposes.

Perhaps these words are patently cant, but I do not think of myself as a Dr. Pangloss declaiming optimism in the face of disaster. The fact is that the University which nourished us and which we secretly cherish in the now unspoken and slightly embarrassing sentiment, *alma mater*, is not the University we serve today, and neither institution, past or present, is competent to meet the demands society has placed upon it. The University has changed much in the last three or four years, and undoubtedly it will change more in the years ahead. How, I do not know. I suspect, and fervently hope, that it will hold fast and enlarge its passionate search for knowledge, not for conspicuous consumption, not as Newman said to acquire "mere repertories of miscellaneous and officious learning," but, as he insisted, for the exercise of thought or reason on knowledge, in a way that will engage the energies of the student. And beyond that, the application of knowledge for humane purposes—long a practice of the university in the traditional fields of law, medicine, architecture, engineering and applied science, pedagogy and others.

We must improve our curriculum and instruction in all these areas, with particular concern for the public welfare. But we must reach beyond them to a more effective application of knowledge to the nearly insuperable problems the technological age has brought upon us—not simply as reformers whom later generations may applaud for their zeal and forgive for the little damage they have done—but as practitioners, skilled in the means to effect change, to transmit and implement the values we have professed but have not fully realized in our democratic society. We have made a modest beginning in the applied social sciences in our School of Community Service and Public Affairs and elsewhere. We need to enlarge and improve the enterprise.

I do not mean to suggest that we should politicize the University or that we should simply give credit for field work. Even if the central purpose of a college is defined as "socialization," as two eminent writers have recently defined it, the axis about which the socialization takes place remains the exercise of thought on knowledge. Field work or even political activity may serve as a laboratory exercise to be analyzed and evaluated. We have begun to develop the theoretical base and methodology necessary to serve that purpose. But to politicize the university is to subvert it. For once the university is perceived or used as a political tool or weapon, it will be seized by the strongest power and very likely that power will not be within the university.

This topic may well be an urgent issue this fall. The events of last spring—Kent State, Jackson State, Cambodia—have sensitized our students to political action. Of the many prospective institutional programs, the most widely known is the Princeton plan which calls for the closing of the university for two weeks before the November election. Only a few schools—mostly private—have adopted it. The plan, requiring an early beginning or late closing for the fall semester, is too costly for most students who attend our public institutions. The University of Oregon will not close its classrooms for the campaign. But it will have a program. With the cooperation of the president of the Associated Students, I have appointed a faculty-student committee to develop plans. The committee's recommendations will be announced this week.

We begin this fall term with mixed feelings of apprehension and confidence—apprehension because of the events of last spring, and confidence because of the manner in which our students and faculty responded.

The public reaction ranges from anxiety to anger. Against that background, and perhaps in anticipation of the forthcoming report of his Commission on Campus Unrest, President Nixon, according to the press, has addressed a letter to more than one thousand college and university presidents, charging them with the responsibility of maintaining order on the campus. I have not received, or have not yet received, a copy of the letter. I agree with the President that the university cannot tolerate disruption or violence and maintain its integrity. And I further agree that the university itself, and not the government, is the more competent agent to deal with disorder. But I concur also with the reported conclusions of the Scranton committee which not only condemn violence and disruption on the campus, but urge the President to ally himself with the American youth, to make a full commitment "to crucial domestic reforms to aid the poor, the blacks, the cities, and the environment."

The President in his Kansas State address urged colleges and universities to stand up and be counted. The University of Oregon has stood up to be counted against violence and disruption. It will continue to do so. But I want to emphasize that members of this University community will also stand up in alliance with students who are earnestly pressing for a reduction of the evils in our society which breed violence. All of us hope, I am sure, that President Nixon will stand up with us.

Certainly the President of the United States, more than any other person, can set the tone and lead the way for change.

I regret to spend so much time on the topic of campus disruption and violence, but events of the last year, and public concern make further comment necessary. Last spring and this summer students and faculty have worked together to make significant changes in our procedures for enforcement of the rules of conduct. Not only from the demands of the public, but on the recommendation of the University, and with its cooperation, the State Board of Higher Education has taken action to make the rules of conduct clear to all.

The procedural change adopted last spring was written by a member of our faculty. Our faculty submitted many of the specific provisions written into the code this fall and participated actively in modification and improvement of all of its sections. The specific procedure, including the definition of "cause' as recommended by our faculty was, regrettably, not adopted by the Board. When the faculty and board were so nearly in agreement on the new provisions, I regretted that they could not reach an accord on this and two or three other issues. But the board did reaffirm its long-standing commitment to faculty participation in the procedures and in the determination of penalty. And it did draw a distinction between speech, which it protected and disruptive action or speech unequivocally linked with riotous action, both of which it proscribed.

I believe that the action of the Board provides us a basis for adequate controls on the campus, for defense of the rights of faculty members, and for protection from the imposition of unjust and oppressive regulation by an angry public. Last summer I attended a special meeting of the National Association of State Universities and Land-Grant Colleges. It was a grim session. Institution after institution reported the same pattern; inadequate discipline code, collapse of the disciplinary procedures, precipitant action taken outside the code, or on the basis of vague and unconstitutional provisions, intervention of the courts, failure to repair the code, intervention of the legislature.

In one state the regulations of the Board of Regents now have the force of law and the student guilty of infraction is subject to trial in the criminal courts; in the same state the courts are empowered to expel a student from the university for infraction of a law; in one state the legislature authorized the withholding of funds from any institution that cancels its classes because of student disruption; in several institutions the regents or the legislature have ordered the use of a hearing officer who, in some instances, will function outside the jurisdiction of the university or its president. Thirty-two states last year passed restrictive or repressive legislation; I do not know the count for this year. Given these circumstances, and given the very nature and integrity of the university, I believe it wise that the faculty of this institution, and the State Board of Higher Education have moved to deal with the problem in a context that is appropriate to the academy.

Unhappily, there are other by-products of campus disruption. Robert Nisbet, professor of sociology at Riverside, has said in a recent statement that "Although most persons tend to think of *freedom* as the consequences of eroding authority in a culture, this is not the case, for freedom cannot exist save in circumstances of accepted authority." In times of stress the failure, or even the apparent failure, of the University to exercise its authority will result in the assumption of that authority by other agencies. "The first and crucial manifestation," he says, "will be increased participation of boards of trustees . . . in academic, including curricular affairs on campus."

We have, I believe, an unusually good governing board, one that has tried to act responsibly and not vindictively, a board that has sought to protect the welfare of the institutions it governs and at the same time to meet its obligations to the citizens of Oregon. Yet it showed uncertain and uneasy confidence in the management of academic affairs in some of the institutions when it refused to give more than tentative approval

to projected curricular and administrative changes. Three of these were at the University of Oregon: the new legislation on group requirements, the reduction of the English composition requirement from nine to six credits, and the change in the grading system.

More significant is this fact: in years past, the secretary of the faculty informed me, changes of this order were not referred to the Board for action. I know that many years ago the University required only six hours of English composition, and I believe that it did not refer the matter to the Board when it increased the requirement to nine credits. I was a member of the committee that recommended a substantial increase in group requirements, a change not referred to the Board. I know that the Honors College was legislated without reference to the Board, and that an earlier and less imaginative plan—in which I had a part—to reward a student for his achievement rather than to punish him for his failures was not referred—nor was it referred some years later when it was dropped as an abortive and unsuccessful experiment. The University had some sense of freedom to experiment, evaluate, confirm or retract.

Given this understanding I did not refer last spring's legislation to the Board. But a concerned member asked that it be placed on the agenda for discussion and possible action. I do not for one moment question the Board's authority to act. But I do regret the erosion or seeming erosion of confidence. In these times when change and experimentation are essential to the well-being of higher education we require also a climate of confidence that will make change possible. We cannot always expect that our several publics will agree with us, we may have to fight for programs we believe educationally sound. The public will more easily endure such struggles if they are persuaded that the University, indeed, acts within the context of authority and not as a consequence of its diminution. But in saying all of this we must not overlook the fact that the Board does allow us considerable latitude for experimentation in course offerings—and I am confident that satisfactory lines for the exercise of authority in curricular matters will be drawn.

I could tell you a much happier story of what I believe to be a growing sense of confidence in the University. It seemed a strange thing to me last year when I returned to the campus that this university so highly respected in all parts of the country should be held in low esteem by some of the citizens of the State, including, unfortunately, some of our own alumni. My mail in these past months has not been a litany of praise. But I believe that we have turned the corner. I have tried to answer every inquiry, complaint, and commendation. I have sometimes written angrily, bluntly, aggressively, but I have also tried to understand the other man's point of view, to interpret events in a larger context, to be conciliatory where it was possible, without apology or improper concession, and to furnish facts that speak for themselves. Largely through the efforts of the Development Fund Office, I have spoken in many communities of the State, in Portland a dozen times, a self-constituted group of local citizens has met with me frequently to acquaint themselves with the issues, the Alumni Association, Oregon Mothers, Oregon Dads have rallied to our support.

From these groups we have developed a limited mailing list of persons to whom we have sent special letters, circulars, documents. Some of these many people have done much to interpret the university to a larger public; some of them have devoted much time and effort in our behalf; some of them have been fiercely supportive of the University. My mail has begun to look better. In these times of financial stress, contributions of unrestricted dollars to the Development Fund increased appreciably last year. The Report from the President, sent to some 50,000 people, has prompted many favorable responses. One man wrote "You have met many of my arguments against higher education. You have turned me around. Please send fifty more copies for me to distribute to my friends."

Many of you, professors, administrators, counsellors, dormitory staff, and students, have been intimately involved in many ways, sometimes with an enormous investment of energy. On behalf of the University, I thank you.

I have one more topic to discuss: last year we gave much attention to the thorny question of the government of the University. I said to you at the first meeting of the faculty that I favored a delegate legislative body and a higher degree of student participation. I still hold those views and I suspect that the issue is still a thorny one. In consequence, I have, on recommendation of the Advisory Council, appointed a special faculty-student committee to study the question and make recommendations.

I believe that we can profit from student insights and that our government ought to provide an adequate means to make their judgments, interests, and wants known and felt. I believe also, that faculty as professionally trained men and women have special responsibility for university government, for the development of the curriculum, the content and method of instruction and evaluation, the selection, retention, and advancement of professional colleagues.

Further, I believe that an abridgement of the faculty's ultimate professional responsibility would lessen the quality of the University education and will invite intrusion into and direction of university business by outside forces. We shall have some differences over these questions. The discussion of differences, I trust, will lead to a clearer definition of roles and an accommodation that will be most beneficial to the University.

What more shall I say?—with Eliot:

"Now, we come to discover that the moments
of agony—are likewise permanent
With such permanence as time has—
People change, and smile: but the agony
abides."

183D ANNIVERSARY OF SIGNING OF THE U.S. CONSTITUTION

Mr. ALLEN. Mr. President, representatives of the Thirteen Original Colonies met in Washington, D.C., on September 17, 1970, to participate in ceremonies at the Washington Monument commemorating the 183d anniversary of the signing of the U.S. Constitution. This anniversary date is recognized throughout the land as Constitution Day.

Mr. President, I was distressed that the local press and the national media in general gave so little attention to this important event. In contrast I am particularly proud of the attention given Constitution Day in Alabama. The Birmingham News observed the event with a very fine editorial which I commend to the thoughtful consideration of Senators and members of the public.

I ask unanimous consent that the editorial be printed in the RECORD.

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

MEN, NOT ANGELS

Today is Constitution Day, an appropriate time to reflect upon the document which has allowed this nation nearly 200 years of continuous government.

With one tragic exception, the political character of our nation has been blessed with stability amidst peaceful change. And even in the case of the Civil War, the unity of the nation emerged intact; the great experiment of government of the people, by the people and for the people continued to be a model for the world.

The Constitution and the government it established are not perfect; and neither did its framers pretend that it was. Yet, in nearly two centuries it has been amended only 23 times—10 of these amendments being the original Bill of Rights.

The strength of the Constitution has been not in rigidly spelling out the minute functions and powers of governmental departments, but in setting forth broad principles upon which the government is founded.

Ironically, some of these principles have been so taken for granted in the course of the years that their genius has been obscured.

Lest it be forgotten, the form of government established by the Constitution is a *republican* government—not a *democratic* government.

Go back to the *Federalist Papers*, the collection of essays written by Alexander Hamilton, John Jay and James Madison in defense of the newly-drafted document.

These men, who signed their papers "Publius," were aware of the distinction. A *democracy* to them was a form of government in which the people themselves met to conduct affairs of state. The nature of direct participation necessarily limits its exercise to a very small geographical area: A town, perhaps; a large and growing country, impossible.

James Madison wrote that, "we may define a *republic* to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior."

Another neglected principle underlying the Constitution—one which nowadays we may ignore at our peril—is the principle of *federalism*.

The Constitution is The *Federal* Constitution. It is not a *national* constitution. The *federal* government was not intended to be a *national* government of consolidated powers.

In a federal republic, the powers surrendered by the people are divided between the state and federal governments in certain expressed proportions. Under a federal system, the states retain their sovereignty and are departments separate and distinct from the federal government.

"Hence," wrote Madison, "a double security arises to the rights of the people. The different governments will control each other; at the same time that each will be controlled by itself."

In another essay, Madison painstakingly reviewed each function of the government provided in the then-proposed Constitution and demonstrated that in some respects the operation of the government is national in character, but that for the most part the federal nature prevails. Even the method of ratification of the Constitution was devised so as to be a federal, not a national act.

"It is of great importance in a republic," Madison wrote, "not only to guard the society against the oppression of its rulers; but to guard one part of the society against the injustice of the other part."

The federal system does this, he continued, by breaking the society down into so many departments (the states) that "the minority will be in little danger from interested combinations of the majority" within the society.

And yet today we find many who are will-

ing to forego the protections of the federal system for an ever more powerful national government.

As a practical matter, the power of the federal government has already grown to such an extent that it looms over the once-sovereign states, treating them as mere subdivisions of a national government.

This erosion of federalism has been hastened by the effects of constitutional amendments, judicial interpretations—even by acts of Congress.

An all-powerful national government, if benevolent, has vast powers, it is true, to solve problems for the people. But without the checks of the federal system, this awesome power can also menace the rights of the people.

"It may be a reflection on human nature," Madison wrote, "that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external or internal controls on government would be necessary."

But much of the extremely liberal idealism today naively assumes angelic benevolence is a characteristic of a massive central government. It ignores the safeguards of federalism for the mathematical formula of the popular majority. It shuns our republican roots in search of pure democracy.

It is an ideology ignorant of how the governmental system functions, yet quick to condemn and eager to change for change's sake.

But it is the very system the radical-change-seekers deplore which succeeded well enough to nourish their ambitious expectations of how things should be.

And if made safe from undue tampering, the system under the Constitution will continue to work well. Not perfectly. But remarkably well.

JACK KOLE POINTS OUT THE HIGH COST OF NONRETURNABLE BOTTLES

Mr. NELSON. Mr. President, this country is faced with a mounting pile of solid wastes which are overburdening our local community facilities and causing serious environmental and health problems all across the Nation. A major component of solid wastes is discarded packaging materials. Whereas every person in the United States produced 404 pounds a year of discarded packaging in 1958, in 6 years it is estimated that this figure will be 661 pounds per year of packaging—paper, glass bottles, metal cans, wood, plastics, and textiles—for every man, woman, and child in this country.

In addition to the massive quantitative burden these discarded bottles, jars, cans, and paper place on our environment, their one-time use is extremely costly to the consumer. Mr. Jack Kole, Washington correspondent for the Milwaukee Journal, recently pointed out "that the American public could save a startling total of $600 million a year by purchasing soft drinks in returnable bottles" instead of throwaway cans and bottles. And another $840 million could be saved by the consumers of this country if they purchased their beer in returnable containers instead of throwaways. Thus the purchase of two items—soft drinks and beer—in returnable containers would save the American public $1,440,000,000 each year. And this direct savings does not reflect the additional savings of public moneys which would not have to be spent to attempt to dispose of these containers.

Mr. President, I invite the attention of the Senate to Mr. Kole's comments and ask unanimous consent that the article be printed in the RECORD.

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

ACCENT ON THE NEWS

John W. Kole, Washington Correspondent—Based on price differentials in Washington and Richmond, Va., the Crusade for a Cleaner Environment has calculated that the American public could save a startling total of $600 million a year by purchasing soft drinks in returnable bottles.

For example, it found that a six pack of Coca-Cola in 12 ounce throwaway cans retails here for 89 cents, compared to 69 cents for returnable 12 ounce bottles. That's a 20 cent saving per six pack. In Richmond, the savings is 24 cents.

It then applied a 4 cent per container savings to the estimated 15 billion cans and returnable bottles of soft drinks purchased in the United States each year. The organization said that if similar savings could be made on 21 billion throwaway cans and bottles of beer, another $840 million could be kept by consumers.

JOHN SCHMITT, PRESIDENT OF THE WISCONSIN STATE AFL–CIO, WRITES ON LABOR'S POINT OF VIEW

Mr. NELSON. Mr. President, labor in Wisconsin has had remarkable leaders over a long period of years. The spirit of the old European craft guilds was brought along to this country, found fertile ground, grew, and formed the basis for a flourishing American labor movement in Wisconsin.

Since those early beginnings, unionization in the craft and industrial trades within Wisconsin has multiplied and prospered and the workingman today is much more economically secure than his father and grandfather were.

An article in the September 28, 1970, issue of the Milwaukee Journal has some interesting comments about organized labor which are well worth reading.

The author, John W. Schmitt, is one of the most thoughtful and dedicated labor leaders in America. As president of the Wisconsin State AFL–CIO, he discusses some aspects of the labor movement which deserve careful consideration.

No matter whether the reader is in agreement or opposition with these views, I recommend John Schmitt's article to the Senate and ask unanimous consent that it be printed in the RECORD.

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

MYTHS ABOUT ORGANIZED LABOR CAN HARM PUBLIC AS WELL AS UNIONS, SAYS SCHMITT

I'd like to correct some of the moth eaten myths about organized labor that have been floating around for too many years.

In view of the fact that these myths have been perpetuated to a large degree by inadequate, inaccurate and even biased reports of labor activities by much of the general news media, the press must be the first target of our efforts to place these myths in the ashcan.

These myths have become potentially very harmful to the general public as well as to labor unions. The labor movement has much to contribute to our communities, state and nation in this period of social unrest and disunity. It can do this job better if the public is not confused by antilabor mythology.

One myth is the widespread belief that labor unions have been the cause of a large amount of industrial strife. It is fed by the widespread publicity given to strikes. The facts are, of course, that labor unions have been this nation's most effective instrument for promoting and maintaining peaceful human progress and stability in our industrial world.

MOST CONTRACTS RUN COURSE WITHOUT STOPPAGE

This is demonstrated emphatically in the statistics of the US Department of Labor. During the 1960s, for example, more than 98% of the 150,000 labor-management agreements in the nation ran their course without a strike or work stoppage of any kind.

Even more impressive, man-hours lost due to strikes during the decade amounted to less than a quarter of 1% of the total worked. By contrast, time lost due to industrial accidents and illness was about 10 times as great. It should be obvious that the real signifiance of collective bargaining in our economy should be the peaceful and orderly progress that it has made possible. However, this is not the impression the public gets from the news media.

In this period of rising living costs, another myth that has received widespread and distorted attention in the press is the so-called role of union negotiated wage increases as a factor in causing inflation. The fact is, of course, that labor union members along with all workers actually took a cut in real wages in the period from 1965 through 1969 when corporate prices, profits and dividends were soaring to record highs.

Labor unions generally have been in the position of having to catch up with inflation this year. On the basis of the increase in the cost of living in 1969 and thus far in 1970, unions have had to negotiate for increases of more than 10% just to catch up with the level of real wages that prevailed in 1965.

Any competent, honest economist will admit that wages have traditionally trailed price and profit increases. Yet the myth that wage increases are a major factor in inflation is continually repeated in news reports about major wage negotiations and settlements.

By contrast, I've read or heard very little about the inflationary impact of the record high interest rates charged by banks, yet these affect the cost of living of every man, woman and child in the country.

BIG UNIONS DWARFED BY BIG BUSINESS

Another myth, promoted primarily by spokesmen for such organizations as the U.S. Chamber of Commerce and the National Manufacturers Association, is that unions have become too large and too powerful. To anyone familiar with the increasing trend of the concentration of more and more of the economic wealth of this nation in fewer and fewer corporate giants, this so-called concern is not only a myth but a joke.

A recent study by Dr. Willard Mueller, University of Wisconsin economics professor, has disclosed that corporate conglomerates multiplied and grew faster in the decade of the 1960s than in any previous period in history. His study showed that by the first quarter of 1970 a small elite of 102 corporations, each with assets exceeding a billion dollars, controlled 48% of the assets and 53% of the profits of all corporations engaged primarily in manufacturing. The remaining assets were divided among more than 198,000 corporations.

Right now, the UAW, one of the largest

unions in the nation, is on strike against General Motors, the largest manufacturing corporation in the world. How do they compare in terms of economic power? The UAW went into the strike with a strike fund of about $120 million, enough to pay its striking GM members $30 to $40 a week in benefits for a period of six or seven weeks. GM in 1969 had consolidated assets of $14.8 billion and another $9 billion in its wholly owned subsidiary, General Motors Acceptance Corp.

The problem of bargaining effectively with these huge conglomerates is one of the most serious challenges confronting organized labor. It is obviously going to require larger unions and stronger co-operation by all labor unions than ever before. And it certainly explodes the myth that labor unions have become too large and too powerful.

"BOSSES" HAVE NO PLACE IN DEMOCRACY

Finally, I'd like to deal with the related myth—the one that attributes all labor problems to the power and influence of the so-called "labor bosses." This myth is not only completely inaccurate, but it's an insult to the intelligence and character of the millions of rank and file members of the labor movement. The fact is that labor unions at all levels are the most democratically run organizations in our nation. No union leader is any stronger than the support he can count on from the rank and file membership.

Two Harvard professors recently published a book on this subject. Their conclusion was that many business and industrial leaders like to believe this myth because they prefer to blame their labor troubles on "some opportunistic union leader" rather than to face the facts that their employes are dissatisfied with their wages or working conditions.

Labor leaders who don't recognize and respond to the needs of their rank and file members don't have very long careers as "labor bosses." Every successful labor leader understands this. We could eliminate many of the problems confronting our society today if all leaders in government, business, industry and other organizations had to be half as responsive to the people they're supposed to serve as labor leaders must be to their members.

JOHN W. SCHMITT.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The legislative clerk read as follows: Calendar No. 1135, Senate Joint Resolution 1, proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT

Mr. BYRD of West Virginia. Mr. President, under the order of yesterday, I ask unanimous consent that the unfinished business be temporarily laid aside, and that the Senate proceed to the consideration of the pending EEOC bill.

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

The legislative clerk read as follows: Calendar No. 1153, S. 2453, a bill to further promote equal employment opportunities for American workers.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia?

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there may be a quorum call, with the time charged equally to both sides on the bill.

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

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

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

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Under the previous unanimous-consent agreement, all time is now under control.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the same committee staff members who had the privilege of the floor yesterday be given the privilege of the floor today.

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

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

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

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.

Mr. ERVIN. Mr. President, I should like to state that I should like to have a rollcall on some of my amendments. Of course, we cannot legislate unless a quorum is present.

I do not care to speak at great length on this matter.

The PRESIDING OFFICER. Does the Senator yield time to himself?

Mr. ERVIN. I yield 10 minutes to myself, Mr. President.

The PRESIDING OFFICER. On the bill?

Mr. ERVIN. I am going to offer an amendment.

Mr. President, I call up my amendment. In it I move to strike the following: Subsection (1), which appears on lines 1, 2, and 3 on page 26. What I move to strike is this language:

(1) In subsection (a) insert "governments, governmental agencies, political subdivisions," after the word "individuals".

The purpose of this amendment is to perpetuate the right of the States and their subdivisions, which has existed ever since George Washington took his first oath as President of the United States, to hire their own employees without interference on the part of the Federal Government.

Yesterday I made some remarks in which I pointed out that this bill constitutes a most drastic assault upon our federal system of government; that it would give to the Equal Employment Opportunities Commission the power to tell the States, the power to tell counties, the power to tell municipalities, the power to tell townships, the power to tell school boards, the power to tell sanitation districts, and the power to tell all other subdivisions of the State government whom they could hire, fire, and promote.

Not only that, it would give the Commission the power, for all practical purpuposes, to fix the compensation of those employees. Under this bill, the Commission could find that the States and their political subdivisions had practiced discrimination on the basis of race, color, religion, national origin, or sex. For all practical purposes, the Commission's findings would be final. This is true because the bill prostitutes the judicial process by denying the courts any effective procedure to change the findings of fact of the Commission. And by finding that the State or one of its political subdivisions had discriminated on one of the prescribed grounds in respect to terms of employment or compensation, the Commission could effectively prescribe the terms of employment or the compensation of an employee whom it found had been treated differently from other employees on the grounds enumerated. By the bill Congress empowers the Commission to say to an employer, "You cannot refuse to hire A, whom you have refused to hire and whom we have found, despite your evidence cogent to the contrary, you are discriminating against on one of the specified grounds." When the Commission has the power to say, "You cannot refuse to hire A," the Commission has the power to say, "You must hire A."

Thus, the bill would empower an agency of the Federal Government, composed of men who are not elected by anyone, and who cannot be held responsible to anyone, to assume control of the employment practices of all the States and all the political subdivisions of the States. Not only that, the bill would bring within the compass of the jurisdiction of the EEOC every educational institution in the United States. The bill would give the Commission the power to tell every educational institution whom it must hire to teach mathematics, philosophy, sociology, history, and so forth. The Commission could even command a college which is supported by a religious denomination to hire an infidel to teach any subject not of a religious nature.

I say, Mr. President, this bill is probably the most tyrannical proposal which has ever been made to a legislative body in this country. The bill shows a contempt for the fundamental liberties of all the American people.

Yesterday I pointed out that the bill

constitutes a gross prostitution of the judicial process; that it would unite in the Commission the power to prefer charges, the power to investigate charges, and the power to determine whether the charges should be made the subject of quasi-judicial action. And when it determines that the charges are to be made the subject of quasi-judicial action the commission would act as judge and jury, and, I might add, the executioner.

Mr. President, the bill provides for the financing of one side of the controversy and denies it to the other. It brings within its orbit every person in the United States who employs as many as eight persons. This Federal Commission would take charge of hiring practices of virtually every small businessman in the Nation and deny them the right, in the ultimate analysis, to make their own contracts of employment. It deems it wholly immaterial that these men invest their talents and their money in their business enterprises, and denies them the ultimate right to hire or to promote those whom they think will make their undertakings successful.

The bill would, in effect, take away from them, in the ultimate analysis, the power to determine whom they shall hire, whom they shall promote, whom they shall discharge, and what compensation they shall pay to these persons. Under the broad power to enforce whatever it considers to be discrimination within the purview of the bill, the commission would succeed to all these powers in the final analysis.

Hence, it seriously impairs essential ingredients of the free enterprise system.

Not only that, but the bill is so drafted that it is virtually impossible for the courts to give an independent appraisal of the factual decisions of the commission. Since the law arises out of the facts, the power which finds the facts—in this case the Commission—really controls the ultimate legal decision.

Mr. President, the bill robs little businesses in America of their rights to select their employees; it robs the States and their subdivisions of their rights to employ their employees; and it robs the educational institutions of the country of their rights to determine who shall constitute their faculties. Moreover the bill is so drafted as even to rob the courts of the right to make an independent determination of the facts in the case.

The bill will give the Commission the power to find the facts and will make those findings of fact binding on every court in the land, if those findings are supported, as the bill provides, by "substantial evidence." Five percent of the evidence is substantial. The evidence can be 5 percent one way and 95 percent the other, but the Commission could make its own findings of fact, on the basis of the 5 percent, and no power on earth, including the Supreme Court of the United States, could interfere with those findings of fact.

Mr. President, I would say, Let me write the verdict and I care not who writes the judgment. The verdict—the facts—determines the judgment. By its provision giving the Commission the virtually unreviewable power to find the facts, the bill constitutes a gross prostitution of the judicial process. It contains so many inequities in it that in an effort to cure a few of them, I have submitted amendments Nos. 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 998, and 999, in an effort to give some legislative respectability to the bill.

Mr. GRIFFIN. Mr. President, will the Senator from North Carolina yield?

The PRESIDING OFFICER (Mr. CRANSTON). Does the Senator from North Carolina yield to the Senator from Michigan?

Mr. ERVIN. I yield.

Mr. GRIFFIN. It is not clear to me whether an amendment by the Senator from North Carolina is now pending.

Mr. ERVIN. Yes. I offered an amendment——

Mr. GRIFFIN. I believe it has not been stated, however, is that not correct?

The PRESIDING OFFICER. The Senator is correct, it has not yet been reported.

Mr. GRIFFIN. It might be appropriate if the amendment were to be stated and identified.

Mr. ERVIN. I stated at the beginning of my remarks that I moved to strike lines 1, 2, and 3 on top of page 26 which constitutes a part of section 2 of the bill. Those are provisions in the bill which would give the Commission jurisdiction over so-called discrimination charges in respect to hiring of the employees of all States and all political subdivisions of States.

Mr. GRIFFIN. Is it a printed amendment?

Mr. ERVIN. No, it is not printed.

The PRESIDING OFFICER. Does not the Senator from North Carolina mean on the top of page 26?

Mr. ERVIN. Page 26; that is right, Mr. President.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows: On page 26, strike out lines 1, 2, and 3.

Mr. ERVIN. Mr. President, my proposed amendment in the form of a motion to strike is, in effect, exactly the same as amendment No. 975 which was submitted originally by the distinguished Senator from Colorado but not called up for Senate action by him.

Mr. President, I ask unanimous consent that the amendments I have previously enumerated be printed in the RECORD at this point.

There being no objection, amendments Nos. 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 998, and 999 were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 985

On page 32, subsection g(1), strike the third sentence and insert "After the Commission issues a complaint it may, upon application by the person aggrieved or the respondent, appoint an attorney for such person in any case in which it determines that the aggrieved party or the respondent is unable to pay for an attorney without undue hardship, or in any case in which the interests of justice and fair play would be served thereby."

AMENDMENT No. 986

On page 28, line 20, strike the period and insert "or any other person.".

On page 29, line 6, after "employee," insert "or any other person.".

On page 29, line 9, after "Commission," insert "or any other person.".

AMENDMENT No. 987

On page 33, lines 3 through 12, strike subsection g(2) and insert: "After the Commission issues a complaint, it may, upon application by the person aggrieved or the respondent, compensate such person for reasonable expenses in connection with the preparation for the hearing and in connection with participation in the hearings, including the cost of expert witness fees, transcripts, and copying. Not more than $1,000 will be allocated in any single proceeding to carry out the provisions of this paragraph. The Commission may perform the services for which such party would otherwise seek reasonable expenses under this subsection."

AMENDMENT No. 988

On page 28, line 5, strike "or on behalf of"; on lines 6 through 8, strike "or by an officer or employee of the Commission upon the request of any person claiming to be aggrieved,".

On page 29, line 18, strike "or on behalf of".

On page 30, beginning with line 16, strike all through line 5 on page 31; and renumber the following subsections as appropriate.

AMENDMENT No. 989

On page 27, line 22, strike the period and insert the following: "or to an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution.".

AMENDMENT No. 990

On page 33, line 23, beginning with "and" strike all through "Commission".

On page 34, line 1, and on page 34, line 12, insert the following new sentence: "In any action or proceeding under this title the Commission in its discretion may allow the prevailing party a reasonable attorney's fee as part of the cost. If the Commission determines that the complaining party is financially unable to pay such fees, the Commission shall pay such reasonable fees out of its own funds."

AMENDMENT No. 991

On page 39 strike subsection (m), lines 9 through 19, and renumber the following subsections as appropriate.

On page 40, lines 3 through 5, strike the last sentence of subsection (n).

AMENDMENT No. 992

On page 40, strike lines 6 through 10 and insert the following new subsection:

"(o) The Attorney General shall conduct litigation to which the Commission is a party in or in which the Commission has an interest."

AMENDMENT No. 993

On page 54, beginning in line 10, strike all through line 14 on page 55.

AMENDMENT No. 994

On page 41 strike subsection (q) beginning on line 13 through page 43, line 19, and renumber the succeeding subsections as appropriate.

AMENDMENT No. 995

Subsection (q) on page 41 is amended to read as follows: "If a charge filed with the Commission pursuant to subsection (b) is

dismissed by the Commission, or if within sixty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the Commission has neither issued a complaint under subsection (f) nor entered into an agreement under subsection (f) or (i) which is acceptable to the Commission and to which the person aggrieved is a party, the Commission shall so notify the person aggrieved and such person may, within thirty days thereafter petition the court for an appropriate order. If the court finds that there is reasonable cause to believe that the facts alleged are true, and that the Commission has abused its power in dismissing the charge or has not been acting with due diligence on the charge, the court shall issue an order directing the Commission to issue a complaint. If, in the case of an agreement pursuant to subsection (i) to which the person aggrieved was not a party, the court finds that the acceptance of such an agreement was an abuse of discretion by the Commission or that the interests of justice are not served by the agreement, it shall issue an order dissolving the agreement and directing the Commission to proceed forthwith with further consideration of the charge or to issue a complaint."

AMENDMENT No. 996

On page 44, line 24, add the following new sentence at the end of subsection c(1): "If the Attorney General thereafter determines that the Commission no longer has the capability or the intention to carry out the functions set forth in this section or that a transfer under this subsection no longer contributes to the carrying out of objectives under title VII of this Act, he shall so certify to Congress. Ninety days after such certification, the Attorney General shall resume his functions under this section unless the Congress upon joint resolution shall object to such resumption."

AMENDMENT No. 998

Subsection (p) on pages 40–41 is amended to read as follows: "The Commission shall have the power, upon the issuance of a complaint as provided in subsection (f) of this section charging that any person has engaged or is engaging in an unlawful employment practice, to bring in action for appropriate temporary or preliminary relief pending its final disposition of such charge, or until the filing of a petition under subsection (k), (l), (m), or (n) of this section, as the case may be, in the United States district court for any judicial district in the State in which the unlawful employment practice concerned is alleged to have been committed, or the judicial district in which the aggrieved person would have been employed but for the alleged unlawful employment practice, but, if the respondent is not found within any such judicial district, such an action may be brought in the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28, United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a judicial district in which such action might have been brought. Upon the bringing of any such action, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law. Rule 65 of the Federal Rules of Civil Procedure, except paragraph (a) (2) thereof, shall govern proceedings under this subsection."

AMENDMENT No. 999

Strike out all after the enacting clause and insert in lieu thereof the following:

"That (a) the Congress hereby declares that in order to restore an appropriate division of governmental authority between the three coordinate branches of the Federal Government in the area of equal employment opportunities and to preclude encroachment upon the legislative powers and functions of the Congress through the issuance of Executive orders in this area, it is necessary to provide that the remedies enacted by Congress to secure equal employment opportunities shall be the exclusive Federal remedies available in this area.

"(b) The actions, endeavors, investigatory proceedings, and other remedies provided by title VII of the Civil Rights Act of 1964 shall be the exclusive means under Federal law of enforcing the equal employment opportunities secured by such Act.

"(c) Executive Order Numbered 11246, as amended, title VI of the Civil Rights Act of 1964, and any other law or Executive order of the United States securing equal opportunities, and all rules or regulations issued thereunder, are hereby superseded to the extent that they provide any actions, endeavors, investigatory proceedings, or other remedies with respect to any act or practice prohibited therein which would also constitute an act or practice made an unlawful employment practice under title VII of the Civil Rights Act of 1964. Nothing in this Act shall relieve any person of any obligation assumed or imposed under or pursuant to any such law or Executive order prior to the enactment of this Act.

"(d) Nothing in this section shall apply with respect to any law of any State or political subdivision of a State."

Mr. ERVIN. Mr. President, I do not expect to call up all of my amendments. I should like to have these all printed to demonstrate to my constituents and to the rest of the American people that I am aware of the innumerable iniquities in the bill.

If I could get the time in these harried and hurried days of the session to call up these amendments, I would do so. But if they are printed in the RECORD as a part of my remarks, the House Members will have the benefit of them, when they consider this matter in what I hope will be a more leisurely atmosphere than prevails in the Senate at this time.

Mr. WILLIAMS of New Jersey. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. I yield.

Mr. WILLIAMS of New Jersey. I have asked the Senator to yield to me so that I may understand the procedure better here.

It was my understanding on yesterday that several amendments that have been spoken of this morning by the Senator from North Carolina were to be voted on en bloc. Was that in error?

Mr. ERVIN. I am not going to ask that all of these amendments be voted on en bloc. I had originally intended to do so. Copies of these amendments have been inserted in the RECORD. All of them are very important and I will ask for rollcalls on some of them.

Mr. WILLIAMS of New Jersey. Mr. President, I have not examined all of these amendments, of course. I would like to ask to have included in the RECORD my observations on the amendments after I have had an opportunity to read them.

Mr. ERVIN. Mr. President, I certainly would have no objection.

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

Mr. ERVIN. Mr. President, for the information of the distinguished Senator from New Jersey, I would say that I expect to offer several amendments: in addition to the amendment, which I am now offering in the form of a motion to strike, I shall offer, for example, another amendment to strike the provisions which bring educational institutions within the purview of the jurisdiction of the Commission.

Mr. WILLIAMS of New Jersey. Mr. President, I certainly appreciate the clarification by the distinguished Senator from North Carolina.

Mr. ERVIN. Mr. President, I do have another amendment, amendment No. 984 which would have established the Office of General Counsel of the Commission. I ask unanimous consent that this amendment also be printed at this point in the RECORD.

There being no objection, the amendment (No. 984) was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 984

On page 27 following line 22 insert the following new section 4 and renumber the succeeding sections as appropriate:

SEC. 4. Section 705 of the Civil Rights Act of 1964 is amended by adding a new subsection "d" as follows, and redesignating the succeeding subsection as appropriate:

"(e) There shall be a General Counsel of the Commission who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel of the Commission shall exercise general supervision over all attorneys employed by the Commission (other than trial examiners and legal assistants to Commission members) and over the officers and employees in the regional offices. He shall have final authority, on behalf of the Commission, in respect of the investigation of charges, the entry into conciliatory agreements, and issuance of complaints under subsections (b) and (f) of section 706, and in respect of the prosecution of such complaints before the Commission, and shall have such other duties as the Commission may prescribe or as may be provided by law. In case of a vacancy in the office of the General Counsel the President is authorized to designate the officer or employee who shall act as General Counsel during such vacancy, but no person or persons so designated shall so act (1) for more than forty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted."

Mr. ERVIN. Mr. President, the distinguished Senator from Ohio (Mr. SAXBE) yesterday afternoon offered a somewhat similar amendment which accomplishes the same purpose. For this reason, I will not press for action on my amendment which was designed to establish the Office of General Counsel.

Mr. WILLIAMS of New Jersey. Mr. President, I was advised that there would be offered today one amendment dealing with the situation where a respondent was unable to finance counsel fees, thus presenting undue hardship, and that the amendment would have provided that counsel could be appointed by the Commission.

Is that one of the amendments?

Mr. ERVIN. That is one of the amendments.

Mr. WILLIAMS of New Jersey. Mr.

President, there is one other that I would like to mention. That concerns an amendment that would specify that the Commission's findings must be by a preponderance of the evidence.

Mr. ERVIN. That is another one of the amendments. If the Senator from New Jersey is willing to accept those amendments, I will offer them for action after the pending amendment is acted on.

Mr. WILLIAMS of New Jersey. Mr. President, I was advised that they would be offered. Both seem highly reasonable and to have merit. I believe they would strengthen the bill. For myself, I would say that if they were offered, I would be willing to accept those amendments.

Mr. ERVIN. Mr. President, I will present them right after the vote on the pending amendment. I appreciate the willingness of the Senator from New Jersey to accept them. I will not go so far as to say that they would improve the bill, but I will say that they would render it slightly less obnoxious to the Senator from North Carolina.

Mr. WILLIAMS of New Jersey. Mr. President, I was impressed. I think they have a great deal of merit. The Senator from North Carolina improves so much of the legislation as it passes through that I certainly want to accept those amendments that prove not particularly obnoxious to me.

Mr. ERVIN. Mr. President, perhaps I could get unanimous consent to withdraw the pending amendment temporarily and let these two be agreed upon and then go back to the pending amendment.

The PRESIDING OFFICER. The Senator does not need unanimous consent. He has the right to withdraw his own amendment.

Mr. ERVIN. Mr. President, I temporarily withdraw the pending amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 997

Mr. ERVIN. Mr. President, I call up amendment No. 997.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 33, line 13, following "fines" insert "by preponderance of the evidence taken by the Commission".

On page 35, line 2, strike "on the record." and insert "by a preponderance of the evidence of the record.".

Mr. WILLIAMS of New Jersey. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. WILLIAMS of New Jersey. Mr. President, I misspoke myself a while ago. This amendment is most important in my judgment. This describes the legal burden of proof in many areas of administrative law, as I understand it. I think I should express my enthusiasm at this point for the RECORD, rather than just acquiesce in it.

Mr. ERVIN. Mr. President, it lays down the measure of proof that prevails in civil actions in the courts, the meaning of which is well understood.

Mr. WILLIAMS of New Jersey. Mr. President, I yield back the remainder of my time.

Mr. ERVIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

AMENDMENT NO. 990

Mr. ERVIN. Mr. President, the other amendment which the distinguished Senator from New Jersey has announced that he is willing to accept is amendment No. 990. I call up the amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 33, line 23, beginning with "and" strike all through "Commission".

On page 34, line 1, and on page 34, line 12, insert the following new sentence: "In any action or proceeding under this title the Commission in its discretion may allow the prevailing party a reasonable attorney's fee as part of the cost. If the Commission determines that the complaining party is financially unable to pay such fees, the Commission shall pay such reasonable fees out of its own funds."

Mr. ERVIN. Mr. President, I am privately advised by the distinguished Senator from New Jersey that this is not one of the amendments he is willing to accept, and for this reason I withdraw amendment No. 990.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 985

Mr. ERVIN. Mr. President, I call up amendment No. 985, which I understand is the other amendment that the Senator from New Jersey is willing to accept. I identified the wrong amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 32, subsection g(1), strike the third sentence and insert "After the Commission issues a complaint it may, upon application by the person aggrieved or the respondent, appoint an attorney for such person in any case in which it determines that the aggrieved party or the respondent is unable to pay for an attorney without undue hardship, or in any case in which the interests of justice and fair play would be served thereby."

Mr. ERVIN. Mr. President, the amendment applies to both sides of the controversy. Therefore, it is impartial. I believe that it strengthens the bill.

Mr. WILLIAMS of New Jersey. Mr. President, I do support the amendment. It is a worthy addition and preserves the parity of the situation.

Mr. ERVIN. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS of New Jersey. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. ERVIN. Mr. President, I had completed the argument in favor of my amendment to strike the provision of the committee substitute which would bring within the jurisdiction of the Equal Employment Opportunity Commission, State employees and employees of local political subdivisions of States. I, therefore, reserve the remainder of my time.

The PRESIDING OFFICER. Does the Senator call back up his amendment?

Mr. ERVIN. Yes; I thank the Chair. I again call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 26, strike lines 1 through 3.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS of New Jersey. Mr. President, as the floor manager of the bill that has been reported to the Senate, I strongly oppose the amendment of the Senator from North Carolina.

Employees of State and local government are entitled to the same benefits and protections in equal employment as the employees in the private sector of the economy.

At present there are approximately 9.5 million persons employed by 81,000 governmental units in the United States. Unfortunately, most of these jurisdictions do not have effective equal job opportunity programs, and the limited Federal requirements in the area—such as merit systems—reach only a portion of the employees of State and local governments.

The problem is particularly acute in those governmental activities which are most visible to the minority communities, notably education, law enforcement, and the administration of justice, with the result that the credibility of Government's claim to exist "for all the people—by all the people" is called into serious question.

In its 1969 report on equal opportunity in State and local government employment, the Civil Rights Commission found that minorities are denied equal access to State and local government jobs through both institutional and overt discriminatory practices. In this respect, there was little difference between governments as employers and the private sector. Perpetuation of past discriminary practices through de facto segregated job ladders, invalid selection techniques, and stereotyped supervisory opinions as to the capabilities of minorities as a class were found to be widespread, and if anything, more pervasive than in private employment.

This alone would seem sufficient to justify expansion of title VII's coverage to State and local government employment, but when the special nature of the activity involved is considered, the argument becomes even more compelling. As the Commission pointed out in the introduction to its report:

State and local governments are the nearly constant companions of every citizen of the United States. Most personal contacts with governments—so routine as to be taken for granted—are with State and local governments. Food served in the home or in a restaurant probably has been inspected by a State or local government. Policemen, firemen, and garbage collectors are included in its work force. From the time a birth is re-

corded at the city or county health department, to the time a burial permit is issued by the city or county, the daily activities of the citizen—education, employment, commerce, recreation—bring him into constant contact with State and local governments.

The 14th amendment to the Constitution recognized the importance of this close and constant interplay between the citizenry and its most immediately visible governmental institutions. The intent of the amendment is to insure the ability of all of the people to participate as equals in the operation of our political society. Since Americans—traditionally and rightly—measure the quality of their democracy by the opportunity they have to participate in the governmental process, it is not difficult to see why minority groups feel alienated when they are largely excluded from the bureaucracy. Their sociopolitical disability is made quite clear to them in a very unsubtle way.

Too often the last sentence of the amendment, enabling Congress to enforce the article's guarantees "by appropriate legislation" is overlooked and the plain words of the Constitution allowed to lapse. Legislation to implement this aspect of the 14th amendment rights is long overdue, and I believe that an appropriate remedy is contained in the bill making State and local government: subject to the requirements and processes of title VII in the same manner as any other employer.

Moreover, under the proposed bill, there is every effort made to give State fair employment practices agencies an opportunity to act first in those situations where there is an adequate State law covering State and local government employees.

The history of State FEPC activity since the 1964 act suggests that the back-up of Federal power in the event of a failure of local action to resolve a discrimination complaint has substantially strengthened the effectiveness of State and Local FEPC's. Thus, the increased coverage contemplated by this bill should provide more than ample opportunity and incentive for States to resolve their existing problems of discrimination against their own employees before it becomes necessary to pass them on to the Federal Government.

Once again, it becomes a matter of recognizing that a pure voluntary approach to ending employment discrimination is as ineffective in the public sector as it has been overwhelmingly demonstrated in the private sector.

Mr. President, I suggest that this part of the bill now before us is a needed extension of the great hope of the 1964 act and it is a vital part of the legislation which will have a profound meaning for our Nation.

Mr. ERVIN. Mr. President, I wish to ask the Senator a question. There is nothing in the bill that makes any distinction or points out what distinction, if any, exists between an employee of a State and an officer of a State, is there; is that correct?

Mr. WILLIAMS of New Jersey. An officer of a State or an employee? It does not spell it out as a difference, no.

Mr. ERVIN. Does the Senator from New Jersey recognize that there is a valid distinction between one who is an officer of a State and one who is an employee of a State?

Mr. WILLIAMS of New Jersey. I know that certainly we think of elected officers of a governmental unit. Is the Senator referring to elected officers?

Mr. ERVIN. I am talking about officers. In North Carolina we have fulltime special judges who are appointed by the Governor.

I would like to know if the Equal Employment Opportunities Commission is empowered by the bill to hold that if the Governor discriminates in respect to one of these appointments he will have to designate somebody else for the job. Also we have district judges appointed under North Carolina law by the resident Superior Court judges in the State.

Mr. WILLIAMS of New Jersey. I do not see anything in the bill telling a Governor of North Carolina whom he must appoint to be a judicial officer of the State.

Mr. ERVIN. There are a great many people who exercise a part of the legislative, the executive, or judicial authority of a State, and this bill does not make any distinction which will enable one to determine whether they are State officers or State employees.

Certainly, a judge who holds court is, in a sense, an employee of the State. He is pursuing State employment. This illustrates one of the dangers in bringing State employees under the bill.

I would like to ask the Senator another question. Were any of the States given any notice of the pendency of this bill? Were their officials invited to testify before the committee?

Mr. WILLIAMS of New Jersey. I will ask to have the hearing record reviewed right now. Yes, they were. If we can have some specificity here, I will point it out to the Senator from North Carolina.

Mr. ERVIN. I do not know of any State official in North Carolina who was advised of the pendency of the bill or who was given an opportunity to testify in respect to it. I do not know anybody in North Carolina who heard of the bill while it was being considered by the committee. If the only witnesses who testified before the committee were the ones designated in the committee report as having testified, it appears that State officials were conspicuous by their absence.

Mr. WILLIAMS of New Jersey. The Senator has a copy of the hearings on the desk before him. The States as a group have an organization called the Council of State Governments. On this, as they do on others, it is the center for information. They were fully advised by this bill, the hearings, and the whole business, and they were represented fully at the hearings.

Mr. ERVIN. I look at the list of witnesses and note that most of them seem to have been witnesses who represent minority groups or who are anxious to secure special privileges for minority groups, regardless of what such action will do to our constitutional system of government or to the rights of other people in America. The remainder of the witnesses seem to have been Federal officials who, like all officials, have an insatiable thirst for the increase of their powers. I do not find the name of a single person representing a State who testified before the committee.

Mr. WILLIAMS of New Jersey. From any State?

Mr. ERVIN. Representing any State. There are witnesses from State human rights commissions who are special pleaders for minority groups and who would like to have special privileges for minority groups at the expense of the rest of the American people.

Mr. WILLIAMS of New Jersey. I know that all the people who expressed a desire to be heard by the committee were heard. It was my impression that we had broad geographic representation at the hearings. Institutionally, the hearings had representatives from States, municipalities——

Mr. ERVIN. Frankly, in the list of witnesses I cannot find a single witness testifying in behalf of any State or any subdivision of a State government.

Mr. WILLIAMS of New Jersey. I would say with all the usual processes available to us that the usual notices were made and published. The CONGRESSIONAL RECORD was replete with notices of hearings.

What is the other official document of notification?

Mr. ERVIN. The Federal Register.

Mr. WILLIAMS of New Jersey. Did the Federal Register have it?

Mr. ERVIN. There is no rule requiring notice of hearings of a congressional committee in the Federal Register.

I would say to the Senator from New Jersey that I do not think there is a single human being on the face of the earth, and, if there be human beings out in the solar spaces, I do not think a single human being there, reads the CONGRESSIONAL RECORD in full. If a person did that, he would not do anything else in this life. I do not read all of it myself; I do not have the time to do so.

Mr. WILLIAMS of New Jersey. I agree. The requirement to publish in the Federal Register is not effective in fact. It is almost a guarantee that the notice will be hidden. We did not rely on that. We relied on the U.S. best seller publication—the CONGRESSIONAL RECORD. Full notice appeared in the CONGRESSIONAL RECORD.

Mr. ERVIN. It is the most unread publication in the United States, by and large.

Mr. WILLIAMS of New Jersey. The CONGRESSIONAL RECORD?

Mr. ERVIN. It is not even read in full by Members of Congress.

Mr. WILLIAMS of New Jersey. I never made a mistake which, when it was printed in the RECORD, everybody did not find out about.

Mr. ERVIN. I am glad to say I have had better luck than that.

Mr. WILLIAMS of New Jersey. All the good goes unnoticed, or most of the good goes unnoticed.

Mr. ERVIN. Of course, the Federal Register is not required to carry notices of committee hearings. I would say the Federal Register is worse than the CON-

GRESSIONAL RECORD because it is all gobbledygook. From my experience with the Federal Register, I am constrained to say that even if one reads it, he cannot understand it. Every sentence contains words or phrases that result in several cases of incurable mental indigestion.

Mr. WILLIAMS of New Jersey. I am glad we did not rely on the Federal Register to let word go out to the public that we are considering further enforcement authority for the Equal Employment Opportunity Commission, which is what this bill is all about.

In the amendment before us, we are dealing with coverage of employees who, in the committee's judgment, should be covered under the provisions of the bill.

Mr. ERVIN. Without meaning any criticism of the committee, I would say that with respect to a bill like this, which would affect every one of the 50 States, the Governor of every State should have been given notice of the bill, and the attorney general of every State should have been given notice of the bill. I infer from the fact that none of them testified that this legislation, which is now being considered and which constitutes an assault on the federal system, is being considered by the Senate without anybody in the States knowing anything about it.

Mr. WILLIAMS of New Jersey. I am sure than no personal notice went to every State attorney general, but we did rely on the institution to which all the States contribute—the Council of State Governments. They knew all about it and were given every opportunity to disseminate the notice and the information. We sat at the hearings and were willing to hear any witness. We would have sat in the hearings as long as anyone wanted to come and be heard on this legislation.

I am just trying to say, finally, that this measure was not in any degree rushed through quietly, without any desire to have it fully known. It was known to all, through the institutions that were advised, and we were there, ready, and always willing to hear any witnesses who wanted to come before the committee.

Mr. ERVIN. I think I have made my position clear. I would like to have a rollcall so that Senators who want the Federal Government to swallow the States to the extent that this bill provides may express themselves pro and those who do not may express themselves con on the subject.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, will the Senator yield to me for one-half minute to put in a quorum call, which I shall call off immediately, to try to get some more Senators on the floor?

The PRESIDING OFFICER. The clerk will call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time? Time is being charged against both sides equally. Who yields time?

Mr. GRIFFIN. Mr. President, I wonder if I might have some time from the distinguished Senator from North Carolina?

Mr. ERVIN. Mr. President, I yield the Senator from Michigan 5 minutes, if I have 5 minutes remaining under the time limitation agreement.

Mr. GRIFFIN. Mr. President, I intend to vote for the amendment of the distinguished Senator from North Carolina to strike out the coverage of State and local governmental employees. But I wish to make clear for the Record that I would vote against this amendment if the Dominick amendment had carried. Under that amendment, if one of the States of the Union were charged with discrimination in connection with the hiring of an employee, it would at least be accorded the dignity and respect of having the case heard in a court.

Frankly, I disagree with the Senator from North Carolina concerning some of the arguments that he has advanced to justify the exclusion of covering employees of State and local governments. I believe, in accordance with the recommendations of the Civil Rights Commission, not only that there has been a good deal of discrimination in the employment practices of State and local governments but also that appropriate remedies should be provided.

But, Mr. President, in line with one point made by the distinguished Senator from North Carolina about the mutual respect and comity that should be observed between the Federal Government and the several States, it seems to me that it would be a very demeaning to establish a procedure under which a State would be hauled before an administrative agency of the Federal Government, which would then proceed to act as investigator and prosecutor, and also as judge and jury. I find it difficult to approve such a procedure for handling a complaint filed with the Federal Government against a State. If the Federal Government is going so far as to regulate the employment practices of State government, then at the very least a State ought to have its case heard in court.

Mr. ERVIN. I yield myself 30 seconds.

It is apparent to me that the States either did not receive notice or that any notice given them miscarried.

I believe this provision should be stricken from the bill and that an opportunity should be afforded to the States to be heard on this matter, because I cannot imagine 50 States letting this matter pass without a single representative appearing in opposition to this provision.

Mr. GRIFFIN. The Senator from North Carolina is a very knowledgeable student of the law. I wonder whether he is aware of any other Federal statute governing State and local employees under which an alleged violation would be handled in this way. I am aware that Congress did bring State and local governmental employees under the Fair Labor Standards Act, as I recall. And I believe the Supreme Court has held that action by Congress was constitutional.

Mr. ERVIN. I am not sure that they are under the Fair Labor Standards Act.

Mr. GRIFFIN. That is my recollection. I will have to check.

Mr. ERVIN. My recollection is to the contrary, but I do not guarantee it to be accurate.

Mr. GRIFFIN. I want to point out, however, that under that particular law, complaints are not adjudicated by an administrative agency but rather are handled by the Federal courts.

Mr. ERVIN. I think the National Labor Relations Act applies only to business organizations which are engaged in matters that affect interstate commerce.

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

Mr. GRIFFIN. Is there some time on the bill?

The PRESIDING OFFICER. There is plenty of time on the amendment.

Mr. ERVIN. I yield to the Senator from Michigan, if I have any more time.

Mr. GRIFFIN. I should like a couple of minutes to clear up this question.

Mr. WILLIAMS of New Jersey. I yield a couple of minutes, in order to have the question cleared up.

Mr. ERVIN. I know of no bill that hails States before administrative agencies of the Federal Government.

Mr. GRIFFIN. It is my understanding that employees of State and local governments are not covered by the National Labor Relations Act, commonly called the Taft-Hartley Act, but that they are covered by the minimum wage provisions of the Fair Labor Standards Act.

Mr. ERVIN. Which is enforced in courts and not through any Federal agency.

Mr. GRIFFIN. That is the point I wanted to make. Although the Fair Labor Standards Act applies to State employees, that law is enforced in courts and not by an administrative agency. I know of no other existing situation in which Congress has attempted to impose regulations upon State and local government and then denying access to the courts for adjudication of an alleged violation. I believe it is unfortunate to apply such a procedure to any individual, business or union. But it is particularly demeaning to apply to such a procedure in the case of a complaint against one of the States of the Union.

Mr. ERVIN. I have just been informed that the employment agency of the State of Virginia, which is situated right across the Potomac River, in Alexandria, never heard of this bill and that, so far as it knows, the officials of Virginia know nothing about this provision.

Mr. WILLIAMS of New Jersey. The hearing record was open for many weeks. Alexandria is right across the river. These were public hearings.

Mr. DOMINICK. Mr. President, the Senator from Illinois feels particularly strong about this amendment. He certainly would have voted with the sponsor of the amendment had he been able to be present.

The Senator from Illinois (Mr. SMITH) has individual views appearing on page 75 of the report commenting on this and on the problems in the bill by virtue of the coverage of State employees. I ask unanimous consent that his views be printed in the RECORD.

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

ADDITIONAL INDIVIDUAL VIEWS OF MR. SMITH

In addition to joining Senators Dominick and Murphy on the previous issues, I wish to state a further objection. Testimony offered during the hearings on the bill by the U.S. Commission on Civil Rights makes inescapable the conclusion that a drastic change in the traditional legitimate operation of Government hiring will be required if this act is adopted as it now stands. The Commission's testimony showed the prevailing brief to be that many State and local government job requirements are *unrelated to the job* and ought, therefore, to be abolished. Chief among these were requirements of citizenship, residency, voter registration and party affiliation. Again, with respect to the very worthy objectives of the bill's sponsors, it seems fair to point out that such conditions of employment are, patently, neither inherently discriminatory nor unrelated to the fitness of the applicant for the job. Furthermore, denying the victorious party the authority to hire its supporters would certainly weaken the two party system of political accountability and turn over the affairs of Government entirely to bureaucrats.

It would be, in my view, both unwise and unworkable to impose such a novel "no-requirement requirement" on State and local governments.

RALPH T. SMITH.

Mr. WILLIAMS of New Jersey. Mr. President, I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. Does the Senator from North Carolina yield back the remainder of his time?

Mr. ERVIN. I yield back the remainder of my time on this amendment.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FULBRIGHT (when his name was called). On this vote I have a pair with the distinguished Senator from Maine (Mr. MUSKIE). If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from New York (Mr. JAVITS) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER) and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

On this vote, the Senator from Kentucky (Mr. COOPER) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from Kentucky would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from New York (Mr. JAVITS). If present and voting, the Senator from Illinois would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from South Dakota (Mr. MUNDT). If present and voting, the Senator from Texas would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 30, nays 37, as follows:

[No. 343 Leg.]

YEAS—30

Allen	Ellender	McClellan
Anderson	Ervin	Miller
Baker	Fannin	Russell
Bible	Goldwater	Smith, Maine
Byrd, Va.	Griffin	Spong
Cook	Gurney	Stennis
Cotton	Hansen	Talmadge
Curtis	Holland	Thurmond
Dole	Hollings	Williams, Del.
Eastland	Jordan, Idaho	Young, N. Dak.

NAYS—37

Allott	Hatfield	Pearson
Boggs	Hughes	Percy
Brooke	Jackson	Proxmire
Burdick	Kennedy	Randolph
Byrd, W. Va.	Magnuson	Ribicoff
Case	Mansfield	Saxbe
Church	McGovern	Schweiker
Cranston	McIntyre	Scott
Dominick	Metcalf	Stevens
Eagleton	Mondale	Symington
Fong	Nelson	Williams, N.J.
Harris	Packwood	
Hart	Pastore	

PRESENT AND ANNOUNCING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Fulbright, for.

NOT VOTING—32

Aiken	Hruska	Murphy
Bayh	Inouye	Muskie
Bellmon	Javits	Pell
Bennett	Jordan, N.C.	Prouty
Cannon	Long	Smith, Ill.
Cooper	Mathias	Sparkman
Dodd	McCarthy	Tower
Goodell	McGee	Tydings
Gore	Montoya	Yarborough
Gravel	Moss	Young, Ohio
Hartke	Mundt	

So Mr. ERVIN's amendment was rejected.

Mr. ERVIN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: On page 27, line 20, insert a period after the word "religion" and strike the rest of line 20 through line 22.

Mr. ERVIN. Mr. President, I would like to make a statement to those Senators who are present. I am perfectly willing to agree to a time limitation of 5 minutes to each side on the amendment.

The amendment is very simple. Under the bill the EEOC would have jurisdiction of all of the employees of religious corporations, associations, educational institutions, and societies with respect to the employment of all individuals except those that directly participate in its religious activities.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Mississippi (Mr. STENNIS) correctly calls the attention of the Presiding Officer to the fact that we need better attention from those in the Senate during the remarks of the Senator from North Carolina. Senators will cooperate. The Senator may proceed.

Mr. ERVIN. Mr. President, first, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, under this bill, if a religious educational institution wanted to employ a professor of mathematics it could be compelled by the Commission to employ an infidel as professor of mathematics. In other words, the only exemptions are extended to those actually participating in the religious activities of the religious institution.

Justice Douglas has said, in connection with a school prayer case, that you could not separate secular and nonsecular activities of a religious institution. If that is true, this bill trespasses on the first amendment right to religious freedom.

Apart from that, as a matter of policy, I think people who establish a religious institution and people who establish a church should be allowed to select a janitor or a secretary who is a member of the church in preference to some infidel or nonmember. However, they could not do that under this bill. My amendment would exempt religious organizations from the control of the State. If that is not in line with the letter of the law, it certainly is in line with the spirit of the law.

I hope all those who believe in religious freedom will support the amendment. We ought not to let Caesar undertake to control what belongs to God.

Mr. WILLIAMS of New Jersey. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. WILLIAMS of New Jersey. Mr. President, the exemption of the bill was designed for the objective stated by the Senator from North Carolina. The

amendment would strike all after the word "religion" in line 20 of page 27 so that it will be precise and crystal clear that religion will not be used as a subterfuge for the other discriminations that are prohibited under this act.

I would propose an amendment as a substitute for the amendment of the Senator from North Carolina, and this would strike all after the word "religion" on line 20 through line 22, and insert a semicolon and the words:

Provided, That this section shall not exempty any person otherwise subject to this Act who engages in religious exemption as a subterfuge to avoid coverage under this Act.

The PRESIDING OFFICER. The substitute amendment offered by the Senator from New Jersey will be stated.

The amendment offered as a substitute for the amendment of the Senator from North Carolina, was read as follows:

On page 27, line 20, strike the language after the word "religion" through line 22, insert a semicolon and the proviso: ": Provided, That this section shall not exempt any person otherwise subject to this Act who engages in religious exemption as a subterfuge to avoid coverage under this Act."

Mr. ERVIN. Mr. President, it is going pretty far——

The PRESIDING OFFICER. Before the Senator proceeds, the amendment offered as a substitute is not in order without unanimous consent until time is yielded back on the original amendment of the Senator from North Carolina.

Mr. MANSFIELD. Mr. President, could we have the amendment read again so that we will know what it is? I ask unanimous consent to that effect.

The PRESIDING OFFICER. The amendment offered as a substitute will be read.

The amendment offered as a substitute for the amendment of the Senator from North Carolina was read as follows:

On page 27, line 20, strike the language after the word 'religion" through line 22, insert a semicolon and the proviso:

"*Provided*, That this section shall not exempt any person otherwise subject to this Act who engages in religious exemption as a subterfuge to avoid coverage under this Act."

The PRESIDING OFFICER. Does the Senator ask unanimous consent for consideration of his amendment? That must be done or time yielded back.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent for consideration of the substitute amendment.

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

Mr. ERVIN. Mr. President, I think Congress will have reached the height or the depth of absurdity if it empowers a Federal agency to say whether religious corporations, religious associations, religious educational institutions, and religious societies in the United States are hypocrites. That is what the amendment would do.

I ask that the amendment to the amendment be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS of New Jersey. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from New Jersey (Mr. WILLIAMS) in the nature of a substitute for the amendment of the Senator from North Carolina (Mr. ERVIN). (Putting the question.)

The "nays" appear to have it in the opinion of the Chair. The "nays" have it.

The amendment in the nature of a substitute for the amendment of the Senator from North Carolina was rejected.

The PRESIDING OFFICER. Now, the question recurs on the amendment offered by the Senator from North Carolina.

Mr. ERVIN. Mr. President, I yield back my time on the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question recurs on the amendment offered by the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from New York (Mr. JAVITS) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting the Senator from South Dakota (Mr. MUNDT) would vote "yea."

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from New York (Mr. JAVITS). If present and voting, the Senator from Illinois would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from Texas would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 43, nays 28, as follows:

[No. 344 Leg.]

YEAS—43

Allen	Ervin	McIntyre
Anderson	Fannin	Metcalf
Baker	Fulbright	Miller
Bible	Goldwater	Pastore
Burdick	Gurney	Randolph
Byrd, Va.	Hansen	Russell
Byrd, W. Va.	Hatfield	Smith, Maine
Church	Holland	Spong
Cook	Hollings	Stennis
Cooper	Jackson	Symington
Cotton	Jordan, Idaho	Talmadge
Curtis	Long	Thurmond
Dominick	Magnuson	Williams, Del.
Eastland	Mansfield	
Ellender	McClellan	

NAYS—28

Allott	Hart	Proxmire
Boggs	Hughes	Ribicoff
Brooke	Kennedy	Saxbe
Case	Mathias	Schweiker
Cranston	McGovern	Scott
Dole	Mondale	Stevens
Eagleton	Nelson	Williams, N.J.
Fong	Packwood	Young, N. Dak.
Griffin	Pearson	
Harris	Percy	

NOT VOTING—29

Aiken	Hruska	Muskie
Bayh	Inouye	Pell
Bellmon	Javits	Prouty
Bennett	Jordan, N.C.	Smith, Ill.
Cannon	McCarthy	Sparkman
Dodd	McGee	Tower
Goodell	Montoya	Tydings
Gore	Moss	Yarborough
Gravel	Mundt	Young, Ohio
Hartke	Murphy	

So Mr. ERVIN's amendment was agreed to.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the joint resolution (S.J. Res. 223) to authorize and request the President to issue annually a proclamation designating the month of January of each year as "National Blood Donor Month," with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 18679. An act to amend the Atomic Energy Act of 1954, as amended, to eliminate the requirement for a finding of practical value, and for other purposes; and

H.R. 19444. An act to authorize for a temporary period the expenditure from the airport and airway trust fund of amounts for the training and salary and expenses of guards to accompany aircraft operated by the U.S. air carriers, to raise revenue for such purpose, and to amend section 7275 of the Internal Revenue Code of 1954 with respect to airline tickets and advertising.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker had affixed his signature to

the following enrolled bills and joint resolutions, and they were signed by the Acting President pro tempore (Mr. FANNIN):

S. 3730. An act to extend for 1 year the act of September 30, 1965, as amended by the act of July 24, 1968, relating to high-speed ground transportation, and for other purposes;

H.R. 14485. An act to amend sections 501 and 504 of title 18, United States Code, so as to strengthen the law relating to the counterfeiting of postage meter stamps or other improper uses of the metered mail system;

S.J. Res. 110. Joint resolution to amend the joint resolution entitled "Joint resolution to establish the first week in October of each year as National Employ the Physically Handicapped Week," approved August 11, 1945 (59th Stat. 530), so as to broaden the applicability of such resolution to all handicapped workers;

H.J. Res. 236. 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"; and

H.J. Res. 1154. Joint resolution authorizing the President to proclaim National Volunteer Firemen's Week from October 24, 1970, to October 31, 1970.

HOUSE BILLS REFERRED OR PLACED ON CALENDAR

The following bills were each read twice by their titles and referred or placed on the calendar, as indicated:

H.R. 18679. An act to amend the Atomic Energy Act of 1954, as amended, to eliminate the requirement for a finding of practical value, and for other purposes; placed on the calendar.

H.R. 19444. An Act to authorize for a temporary period the expenditure from the airport and airway trust fund of amounts for the training and salary and expenses of guards to accompany aircraft operated by the U.S. air carriers, to raise revenue for such purpose, and to amend section 7275 of the Internal Revenue Code of 1954 with respect to airline tickets and advertising; referred jointly to the Committees on Commerce and Finance, by unanimous consent.

EQUAL OPPORTUNITIES ENFORCEMENT ACT

The Senate continued with the consideration of the bill (S. 2453) to further promote equal employment opportunities for American workers.

AMENDMENT NO. 989

Mr. ERVIN. Mr. President, I call up my amendment No. 989, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 27, line 22, strike the period and insert the following: "or to an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution.".

Mr. ERVIN. Mr. President, I think we can proceed to vote on this amendment in short order. I had promised to yield at this point to the Senator from Kentucky.

Mr. COOK. Mr. President, when the Senator finishes explaining his amendment, I wonder if he would give me 5 minutes on the bill, and then I shall be through.

Mr. ERVIN. Maybe we can vo'e on the amendment and then yield time on the bill.

Mr. President, this is a very simple amendment. The pending bill, for the first time, proposes that the Equal Employment Opportunity Commission have jurisdiction over the hiring of professors in educational institutions.

I think that the exemption of educational institutions insofar as their teaching personnel are concerned ought to be continued. I think it absurd to set up a Government agency like the Equal Employment Opportunity Commission and give them jurisdiction, in effect, to judge the competency of every teacher and every professor in every educational institution in the United States.

I do not think we can accuse our educational institutions of practicing discrimination to such an extent that Congress ought to adopt a law which would, in effect, let a Federal agency take charge of passing on the proficiency of every teacher of mathematics, every teacher of philosophy, every teacher of economics, and every teacher of trigonometry in this Nation. I think it is absurd to assume that such a Commission would have any competency for that purpose. How can educational institutions have academic freedom if Congress subjects their employment of teachers to the jurisdiction of the Equal Employment Opportunity Commission, which has no competence to judge their educational proficiency?

I hope we will not impede the educational institutions of this Nation in their employment of professors, by subjecting their actions to the supervision of a Federal agency which has no competency to select those who are best qualified to teach in the institutions of this land.

Mr. President, this is the last amendment I shall propose. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. WILLIAMS of New Jersey. Mr. President, I yield myself 2 minutes.

The bill came to us with a religious exemption. That was clarified by the last amendment. That is an area where we tend to feel there is obvious reason for exemption from this antidiscrimination act.

But this amendment deals with school systems. It seems to me that if employment discrimination is improper anywhere, it is certainly improper in educational institutions. For that basic reason, the committee included the coverage in this bill, upon the testimony and the statements from the administration.

I oppose the amendment.

Mr. ERVIN. Mr. President, one further word.

This amendment would merely continue the exemption which educational institutions have always enjoyed in this field. A vote against my amendment is a vote which says that a Senator thinks that the Equal Employment Opportunities Commission is better qualified to say who is competent to teach in the educational institutions of our land than the institutions are themselves. I submit that an educational institution selects a professor of mathematics because it thinks he is more proficient than other applicants. It should be entitled to give him the job. If the EEOC is to find discrimination, it must find that the professor of mathematics hired by the institution is inferior in capacity to the one the Commission orders the institution to hire.

I respectfully submit that the Senate ought to maintain freedom of education on the campuses of this land by letting the institutions select their own professors, instead of empowering an agency of the Federal Government, which has no competency in this field, to do so.

I yield back the remainder of my time.

Mr. WILLIAMS of New Jersey. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FULBRIGHT (when his name was called). On this vote I have a pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. RUSSELL), and the Senator from Maryland (Mr. TYDINGS), are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are absent on official business.

Mr. GRIFFITH. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from New York (Mr. JAVITS) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting the Senator from South Dakota (Mr. MUNDT) would vote "nay."

On this vote, the Senator from Illinois

(Mr. SMITH) is paired with the Senator from New York (Mr. JAVITS). If present and voting, the Senator from Illinois would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from Texas would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 30, nays 38, as follows:

[No. 345 Leg.]

YEAS—30

Allen	Ervin	McClellan
Anderson	Fannin	Miller
Baker	Goldwater	Randolph
Bible	Griffin	Smith, Maine
Byrd, Va.	Gurney	Spong
Cook	Hansen	Stennis
Cotton	Holland	Talmadge
Dole	Hollings	Thurmond
Eastland	Jordan, Idaho	Williams, Del.
Ellender	Long	Young, N. Dak.

NAYS—38

Allott	Hart	Packwood
Boggs	Hatfield	Pastore
Brooke	Hughes	Pearson
Burdick	Jackson	Percy
Byrd, W. Va.	Kennedy	Proxmire
Case	Magnuson	Ribicoff
Church	Mansfield	Saxbe
Cooper	Mathias	Schweiker
Cranston	McGovern	Scott
Curtis	McIntyre	Stevens
Dominick	Metcalf	Symington
Eagleton	Mondale	Williams, N.J.
Fong	Nelson	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Fulbright, for.

NOT VOTING—31

Aiken	Hruska	Pell
Bayh	Inouye	Prouty
Bellmon	Javits	Russell
Bennett	Jordan, N.C.	Smith, Ill.
Cannon	McCarthy	Sparkman
Dodd	McGee	Tower
Goodell	Montoya	Tydings
Gore	Moss	Yarborough
Gravel	Mundt	Young, Ohio
Harris	Murphy	
Hartke	Muskie	

So Mr. ERVIN's amendment was rejected.

Mr. ERVIN. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, the Equal Employment Opportunity Commission was created by title VII of the Civil Rights Act of 1964. EEOC is responsible for investigating charges of discrimination and determining if there is a reasonable cause to believe that a charge is true. If it finds reasonable cause, it attempts to settle the case by means of voluntary conciliation.

While the EEOC has worked diligently to eliminate employment discrimination, the machinery of title VII does not enable the Commission to totally alleviate or even substantially decrease the grave problems which deny many men and women the right to equal opportunity.

When Congress created the Commission, it anticipated that the caseload would not be excessive because the enactment of the civil rights law would cause employers, employment agencies, and labor unions to comply of their own volition. Furthermore, we sincerely hoped that when the Commission found reasonable cause to believe that an employer was violating title VII, the conciliation scheme would resolve the problem.

Neither possibility was proved true. Despite the Federal statute forbidding employment discrimination on the basis of race, color, religion, sex, or national origin, thousands of charges come to the Commission alleging employment discrimination. It should be emphasized that of 24,065 charges recommended for investigation, reasonable cause was found in 63 percent of the cases that completed the decision process. It is obvious that the law is not being obeyed, and that Commission efforts are not curtailing the abuse.

Under the present Commission scheme, the cases in which reasonable cause is found go on to conciliation; however, in less than half of the conciliation attempts is the Commission able to achieve either a partially or totally successful conciliation.

What becomes of the employment problems presented in the other cases? How many men and women continue to be denied their rights to equal opportunities? The act provides that charging parties can file suits in Federal district court if conciliation does not resolve their problem, but reports emphasize that the number of cases actually filed in court is not significant in relation to the problem. The NAACP Legal Defense and Educational Fund, which handles a substantial portion of all litigation filed under the act, reports that since title VII became effective in 1965, the NAACP filed about 70 cases in the U.S. district courts.

Of that small number of cases that actually reach court, the majority follow the classic pattern of prolonged and difficult litigation. Every procedural technicality imaginable must be gone through before the case comes to trial. Cases are delayed on such technical-procedural questions as: Exhaustion of administrative remedies; statute of limitations; propriety of filing class actions; argument on whether conciliation is a precondition to filing suit and similar issues. It has taken more than 3 years just to get court determinations in many of these cases. Finally, many large defendants involved in employment litigation are employing some of the most vigorous and skillful counsel in the country, and a great deal more protracted and difficult litigation is in prospect.

We must recognize that public rights cannot be effectively enforced by leaving them solely to private litigants. Before us is the bill S. 2453, the Equal Employment Opportunity Enforcement Act. In this bill is the machinery necessary to attack the employment discrimination problem. Here we find a way to fill the gap between the problem and its resolution. Here is the potential to assert the public rights that private litigation is too slowly working to restore.

If the Commission were granted cease-and-desist power as in this bill, the burden of enforcement would shift to the Government, which could then implement the policies of title VII in a meaningful and consistent manner, as befits any national commitment to the public good. The conciliatory functions of the Commission would in no way be derogated, since the prospect of an enforceable order would operate to make respondents more receptive to informal procedures.

Also, equipping the Commission with such powers would serve to bring it into line with the frameworks of other regulatory agencies entrusted with the enforcement of substantive law. Advantages of uniform interpretation and efficiency of effort will follow, while preserving the traditional oversight function of the courts.

Mr. President, as a member of the Committee on Labor and Public Welfare I had the privilege of working closely on the development of this bill. I offered several amendments which were accepted in committee, and for the sake of the legislative record, I would like to clarify the background and intent of these and some of the other critical provisions.

RIGHT OF PRIVATE SUIT

The proposed new section 706(q) of the Civil Rights Act of 1964 includes my amendment to protect the right of an aggrieved party to institute a private suit if the Commission does not act promptly after issuing a complaint. The section provides that if the Commission has not issued a final order within 180 days after its issuance of a complaint, the aggrieved party may bring a civil suit at any time thereafter until the Commission does issue such a final order.

The section further provides that in exceptional cases only the Commission may petition the court to delay commencement of the suit for a short period of time. In particular, during the period from 180 days to 1 year after issuance of the complaint, if a charging party brings a civil action against the respondent he must notify the Commission. The Commission may then petition the court not to proceed with the suit if the Commission can show that it has been acting with due diligence and speed on the complaint, that it will conclude action within a reasonable period of time, and that extension of the Commission's exclusive jurisdiction and postponing the right to private action are warranted by exceptional factors in the proceedings of the case.

I and most members of the committee feel strongly that the aggrieved party should have the option of choosing to start civil action if the Commission has not acted within 6 months of issuance of the complaint. In rare and exceptional cases only, the Commission could have up to a year to take final action before the private suit route was open to the aggrieved party.

In essence, then, the right to private suit should not be cut off forever once the Commission issues a complaint. If the aggrieved party feels that the Commission is not acting promptly, because of negligence or too heavy a backlog or for any other reason, he should have the option of proceeding on his own in the district courts.

I am convinced that 6 months is a reasonable period for the Commission to move from complaint to final order, especially if the Commission is given ade-

quate resources and vigorously pursues unlawful discrimination in employment. I certainly hope that both the administration and the Congress will seek the necessary budget resources to make the Commission effective, and that the Commission will establish the practice of prompt action right from the start of its activity under the new authorities in this bill.

The effect of the time limit on Commission action before the option of private suit is open once again is expected to be twofold. First, there is an overall limit on the time an aggrieved party must be kept waiting for the Commission to act without any other recourse. The individual is protected after 6 months—or in exceptional cases after no later than 1 year—no matter what the reason for the Commission's delay. Second, there is additional pressure on the Commission to act speedily.

In most cases where the Commission has not taken final action within 6 months, the aggrieved party may very well decide that the Commission's delay is excusable and continue to pursue the Commission route, rather than commence a private suit in the courts. He would not be inclined to start over again, and the additional time and expense of bringing his case in the courts, if he feels that the Commission is acting with due diligence and fairness on his case.

It is in no way intended that postponements of the right of private suit for up to 6 additional months, until 1 year has elapsed from the issuance of a complaint, will be frequent or usual. On the contrary, it was the understanding in the committee discussion in reaching a compromise on this provision that such postponement should occur only in exceptional and unusual circumstances, such as cases of general public importance where even concentrated effort by the Commission has not enabled them to complete a thorough and responsible job within 6 months.

It is definitely not intended that the Commission can receive postponements simply because backlogs and inadequate resources have delayed its work. For after 6 months the right of the individual should be paramount. There should be an outside limit on delays no matter what their cause.

The bill also contains a related amendment I offered in committee to give Federal employees or applicants the right to file a civil action in the courts if no final action has been taken on their complaint within 90 days from the filing of an initial charge. The Federal Government should set a first-rate example for the swift and fair handling of discrimination complaints. Employees and applicants should be saved from long delays in which no action is taken and no other recourse is open.

"PATTERN OR PRACTICE" CASES IN THE DEPARTMENT OF JUSTICE

I feel that broad-scale action against any "pattern or practice" of discrimination is essential to achieving equal employment opportunity. Such actions by the Department of Justice, under section 707 of the Civil Rights Act of 1964, have been an integral and important component of the Federal effort to combat discrimination.

I believe further that transfer of the section 707 authority to the Commission would be unwise, at least at the present time.

Immediate transfer would add a whole new burden on the Commission at the same time that it will have enough temporary delay and disruption simply in revamping to use its new authority with "cease and desist" powers.

At present, the Civil Rights Division of the Department of Justice has a number of very able lawyers with the expertise and experience in "pattern or practice" cases which the Commission lacks.

And I might add that it would be difficult in the immediate short run to transfer over the budget amounts which presently are allocated to the Department of Justice for section 707 activity.

In general, retaining Department of Justice activity would give the Department flexibility to combat overall discrimination in a geographical area—enabling it to develop a general attack which would include discrimination in schools, voting rights, public accommodations, and employment.

Finally, one benefit of the "pattern or practice" activity of the Department of Justice at this time is the development and clarification of the law on job discrimination. The Department has concentrated on cases with broad implications, in contrast to the high number of cases involving just individual complaints which the Commission will continue to handle. The Department has been able to achieve prompt determination of these general cases in the courts.

It would be disastrous to delay the speedy development and clarification of title VII through premature transfer to the Commission before it is fully ready to handle the added responsibility.

For these reasons, I offered and the committee accepted section 5 of the bill. It provides for the continuation of the authority to bring "pattern or practice" suits in the district courts, as spelled out in section 707 of present law. For 3 years after passage of the bill, the Attorney General shall continue to exercise such authority.

At any time later than 3 years after passage, such authority may be transferred from the Attorney General to the Commission if and only if the Attorney General and a majority of the Commissioners certify in writing to Congress that in their judgment the Commission has the capability and intent to commence and prosecute such "pattern or practice" cases, and that transfer would be in the best interest of carrying out and furthering the policies and objectives of title VII.

The transfer sometime in the future of the "pattern or practice" authority should not be a burden on the already meager resources of the Commission. It is expected, therefore, that along with the transfer of authority there would be a transfer of the funds and the personnel positions previously budgeted for this work in the Department of Justice. Whether or not it appears that the administration and the Congress will be willing to provide this transfer of budget resources should be one of the many factors considered by the Attorney General and the members of the Commission in determining the advisability of transfer.

OFFICE OF FEDERAL CONTRACT COMPLIANCE

Mr. President, along with the Senator from California (Mr. CRANSTON), with the support of the Senator from New York (Mr. JAVITS), I also sponsored an amendment to retain the present organizational status of the Office of Federal Contract Compliance under the Department of Labor.

I should emphasize, however, that I am not happy with the performance of the OFCC to date. Early last year, as chairman of the Judiciary Subcommittee on Administrative Practice and Procedure, I chaired hearings on discrimination by textile manufacturers holding contracts with the Department of Defense. The lack of strong Government enforcement and sanctions—including the failure to terminate contracts—against discriminating contracters was appalling then, and is appalling now.

I emphasize the views of the committee on page 20 of the report on this bill:

> The committee also believes that an adequate job of providing equal employment opportunity has not, and is not, being provided through the Federal procurement function. There has been far too much nonpublic discussion and negotiation and far too few understandable results. In many instances the Department's claim that something major happened, when measured against the demonstration that something actually happened, is grossly lacking in the clarity that the public and minorities can understand.
>
> In short, OFCC is still suffering from a paucity of credible achievements, and developments in the last year have not met the promises of the Department of Labor for improvement nor eased the doubts shed on the program by the Civil Rights Commission and other critics.

Because the OFCC needs to greatly expand the scope and vigor of its activity, I am opposed to transfer to the Commission at this time. For the Commission simply will not have the resources to handle OFCC work.

Already the Commission has a backlog of about 4,000 cases, with a waiting time of about 20 to 24 months. Its work load will be drastically increased with the acquisition of "cease and desist" powers. It will not be able to gear up quickly to meet these new responsibilities as well. And it is not clear that all budget resources would be transferred and approved along with a shift of the OFCC.

I do feel, however, that both Congress and the administration should keep an open mind on this matter. If it is clear in the future that the Commission does have the ability and resources to accept the OFCC responsibilities, then transfer would be acceptable.

In the meanwhile, I urge as strongly as possible that greater coordination among the Commission, the OFCC, and the Department of Justice be developed. In testimony before the committee on this bill, Mrs. Thomas E. Harris, associate general counsel of the AFL–CIO, noted the difficulty, inefficiency, and unfairness of "duplicative and overlapping enforcement procedures which are unduly and unnecessarily burdensome to our unions."

Mr. Harris has raised an important and valid point, both for unions and employers, and I would hope that greater coordination and cooperation among the various governmental agencies with equal employment responsibilities would minimize these difficulties.

RIGHT TO COUNSEL

In the committee, the Senator from Minnesota (Mr. MONDALE) and I also offered several amendments with regard to compensation and appointment of attorneys for proceeding before the Commission. After a full discussion in committee—in the course of which both the Senator from Colorado (Mr. DOMINICK) and the Senator from New York (Mr. JAVITS) suggested some constructive modifications—the following sections were accepted to protect the rights of individuals to be adequately represented by counsel.

Section 706(g)(1). This subsection reflects the basic policy of the legislation to include the person aggrieved as a party, with full rights of participation, in enforcement proceedings before the Commission. The Commission is authorized by this subsection to appoint an attorney to represent the aggrieved party in situations in which the Commission determines that the person aggrieved is "unable to pay for an attorney without undue hardship." This provision is similar to the language of existing section 706 (e), which authorizes Federal district courts to appoint an attorney for the complainant in private enforcement actions.

The language of the bill makes clear the criteria under which the determination as to whether or not to appoint counsel is to be made. The report language on page 18 spells out the standard to be applied:

In establishing a standard of "undue hardship" for appointment of counsel before the Commission, the committee avoided the adoption of a "poverty" or "indigency" standard, in recognition of the frequent complexity of Title VII cases and the substantial attorneys fees that would be involved in private representation. Thus, the issue for the Commission is not whether or not the aggrieved party is indigent, but the degree of financial hardship that would result from retaining counsel.

Section 706(g)(2). In an effort to assure full and effective participation by counsel for the person aggrieved, this section establishes alternative procedures by which discovery efforts thought necessary by counsel for the person aggrieved can be undertaken, in situations in which the person aggrieved is without the financial resources necessary for that purpose. This is an effort to correct a serious deficiency which has developed in private enforcement in title VII proceedings. Specifically, under the existing act, the court may appoint counsel and may permit the initiation of the action without the prepayment of costs, but there is no authority and no funds available to assist the plaintiff in undertaking necessary discovery. While there are some relatively simple title VII actions, in which extensive discovery is not necessary, many cases, and certainly the more important cases, have required depositions, the copying of documents, the retention of experts and other preparatory efforts that involve out-of-pocket expenditures. Because there is no provision in title VII for the compensation of these expenditures, at least until the conclusion of the proceedings, the result has been that private title VII enforcement has been limited to simple cases and cases in which civil rights law organizations, such as the NAACP Legal Defense Fund, Inc. or the Lawyers Constitutional Defense Committee, have been willing and able to underwrite the costs. Section 706(g)(2), as amended, provides that the aggrieved person may apply to the Commission for an order which would either, first, make available to him Commission funds, up to a maximum of $1,000, for the purpose of preparing for the hearing, upon a showing that the expenditures in question will aid in the full and effective presentation of the issue at the hearing; or second, upon the same showing, require that the discovery or preparatory efforts suggested by the aggrieved person be undertaken.

Section 706(x). Section 706(k) of title VII—redesignated section 706(x) by the bill—authorizes district courts, in their discretion, to award attorneys fees to the prevailing party in private enforcement litigation. Our amendment extends this authorization to the commission in the case of proceedings before it.

In Newman against Piggy Park Enterprises, Inc., in 1968, the Supreme Court of the United States interpreted an identical provision of the Public Accommodations Act (42 U.S.C. § 2000a–3(b)), relating to the recovery of attorneys fees to mean that:

One who succeeds in obtaining an injunction under that Title should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust.

This interpretation has been followed by several district courts in interpreting section 706(k). After much discussion, the committee agreed to retain the present discretionary language, rather than to make it mandatory, on the assumption that this judicial interpretation as to the circumstances in which a fee should be awarded will be adhered to.

With extension of the same protection to commission proceedings, when the commission finds an unlawful employment practice by the respondent, the existing judicial practice of ordering the respondent to pay the attorneys fee to the private party is continued. The authority which the courts now have to include an award of attorneys fees as part of its order against the respondent is simply extended to the commission.

In situations in which an attorney is appointed by the commission and in which the complaint is resolved in favor of the respondent, the bill provides that the commission shall pay reasonable attorneys fees to the person aggrieved. Under this authority the commission will, of course, find it necessary to establish standards to be applied in assessing this compensation. In situations in which the proceeding has been resolved adversely to the respondent it seems appropriate that what appears to be the existing judicial practice—that of awarding attorneys fees to the aggrieved party's attorney on a scale roughly equivalent to the fees paid by respondents for similar work—should be continued. Thus, not the exact amount that the specific respondent has paid to its attorneys, but an amount that would be customary and reasonable for that purpose, should be awarded to the attorney for the private party.

On the other hand, when the respondent is successful in the proceeding and the attorney is to be compensated by the commission, a standard appropriate to compensation of Government attorneys ought to be applied. One point of reference for the commission might be the scale of compensation set forth in 18 U.S.C. § 3006A(d) for the compensation of appointed counsel in criminal cases.

PRELIMINARY OR TEMPORARY RELIEF

Section 706(p) provides that the Commission may obtain a preliminary junction or other temporary relief to protect employees while their case is being further investigated and considered by the Commission. This is an extremely important provision, and the standard set by the committee, on page 12 of the report, should be clearly understood. It is the standard set in the Hayes International case. The key point is that irreparable injury does not have to be shown in order to obtain preliminary relief.

The provision permits the Commission to sue for preliminary or temporary relief. I considered introducing a further amendment in committee that would have spelled out that same right for the individual. I refrained from offering the amendment, however, on the understanding that the Commission would act swiftly to seek such relief and would widely use this authority. I am satisfied that in actual practice, in virtually all cases in which an individual employee claiming to be aggrieved would seek preliminary or temporary relief, the Commission will do the same. We want employees to be fully protected.

FULL NOTICE AND EXPLANATION OF ALL RIGHTS

Finally, Mr. President, let me emphasize that aggrieved persons should be fully informed, in clear and understandable fashion both at the time they file a charge and throughout the proceedings, of all procedural rights and steps open to them. This is critical. I am informed that in many cases a person files a charge but then blunders along lost in the bureaucratic process. Often he does not fully understand his possibilities for court action.

Especially in light of the further safeguards in this bill, the Commission should exercise its responsibility to take affirmative action in advising aggrieved persons of their options. The Commission should develop positive programs to be sure that those who have a grievance do not fail to follow through because they are unclear of their rights. Only vigorous commitment by the Commission can protect employees in this regard. I know that the Commissioners share this view, and I am confident that effective new programs will be developed in response to this new legislation.

Mr. President, those are some of the concerns and thoughts we had in committee when considering the bill. This is the background of the bill as we consider it on the floor today. I have discussed the background at length so the record will be clear. For I know that all of us in committee—and the Senators who have considered the bill here on the floor—have great hope and great expectation that title VII of the Civil Rights Act of 1964, as amended by this bill, can bring a swift and effective end to discrimination in employment.

Mr. President, when we are talking about employment, we are actually talking about food on the table, and shoes on the children's feet, and even more significantly we are discussing a man or woman's recognition of his or herself as a productive human being.

We as legislators must recognize that the enactment of this amendment to title VII will not instantly end employment discrimination in this country. The bill will not automatically reinstate the rights denied countless men and women over the years, but this bill does revive the hopes of the Civil Rights Act of 1964. The bill does reiterate that this Congress—this Government—this Nation—is seriously striving to eradicate the disappointment and discouragement that the weakness of title VII has evoked.

I urge the adoption of S. 2453.

Mr. STENNIS. Mr. President, I wish to express my complete and absolute opposition to the provisions of S. 2453, the Equal Employment Opportunities Act. It is a dangerously oppressive bill. It infringes on the freedoms of individuals, of groups, of businesses, institutions, and State and local governments. It is fundamentally unsound on a number of counts.

Among the most evident faults of the bill are the vesting of cease and desist powers in the Equal Employment Opportunities Commission rather than utilization of Federal courts; the granting of authority to Commission members or employees to file charges; and the inclusion of State and local government employees under the provisions of the bill. These elements are basically unsound and intolerable in their effects.

I would point out that the bill as it is before us did not have the support of the administration, nor of the Equal Employment Opportunities Commission, nor of the Department of Justice; nor is it supported by any elements of the business community, so far as I am aware. This opposition is for good cause.

First, it seems not only illogical and unreasonable to give the Commission cease and desist powers, but impractical as well. It is illogical and unreasonable because this function belongs in the Federal district courts, which are there for such purposes. The Commission could take their cases to the courts, and with temporary or injunctive processes obtain action as quickly as might be wished. The cease and desist provision is impractical because a massive and unwieldy administrative organization would have to be created, manned, trained, and superimposed on a Commission structure that is already overloaded. It is a tremendously expensive, slow, and ponderous task to create such a bureaucracy—impractical in every aspect, when the Federal court system is available now.

Second, I find it unthinkable that the Commission and its employees should have power to file charges. To vest in a single body the prerogatives of bringing a charge, then investigating it, then trying the case, and then enforcing the findings is clearly contrary to our system of protecting the freedom and liberties of our people. It is in absolute contradiction of all that our constitutional system defends.

Third, and clearly a fault that has constitutional questions built into it, the bill would vest in a Federal administrative agency the jurisdiction over State and local governmental employees. This is wrong. It is intolerable, and it has implications of concentrated Federal power that could be devastating in the ultimate effect.

Two amendments were offered yesterday by the distinguished Senator from Colorado which would have corrected some of these faults in the bill, but they were rejected. I wish the record to show that I was unavoidably absent yesterday, but if I had been able to be present I would have strongly support those amendments.

Mr. President, this bill should be voted down, as a measure which would erode the fundamental processes under which our Nation was created and has thrived.

If our concept of true liberty and freedom ever really fails, history will record that the passage of this bill was one of the major milestones on the road to that destruction.

Mr. HARRIS. Mr. President, as a cosponsor of S. 2453, I rise to urge its passage by the Senate. The 1964 Civil Rights Act was enacted out of recognition of the prevalence of long-standing discriminatory employment practices in this country and the need for legislation to remedy such discrimination. In the 5 years the legislation has been in existence, the Commission has received more than 40,000 charges. Better than 24,000 charges were recommended for investigation. Reasonable cause was found in 63 percent of these cases. However, the Commission was able to achieve partial or total success with less than half of the cases.

The Commission has not been more successful because the 1964 act was deficient in that it did not provide the Commission with the authority to issue judicially enforceable cease and desist orders to back up its findings of discrimination.

Under the provisions of S. 2453, title VII of the existing act would be revised so that the Commission could continue to seek voluntary compliance through conciliation and persuasion, but if a point were reached wherein the Commission determined that such efforts were unproductive, it would be empowered to issue cease and desist orders and could go into court for enforcement of its orders. Such orders could include appropriate affirmative relief, such as reinstatement and payment of back wages, and could also require the respondents to make reports at various intervals on the extent of compliance. Of course, any respondent or person aggrieved by a commission order could also obtain review of such orders in court.

On several occasions Clifford Alexander during his tenure as Chairman of the Commission requested legislation granting this new authority. He, along with many other persons, including persons representing the AFL–CIO, NAACP, NAACP Legal Defense and Education Fund, the Leadership Conference on Civil Rights, and the National Urban League, testified in support of the need for the Commission to have cease and desist powers. The Kerner Commission, on which I served, also endorsed it.

The administration has stated its preference for a procedure under which the Commission would go into court to seek redress of discriminatory unemployment practices when conciliatory efforts fail. In testimony before the Labor Subcommittee, the chairman of the Commission, William Brown, stated that it would take at least 2 years to "tool up" for the machinery required in the cease and desist legislation, whereas the administration's proposal could easily be accommodated within the existing structure and procedures of the Commission by adding 75 additional lawyers over a period of 2 years. He further stated that the Commission had a backlog, at that time, of over 2,500 investigations awaiting disposition.

But, Mr. President, one of the reasons the Commission has such a tremendous backlog is because it must wait to act until the Attorney General concludes that a pattern or practice of discrimination exists. Otherwise, the individual must go into court as a private party in order to secure his rights. With cease-and-desist powers every complaint would have the backing of a Federal administrative agency with an order enforceable in court, thereby eliminating the necessity for private litigation which in most cases works a hardship on the complainant. Cease-and-desist legislation would also permit the consistency needed in the review of unlawful employment practices, rather than the variety of interpretations which might be handed down by judges from various geographical regions of the country.

Mr. President, women's rights organizations are exerting pressure on the Congress for passage of the equal rights amendment. These women come from all walks of life and many are employees of the Federal Government. They are rightly concerned about the equal application of pay scales and promotional opportunities within both the private and public sectors.

There is still much work to be done if we are to make equal employment opportunity a reality for millions of minority group citizens in this country. Token and inconsistent enforcement will not accomplish this goal.

It is regretful that we have not been able to make equal employment opportunity a reality even within the Federal civil service. As of November 1967, black people comprised 10.5 percent of all classified employees, but less than 2 percent of those rating above GS–11. "A Study of Employment of Women in the

Federal Government," 1966, prepared by the Civil Service Commission showed that women at that time fared little better than black employees. Of 1,837,000 white-collar employees in the Federal service, about 34 percent were women. Eighty-nine percent were in grade 8 and below. Clearly, we can change this condition by establishing an effective national policy which would assure the citizens of this Nation a firm and unequivocal commitment to the principle of equal employment opportunity.

I also think that it is important that we retain section 701(b) of this bill which would extend coverage to employers with eight or more employees after a period of 2 years.

Finally, Mr. President, let me say that S. 2453 provides a procedure which would assure that every American has an equal opportunity for a job and at the same time safeguard the rights of employers. During the past several months we have had much discussion in the Congress on the subject of jobs in connection with the manpower bill recently passed by the Senate and in regard to the welfare reform legislation. If we are to eliminate poverty in this country, people must be able to get jobs. That right to a job must not be limited because of race, sex, religion, or nationality.

Therefore, Mr. President, I am pleased to be a cosponsor of this bill. I urge its passage by the Senate.

Mr. COOK. Mr. President, it was my intention to vote for an equal employment opportunity enforcement act, and after a total review, I wish to place some remarks in the RECORD.

One of the things that bothers me a great deal about this measure is that apparently we are in a movement here, as we are with a bill that is presently before the Committee on the Judiciary relative to consumer class actions. I feel about the draftsmanship of this bill as did a professor who testified about that bill, who said:

> This is the worst piece of drafting of legislation to come out of a major committee since the first draft of the Sherman Antitrust Act in 1899.

I would like to give the reasons why I say that. On page 28, under section (b) there is provision for almost a star chamber action on the part of the Commission, with no information being given to anyone, with no one being able to talk about any exhibit or any of the testimony taken. It is so secret that if anyone discloses any information or makes public any information from such hearings to secure a conciliatory agreement, which may be done by conference, conciliation, and persuasion, the indvidual is subject to a fine of $1,000 and up to 6 months in jail.

It goes even further, because on page 31, at the bottom of the page under section (f) it states:

> If the commission determines after attempting to secure voluntary compliance under section (b)—

The section to which I just referred.

> that it is unable to secure from the respondent a conciliation agreement acceptable to the commission, which determination shall not be reviewable in any court.

Mr. President, listen to this language: "which determination shall not be reviewable in any court" in these United States.

I then go to page 36 where it is provided that when a review is finally allowed from a final order, it is not a review de novo, that the court does not have the opportunity of review de novo, but it must take the record in toto and the same is conclusive if there is a preponderance of evidence. Who determines that preponderance? I expect it is the Commission.

It goes on to say that if there is a need for more information, if there is a need for more study, it is not within the purview of the Federal courts to try that issue, but it must go back to the Commission and the Commission may add to its record in the Federal court and it can make any findings of fact and new conclusions and bind the Federal court, where the case has already been appealed, by its new findings. In essence, the Commission can be taken into court and by reason of its own hearings walk itself right out of court.

I feel a little sad that I cannot vote for the bill because, as Senators may recall, when I discussed the postal reform bill and tried to get the provisions of title VII into that bill, I made reference to the Equal Employment Opportunities Act and I made reference to the fact that cease-and-desist orders should have been provided for, because this was one of the problems they were having under civil service.

I regret that I shall not be able to vote for the bill, but I cannot substitute to a Commission, the entire legal actions of a court. I can give preliminary hearings to a Commission. I can authorize a Commission. But I cannot bind the hands of the Federal courts of the United States, and deny the right of review on any and all matters pertaining to the subject matter of the Commission's findings.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

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

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), the Senator from Maine (Mr. MUSKIE), the Senator from Ohio (Mr. YOUNG), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Alaska (Mr. GRAVEL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from New York (Mr. JAVITS) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), and the Senator from Vermont (Mr. PROUTY) would each vote "yea."

On this vote, the Senator from New York (Mr. GOODELL) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from New York would vote "yea" and the Senator from Texas would vote "nay."

On this vote, the Senator from New York (Mr. JAVITS) is paired with the Senator from Utah (Mr. BENNETT). If present and voting, the Senator from New York would vote "yea" and the Senator from Utah would vote "nay."

The result was announced—yeas 47, nays 24, as follows:

[No. 346 Leg.]

YEAS—47

Allott	Griffin	Nelson
Anderson	Harris	Packwood
Bible	Hart	Pastore
Boggs	Hatfield	Pearson
Brooke	Hughes	Percy
Burdick	Jackson	Proxmire
Byrd, W. Va.	Jordan, Idaho	Randolph
Case	Kennedy	Ribicoff
Church	Magnuson	Saxbe
Cranston	Mansfield	Schweiker
Curtis	Mathias	Scott
Dole	McGovern	Smith, Maine
Dominick	McIntyre	Stevens
Eagleton	Metcalf	Symington
Fong	Miller	Williams, N.J.
Fulbright	Mondale	

NAYS—24

Allen	Ervin	McClellan
Baker	Fannin	Russell
Byrd, Va.	Goldwater	Spong
Cook	Gurney	Stennis
Cooper	Hansen	Talmadge
Cotton	Holland	Thurmond
Eastland	Hollings	Williams, Del.
Ellender	Long	Young, N. Dak.

NOT VOTING—29

Aiken	Hruska	Muskie
Bayh	Inouye	Pell
Bellmon	Javits	Prouty
Bennett	Jordan, N.C.	Smith, Ill.
Cannon	McCarthy	Sparkman
Dodd	McGee	Tower
Goodell	Montoya	Tydings
Gore	Moss	Yarborough
Gravel	Mundt	Young, Ohio
Hartke	Murphy	

So the bill (S. 2453) was passed, as follows:

S. 2453

An act to further promote equal employment opportunities for American workers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Employment Opportunities Enforcement Act of 1970".

SEC. 2. Section 701 of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e) is amended as follows:

(1) In subsection (a) insert "governments, governmental agencies, political subdivisions," after the word "individuals".

(2) In subsection (b) strike out all before *"Provided further"*, and insert in lieu thereof the following:

"(b) The term 'employer' means a person engaged in an industry affecting commerce who has eight or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5 of the United States Code), (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954: *Provided*, That during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1970, persons having fewer than twenty employees (and their agents) shall not be considered employers, and during the second year after such date, persons having fewer than fifteen employees (and their agents) shall not be considered employers:"

(3) In subsection (c) beginning with the semicolon strike out through the word "assistance".

(4) In subsection (e) strike out between "(A)" and "and such labor organization", and insert in lieu thereof "twenty or more during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1970, (B) fifteen or more during the second year after such date, or (C) eight or more thereafter."

(5) At the end of subsection (h) insert before the period a comma and the following: "and further includes any governmental industry, business, or activity".

SEC. 3. Section 702 of the Civil Rights Act of 1964 (78 Stat. 253, 42 U.S.C. 2000e-2) is amended to read as follows:

"EXEMPTION

"SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion."

SEC. 4. (a) Subsections (b) through (j) of section 705 of the Civil Rights Act of 1964 (78 Stat. 258, 259; 42 U.S.C. 2000e-4 (a)–(i)) and references thereto are redesignated as subsections (c) through (k), respectively.

(b) Section 705 of such Act is amended by inserting the following new subsection (b):

"(b) There shall be a General Counsel of the Commission who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel of the Commission shall exercise general supervision over all attorneys employed by the Commission (other than trial examiners and legal assistants to Commission members) and over the officers and employees in the regional offices. He shall have final authority, on behalf of the Commission, in respect of the investigation of charges, conference, conciliation, and persuasion endeavors, issuance of complaints, the prosecution of such complaints before the Commission, and the conduct of litigation as provided in sections 706 and 707 and shall have such other duties as the Commission may prescribe or as may be provided by law. In case of a vacancy in the Office of the General Counsel, the President is authorized to designate the officer or employee who shall act as General Counsel during such vacancy, but no person so designated shall so act (1) for more than forty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted."

SEC. 5. (a) Subsections (a) through (e) of section 706 of the Civil Rights Act of 1964 (78 Stat. 259; 42 U.S.C. 2000e-5 (a)–(e)) are amended to read as follows:

"(a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 703 or 704 of this title.

"(b) Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by an officer or employee of the Commission upon the request of any person claiming to be aggrieved, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a copy of the charge on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the 'respondent') as soon as practicable thereafter and shall make an investigation thereof. Charges shall be in writing, signed under oath, and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any officer or employee of the Commission who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d), from the date upon which the Commission is authorized to take action with respect to the charge.

"(c) In the case of a charge filed by or on behalf of a person claiming to be aggrieved alleging an unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall take no action with respect to the investigation of such charge before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated: *Provided*, That such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered or certified mail to the appropriate State or local authority.

"(d) In the case of any charge filed by an officer or employee of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days: *Provided*, That such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law, unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

"(e) A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and a copy shall be served upon the person against whom such charge is made as soon as practicable thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

"(f) If the Commission determines after attempting to secure voluntary compliance under subsection (b) that it is unable to secure from the respondent a conciliation agreement acceptable to the Commission, which determination shall not be reviewable in any court, the Commission shall issue and cause to be served upon the respondent a complaint stating the facts upon which the allegation of the unlawful employment practice is based, together with a notice of hearing before the Commission, or a member or agent thereof, at a place therein fixed

not less than five days after the serving of such complaint. Related proceedings may be consolidated for hearing.

"(g) (1) A respondent shall have the right to file an answer to the complaint against him and with the leave of the Commission, which shall be granted whenever it is reasonable and fair to do so, may amend his answer at any time. Respondents and the person aggrieved shall be parties and may appear at any stage of the proceedings, with or without counsel. After the Commission issues a complaint it may, upon application by the person aggrieved or the respondent, appoint an attorney for such person in any case in which it determines that the aggrieved party or the respondent is unable to pay for an attorney without undue hardship, or in any case in which the interests of justice and and fair play would be served thereby. The Commission may grant such other person a right to intervene or to file briefs or make oral arguments as amicus curiae or for other purposes, as it considers appropriate. All testimony shall be taken under oath and shall be reduced to writing. Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the Rules of Civil Procedure for the district courts of the United States.

"(2) After the Commission issues a complaint, it may, upon application by the person aggrieved, compensate such person for reasonable expenses in connection with the preparation for the hearing and in connection with participation in the hearings, including the cost of expert witness fees, transcripts, and copying. Not more than $1,000 will be allocated in any single proceeding to carry out the provisions of this paragraph. The Commission may perform the services for which the aggrieved party would otherwise seek reasonable expenses under this subsection.

"(h) If the Commission finds by preponderance of the evidence taken by the Commission that the respondent has engaged in an unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on the respondent and the person or persons aggrieved by such unlawful employment practice an order requiring the respondent to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without backpay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), and including payment of attorney's fees pursuant to section 706 (w), if the person aggrieved was represented by counsel in the proceedings before the Commission, as will effectuate the policies of this title: Provided, That interim earnings or amounts earnable with reasonable diligence by the aggrieved person or persons shall operate to reduce the backpay otherwise allowable. Such order may further require such respondent to make reports from time to time showing the extent to which he has complied with the order. If the Commission finds that the respondent has not engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on the respondent and the person or persons alleged in the complaint to be aggrieved an order dismissing the complaint.

"(i) After a charge has been filed and until the record has been filed in court as hereinafter provided, the proceeding may at any time be ended by agreement between the Commission and the respondent for the elimination of the alleged unlawful employment practice, approved by the Commission, and the Commission may at any time, upon reasonable notice, modify or set aside, in whole or in part, any finding or order made or issued by it. An agreement approved by the Commission shall be enforceable under subsections (l) through (n) and the provisions of those subsections shall be applicable to the extent appropriate to a proceeding to enforce an agreement.

"(j) Findings of fact and orders made or issued under subsections (h) or (i) of this section shall be determined by a preponderance of the evidence of the record. Sections 554, 555, 556, and 557 of title 5 of the United States Code shall apply to such proceedings.

"(k) Any party aggrieved by a final order of the Commission granting or denying in whole or in part the relief sought may obtain a review of such order in any United States court of appeals for the circuit in which the unlawful employment practice in question is alleged to have occurred or in which such party resides or transacts business, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days after the service of such order, a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to any other party to the proceeding before the Commission, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon the filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant to the petitioner or any other party, including the Commission, such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. Any party to the proceeding before the Commission shall be permitted to intervene in the court of appeals. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Commission. No objection that has not been urged before the Commission, its members, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court thta such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or its agent, the court may order such additional evidence to be taken before the Commission, its members, or its agent, and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"(l) The Commission may petition any United States court of appeals for the circuit in which the unlawful employment practice in question occurred or in which the respondent resides or transacts business, for the enforcement of its order and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that its order be enforced and for appropriate temporary relief or restraining order. The Commission shall file in court with its petition the record in the proceeding as provided in section 2112 of title 28, United States Code. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the Commission. Upon the filing of such petition, the court shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant to the Commission, or any other party, such temporary relief, restraining order, or other order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. Any party to the proceeding before the Commission shall be permitted to intervene in the court of appeals. No objection that has not been urged before the Commission, its members, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or its agent, the court may order such additional evidence to be taken before the Commission, its members, or its agent, and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new finding, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any for the modification or setting aside of its original order. Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"(m) If no petition for review, as provided in subsection (k), is filed within sixty days after service of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the Commission under subsection (l) after the expiration of such sixty-day period. The clerk of the court of appeals in which such petition for enforcement is filed shall forthwith enter a decree enforcing the order of the Commission and shall submit a copy of such decree to the Commission, the respondent named in the petition, and to any other parties to the proceeding before the Commission.

"(n) If within ninety days after service of the Commission's order, no petition for review has been filed as provided in subsection (k), and the Commission has not sought enforcement of its order as provided in subsec-

tion (1), any person entitled to relief under the Commission's order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the unlawful employment practice in question occurred, or in which a respondent named in the order resides or transacts business. The provisions of subsection (m) shall apply to such petitions for enforcement.

"(o) The Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court of the United States pursuant to this title. All other litigation affecting the Commission, or to which it is a party, shall be conducted by attorneys appointed by the Commission.

"(p) Whenever a charge is filed with the Commission pursuant to subsection (b) and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to preserve the power of the Commission to grant effective relief in the proceeding, the Commission shall, after it issues a complaint, bring an action for appropriate temporary or preliminary relief pending its final disposition of such charge, or until the filing of a petition under subsections (k), (l), (m), or (n) of this section, as the case may be, in the United States district court for any judicial district in the State in which the unlawful employment practice concerned is alleged to have been committed, or the judicial district in which the aggrieved person would have been employed but for the alleged unlawful employment practice, but, if the respondent is not found within any such judicial district, such an action may be brought in the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28, United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a judicial district in which such an action might have been brought. Upon the bringing of any such action, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law. Rule 65 of the Federal Rules of Civil Procedure, except paragraph (a)(2) thereof, shall govern proceedings under this subsection.

(q)(1) If a charge filed with the Commission pursuant to subsection (b) is dismissed by the Commission, or if within sixty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the Commission has neither issued a complaint under subsection (f) nor entered into an agreement under subsection (f) or (i) which is acceptable to the Commission and to which the person aggrieved is a party, the Commission shall so notify the person aggrieved and such person may, within thirty days thereafter, bring a civil action against the respondent named in the charge. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon the commencement of such civil action, the Commission shall be divested of jurisdiction over the proceeding and shall take no further action with respect thereto; except that, upon timely application, the court in its discretion may permit the Commission to intervene in such civil action if the Commission certifies that the case is of general public importance.

"(2) The right of an aggrieved person to bring a civil action under paragraph (1) of this subsection shall terminate once the Commission has issued a complaint under subsection (f), or has entered into an agreement under subsection (f) or (i) which is acceptable to the Commission and to which the person aggrieved is a party: *Provided*, That if after issuing a complaint the Commission enters into an agreement under subsection (i) without the agreement of the person aggrieved, or has not issued an order under subsection (h) within a period of one hundred and eighty days of the issuance of the complaint, the Commission shall so notify the person aggrieved and a civil action may be brought against the respondent named in the charge at any time prior to the Commission's issuance of an order under subsection (h) or, in the case of an agreement under subsection (i) to which the person aggrieved is not a party, within thirty days after receiving notice thereof from the Commission: *Provided further*, That where there has been no agreement under subsection (i) if the person aggrieved files a civil action against the respondent during the period from one hundred and eighty days to one year after the issuance of the complaint such person shall notify the Commission of such action and the Commission may petition the court not to proceed with the suit. The court may dismiss or stay any such action uopn a showing that the Commission has been acting with due diligence on the complaint, that the Commission anticipates the issuance of an order under subsection (h) within a reasonable period of time, that the case is exceptional, and that extension of the Commission's jurisdiction is warranted.

"(3) With respect to any charge filed prior to the effective date of the Equal Employment Opportunities Enforcement Act of 1970, the Commission, if unable to secure a conciliation agreement from the respondent after determining that there is reasonable cause to believe that the charge is true, may bring a civil action against the respondent named in the charge."

(b) Subsections (f) through (k) of section 706 of such Act and references thereto are redesignated as subsections (r) through (w), respectively.

(c) Section 706(u) and (v) of such Act, as redesignated by this section, are amended (1) by striking out "(e)" and inserting in lieu thereof "(q)", and (2) by striking out "(i) and inserting in lieu thereof "(u)".

(d) Section 706(w) of such Act, as redesignated by this section, is amended by inserting after the word "discretion," the words "and, in the case of any action or proceeding before the Commission, the Commission, in its discretion,", and by adding at the end thereof the following new sentence: "Whenever the person aggrieved has an attorney appointed by the Commission and the Commission finds that the respondent has not engaged in an unlawful employment practice the Commission shall pay a reasonable attorney's fee to the person aggrieved."

SEC. 6. Section 707 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c)(1) Effective three years after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1970, the functions of the Attorney General under this section shall be transferred to the Commission if the Attorney General and at least three of the members of the Commission certify to the Congress that the Commission has the capability and the intention to carry out the functions set forth in this section and that a transfer under this subsection would contribute to carrying out the objections of title VII of this Act.

"(2) In all suits commenced prior to the date any transfer occurs, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America or the Attorney General, as appropriate."

SEC. 7 (a) Subsections (b), (c), and (d) of section 709 of the Civil Rights Act of 1964 (78 Stat. 263; 42 U.S.C. 2000e-8(b)-(d)) are amended to read as follows:

"(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, may pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

"(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applicants were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, have jurisdiction to issue to such person an order requiring him to comply.

"(d) In prescribing requirments pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with

the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection."

(b) Section 709 of the Civil Rights Act of 1964 is amended by: (1) redesignating section 709(e) as 709(f) and (2) by adding immediately after section 709(d) as amended, the following subsection (e):

"(e) Any record or paper required by section 709(c) of this title to be preserved or maintained shall be made available by inspection, reproduction, and copying by the Commission or its representative, or to the Attorney General or his representative in connection with his authority under section 707, upon demand in writing directed to the person having custody, possession, or control of such record or paper. Unless otherwise ordered by a court of the United States, neither the members of the Commission nor its representative shall disclose any record or paper produced pursuant to this title, or any reproduction or copy, except to Congress or any committee thereof, or to a governmental agency, or in the presentation of any case or proceeding before any court or grand jury. The United States district court for the district in which a demand is made or in which a record or paper so demanded is located, shall have jurisdiction to compel by appropriate process the production of such record or paper."

SEC. 8. Section 710 of the Civil Rights Act of 1964 (78 Stat. 264; 42 U.S.C. 2000e–9) is amended to read as follows:

"INVESTIGATORY POWERS

"SEC. 710. For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of the National Labor Relations Act (49 Stat. 455; 29 U.S.C. 161) shall apply: *Provided*, That no subpena shall be issued on the application of any party to proceedings before the Commission until after the Commission has issued and caused to be served upon the respondent a complaint and notice of hearing under subsection (f) of section 706."

SEC. 9. (a) Section 703(a)(2) of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000e–2(a)(2)) is amended by inserting the words "or applicants for employment" after the words "his employees".

(b) Section 703(c)(2) of such Act is amended by inserting the words "or applicants for membership" after the word "membership".

(c)(1) Section 704(a) of such Act is amended by inserting "or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs," after "employment agency" in section 704(a).

(2) Section 704(b) of such Act is amended by (A) striking out "or employment agency" and inserting in lieu thereof "employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs,", and (B) inserting a comma and the words "or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee" before the word "indicating".

(d)(1) The second sentence of section 705(a) is amended by inserting before the period at the end thereof a comma and the following: "and all members of the Commission shall continue to serve until their successors are appointed and qualified: *Provided*, That no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted".

(2) The fourth sentence of section 705(a) of such Act is amended to read as follows: "The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, such officers, agents, attorneys, hearings examiners, and employees as he deems necessary to assist it in the performance of its functions and fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code."

(e) Section 705(g)(1) of such Act is amended by inserting at the end thereof the following: ", and to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))".

(f) Section 705(g)(6) of such Act is amended to read as follows:

"(6) to intervene in a civil action brought by an aggrieved party under section 706."

(g) Section 713 of such Act is amended by adding at the end thereof the following new subsections:

"(c) Except for the powers granted to the Commission under subsection (h) of section 706, the power to modify or set aside its findings, or make new findings, under subsections (i), (k), and (l) of section 706, the rulemaking power as defined in subchapter II of chapter 5 of title 5, United States Code, with reference to general rules as distinguished from rules of specific applicability, and the power to enter into or rescind agreements with State and local agencies, as provided in subsection (b) of section 709, under which the Commission agrees to refrain from processing a charge in any cases or class of cases or under which the Commission agrees to relieve any person or class of persons in such State or locality from requirements imposed by section 709, the Commission may delegate any of its functions, duties, and powers to such person or persons as the Commission may designate by regulation, including functions, duties, and powers with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter: *Provided*, That nothing in this subsection authorizes the Commission to provide for persons other than those referred to in clauses (2) and (3) of subsection (b) of section 556 of title 5 of the United States Code to conduct any hearing to which that section applies.

"(d) The Commission is authorized to delegate to any group of three or more members of the Commission any or all of the powers which it may itself exercise."

(h) Section 714 of such Act is amended by striking out "section 111" and inserting in lieu thereof "sections 111 and 1114".

SEC. 10. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new clause:

"(55) Chairman, Equal Employment Opportunity Commission."

(b) Clause (72) of section 5315 of such title is amended to read as follows:

"(72) Members, Equal Employment Opportunity Commission (4)."

(c) Section 5315 of such title is amended to add, as a new clause (73), the following:

"(73) General Counsel of the Equal Employment Opportunity Commission."

The remaining clauses, beginning with old clause (73), are redesignated accordingly.

(d) Clause (111) of section 5316 of such title is repealed.

SEC. 11. The amendments made by this Act to section 706 of the Civil Rights Act of 1964 (except those subsections designated by this Act as (o) and (q)(3) thereof) shall not be applicable to charges filed with the Commission prior to the enactment of this Act.

Mr. WILLIAMS of New Jersey. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS of New Jersey. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in S. 2453, as passed.

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

COMMUNICABLE DISEASE CONTROL AMENDMENTS OF 1970—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, on behalf of the Senator from Texas (Mr. YARBOROUGH), chairman of the Committee on Labor and Public Welfare, who is absent on official business, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2264) to amend the Public Health Service Act to provide authorization for grants for communicable disease control and vaccination assistance. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). Is there objection to the present consideration of the report?

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

(For conference report, see House proceedings of September 23, 1970, page 33279, CONGRESSIONAL RECORD.)

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I wish to indicate to my colleagues that I do not think there will be extensive debate on this conference report. I would expect a vote in about 15 minutes.

Almost 1 year ago the Senate passed unanimously a comprehensive communicable disease control and vaccination assistance bill, S. 2264. The bill would authorize a program of project grants to continue Federal programs to combat a host of diseases such as rubella, diphtheria, venereal disease, tuberculosis, Rh disease, and many others. While great strides have been made in recent years in combating these diseases, it is essential for us to continue our efforts in order to prevent an unraveling of the significant progress that has been made.

Perhaps the most urgent need in this area is the need to prepare ourselves against the ominous prospect of an epi-

demic of rubella—or German measles, as it is better known—that is likely to occur within the next year.

For most people, this common childhood disease is innocuous. For a pregnant woman, however, the impact may be devastating. If she contracts rubella during the first 3 months of her pregnancy, the effects upon the fetus can be catastrophic. She may lose the child. The child may be stillborn. Or, even more tragic, the child may be born with one or more severe congenital abnormalities, such as deafness, mental retardation, or heart disease.

In the past, epidemics of rubella have occurred on approximately a 7-year cycle. The last such epidemic was in 1964. There is a very real prospect that another rubella epidemic will be visited on the Nation in the spring of 1971, less than 6 months from now.

In the epidemic of 1964, health professionals in the Nation were powerless to avert the tragic consequences of the birth of 20,000 severely deformed and handicapped children. Today, our hands are no longer tied. Medical science has developed a vaccine against rubella which, when administered to young children on a systematic, nationwide basis, is capable of eradicating the disease, thereby preventing a repetition of the disastrous consequences of the 1964 epidemic.

Time, however, grows short. It has been almost a full year since the Senate took affirmative action on this legislation. In less than a year, we may be in the midst of the new epidemic.

On September 10, 1970, the House passed S. 2264, on a rollcall vote of 312–1, after having substituted the language of the companion House bill, H.R. 11913. On Monday, the House approved the conference report by the overwhelming vote of 292–2. Today, the Senate has the opportunity to reiterate its support for this important and popular legislation.

The House-passed bill is essentially identical to the Senate bill. It covers the same diseases. It uses the same grant mechanism to achieve the purposes of the bill.

The only substantial difference between the two bills is that the House version authorizes slightly more money than the Senate-passed bill—$75 million for fiscal year 1971, and $90 million for 1972. Therefore, in conference last week, the Senate yielded to the House version of S. 2264, in the interest of expediting this important legislation and securing the higher authorization. The other differences between the two bills are insignificant.

To those who argue that this bill is unnecessary, let me say that I strongly disagree.

At the time of the passage of the Partnership-for-Health Act in 1966, it was hoped that the rubella and other vaccination programs could be effectively supported under the bloc grant subsection of that act—section 314(d). That hope has been in vain, and for good reason, because the original concept was in error.

Communicable diseases obviously do not respect geographical or political boundaries. In a highly mobile society such as ours, it makes little sense to attempt the systematic and effective control of communicable diseases by allowing each of the 50 States to decide whether or not to have such a program with their bloc grant funds. Clearly, for example, if 40 States choose to use their section 314(d) funds for a rubella program, and the other 10 States do not, then the entire national program may fail, and all the moneys will be wasted.

The same reasoning applies to many other diseases against which successful nationwide vaccination programs could be launched. We know, for example, that the incidence of common measles is now increasing in many States. A few short years ago, we thought we were well on the way to successful eradication of this well-known childhood scourge. Now, years of progress are in danger of being lost, unless we make a greater and more concerted national effort.

Recognizing the logic of this argument, especially in the case of rubella, the administration has been forced to fund these vaccination programs from a completely different section of the partnership-for-health program—section 314(e). This is a project grant authority, and the administration is using it for precisely the purposes that S. 2264 would accomplish.

However, the legislative history of section 314(e) makes clear that its principal purpose is to support comprehensive programs dealing with the organization and delivery of health services. Restructuring the overall health delivery system of the Nation is one of the most difficult social problems we now face in the Nation. It is a problem that lies at the heart of the major health care crisis that confronts the country. It is a problem we must confront and solve.

Obviously, the modest funds authorized and appropriated under section 314(e) cannot begin to grapple effectively with this problem, when the majority of such funds continue to be diverted to communicable disease control and vaccination assistance.

In this connection, let me quote from the recent report of the Senate Committee on Labor and Public Welfare, discussing the Health Services Improvement Act of 1970, S. 3355:

> The Committee notes with concern the fact that a large proportion of the programs funded under section 314(e) continue to be too narrowly focused, rather than focused upon the broader area of the organization and delivery of health services. In large part, of course, this is attributable to the fact that the states have not been as willing as the Congress had hoped in funding these vitally important though narrower projects with funds made available under the bloc grant program, 314(d). The Congress is in the process of responding to this problem. The Senate has passed, and the House will soon take up, the Communicable Disease Control and Vaccination Assistance Amendments of 1970 which, if enacted, would authorize separate categorical project grant authority for these programs. At that time the Committee intends that HEW will, as rapidly as possible, insure that the projects funded under section 314(e) be primarily intended to grapple with the organization and delivery of comprehensive health services.

In other words, the authority in existing law does not adequately deal with the problem of communicable diseases today. The existing programs are not suited to the job. They are intended by both Congress and the administration to fulfill other important purposes.

When I first introduced this vaccination assistance legislation nearly 18 months ago, at the beginning of the 91st Congress, the urgent need for Federal assistance to State and local vaccination programs was already abundantly clear. Subsequent events have served only to underscore that need. Again and again, in comprehensive hearings on this legislation in both the Senate and House, health leaders of the Nation emphasized the importance of this program and its significance for the future of the Nation's health.

The pending legislation is therefore both vital and necessary. Unless it is enacted, we shall accomplish neither of our goals—effective eradication of communicable disease, and reorganization of the health delivery system.

I urge the Senate to approve the conference report on S. 2264.

Mr. President, I ask unanimous consent that a statement by the distinguished Senator from Texas (Mr. YARBOROUGH) be include at this point in the RECORD.

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

STATEMENT OF SENATOR RALPH W. YARBOROUGH

Mr. President, after almost a year the Senate now has the opportunity to complete legislative action on a bill of paramount importance, the Communicable Disease Control Amendments of 1970.

Let me briefly retrace the legislative history of this bill. The Senate passed S. 2264 on October 20, 1969. The House passed a bill which was virtually identical to the Senate-passed version on September 10th of this year. Last week the Senate-House conferees reached agreement, and just the other day the House overwhelmingly adopted the Conference Report by a vote of 292–2. I urge the Senate to agree to the Conference Report so that this bill can be promptly sent to the President.

Mr. President, I now would like to briefly describe the principal purposes encompassed within S. 2264. S. 2264 would authorize a two-year program of project grants to combat a host of communicable diseases such as rubella, diptheria, venereal diseases, tuberculosis, RH disease and measles. While enormous progress has been made in recent years in combatting these diseases, it is necessary that we continue our efforts in order to forestall an unravelling of that progress. Perhaps the best example in this regard concerns the need to forestall a likely epidemic of rubella in the next year or so. This means that during the next year, unless action is taken by all concerned, we will be faced with a repeat of the 1964 epidemic which saw more than 20,000 children born with congenital abnormalities. In addition to deafness, these abnormalities include heart defects, blindness, and mental retardation. Approximately one-fourth of those pregnant women who contract the disease either abort or bear infants with these congenital anomalies. It goes without saying that the human suffering as well as the very special and expensive burden that these children place upon their families and society in terms of their education and rehabilitation are incalculable.

Mr. President, in 1964 there was little we could do to prevent what happened. That unfortunate circumstance no longer obtains! In the intervening years a vaccine has been developed which, if comprehensively and systematically administered to the prepubertal youngsters of this nation, can create what the medical people call a "herd-immunity", which will all but wipe out rubella and thereby prevent a repetition of 1964. However, let me sound a caution.

Rubella, like any communicable disease, knows no geographic boundaries. In a highly mobile society such as ours we cannot rely upon a hit-or-miss program. Nor can we rely exclusively upon the private sector. To have an effective vaccination program in one State, city, or county but not in another will not suffice. In order to insure a coordinated, national attack on rubella, as well as other communicable diseases, special Federal assistance will be required. S. 2264 is that special assurance.

Finally, Mr. President, I want to draw my colleague's attention to the relationship between this bill and existing legislative authority under sections 314(d) and 314(e) of the Partnership-for-Health program. At the time of the passage of the Partnership-for-Health Act in 1966, it was hoped that these communicable disease programs would be funded under the bloc grant portion of that Act—section 314(d). That hope has been in vain. And for good reason. As I have said, communicable diseases obviously do not respect geo-political boundaries. In a highly mobile society such as ours, it makes little sense to attempt to systematically and effectively control communicable diseases by decentralizing the choice of having such a program to the 50 States. Clearly, if, for example, 40 States choose to use their 314(d) funds for a rubella program, and the other 10 States do not, then the overall program will likely fail and the monies will have been wasted. While not necessarily recognizing the logic of this, both the Nixon Administration and the Johnson Administration before it have been forced to fund these programs from another portion of the Partnership for Health Program—section 314(e). This is a flexible project grant authority. However, the legislative history of section 314(e) makes clear that its principal purpose is to support comprehensive programs dealing with the organization and delivery of health services. Rationalizing the health delivery system is an intractable problem, and it lies at the heart of the health care crisis which confronts the country. Obviously, the modest funds authorized and appropriated under 314(e) cannot grapple with this gargantuan crisis when the majority of those funds continue to be programmed for Communicable Disease Control. In that regard, let me quote from the Senate Labor Committee's report on the Health Services Improvement Act of 1970, S. 3355:

HEALTH SERVICES DEVELOPMENT SECTION 314(e)

"The Committee notes with concern the fact that a large proportion of the programs funded under section 314(e) continue to be too narrowly focused rather than focused upon the broader area of the organization and delivery of health services. In large part, of course, this is attributable to the fact that the states have not been as willing as the Congress had hoped in funding these vitally important though narrower projects with funds made available under the bloc grant program, 314(d). The Congress is in the process of responding to this problem. The Senate has passed and the House will soon take up the Communicable Disease Control and Vaccination Assistance Amendments of 1969 which, if enacted, would authorize separate categorical project grant authority for these programs. At that time the Committee intends that HEW will, as rapidly as possible, insure that the projects funded under section 314(e) be primarily intended to grapple with the organization and delivery of comprehensive health services."

Mr. President, this is a good bill. It is an effective response to a host of illnesses which can be prevented. Contrasted to the skyrocketing costs of medical care generally, preventive programs such as these are highly cost effective. They emphasize preventive programs which, by the way, was one of the major points made by the Under Secretary of HEW in his testimony last week with regard to National Health Insurance before the Senate Labor Committee. He said, "In the long run, a healthy Nation depends more on the steps we take to prevent illness and accidents than it does on those to cure it."

Mr. President, this has not been and should not be a partisan measure. Rather, it is one which my colleagues on both sides of the aisle can support with enthusiasm. I urge the Senate to agree to the Conference Report.

Mr. KENNEDY. Mr. President, an article in today's Washington Evening Star by Judith Randal, who is one of the most perceptive writers on health in our Nation today, makes as strong a case as I have seen for the passage of this legislation. Miss Randal cites recent data on the increased incidence of various communicable diseases, and she makes a strong argument for enactment of this legislation. I urge my colleagues to read this article, and I ask unanimous consent that it may be printed at this point in the RECORD.

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

WASHINGTON CLOSE-UP: DO NOT VETO THE DISEASE CONTROL BILL

(By Judith Randal)

Time and again, when testifying on health matters in the House or Senate, administration witnesses have said they neither want nor need special authority to carry out a given program because legal authority already exists.

To have Congress single out some particular problem for money and attention, they argue, would undermine broad-gauged legislation permitting states to decide for themselves how to use their share of federal health funds. If this so-called "Partnership for Health" is to work, they insist, if red tape is to be cut to a minimum and local needs met, Congress should leave well enough alone.

So it is that one of the measures President Nixon soon may veto is a bill—passed by Congress with only a single dissenting vote—that would authorize $165 million over the next 21 months for the control of communicable disease.

To put it bluntly, it is hard to imagine anything that would make less sense from any point of view.

For one thing, although the Partnership for Health legislation was passed during the Johnson administration, the states have been so slow to plug into the program that it will be at least two more years before their plans for communicable disease control are ready to render service to any meaningful extent.

For another, even if plans already were in place, money is so scarce these days that seemingly mundane matters like vaccinations against polio, diphtheria and measles—not to mention prophylactic measures to control the spread of tuberculosis and venereal disease—likely would fall to the bottom of the priority heap or be dealt with in a manner short of the known need. Authority and the means to implement it are simply not the same thing.

Meanwhile, there is abundant evidence that communicable disease is a growing public health problem. There has been twice as much diphtheria this year as last, with outbreaks in Chicago, Miami and three Texas cities, principally San Antonio where 108 cases had been reported as of yesterday. Sample surveys show that while most people over 40 have been immunized, many younger people have not.

Polio is up, too. An estimated 4 million Americans under 20 have not received the vaccine, and the Center for Disease Control in Atlanta has no funds to stockpile it should there be an epidemic. Half a million cases of gonorrhea were reported last year, 200,000 more than in 1965.

When tuberculosis was discovered among congressional dining room employes not long ago and free detection tests were offered, 25 percent of those screened were found to be latently infected. And 23 million across the country are thought to be susceptible. This despite the fact that a year of medication in such cases will prevent the threatened onset of active TB.

Assuming that budgetary constraints underlie the potential presidential veto, it is important to consider the inflationary effect of neglect. For every 10,000 children who get measles, for example, 60 will develop complications requiring hospitalization at $50 to $100 a day (one of these will die) and three will become mentally retarded at an eventual cost to their families and society of $100,000 each for special training and custodial care.

All this could be avoided by an outlay of $20,000 for every 10,000 children immunized. Yet reported cases of measles—always lower than the actual number—have doubled since the vaccine assistance act expired in 1969 and an estimated 11 million youngsters are now risking the disease.

Similarly, many infants are requiring expensive treatment and some are dying or permanently impaired because their mothers do not have access to a vaccine which prevents the life-threatening anemia known as Rh disease. (Though not a communicable disorder in the classic sense—being due to genes rather than germs—provisions for it are included in the proposed bill.)

The list could go on and on.

An epidemic of baby-damaging rubella, or German measles, is expected within a year. If, in accord with the administration's present plan, only 10 million of the 50 million children who should be vaccinated to prevent the spread of the disease to pregnant women are treated, the first of these babies—blind, deaf, retarded or with a combination of these and other defects—should be born just in time for the 1972 election.

The estimated lifetime cost of caring for children born after the 1964 epidemic, when no vaccine had yet been developed, is $2.6 billion. The implications are obvious.

Millions of dollars and the working lives of many scientists have been invested in finding ways to prevent communicable disease. Germs respect neither state boundaries nor social class—in an air age, they are dispersed more rapidly than ever before.

What seems to have been forgotten by the administration, in its zeal to trim the budget, is that tired but still apt adage: An ounce of prevention is worth a pound of cure.

Mr. KENNEDY. Mr. President, I have in my hand a chart showing the incidence of the major childhood diseases in the United States. The chart was prepared by Dr. James E. Bowes, who is one of the most distinguished epidemiologists in the Nation. Unfortunately, the chart cannot be printed in the RECORD. Its figures are dramatic. It demonstrates very clearly, for example, that the incidences of diphtheria, measles, and polio has actually doubled in 1970, as compared to

1969, and the incidence of German measles and mumps has increased substantially.

When we realize that the original Vaccination Assistance Act ended in mid-1968, we can see the heavy price we are paying for our failure to continue this program in the past 2 years.

Mr. President, I also ask unanimous consent to have printed in the RECORD a list of areas where there have been epidemic outbreaks of tuberculosis, diphtheria, and measles from 1968 through 1970. This material was also supplied by Dr. Bowes. It indicates where the epidemics took place, and the number of cases involved. I believe it will be of interest to all Senators.

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

EPIDEMIC OUTBREAKS, 1968–70

Location	Date	Cases
TUBERCULOSIS		
Kentucky	May 1970	(1)
DIPHTHERIA		
Florida, Madison County	August 1968	(2)
Texas, Austin	October 1968	17
Phoenix	November 1968–May 1969	12
Florida	1968	16
Do	1969	22
Miami	November	6
San Antonio	Summer 1970	108
Chicago	January 1970	16
Washington		
Oregon		
MEASLES		
Chicago	March 1968	139
Montana, Rockport	do	48
Nashua, N.H.	do	52
Terrebonne Parish, La	July 1968	21
Rhode Island	October 1968	49
Dallas	October–November 1968	116
Philadelphia	do	124
Portsmouth, Va	do	109
Rocky Mount, N.C	November 1968	38
Oregon and Idaho	January 1969	69
Florida, Jacksonville	do	325
Wake County, N.C	do	36
New York City	February 1969	73
Baltimore	April 1969	11
Cleveland	June 1969	14
Chicago	September 1969	163
District of Columbia	October 1969	261
Oregon	May 1970	51

[1] 4 schools.
[2] Not available.

Mr. KENNEDY. Mr. President, if there is no further discussion of the measure, I move the adoption of the conference report.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are absent on official business.

I further announce that, if present and voting, the Senator from Ohio (Mr. YOUNG), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. GODDELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from New York (Mr. JAVITS) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 71, nays 0, as follows:

[No. 347 Leg.]

YEAS—71

Allen	Fong	Mondale
Allott	Fulbright	Nelson
Anderson	Goldwater	Packwood
Baker	Griffin	Pastore
Bible	Gurney	Pearson
Boggs	Hansen	Percy
Brooke	Harris	Proxmire
Burdick	Hart	Randolph
Byrd, Va.	Hatfield	Ribicoff
Byrd, W. Va.	Holland	Russell
Case	Hollings	Saxbe
Church	Hughes	Schweiker
Cook	Jackson	Scott
Cooper	Jordan, Idaho	Smith, Maine
Cotton	Kennedy	Spong
Cranston	Long	Stennis
Curtis	Magnuson	Stevens
Dole	Mansfield	Symington
Dominick	Mathias	Talmadge
Eagleton	McClellan	Thurmond
Eastland	McGovern	Williams, N.J.
Ellender	McIntyre	Williams, Del.
Ervin	Metcalf	Young, N. Dak.
Fannin	Miller	

NAYS—0

NOT VOTING—29

Aiken	Hruska	Muskie
Bayh	Inouye	Pell
Bellmon	Javits	Prouty
Bennett	Jordan, N.C.	Smith, Ill.
Cannon	McCarthy	Sparkman
Dodd	McGee	Tower
Goodell	Montoya	Tydings
Gore	Moss	Yarborough
Gravel	Mundt	Young, Ohio
Hartke	Murphy	

So the report was agreed to.

RAILROAD SAFETY AND HAZARDOUS MATERIALS CONTROL—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1933) to provide for Federal railroad safety, hazardous materials control, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). Is there objection to the present consideration of the report?

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

(For conference report, see House proceedings of September 24, 1970, pages 33602–33603, CONGRESSIONAL RECORD).

Mr. GRIFFIN. Mr. President, the able Senator from Vermont (Mr. PROUTY) has a deep personal interest in this particular legislation. Unfortunately, he had to leave to catch a plane to Vermont a short time before this conference report on railroad safety was called up.

On his behalf, I ask unanimous consent that a statement which he would like to have delivered in person be printed in the RECORD.

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

Mr. PROUTY. Mr. President, I am convinced that S. 1933 represents the most significant piece of safety legislation for surface transportation enacted in this century.

For the first time in the nation's history, the Federal Government will be able to make rules and regulations relating to all aspects of railroad operations so as to insure maximum safety.

Railroad accidents can occur anywhere and too often do. In the past ten years the number of train accidents has more than doubled. The number of deaths resulting from railroad accidents has continued to increase at an alarming rate. Mr. President, it has been a miracle that all of those train accidents have occurred in relatively low populated areas. If any one of those accidents had occurred in a large metropolitan area, the resulting death and destruction would have been catastrophic.

The bill we are passing today represents months of hard work by Members of the Senate and House and incorporates a meaningful concept of creative federalism. Participation by the States in carrying out the provisions of this Act is insured by making it possible for States who are able to carry out the day to day surveillance and inspection necessary for the effective enforcement of the Act. As soon as a State has been certified by the Secretary of Transportation as being capable of carrying out the provisions of the Act, the Federal Government will pay up to 50% of the expenses incurred by the State for the necessary inspection to insure safe railroad operations. Certified States themselves can go into Federal District Court to enforce compliance with the Act if the Department of Transportation has failed to do so within 90 days. This feature of this legislation not only insures a close working partnership between Federal government and State government but also creates a new effective check and balance by permitting States to act when the Federal Government fails to do so and by permitting the Federal Government to certify or decertify States based on the effectiveness of their performance.

Title II of this legislation is often overlooked by many. In my view it is equally as important as Title I. Title II establishes the Hazardous Materials Transportation Control Act of 1970.

This Act authorizes the Secretary of Transportation to evaluate and determine the safest means for transporting hazardous materials. Literally millions of shipments on our nation's highways and our nation's rails involve the transportation of hazardous materials. Hazardous materials run the gamut from explosive gases to poisonous chemicals.

Whenever an accident occurs involving dangerous substances fires often result and those fires must be put out by local fire departments throughout the country. It is unrealistic to assume that every local fire department know every aspect of putting out chemical fires involving thousands of chemicals used in America today. Under this Act the Secretary of Transportation is directed to establish a central information center so that in the event of emergency a local fire department can call a central number to obtain correct information as to the best method of extinguishing a chemical fire or preventing additional explosions.

Mr. President, all my colleagues in the Senate and the House are to be congratulated on this particular piece of legislation which indeed represents a meaningful step forward in our national effort to insure safety for all Americans.

Mr. COTTON. Mr. President, I want to echo the remarks of my distinguished colleague from Vermont, Senator WINSTON PROUTY. This measure indeed is a landmark piece of legislation and truly represents the most comprehensive and far reaching piece of surface transportation safety legislation ever passed by Congress.

At the beginning of this Congress I, too, felt that the chances of getting this worthwhile piece of legislation through Congress were minimal. However, the distinguished Senator from Vermont is too modest in pointing out why this Congress has succeeded in enacting the first comprehensive Federal railroad safety legislation in history. The primary reason that we are able to pass this piece of legislation today is the skilled and dedicated work by the distinguished junior Senator from Vermont.

While many were talking, Senator PROUTY was working. He almost singlehandedly wrote this entire piece of legislation.

Last November, when the various parties interested in this legislation found it impossible to agree on a sensible railroad safety bill, Senator PROUTY called them together in his office. He called railroad labor. He called railroad presidents. He lit a fire under our own administration and he worked closely with the public utility commissioners in the various States. Within several weeks he had hammered out a piece of legislation which was far stronger than the bill that was originally considered by the committee. He offered it as a substitute to the bill pending before our committee and the committee unanimously accepted the Prouty substitute. In December, with able floor leadership by Senator PROUTY, the bill passed the Senate. All spring and part of the summer the House deliberated concerning the merits of the bill. Some of the Members of the House attempted to weaken the bill. Senator PROUTY personally persuaded them that a strong bill was necessary.

Today we can see the results of the extraordinary legislative skill characteristic of Senator WINSTON PROUTY.

As ranking minority member on the Senate Commerce Committee, I have a thorough knowledge of what has been done in the field of surface transportation legislation. In this Congress the dedication and hard work by the distinguished Senator from Vermont has resulted in the enactment of more meaningful legislation originating in the Surface Transportation Subcommittee, on which he is the ranking minority member, than occurred in the entire decade of the sixties.

Mr. MAGNUSON. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES—CONFERENCE REPORT

Mr. STENNIS. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). Is there objection to the present consideration of the report?

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

(For conference report, see House proceedings of September 28, 1970, pages 33942–33926, CONGRESSIONAL RECORD.)

Mr. STENNIS. Mr. President, it is likely that this matter will not take very much time. I have a statement about the bill, which discusses the main subject matters and makes reference to some of the Senate amendments that did not prevail in conference.

As I see the situation now, Mr. President, there will not be any extended debate with reference to the conference report, I should, however, like to reserve the right—as any other Senator does, I am sure—to ask for a rollcall vote if it seems proper at the end of this discussion; but as I see it now, it will not require a rollcall vote.

GENERAL COMMENTS

Mr. President, this conference was hard fought on the part of both the House and Senate conferees. The final product is a bill as a result of the work of the conferees. The Senate did not prevail in all of its provisions but neither did the House. This conference report represents the product of extremely hard work by both the Senate and House conferees and, in my opinion, provides for an excellent procurement and research and development program for fiscal year 1971. I shall discuss the highlights of the conference action and shall be prepared to answer any questions members may have.

FUNDING COMPARISONS

The bill as presented to the Congress by the President totaled $20,605,489,000. The bill as passed by the House totaled $20,571,489,000. The bill as passed by the Senate totaled $19,242,889,000.

The bill, as agreed to in conference, totals $19,929,089,000.

The figure arrived at by the conferees is $642,400,000 less than the bill as it passed the House, $686,200,000 more than the bill as it passed the Senate, and $676,400,000 less than the bill as it was presented to the Congress by the President.

SAFEGUARD ABM SYSTEM

Mr. President, the Senate position on on the Safeguard ABM system prevailed exactly as it passed the Senate, both in terms of funds and the restrictive language limiting this system to the protection of our deterrent. I would emphasize that the House reluctantly accepted this position after having urged several changes in the Senate position.

SHIPS

The bill as passed by the House contained lead funds for the nuclear carrier, CVAN–70, as well as an additional authorization of $435 million for new ship construction not in the Senate version. The Senate version did not contain funds for any of these items. The House acceded to the Senate position with respect to the carrier. The Senate agreed to the House position with respect to the additional ships, all of which are set forth in the conference report. I would emphasize that the basis for the final conference position on the nuclear carrier is due to the fact that a firm position has not been forthcoming from the executive branch on this matter. I should also like to point out that even though the new ships listed in the conference report are not in the budget, they have the highest priority with respect to Navy needs. Moreover, the Secretary of Defense has indicated that funds for these ships will be obligated if made available by the Congress.

M60A1E2 TANK

Mr. President, the Senate bill deleted the $12.1 million for additional research funds for the so-called E–2 tank which has represented an effort over the years to adapt the Shillelagh missile to the standard A–1 tank. Even though this program has encountered great difficulties with respect to time and cost, the House was insistent that the funds be authorized for one last attempt to solve the technical problems for this tank.

PRIOR YEAR FUNDS

Mr. President, I would like to note that the House agreed with the Senate position in reducing the new obligational authority in this bill by $334.8 million in recognition of certain prior year appropriations which will not be obligated during fiscal year 1971 and which will therefore be available for use in 1971 in lieu of new financing.

RESEARCH AND DEVELOPMENT WEAPONS

Mr. President, I shall not dwell at great length on the research and development items since Senator McINTYRE intends to discuss these matters in some depth. I would observe that in terms of the money differences on R. & D., the House version totaled $7,265.6 million, the Senate version totaled $7,016.5 million, and the final version totaled $7,101.6 million. The conference amount was $164 million below the House version and $164.1 million above the Senate version.

Furthermore, with respect to the specific weapons systems in R. & D. the House was adamant in insisting on the restoration of the funds for the Cheyenne helicopter development in the amount of $17.6 million which the Senate had deleted.

With respect to the B–1 advanced bomber, the final figure was $75 million as compared to $50 million approved by the Senate and $100 million by the House.

There were a number of lesser items which were subject to adjustment on both sides all of which are set forth in the conference report.

LANGUAGE ADJUSTMENTS

Mr. President, I would now like to discuss some of the results of the adjustments in language in the conference with respect to the two versions of the bill.

FINAL ACTION ON HOUSE LANGUAGE PROVISIONS

The House bill contained five language provisions. Three of these relating to the shipbuilding and conversion program were dropped in conference. The remaining provision mandating three active production sources for the M–16 rifle during fiscal year 1971 was retained in the final report.

The one other House provision related to the barring of R. & D. grants for colleges where military recruiting is barred on the campus. This provision was compromised with the result that this prohibition will not apply unless military recruiting is barred by the policy of the institution.

SENATE LANGUAGE PROVISIONS

C–5A

Mr. President, the Senate language provision insuring that the $200 million appropriated for the C–5A would be strictly used for C–5A purposes only was accepted by the House. The House would not accept in its exact Senate form the provision requiring approval by the two Armed Services Committees of the plan for the use of the $200 million contingency funds for the C–5A. The final language requires the submission of the plan by the Secretary of Defense to the two Armed Services Committees and prohibits any obligation of expenditures until the expiration of 30 days. It was the position of the House that the so-called committee approval provision was unconstitutional.

FUNDING SUPPORT FOR FREE WORLD FORCES IN SOUTHEAST ASIA

Mr. President, the Senate version of the provision authorizing the use of Defense appropriations for the support of free world forces in Southeast Asia with two exceptions prevailed in conference. The exceptions were: First, the raising of the ceiling from $2.5 billion to $2.8 billion in order to provide flexibility for Vietnamization and second, the insertion of additional language which would exclude any present agreements from the limitation of overseas pay now being received by foreign troops out of U.S. funds.

TRANSFER OF MILITARY EQUIPMENT TO ISRAEL

The Senate amendment on the transfer of aircraft and related equipment to the State of Israel under certain conditions was accepted by the House with one slight modification which provides that the transfer authority will expire on September 30, 1972. The Congress will be in a position at that time to examine the need for the extension of this authority.

REQUIREMENT FOR ANNUAL AUTHORIZATION FOR ACTIVE DUTY PERSONNEL

Mr. President, the House accepted the Senate provision which will require beginning in fiscal 1972 that the active duty strength of the Armed Forces be authorized as a condition precedent for the appropriation of funds for this purpose.

PREMATURE DISCLOSURE OF DEFENSE CONTRACT AWARDS

The House accepted the Senate provision which precluded the Secretary of Defense from providing advance notification to any Member of Congress of a defense contract award.

LIMITATION ON PERMANENT CHANGE OF STATION ASSIGNMENTS

The provision placing limitations on permanent change of station assignments for military personnel was not acceptable to the House in the form approved by the Senate. A compromise version was reached which directs the Secretary of Defense to initiate new procedures but omits the explicit limitations contained in the Senate version.

INDEPENDENT RESEARCH AND DEVELOPMENT PROVISIONS

Mr. President, Senator McINTYRE will comment at length on the final provision with respect to I.R. & D. The key feature of the Senate provision was the $625 million ceiling which would have been imposed on the level of effort in this activity. The House would accept no dollar limitation on this matter. Certain language was agreed to, however, which does require advance agreements between the Department of Defense and the contractor.

Mr. President, I greatly respect the position of the House but at the same time I exceedingly regret that more progress could not be made in the control of the so-called I.R. & D. activity. It is my observation that this program has not been properly managed in the Department of Defense for the past few years and much needs to be done to prevent abuse in this program which is now at an estimated cost of about $700 million a year.

I firmly believe that this entire matter should be kept under continual and intensive oversight by the Congress and I wish to give notice at this time that I intend to pursue this course of action. No program, however important, is not properly managed if managed in such a way that effective legislative oversight is impossible.

We had some sharp disagreement with reference to the language that goes to the research problem and the independent research problem. It is an important matter, but it is a problem to get it in such shape that Congress can give it proper legislative surveillance, because proper legislative surveillance is something which is more important than the exact amount we might appropriate for items. We can well disagree as to amounts, but we should all agree that an item is not to be approved unless we can have some semblance of a reasonable legislative surveillance and supervision over it, varying according to degree to the subject matter.

We got the best we could with reference to this research. The conferees did everything they could. Someone asked me: "Why did not the House conferees agree more than they did with reference to the amendments?" I am sure they were as honest and sincere as we were, but I remember that our former colleague from Arizona, Carl Hayden, gave a mighty good answer here, one time, on a conference report, where he was sharply questioned by someone as to why the Senate did not get a better agreement and specifically why the House would not agree on that point. He said, "Well, they were opposed to it."

I cannot improve on that. They were just opposed to a lot of these provisions. And, as I say, I am sure it was in all sincerity.

I think it is something that can be and should be worked on more. We should keep on, and we will get a better system out of it.

I am going to insist on the Secretary of Defense and Dr. Foster, the Assistant Secretary of Defense in charge of research and development, helping to formulate a better plan that, regardless of the amount of money, can be handled in such a way as to have this surveillance on independent research and development. I fully recognize its importance. But I think that we must have a better system.

SECTION 204—RELEVANCY OF DEFENSE RESEARCH ACTIVITIES

Mr. President, as the Senate knows, the Senate version of the bill contained a provision, also in last year's act, which required that defense research be conducted only on work having a direct and apparent relationship to a specific military operation or function. The House would not accept the language this year in the form passed by the Senate mainly on the argument of the great difficulty in applying such standards to basic research. A compromise version was agreed to which limits the use of Department of Defense research unless the project has "in the opinion of the Secretary of Defense, a potential relationship to a military function or operation."

Mr. President, Senator McINTYRE will discuss this provision in some detail.

SUMMARY

Mr. President, I have outlined the principal provisions of this conference action and I urge the Senate to approve this conference report for the authorization of military procurement and research and development for the fiscal year 1971.

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

Mr. STENNIS. Mr. President, I am glad to yield at this point to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, first I congratulate the Senator with regard to the retention of two of the amendments I sponsored. I am very pleased that those prohibiting the financing of South Vietnamese or Thai military operations in support of the Cambodian or Laotian Governments and the payment of excessive bonuses to mercenary troops were retained.

The Senator did a great service in maintaining the Senate's position. The principles involved in these amendments are quite important. I believe that we should make it clear that our Government's policy is that we are not going to underwrite the security of the Lon Nol government.

Although the Senate failed to set a deadline for the termination of our involvement in the war, it has taken action to prevent our being sucked further into the conflict in Southeast Asia.

I do regret that the prohibition on payments of bonuses to mercenary troops was changed so that it does not affect agreements now in effect. However, perhaps the Congress' action will have the effect of bringing about a faster liquidation of the pay agreements that are outstanding.

The item I wish to ask the Senator about specifically is that for $30 million for the International Fighter project which the Senate Armed Services Committee had not approved.

As the Senator knows, this aircraft is to be built solely for the purpose of giving and selling it to foreign countries. It is the first time, I think, that such a development project has been undertaken, aimed solely at markets in foreign countries. Heretofore, weapons and planes have been developed for our own defense purposes and if we wished to do so, we could also sell them abroad.

The Committee on Foreign Relations is interested in this matter. The Senator will recall that when Congress approved an authorization of $28 million last year for the development of this plane, it was justified in the Senate on the grounds that the plane was needed by the South Vietnamese in connection with the Vietnamization program and to expedite the withdrawal of our troops.

I would like to ask the Senator from Mississippi a few specific questions. The conference report states that no final action has yet been taken by the Department of Defense to go forward on this project. Does that mean that the $28 million appropriated last year has not been used?

Mr. STENNIS. The Senator is correct. That amount has not been used.

Mr. FULBRIGHT. Has the contract been awarded?

Mr. STENNIS. No, there has been no contract award.

Mr. FULBRIGHT. Did the administration budget this year request any funds for this project?

Mr. STENNIS. No. The $28 million was not in the budget last year. It was authorized by the Congress. But there was a $30 million recommendation this year. The Senate committee left that out.

Mr. FULBRIGHT. The $28 million has not been used?

Mr. STENNIS. The Senator is correct.

Mr. FULBRIGHT. No contract has been awarded?

Mr. STENNIS. The Senator is correct.

Mr. FULBRIGHT. And the only difference was that the Senator says that this year, while the budget recommended an additional $30 million, the Senate committee left it out and the Senate left it out.

Mr. STENNIS. The Senator is correct.

Mr. FULBRIGHT. I do not know why if they have not used the $28 million, $30 million additional is needed?

Mr. STENNIS. Mr. President, here were the facts that we were confronted with last week when the report was agreed to. That is the position we took, that the $28 million was still available and that no contract had been let. We went into this question fully with the Department of Defense and found a very strong position there that they were planning to let a contract and that they would need this $30 million to carry out the plan that had been formulated following our authorization last year.

The Senate conferees insisted that that figure be reduced, if it was going to be allowed at all. We had not allowed it. But we made every effort to get a determination of the amount needed. The only position the Department of Defense ever gave was that they would need that full $30 million if they were going to carry out the plan they had formulated.

In the final analysis, we agreed to the $30 million on that basis.

I had become convinced in the course of the consideration that over the course of years we can save considerable money, assuming that we continue this policy of backing a plane of lesser cost. It would not be an inferior plane. However, it would be far less complicated, the upkeep would be far simpler and less expensive, and if the Department of Defense can do what they now think they can do with it moneywise, it would save considerable money. Militarywise, it would be a sound investment.

We agree to it on that basis.

Mr. FULBRIGHT. Mr. President, I do not understand why, after a year, if they have not been able to use the $28 million, they need an additional $30 million before letting the contract.

Is it not a fact that the Department of Defense did not originate this? It originated in the House committee, specifically by Chairman RIVERS, and represents his views on how to supply foreign military equipment.

Mr. STENNIS. Mr. President, all the way through, the Secretary of Defense has given every evidence of strong support to this project.

Mr. FULBRIGHT. Mr. President, actually if the chairman of the House committee committed himself to the project, it would be most unusual for the Secretary to disagree with him.

This project did not originate with the Department of Defense. It is a special project that was initiated in the House committee. The facts about this matter have been publicized. There is no secret about them.

In view of that, I do not understand why, if they have been unable to use the $28 million already appropriated, they now want to have an additional $30 million before they let the contract. They have not let the contract or done anything to use the money available.

This project is unprecedented. Never before has any previous administration undertaken to develop a plane specifically for foreign countries, a plane that has no relevance to our own Armed Forces.

This kind of authorization should not be handled through the Armed Services Committee. The authorization for giving or selling this plane should be through the military aid and sales programs. So this is not only being profligate in the spending of money, but it also violates the jurisdictional rules of the Senate.

This is really backdoor foreign aid. That is all it is. It is backdoor foreign aid to get around the restrictions that have been initiated by the Committee on Foreign Relations and approved by the Congress to curb profligate spending on foreign aid. Now a new foreign aid program is being started under the aegis of the House. I regret the Senate is going along with that procedure. This project is not only a waste of the taxpayers' money but it violates the jurisdictional rules of the Senate. This matter could lead to very serious consequences.

The military sales bill is already in conference. The House does not show a disposition to go forward with reaching an agreement on that bill. So it looks now as if under some understanding, at least, that the Committee on Armed Services is trying to take over foreign military aid. This could lead to unlimited spending for military aid and complete disregard for the traditional jurisdictional rules of the Senate.

Mr. STENNIS. We could endlessly argue where the line of strict jurisdiction is between the Committee on Foreign Relations and the Committee on Armed Services. There are clauses in the rules that will support either side. I say that frankly.

But at the same time, over the years, the custom was to refer these matters to both committees. I think we had some joint hearings on this military aid in some of the years. I know the bills were referred to both committees in some of the years that I remember.

We have gotten into arguments about these matters. This year—and it is burning up time just to recall it—on the Ship Sales Act, the Committee on Foreign Relations, thinking they had jurisdiction, of course, to do so, sponsored a resolution with respect to the actual conduct of the war, as many of us saw it. That was debated here. It is still a matter of contention, one might say.

Here is a matter where these planes are becoming much more expensive, and a cheaper and simpler plane is thought to be adequate. I am not interested in what any individual wants to sponsor. I am not a party to it and I am not interested in it. But as a practical matter, I was impressed with some of these facts

about less cost and less upkeep and less involvement. We have to send men to these countries to keep these sophisticated planes in repair. The first tracks we made in South Vietnam were Air Force mechanics going in there to maintain these planes we had loaned them. I think as a practical matter if we can get one of these knockdown planes cheaper it would be justified.

I do not meticulously hew the line about this jurisdictional matter.

Mr. MANSFIELD. Mr. President, will the Senator yield so that I may interpolate there?

Mr. STENNIS. Yes, but first I wish to finish my statement. I have concepts about jurisdiction. I wish we could scrupulously maintain them but as a practical matter it is impossible to do it.

Mr. MANSFIELD. Just as a historical footnote, I recall at the time they sent those mechanics in, the Senator from Mississippi rose on his "hind legs," so to speak, and protested and foretold then what would happen if this thing was carried through; and it has come to pass. The record should show that.

Mr. STENNIS. I thank the Senator.

We want to lessen the occurrences under which we will send mechanics in. We want a simpler plane, with which we will not have to help in the maintenance and upkeep.

Mr. FULBRIGHT. I say to the Senator that under the foreign military aid program it is not customary to send in men to keep them in operation. If you give them planes, you give them planes, but they are responsible for their maintenance and operation.

Does the Senator contend there is any authorization for giving these planes to any country other than South Vietnam in the existing law?

Mr. STENNIS. I think this one may be—this one is not limited to any one application.

Mr. FULBRIGHT. Just by virtue of this bill. If we ignore existing jurisdiction and authority under the Foreign Military Sales Act, Aid and Sales Acts, and the Senate rules and practices with regard to jurisdiction—if that happens to be convenient—the Senator seems to think it is all right for the Committee on Armed Services to take jurisdiction.

Mr. STENNIS. The Senator should not put words in my mouth.

Mr. FULBRIGHT. Under all practices prior to this year, until this issue came up, the Foreign Relations Committee has had jurisdiction over all military aid and sales matters; the Senator now says jurisdiction is not significant.

Mr. STENNIS. I did not say that. I emphasized it was important. I said it is often difficult to draw exact lines. I think the Senator finds it difficult himself sometimes to draw exact lines.

Mr. FULBRIGHT. That is true but not in this case. Many cases are clear and many are marginal. This is not marginal by any stretch of the imagination. It is clear you have authority to use Department of Defense funds to pay for assistance to South Vietnam. You do not have authority, do you, to give away these planes, say, to Pakistan, India, Turkey, Greece, or Korea?

Mr. STENNIS. Those countries are beyond the ordinary concept of military aid, as has been handled by our committee.

Mr. FULBRIGHT. The Senator is——

Mr. STENNIS. Let me finish, please. But under conditions as they are now I do not see how we can split hairs over just where the line may be.

If the Senator wants to, really wants to actually restrict this to any country, he still has the high prerogative to do it, the power to consider it, and bring in any bill, anything of that nature he may desire.

But my concept of this matter is not necessarily limited to Southeast Asia. The Secretary of Defense may consider it in that light, but he has not made me any promise to that effect.

Mr. FULBRIGHT. The military sales bill, passed by the Senate, contains provisions which says that Department of Defense funds cannot be used to give this plane to any country other than South Vietnam. It now looks as if, with the reluctance of the House to proceed with that bill, and the action of the conference committee in this instance, and also the action of the Senate and the committee on the Jackson amendment, which gives open ended, unlimited authority for military assistance to Israel, that a process is developing where the Committee on Armed Services is beginning to try to take over all foreign military assistance programs. I assume they are doing that because the administration and the Committee on Armed Services are impatient with the fact that the Committee on Foreign Relations has, in recent years, shown a disposition to try to cut down on and give Congress better control over military assistance, and foreign aid in general, for that matter.

I think this approach, if pursued, would represent a very serious change in policy. I think the Senate should be aware of what is taking place; that this attempt should not be allowed to develop piecemeal, a little at a time, where it ends in the Armed Services Committee having taken over foreign military aid. This has been one of the areas which has been very controversial. There has been much progress in cutting back on foreign aid. But now an attempt is being made to revive it in this disguised form. I do not think many people are aware what is taking place and what it means, or that what it will lead to is very bad for the country.

I cannot support this move at all, not only because of jurisdiction, but because I am opposed, in principle, to unlimited foreign aid, the giving away of taxpayers funds on an unrestricted basis, especially as proposed in this bill.

In this case $28 million has already been appropriated. You want $30 million more and that will give you $58 million before you turn a tap. I cannot support that.

Mr. STENNIS. The Senator's words were "you want $30 million." I am not particularly wanting anything.

Mr. FULBRIGHT. I am talking about the conference report. I did not mean the Senator personally.

Mr. STENNIS. We looked into the money part. The $30 million is provided in order to let them proceed. This gives them what we call preproduction money for the manufacture of this product, whoever gets the contract. That has not been decided. So it is not one of those things where we could delay with profit. If we were going to proceed with the program, we decided they need that much money.

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

Mr. STENNIS. Yes; I yield to the Senator from Arizona.

Mr. GOLDWATER. I will try to clear this up a bit. I might say that I can see the point of the Senator from Arkansas. I can understand the point of the committee. I personally do not think it has reached the place yet where the Foreign Relations Committee would even want to take jurisdiction.

But let me go back a bit and try to trace the development of this matter. When the U.S. Air Force stopped the purchase of the F–104, we, in effect, stopped the purchase of any interceptor aircraft. Today we do not, in truth, have a plane that can successfully compete for air superiority against any sophisticated equipment of the Soviets, or even what the French are producing. We did give the F–5, which is a single-place version of the T–38 trainer to the South Vietnamese as their interceptor aircraft—in fact, tactical support aircraft. It was not successful at first. It is now.

I do not remember exactly when it was—it must have been about 3 years ago—the Air Force, I believe, consulted with other foreign countries, because really the only people in the world today who are making what one would call sophisticated interceptor aircraft would be the Soviets, unless the French Mystere might be able to compete—which I do not think it could in this particular field. It was decided then that it would be wise to encourage American manufacturers to compete with a low-cost interceptor that could be sold to foreign countries.

I realize that the airplanes can be given away, but it is my understanding, having known of this for some time, that the competition was to provide an interceptor aircraft easy to maintain, relatively inexpensive, and the competition, if I am correct, was completed some time either in June or July, and the decision has not been made to whom to award the contract.

The money that is in question is money, as the Senator from Mississippi has said, for preproduction costs, for allowing the aircraft companies that are successful, or the one that is successful, to go ahead with production of a prototype of this interceptor aircraft, which would then be offered for sale to different countries in the world which might want to buy it. I must say that if we want to give it away, we can.

I think at that point, when the prototype has been finished and we have decided it is successful and we go ahead with an actual procurement contract, the Foreign Relations Committee would have a very definite place in it, because at that time it would come under the Foreign Military Sales Act. But at the present time we are actually talking about something which comes under research and development.

I think it was unfortunate that state-

ments were made to the effect that it was to be given to South Vietnam. The impression was left that only South Vietnam would get the aircraft. The truth of the matter is that we want to get into the foreign market and see if we cannot compete with the Russians in the field of air superiority.

I might say, in closing, inasmuch as we do not have today in our inventory a strictly termed interceptor aircraft, this might provide us with something that our Air Force is in very bad need of at this time and that we are not producing.

That is my understanding of the whole matter.

Mr. FULBRIGHT. Mr. President, may I say, in reply, that last year this was all justified on the basis of Vietnamization. We did not need the plane for our own defense. If we needed it, it would be funded in the regular defense appropriation, and the question would never have arisen. But this is a peculiar way of changing the justification. It was for Vietnamization; nothing was said in the authorization about selling it around the world. If that is the purpose of developing it, the Government has no business developing it. Let McDonnell-Douglas, or whoever it is, go ahead and pay for the development costs. This is a strange mixture of socialism and private enterprise. We have no business developing something for McDonnell-Douglas—using it as a symbol for the whole industry; it would be any one of them—when they could make money out of selling it. Other countries, I assume, do this on a private enterprise basis.

This change in the justification for the project is virtually the same as what happened with ABM. One never can come to grips with the arguments for it. Every time one argument is made, we come up against another justification. The justification in this case was said to be giving it to South Vietnam to aid in the Vietnamization program. That was the reason for this authority. Now there is another $30 million, and that totals $58 million, and they want to give it to anybody, anywhere, as they see fit.

This is an invasion of the jurisdiction of the Foreign Relations Committee. It goes against all the practices and rules of the Senate. I do not think it ought to be in this bill.

In reply to the Senator from Arizona, I know very well that if this item goes through and later another followup proposal comes up, we will certainly be met with the argument, "Well, look, the precedent has already been made. This project is already in Defense. What are you talking about? You lost your jurisdiction last year."

We are met with that kind of argument in treaties. Once we lose jurisdiction, there is little chance of regaining it.

For that reason, I am not about to be a party to this loose interpretation of our rules and jurisdiction.

This action is based upon the fact that the Foreign Relations Committee has not been sympathetic to giving away all the money of this country. I am not going to support such a policy. Just as soon as Congress begins to be more prudent and careful with military and—I think it should have been long ago—there is an attempt to make an end run around us. The same principle was involved in the Jackson amendment. I made the same points then. My amendment was voted down. I do not think it was understood, but it was defeated by a number of votes. I did not have the votes to do anything about it. But it is still a bad practice.

Mr. GOLDWATER. Mr. President, will the Senator from Mississippi yield for a clarification?

Mr. STENNIS. I yield.

Mr. GOLDWATER. Mr. President, I might say that these companies have proceeded under their own funds. I cannot name all of them. McDonnell-Douglas had a version of the F–4. Lockheed has a later version of the F–104. The particular participant is Northrup, with a new version of the F–5. So they are ready to go. Why the Air Force has not made the contract, I cannot understand. I have asked the officials for the last 2 or 3 months why they did not make it when it was manifest that it would be made the next week, either in June or early July. I have not received a satisfactory answer as to why they have not proceeded with the contract, but the contract is awardable right now, and the money the Senator is concerned about would be spent by the Air Force when the firm that is to build the airplane is decided on. The company would build this aircraft, and, I would assume from discussions I have had, although they said it could definitely become a part of our inventory, the intention is to give it or to sell it. At that point I think the committee of the Senator from Arkansas would have definite jurisdiction. But right now the money is for preproduction costs necessary to build the airplane.

Mr. FULBRIGHT. Does the Senator from Mississippi agree with what the Senator from Arizona said?

Mr. STENNIS. Had the Senator from Arizona finished?

Mr. GOLDWATER. I have finished.

Mr. FULBRIGHT. Does the Senator from Mississippi agree with the Senator from Arizona?

Mr. STENNIS. Mr. President, I do not yield now. Let me make a statement here.

In the first place, Mr. President, this bill does not authorize any planes to go to any country. There is not a thing like that in the bill. This is just money to produce a new plane, the prospective use of which can be for South Vietnam, or any of those countries in Southeast Asia, or any other country.

There is no money in the bill to pay for a plane that is going to South Vietnam or anywhere in Southeast Asia—this type of plane, I mean—or any other country. This is just money to build a new plane. And it cannot be built this fiscal year. At very best, I am advised, it would take 18 to 24 months before we could produce a plane of this type.

So this is just money for preproduction effort. It is the beginning of procurement.

Mr. MAGNUSON. It is just authorization; it is not money.

Mr. STENNIS. Yes; authorization. So hereafter, if some planes like this are going to be given to any Southeast Asian country, it will have to be approved right here on this floor, and if that is done——

Mr. FULBRIGHT. Is this——

Mr. STENNIS. May I finish?

Mr. FULBRIGHT. I thought the Senator had finished.

Mr. STENNIS. I am just stating facts. If there are any hereafter authorized for South Vietnam, as I say, it would have to be done here on this floor, presumably in a bill like this for some future fiscal year.

Then, if there are to be any planes authorized for Pakistan, it would have to be done on this floor, too; and I assume the Senator from Arkansas would claim that his committee had jurisdiction, and he would have a very strong point; perhaps it would not even be contested by the Committee on Armed Services.

Mr. FULBRIGHT. The Senator from Arizona, as I understood, said that is where he thought it would be.

Mr. STENNIS. I am just trying to bring this into focus here, that the Senator from Arkansas is not surrendering anything now. This is a continuation of what we passed last year, and this plane may be used by any country. There are no restrictions on it. When it comes to authorizing the sale of planes, it will have to be done by legislation from one committee or the other. We are not wanting to get into anything more right now, but I would not want to waive jurisdiction; it depends on the circumstances.

Mr. FULBRIGHT. The Senator wants to postpone that argument.

Mr. STENNIS. No; that is just the fact. That is as far as this authorization goes.

Mr. FULBRIGHT. That is true.

Mr. STENNIS. That will come up some year in the future.

Mr. FULBRIGHT. Having appropriated this money to spend, they will want to go ahead with the contract. Of course, the Senator knows there will be established a precedent which will probably operate in his favor.

Mr. STENNIS. I think not.

Mr. FULBRIGHT. As the Senator from Arizona suggested a moment ago, there are four or five companies interested in this plane, and he did not understand why they had not let the contract. Does not the Senator think perhaps they ought to wait until after the elections, and not alienate any of those companies?

Mr. GOLDWATER. Oh, no. I do not think that enters into it at all.

Mr. FULBRIGHT. That does not enter into it?

Mr. GOLDWATER. No; I do not think any contract for that amount of money is going to get political. I think if we were talking about another C–5 or something like that, perhaps.

I might say we do not make any of these planes in my State of Arizona, and none of them are made in the State of Arkansas, nor in the State of Mississippi.

The terminology used to describe this fighter, I think, is the disturbing point. It is called the International Fighter.

Mr. FULBRIGHT. That is correct, the International Fighter.

Mr. GOLDWATER. It was intended for that purpose, to build a plane in this country we could supply to NATO countries. In fact, the NATO countries were among those who asked for such a project to be initiated in this country, because about the only other place they can go today for this type of aircraft is the Soviet Union.

Mr. FULBRIGHT. Does not Sweden make a very good interceptor?

Mr. GOLDWATER. Sweden has made a little Saab which was a good interceptor, but the NATO countries did not buy it. The French have made several good tactical fighters, but none that can climb fast enough or high enough, or carry enough cannon to gain air superiority.

This is what we are talking about. We do not even have this type aircraft in our inventory today. We have been fortunate in Vietnam in that the enemy has had an extremely limited number of Soviet-made Mig's; otherwise we would have been in real trouble over there.

But I think the term "International Fighter" is what has gotten us into this squabble.

Mr. FULBRIGHT. Representative RIVERS was reputed in the press last year to have originated this idea and proposal.

But I want to go on to one further item.

On this matter of the ships, the Senator made the statement, "The House gave up a nuclear aircraft carrier," and then he substituted—I think it was—$435 million worth of ships that the Department of Defense had not asked for; is this correct?

Mr. STENNIS. That is correct. That is not all the story, though.

Mr. FULBRIGHT. Was that just to soften the blow to the House of Representatives because they gave up a nuclear aircraft carrier, that the conferees gave them these other ships?

Mr. STENNIS. Mr. President, I do not think it is necessary to answer that kind of question. But I say to the Senator from Arkansas that if there should be someone here who would give it such a sectional interpretation. Our position was announced earlier this year on the carrier. I liked the carrier idea, myself, but there had not been a firm enough request from the executive branch.

But these ships are altogether in a different category. These are one of the modern, fast submarines that are coming up next year in the budget request, and a destroyer tender, and also a submarine tender and two small oceanographic ships. There are also some smaller service and landing craft for a very small amount.

They were agreed to as a part of the conference. It was before us in the House bill, and was agreed to as a part of composite matters before us.

I do not know whether funds will be appropriated or not. But the Department said if they got the money, they would go on with the building of the ships. The Secretary of Defense has indicated that funds for these ships will be obligated if made available by Congress.

So it leaves no doubt about the need for them, or about their being a part of the Department of Defense program. I did not agree to this, myself, until I had checked it out fully with the Navy and with the Department of Defense.

So these are firm requirements, and we recommend their approval.

Mr. FULBRIGHT. While sitting on the appropriations conference with the House of Representatives on State and Justice, my senior colleague from Arkansas (Mr. MCCLELLAN), the chairman of that subcommittee, sat there all day trying to persuade the House conferees to accept a small item, in terms of dollars—which incidentally, I think, affects the Senator's State of Mississippi, and it certainly affects Arkansas—for regional development funds.

What really confounded me was that Senator MCCLELLAN fought all day to get the House conferees to agree to provide $6 million more for this program, which is basic to the development of States like those of the Senator from Mississippi and the Senator from Arkansas. He wanted them to recede and accept the full $16 million voted by the Senate.

No, they were hard-nosed; they were so concerned about the solvency of this country that they would not think of providing any more money for that purpose, and they fought and fought.

Senator MCCLELLAN is a very stubborn man when it comes to defending Arkansas' interests, as Senators know. He was committed, as I was also, to getting the full $16 million. We could only get $10 million. But what disturbs me is the difference in attitude on something that goes for the economic development of the underdeveloped areas of this country, where they are so careful and so parsimonious; but yet here the conferees came up with an item of $435 million for ships that were not in the budget. I congratulate the Senator on the nuclear carrier; the committee was absolutely correct on that. They are utterly obsolete and useless.

But why in the world is not the committee concerned about saving a little money in this area? Here is $435 million, in contrast to $16 million which went to the economic development of this country. What shocks me and distresses me is that whenever it is associated with anything military, we can anticipate what will happen. Here is a program they were not even wanting until next year. The Defense Department had not even asked for it, and $435 million is given for this kind of project. Yet, Members of the House Appropriations Committee in conference, fight like tigers against a little item for economic development.

This is what bothers me. It is not just this specific thing. It is an attitude on the part of both Houses that whenever it is for the military, the sky is the limit. If the Defense Department says, "We can use it, if you insist on giving it to us," it is given to them. That is what happened here. They had not asked for it.

Mr. President, I am about at the end of my rope when it comes to voting on bills of this kind. I do not think I can continue to vote for this bill, when it is so profligate and so out of consonance with the real needs of this country.

The Senator from Mississippi, personally, has done a good job. He is not responsible for this attitude of the Congress as a whole.

This is the general attitude that has prevailed in the Congress for a long time. I certainly mean no criticism directly of the chairman of the committee. He has already said that the other House does not agree. I know that he cannot get his way. My criticism goes to the general attitude about these matters that is prevalent in Congress, not to anything that the Senator from Mississippi has done. I have no reason to believe that he has not done the best he possibly can in his position. But I cannot vote for this bill.

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

Mr. STENNIS. I yield.

Mr. MANSFIELD. Mr. President, the conference report contains language with respect to section 204 which reads:

> None of the funds authorized to be appropriated to the Department of Defense by this or any other Act.

Although I believe the language is clear, I would like, for the purpose of legislative history, so that there will be no misunderstanding as to application of this language, to ask the chairman of the committee to state the intention of the conference committee with respect of the scope of the prohibition. In particular, I hope the chairman can state whether it acts only prospectively for funds to be appropriated by future acts of Congress and will have no effect on funds heretofore appropriated, but unexpended. I ask this question because the Senate-passed bill contained a prohibition that applied solely to funds to be appropriated by Congress this year, whereas the House bill contained no prohibition whatsoever.

Is my understanding correct, that this prohibition is prospective only, and in no way retroactive to upset the standards required last year in the funding of research?

Mr. STENNIS. Mr. President, I was already familiar with the substance of the Senator's inquiry and had looked into the matter myself. I think that unquestionably the language in the bill before the Senate acts prospectively only and will not affect funds for fiscal year 1970, the fiscal year just closed, funds that have not been expended.

The entire discussion in conference was about the prospective funds for fiscal 1971. It was agreed, of course, as was the law, that the Senator's amendment of last year was the law, and there was no discussion about repealing that as it applied to fiscal 1970 funds. But I think it is very clear that this language applies only to funds in this bill and not to those of the fiscal year that is closed. To have made it apply to fiscal year 1970, for example, we would have had to use the word "heretofore" or something talking about funds to be appropriated, or "heretofore appropriated." If those words had been used, it would have applied to fiscal 1970. Without their use, it applies to 1971.

Mr. MANSFIELD. Mr. President, I appreciate the answer given by the distinguished chairman of the committee, and I am most appreciative that Congress has regained a little of its sovereignty, a little of its equality, in its relationship with the executive branch.

I am greatly distressed by the change made in this conference to section 204, the prohibition on the sponsorship by the Defense Department of research in no way related to its military function or operation. I understand fully the difficulties that the Senate conferees experienced in attempting to uphold Senate positions at variance with the House during this joint conference between the two bodies. I understand fully the extraordinary price that the Senate conferees had to pay to maintain the modest restriction on the expansion of the Safeguard ABM.

However important and significant that restriction was strategically, the price seems inordinate. I say this not as a reflection upon Senate conferees, but rather the unreasonableness of the conferees of the other body. Congress as a coequal branch of Government will exercise its equality as a branch only if it is willing to accept the responsibility of hard decisions on questions of policy. The notion of deterring the difficulty of the hard decisions to the executive branch on matters of policy and procedure is a total abdication of congressional responsibility. The notion of representing a client—namely, an executive branch of the Government—by Members of Congress in their committees, is going to have to be abandoned and the burden of independent factfinding and judgmentmaking assumed, for Congress to make the type of contribution the Constitution envisioned.

I believe that what took place with respect to section 204, although a very small part of this bill, is very indicative of the general malaise to which I refer. The language of last year's act incorporated by the Senate into the bill which ultimately became a part of the law read as follows:

> None of the funds authorized to be appropriated by this Act may be used to carry out any research project or study unless such project or study has a direct and apparent relationship to a specific military function or operation.

That Senate amendment was eliminated this year by the House Armed Services Committee. No vote was ever taken by the full House of Representatives on that issue when the bill was considered in the House. When this military procurement authorization of 1971 was considered this year on the Senate floor, the Senate voted to back its Armed Services Committee's decision to retain last year's language. The Senate vote this year to reinstate this amendment was unanimous, 68 to 0.

In my opinion, the language of this amendment has stimulated a much-needed focus on establishing a coherent, national science policy. It has inhibited during the past year to some degree the heretofore unlimited jurisdiction of the Defense Department in the sponsorship of research, research that should more aptly be sponsored by a civilian agency of the Government. The version that came out of conference and contained in this bill is not likely to continue that realignment of research sponsorship. The final version contained in this bill reads as follows:

> None of the funds authorized to be appropriated to the Department of Defense by this or any other Act may be used to finance any research project or study unless such project or study has, in the opinion of the Secretary of Defense—

I emphasize there, "in the opinion of the Secretary of Defense"—

> a potential relationship to a military function or operation.

In my opinion, the modified language is worse than would be the elimination of the amendment totally. The amendment last year emerged from a congressional realization that for 25 years it had omitted the establishment of any guidelines with respect to the sponsorship of research by the Department of Defense. In the absence of Congress' fulfilling its responsibility of establishing policy, the Department of Defense made the determinations on its own, as well it should under those circumstances. Last year's amendment attempted to reestablish some congressional guidelines for the sponsorship of this research. The language contained in this conference report, in my opinion, regresses beyond the mere failure to impose guidelines. It affirmatively states that the Department of Defense will solely determine what research is beneficial to it. This language, in my opinion, is a legislative act of abdication to the Secretary of Defense by Congress of the Congress constitutional obligation to establish basic policy.

I am pleased, at least, by the fact that the language of this amendment will not affect funds heretofore appropriated, as the distinguished Chairman, the Senator from Mississippi has so indicated in response to a question, and its application, if any, will be under the terms laid down by future appropriations acts.

I thank the distinguished chairman for allowing me this opportunity to get something off my mind and to state that the fight is far from ended. As a matter of fact, it has begun again.

Mr. STENNIS. Mr. President, I appreciate the remarks of the Senator from Montana. I do not altogether agree with some of the points he has made. I do not think that this is an entire abdication of any legislative responsibility with reference to this question. I think it means something to require the Secretary of Defense, for instance, to make a special finding with reference to these matters, projects, and studies, and that it at least has a potential relationship to a military function.

We tried to get the word "relevance" kept in. That was in the original amendment of the Senator from Montana. We were not able to do that.

As I said, they were against it. We had plenty of discussion on it.

Mr. President, now I should like to yield to the distinguished Senator from New Hampshire (Mr. McINTYRE), who is mighty well versed in this subject, and has done a tremendous amount of work and made a significant contribution to the Senate and the conference.

Mr. McINTYRE. Mr. President, I thank the Senator from Mississippi. I should like to have the attention of the Senator from Montana——

Mr. MANSFIELD. Yes, indeed. I am delighted.

Mr. McINTYRE. Regarding sections 204, 205, and 207, the conferees had a great deal of difficulty with the distinguished conferees from the House. One of the questions that plagued us, to which we did not seem to have a good answer, was: How do we apply a relevancy test to basic research? Everyone agreed that a relevancy test was quite proper for applied research.

Mr. STENNIS. Mr. President, if the Senator will yield briefly to me, let me suggest that we wait until the distinguished Senator from Montana has a chance to listen to the Senator from New Hampshire.

Mr. McINTYRE. I think the Senator from Montana realizes how long and how hard the Subcommittee on Research and Development took a look at the problem of relevancy——

Mr. MANSFIELD. If I may interject there, not only do I realize it, but I deeply appreciate it.

Mr. McINTYRE. But we found great difficulty in the conference on the subject of basic research which, by its very nature, is a program that is started with no one quite knowing where or how it will come out.

I wonder whether the Senator from Montana would have any good answer to the question raised to us by the House conferees; namely, how can we apply a relevancy test to basic research?

Someone said it is like fishing in a pool. We throw in the line but we do not know whether we are going to catch a trout or what.

Mr. MANSFIELD. It should be brought out and made apparent in the RECORD that the distinguished Senator from New Hampshire, chairman of the subcommittee dealing in research and development, did make a very reasonable proposal in the conference which would have been quite acceptable, and which would have defined the areas and which would have applied a proper standard to each category.

Mr. STENNIS. Mr. President, the Senate is not in order. Could we have quiet so that we can hear what the Senator is saying?

The PRESIDING OFFICER. The Senate will please be in order.

Mr. MANSFIELD. Mr. President, I have no fault to find with any Senators who sat in on the committee, certainly not the chairman of the subcommittee who has personally developed an interest in this, and certainly not the chairman of the full committee, nor any Members on either side.

But, why was not the formula which the Senator offered in good faith, found acceptable?

In the face of a unanimous Senate recommendation and without any indication of a contrary view by the other body it appears a bit out of the ordinary to have such a reasonable proposal as was tendered by the distinguished Senator from New Hampshire rejected.

It is time to face up to one's responsibility, instead of kowtowing and giving in to the Department of Defense without question, as has been done year after year after year?

Is Congress going to abdicate its responsibilities?

Is the military going to tell us what to do?

Is the civilian segment of this Government going to stand up and assert its responsibility and its authority.

I think it is about time. I think it is long overdue. I thought we were taking steps in that direction, but every now and again something happens which makes us regress.

All I can say is, steps will continue to be taken because the Constitution of the United States will be observed. It is the Constitution of the United States that counts, not the whims of any department or the whims of any man—and I am not speaking of the Secretary of Defense or of the President of the United States or any Member of the House or Senate.

Mr. McINTYRE. I thank the distinguished Senator from Montana. We will continue the struggle because I think it is important.

Let me just make clear for the record the nature of the proposal we offered to the House. It was a proposal which tried to distinguish between applied and basic research, using a strict relevancy test on the former and a test of "clear potential relevancy" on the latter.

I think that test should have been acceptable to the House conferees.

Mr. MANSFIELD. May I say that I have nothing but a feeling of gratitude and thankfulness towards all the Senate conferees, including the chairman of the subcommittee and the chairman of the full committee, and those who sat on both sides of the aisle, because I am certain that the Senate, with what time limitations it had at its disposal, did everything that could be done to achieve the unanimous will of the Senate which passed the amendment offered by the distinguished Senator from New Hampshire and myself by a vote of 68 to 0. I want to emphasize that zero because it is more significant than the 68.

Mr. PROXMIRE. Mr. President, will the Senator from Mississippi yield on the same subject the Senator from Montana is talking on?

Mr. STENNIS. I am happy to yield to the Senator from Wisconsin, and to any other Senator, to ask any questions they have, and then to yield the floor. I hope that the Senator from New Hampshire can get the floor at that time. However, I previously promised to yield to the Senator from Illinois (Mr. PERCY) first.

Mr. PERCY. I am happy to yield to the Senator from Wisconsin. Please go right ahead.

Mr. PROXMIRE. I thank the Senator from Illinois and the Senator from Mississippi.

Mr. President, I should like to call attention to a related matter on this same subject that the Senator from Mississippi and the Senator from Montana are discussing, and that is, as I understand it, the Senator from New Hampshire, in referring to the question of relevancy, a point that was not agreed to by the House, they felt, on pure research, there was no way in which we could get the relevancy—

Mr. McINTYRE. What does the Senator mean by "pure research"? Research covers a wide ground.

Mr. PROXMIRE. One reason I am raising it is that the Mansfield amendment, plus the independent research and development amendments which the committee put in, were affected by this decision on the part of the conference to agree to the relevancy question and left it in the hands of the Secretary of Defense to act pretty much within his own discretion. My reference to pure research, or fundamental or basic research, was that it could be done better by the National Science Foundation. It is my understanding that is what the National Science Foundation was created for.

Let me get a little further into the independent research. This was, in my view, gutted by the action of the conference committee. The bill as it emerged from the Senate Armed Services Committee, and as it passed the Senate, established a ceiling of $625 million on independent research. That represented a reduction from 1969 when there was a $759 million expenditure on research and development. That was one distinct contribution to limit independent research and development.

In the second place, the Senate required the Defense Department to negotiate an advance agreement with independent contractors with respect to research and development.

Third was the attempt by the Senate to close loopholes whereby funds disallowed for one category could be used in another category.

Is it correct that the conference committee eliminated the ceiling?

Mr. McINTYRE. The Senator is correct.

Mr. PROXMIRE. Mr. President, is the Defense Department required to negotiate advanced agreements with contractors?

Mr. McINTYRE. The Defense Department is required under the conference report to negotiate advanced agreements. The second part makes certain that the technical evaluation is performed. That is not a cursory matter as we have seen in the past, but is an intelligent searching through the brochures so that we will know as best we can what the particular company is doing on ongoing research.

Mr. PROXMIRE. How about the capacity to shift funds from one category to another?

Mr. McINTYRE. Funds may be identified as I.R. & D. or B. & P., as appropriate but, under the language as agreed in conference, the category of OTE was eliminated.

Mr. PROXMIRE. It was my understanding that the ceiling that the Senate adopted of $625 million was left out and no ceiling was included by the conference committee.

Mr. McINTYRE. That is correct.

Mr. PROXMIRE. That was the ceiling we agreed on.

Mr. McINTYRE. That $625 million was overall. That is gone.

Mr. PROXMIRE. It is my understanding that the $625 million referred to 50 large contractors.

Mr. McINTYRE. The Senator is correct.

Mr. PROXMIRE. That is gone?

Mr. McINTYRE. That is gone, the overall ceiling.

Mr. PROXMIRE. But there is a ceiling with respect to certain contractors. Which contractors are they?

Mr. McINTYRE. There is a ceiling to establish those contractors who are subject to advance agreements. It applies to those contractors who receive more than $2 million from DOD for independent research and development or bid and proposal.

Mr. PROXMIRE. But there is no overall dollar ceiling. So, the Senate conferees gave in on the relevancy factor, leaving the judgment to the Secretary of Defense, and they eliminated the dollar ceiling on independent research and development.

Mr. McINTYRE. The Senator is correct.

Mr. PROXMIRE. Mr. President, once again I pay tribute, as I have so often, to the Senator from New Hampshire. I think that he did a marvelous job in the committee and on the floor on this matter. However, I am greatly disappointed and depressed that the conference committee did not stand hard and fast on this matter.

It seems to me that we never get a satisfactory explanation, and neither does the public as to this enormous amount of money that the Federal Government pays every year for something vaguely called independent research and development. It has never been defined. We find that contractors are spending this money on various things that have not the slightest reference to military expenditures. We find that we are spending some of it on strictly commercial activities.

What these people with the big corporations are doing is having the Federal Government provide the money to maintain a stable of engineers that they can use in any way they wish. It is very unfair when they are competing with other private firms that do not have the advantage of having a defense contract.

I am happy that the Senator from New Hampshire has assured us that he is not giving up and that he will attempt in the future to get a clear definition and have some definite understanding on the part of Congress as to what is done with the money of the taxpayers of this country.

Mr. McINTYRE. Mr. President, let me say to the Senator from Wisconsin, since the Senator brought this to the attention of the committee last year, I believe, that we feel even with the disappointment of having to abandon this and having it watered down, we are nevertheless on the right track.

The Department of Defense has admitted to some of their failings. They are hard at work trying to get the matter under control.

We got a feeling of mutuality from the

House Committee when it came to technical evaluation.

Our committee will try to keep a sharp eye on it. We are making some progress along the lines that my friend, the Senator from Wisconsin, had hoped for when he brought this matter to our attention.

Mr. PROXMIRE. Mr. President, I have some other questions to ask on the C–5A. However, I will defer them at this time because the Senator from Illinois was kind enough to defer to me.

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

Mr. STENNIS. I yield.

Mr. PERCY. Mr. President, I shall be very brief. I would like to comment on three particular sections of the conference report.

The first is with respect to the ABM. I congratulate the Senate conferees. Even though the conference report goes further on the Safeguard than I feel reasonable at this time, considering the possibility of an agreement in the SALT talks, I am pleased that the conferees have accepted the Senate provision on construction authority and the Senate language on limitation of deployment. I commend them for prevailing in this area.

Second, I would like to comment on the action of the conference report dealing with chemical and biological agents and their disposal. The conference report is very clear. The conference has accepted the amendment of the Senate that I had the pleasure of introducing. It had the general support of the chairman of the Armed Services Committee and the minority members of that committee as well.

I think we made a fine step forward here. Even though Secretary Laird has pledged that he would not dispose of chemical agents in the future without first detoxifying them, administrations do change. It is important to put this provision in the law.

I have a question with respect to section 508, on page 9 of the conference report. This section indicates that the Secretary of Defense is directed to initiate promptly new procedures with respect to domestic and foreign permanent change of station assignments for military personnel under which the length of permanent change of station assignments will, whenever practicable and consistent with national security, be made for longer periods of time.

The original amendment I introduced—which was agreed to by a vote of 69 to nothing—called for a 25 percent reduction or approximately a $140 million reduction in fiscal year 1972.

The question I would like to direct to the distinguished chairman is asked because I have had since passage of the amendment such an overwhelming response from servicemen. Some have said that if we had instituted this procedure earlier, they would not have had to resign from the service and could have maintained a stable situation with their families.

In view of the favorable reaction I have received, does the Senator feel that by leaving out the specific 25-percent target, we could actually achieve a target greater than this figure and that the Secretary of Defense might not look on this as a limitation at all, but might try to achieve even greater permanency of duty stations so that the end result might be to reduce the budget by even more than the $140 million the Senate amendment would have provided for?

Mr. STENNIS. Mr. President, the Senator's exact question now is whether I think the Secretary of Defense's efforts here, as set forth, might even exceed the 25 percent reduction.

Mr. PERCY. The Senator is correct.

Mr. STENNIS. That involves a brief discussion of what we had before us in conference. There was considerable sympathy with the Senator's amendment. There were two things that mitigated against its being adopted, though, as hard law.

The first was the changes due to the situation in South Vietnam and the winding down of the program and how long it would take.

Frankly, I do not want to think about sending troops, but as the Senator knows, there is the Mideast matter. There is smoke there. The main thing was how sound was the figure of 25 percent. Before writing it into law the House conferees would not yield at all on that point but they did make the agreement I have reflected here, and it was thought that hearings diligently pursued would provide a sound basis for something specific, if that proved to be necessary. How far the Secretary of Defense can go or will go I cannot say, but certainly we made a start on this matter and I think we will be able to continue it.

I thank the Senator again for his interest in this matter and the contribution he made here in presenting his amendment.

Mr. PERCY. Can the senior Senator from Illinois expect that the committee will follow this matter closely and ask the Secretary of Defense for detailed proposals on how to implement more economical change of duty station practices and insure that we will have sufficient followup. We are deeply interested. This amendment was agreed to in the Senate by a vote of 69 to nothing. I think the evidence was overwhelming, not only the evidence I presented, but there was the Fitzhugh report which corroborates this. It had made a study over many months. I have not found anyone in the military who disagreed with me. It seems a small change with respect to military assignments. This relates only to areas outside of Vietnam and combat areas.

Mr. STENNIS. I promise the Senator continued interest in this matter and to do what we can. We have already had a lot of large outstanding promises, though. I have found that a year is a mightly short time to redeem a great many promises, especially in the reform area. But I am interested in this matter and I think we will continue our efforts and hope for more results and certainly, we will continue our efforts.

The Senator mentioned the 69-to-0 vote. That is very true, but it was a 69-to-0 vote without any real tangible evidence on the effect of these matters and how it would operate and what problems would be created. So it is one of those things everyone is for until they get down to the nuts and bolts and see how it works. I hope the Secretary of Defense will push this matter and I think he will. We have a basis to make a contribution that is worthwhile.

Mr. PERCY. Last week I talked to the Secretary of Defense and he indicated one of the great problems is that 54 percent of the military budget goes for personnel costs and only 15 percent is available for strategic weapons system.

Mr. STENNIS. Yes.

Mr. PERCY. I am trying to find ways to reduce this tremendous cost where you cannot tangibly see an end result. If we can put the pressure on these items I think we can find better ways to spend our defense dollars.

Mr. STENNIS. I thank the Senator.

Mr. PROXMIRE. Mr. President, I wish to ask the Senator from Mississippi about the C–5A. But first I would like to ask an independent research and development whether he thinks it would be practical and possible to move toward making independent research and development a line item in the budget. One of the reasons we have not been able to get at it is that nobody knew there was this huge amount for independent research and development. We cannot get control over something that is this big—it is hundreds of millions of dollars—unless we have it designated in the budget specifically.

Mr. STENNIS. That concerns me, too. I shall read to the Senator the few words I said with respect to that point:

> I firmly believe this entire matter should be kept under continual and intensive oversight by the Congress and I wish to give notice at this time that I intend to pursue this course of action.

I am trying to get to the point that we can have effective legislative oversight. I think that is more important than the dollars we spend. But I must say at this stage I do not think we could write in a line item requirement until we know more about the situation.

Mr. PROXMIRE. Certainly one way to get effective oversight is to have line items. Then we have testimony on it as to whether it should be higher or lower. We can demand and secure specific justification.

Mr. STENNIS. We discussed that and I think the Senator from New Hampshire will discuss it.

Mr. PROXMIRE. With regard to the C–5A, the Senator is well aware of the debate we had in the Senate on the C–5A and the fact that there would have been an overrun, in the judgment of the Air Force, of $2 billion; if we had gone ahead with the originally intended 120 C–5A's. It has become a matter of scandalous proportions in the eyes of many persons. Even Assistant Secretary of Defense Packard referred to it as badly handled procurement.

The Senator from Pennsylvania (Mr. SCHWEIKER) and I offered an amendment which was rejected by the Senate, largely on the grounds the committee had written in very tough language, which provided the $200 million to be given Lockheed over and above what was

in the contract would not be obligated until the Secretary of Defense had presented a plan to the Senate committee and the House committee and they had had an opportunity to discuss and consider the plan and give their advice and take whatever position they wished to with respect to that plan.

I understand that particular requirement has been dropped and the Secretary of Defense now simply has to announce what he is going to do, and in 30 days put it into effect.

There is no consultation with the Armed Services Committee of the Senate or of the House. In view of the make up of these committees and the highly competent Congressmen and Senators who are members of them, I think it is a reasonable provision that the appropriate committees have a chance to look at these things. In light of the history of the C–5A it seems most unfortunate.

Mr. STENNIS. There are two amendments on the C–5A funds. One just tied the money down exclusively to use on the C–5A itself and no other projects in which the Government could be involved. That restriction was kept; every word of it.

Mr. PROXMIRE. On that provision, how do we have any control if the plan with respect to spending this money is not submitted to the committee?

Mr. STENNIS. It is the duty of the Department of Defense to follow that money in the way the law says it shall be expended. I will answer that in a moment.

The second amendment said the plan had to be submitted back to the Committees on Armed Services of the two Houses. It was discovered by the House conferees that a similar provision had been vetoed by the late President Eisenhower on the ground that it was unconstitutional. It was further found that the Senator from Mississippi was the author of that amendment that President Eisenhower had vetoed. I had overlooked that. In the meantime we had them reporting back to the committees. They can only report back to Congress and that is the way it is changed. In the executive function of the committee, it is rather clear it cannot be delegated congressional authority.

Mr. PROXMIRE. Is it the interpretation of the chairman of the Committee on Armed Services that when this report is made the committee will examine the plan of the Department of Defense with respect of the C–5A; that the committee, if it chooses to do so, will have hearings on it and consider in hearings whether or not the $200 million is going to be spent entirely on the C–5A and whether it is justified?

Mr. STENNIS. Certainly we will have responsibility in that field but not a veto power unless we initiate something. We cannot just disapprove it and kill it. We have that responsibility to go into it, but not as strong as it was in the original Senate amendment.

Mr. PROXMIRE. What bothers me is I have been trying hard to get the Department of Defense to comment on a proposal for a new contract proposed by the Pentagon with Lockheed that would convert this from the present contract they have into cost plus contract.

This, of course, would result in an enormous loss to the taxpayer and would be a very, very bad precedent. It would mean in the future that if any defense contractor got into difficulty, he would be bailed out. The Defense Department, if that contractor got into trouble, because he bought in with a low bid could convert the contract into a cost-plus proposition.

I wonder, in view of the record that the Air Force has with respect to the C–5A, if the Senator from Mississippi could assure the Senate that when this plan comes before the Congress and 30 days are allowed before action by the Air Force, public hearings could be held so that some confidence could be established that the contract is a fair and honest one and is not to be at the expense of the taxpayer.

Mr. STENNIS. Until a showing can be made on this matter, I do not think I should be promising public hearings. Certainly, the committee has some responsibility to look into this matter and use its judgment.

Two things the Senator should remember: first, we have Mr. Packard in on this matter; and, second, the Defense Department and Lockheed know they are going to come back here next year for more money right along this line. I think that is a very practical part of it. I am expecting a very reasonable plan of some kind that will certainly protect the $200 million.

Mr. PROXMIRE. At any rate, the conference report provides that the $200 million will be provided to the Lockheed Corp. if the Defense Department thinks it should be; and there is no veto power on our part. The only action we will be able to take is with respect to the $600 million necessary to complete the C–5A program, and we will have an opportunity to act in the future on that portion of the C–5A funds.

Mr. STENNIS. Yes; Congress has that assurance as a minimum. We are not running out on anything, but I cannot promise now what the committee will do except to try to use our judgment.

Mr. PROXMIRE. Let me finally urge on the distinguished chairman that when this plan comes to the Congress, in view of the record, in view of what has happened on the C–5A, in view of its fantastic cost, in view of the fact that it has become a cause celebre throughout the country, the chairman give consideration to holding public hearings on the proposal made by the Air Force.

Mr. STENNIS. I thank the Senator.

Mr. President, I wonder if the Senator from New Hampshire is ready to proceed? I yield the floor.

Mr. McINTYRE. Mr. President, I would like to comment on the actions of the House and Senate conferees as they pertain to the research, development, test, and evaluation portion of the fiscal year 1971 military procurement authorization bill. As you know, I was privileged to act as chairman of the Armed Services Committee's Ad Hoc Subcommittee on Research and Development, which conducted extensive and exhaustive reviews of this portion of the defense budget. Let me summarize the actions taken by the conferees in this area.

The Department of Defense requested $7,401,600,000 for R.D.T. & E. The House reduced this request by $136 million. The Senate reduced it by $464 million. In conference, a reduction of $300 million, halfway between the House and Senate reductions, was finally agreed on, resulting in an authorization of $7,101,600,000. At the insistence of the Senate, each of the reductions made was in the form of specified dollar cuts in individual programs, not in the form of the discretionary overall cuts favored by the House.

Measured in terms of the total dollars involved, the Senate got an even bargain.

When this bill was first reported to the floor over 2 months ago, I attempted to highlight the major actions taken by the committee in the research and development area. I cited eight budgetary cuts and three legislative provisions as worthy of individual treatment.

A number of these actions were indeed preserved in conference:

First. We eliminated the $15.7 million requested by the Army and Air Force for Project Mallard, thus terminating this terribly expensive and overly ambitious international communications program.

Second. We effected a $20 million reduction in the budget of the Advanced Ballistic Missile Defense Agency, thus insuring that our research on programs at the frontiers of ABM technology will be concentrated on high-priority projects, with special emphasis on hardsite development.

Third. We brought back our full reduction in the foreign area research programs of the Department of Defense, thus completing the 2-year restructuring of this portion of the defense budget in which we have been engaged. Now that Department of Defense activities in this area have been rationalized, future efforts will have to be directed at enhancing the role of the Department of State instead.

Fourth. And we also won conference approval of the dollar reductions and new curbs which we had placed on the Defense Department's chemical and biological warfare programs.

In addition to these Senate actions which were preserved, some other actions were compromised, and in such a way that the basic thrust of the Senate position was not completely lost.

First. While our reduction of $27 million in the Air Force's Minuteman rebasing program was completely restored, the restoration was made with the clear understanding that the money would not be used for the hard-rock silo program, our opposition to which had been the primary grounds for our cut.

Second. While our reduction of $15 million in the Army SAM–D missile development budget was reduced to only $6.2 million, this reduction in itself will serve to make clear the Senate's continuing concern both over the costs and also the ultimate need for this particular program. It will serve as a prelude to a further in-depth study of the program next year before engineering development is approved.

Third. And while our reduction of $33.6 million in the Air Force's SCAD, or Subsonic Cruise Armed Decoy, development was reduced to $23.6 million, our only purpose here had been to take away from the Air Force a substantial number of dollars which it was clear to us all along they would not be able to use during fiscal 1971.

But on the four most important issues facing the conference in the R. & D. area, decisions were reached which undercut the original Senate position. Let me emphasize that I in no way agree with the decisions reached by the conference in these matters, and that I argued very strongly and at length for the original Senate position.

First. The Cheyenne helicopter—the agreement to restore funding for the Cheyenne opens Pandora's Box. What is at stake here is far more than the $17.6 million requested by the Army for the program this year. Far more important are the $115 million of overall R. & D. funds still to be sunk in this program, the bail-out of the aircraft which Secretary Packard now intends as a result of Lockheed's failure to develop it under the present contractual terms, and the possible ultimate expenditure of over $1.5 billion for procurement of an aircraft we simply do not need. This is a helicopter whose cost will be $4.5 million each, whose survivability in the theater of operations for which it is programed is questionable, and whose availability will add little to our defense capability which would not be achieved by complementing our fixed-wing close support aircraft with Cobras configured with TOW missiles. I fully intend to continue my opposition to this system in the days ahead.

Second. The B–1 bomber—the restoration of $25 million of the $50 million cut by the Senate from the Air Force's B–1 request also bodes ill for the future. The purpose of the Senate reduction was to cause a slowdown in the plane's development, a slowdown which would have in no way jeopardized the plane's presently planned IOC date, but which would have insured a careful review of the aircraft's specifications before full-scale engineering development was initiated. Such a slowdown and review were justified, I believe, because the B–1, as presently configured, simply can not be built for the $29.0 million estimate per copy which the Air Force presented to us during briefings earlier this year. It was my hope that changes in the plane's specifications would result from the intended review and that these changes, while not affecting the B–1's ability to perform its mission, would significantly reduce its costs. Special attention needed to be directed, in my opinion, to the possibilities of reducing the aircraft's supersonic speed capability, increasing its stand-off missile launching capability, and decreasing its presently planned payload capacity.

There was another aspect, also, to the concern I felt over the B–1's long-range costs—the magnitude of the tanker costs likely to be associated ultimately with the B–1 program. My concern in this regard had been awakened by the request of the Air Force, in its initial budget presentation, for $500,000 to pursue further studies on its new tanker needs. This concern was by no means put to rest by the Air Force contention, at the time of floor debate on this bill, that the KC–135's service life would last until the late 1980's and that my fears about the need for a new tanker were the product of a misunderstanding.

Recent events have only served to underscore the validity of my earlier concerns.

As far as B–1 unit costs are concerned, the Armed Services Committee has just received the latest selected acquisition report—SAR—on the aircraft, dated September 14, 1970. In that report, issued only 3 months after the award of an engineering development contract on the aircraft to North American Rockwell, the Air Force estimate of total program cost has increased from $9.3 billion to $10.1 billion, with unit production cost estimates rising from $29.2 million to $30.8 million. If this is the product of 3 months work, what is going to occur over the remainder of the year, and during the next several years remaining before a production decision is required? I deeply fear that this is not the end, that these are only points on a steadily rising curve.

Light has been shed recently on the tanker problem also. The Armed Services Committee, in view of the Air Force contention that a misunderstanding existed on the tanker problem, eliminated the new tanker study funds originally requested. In its reclaim to the conferees, the Department of Defense asked for a restoration of these funds, claiming that studies of new tanker possibilities were essential after all.

The conferees restored these funds for tanker studies. I hope that they will provide a more accurate picture of our tanker needs when the next budget cycle begins. I hope, too, that the Air Force will not regard the restoration of $25 million of the Senate's $50 million B–1 cut as an invitation to proceed full steam ahead on the aircraft's engineering development. I hope that its attention will be focused instead on the $25 million cut which was sustained and that this cut will lead to a careful program review while changes in the aircraft's specifications can still quite easily be made.

The B–1 may well turn out to be an essential strategic system. We must certainly proceed now with its orderly development. But we must also do all we can to assure its availability at a cost within our means.

Third. The conferees also made several changes in the language contained in the Senate bill pertaining to Department of Defense funding of its contractors' independent technical efforts program. The most significant change made was an elimination of the $625 million overall ceiling contained in the Senate bill.

Whether the elimination of this ceiling bodes well or ill, only time will determine. I have no doubt that the ceiling, had it been retained, would have saddled the Defense Department with a significant new administrative burden. I have no doubt either, however, that the ceiling could have been satisfactorily administered and that some action is required to curtail the runaway growth in overall program costs which has occurred over the last 5 years.

Elimination of the ceiling will give the Defense Department another opportunity to set its own house in order. The committee has been told that the services' estimates of total program costs for calendar year 1970 are $656 million. The committee will watch carefully to determine whether this goal is met when 1970 figures are reported to it next March. The provision passed by the conference is such that a ceiling could be incorporated in it next year should such action then appear warranted.

In determining whether further legislation is warranted in this area next year, the committee will watch also the progress made by the Department of Defense in putting into operation the plan it proposed during its testimony to Congress this year. Nothing in the conference-approved legislation is inconsistent with this plan.

Fourth. Finally, the conferees made major changes in sections 204, 205, and 207 of the Senate bill, all of which were designed to influence our national science policy.

The relevancy test contained in section 204 was greatly watered down. While some change in the section's language might well have been warranted in light of the misunderstandings it had occasioned over the past year, the change actually made can be construed as an abdication of serious congressional interest in this particular matter.

Perhaps more important is the elimination of the Interagency Council on Domestic Applications of Defense Research, provided for in section 205 of the Senate bill. This Council could have made a major contribution to converting the resources of defense industry, many of them languishing amidst the present budget cutback, to the solution of unmet domestic needs.

And also very disappointing is the modification of section 207, the NSF research amendment, in such a manner that the call for an increased NSF role is reduced from a clear congressional mandate to the executive branch to a muted statement of an incontestable basic principle.

Basic scientific research is essential to the long-range security and prosperity of our country. Continual concern with the course of our national science policy will be required of all Members of Congress in the days ahead.

Mr. President, I have dwelled at length on these last four issues, on which the Senate view did not prevail, because I regard them as issues which cannot be allowed to fade into oblivion at this time. We will hear more about each of them, I am sure, during the course of next year's budget cycle.

The R. & D. subcommittee has focused on these issues, Mr. President, not solely—or even primarily—out of a desire to effect large dollar reductions in our overall defense spending. If this were the prime objective, it could be achieved far more readily and with far less work simply by calling for a broad spending

slash, its implementation to be discretionary with the Defense Department.

But while our defense spending must be reduced, it must be reduced wisely, in a manner which will assure us an adequate national defense. And the secret of such a defense—to a very large degree—depends less on the amount of money we spend than how we choose to spend it. If we choose wisely, I think we can make further reductions in our present defense budget which will not jeopardize one whit our vital national interests. But if we chose poorly, we could actually endanger our security while increasing defense spending.

I fear that too much attention has been focused in recent years on the size of our defense budget and too little on the composition of it. To an extent, this is the natural aftermath of our frustration with the Vietnam war and our newfound tendency to question and even distrust the military.

But understandable as this tendency may be, it is also dangerous. We still live in a hostile world environment, as recent Soviet activities in the Middle East and Cuba demonstrate only too well. It would be wishful thinking of the worst sort to assume that we do not need a strong defense posture in order to meet this threat.

A fully adequate defense posture at the minimum reasonable cost—this has been and will be the goal to which the R. & D. subcommittee is devoted. We will continue to probe strongly at defense programs of questionable merit, knowing that hard decisions are necessary and that when their real cost implications are recognized, we cannot hope to support all the programs now in the R. & D. pipeline. But we will not hesitate either to defend those pipeline programs which on their completion we will badly need.

In conclusion, Mr. President, I would like to make clear that the disappointments I have just expressed are in no way a reflection on the leadership provided in conference by the distinguished chairman of our committee (Mr. STENNIS). The Senator from Mississippi had an arduous and difficult task which, as always, he performed quite admirably. He argued long and hard for the Senate position on each of the important issues which I have just discussed. He could not reasonably hope, any more than I could, to prevail on all of the issues on which the Senate had stated its case. And when the pressures of time loom large, the advantage always lies on the side of those who seek a preservation of the status quo. I am sure that my chairman remains, as I am, dedicated to the task of an even better effort in the year ahead.

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

Mr. McINTYRE. I yield.

Mr. MANSFIELD. Mr. President, I want to commend the distinguished Senator from New Hampshire for the outstanding work he has done in the subcommittee having to do with research and development. I know how meticulous, how careful, how conscientious, how patriotic he has been, and I just want to state for the RECORD how much I admire his integrity and his dedication.

I also want to thank the distinguished chairman of the committee, who has worked long and hard, who also has been very meticulous in his application, who has established new procedures through the setting up of subcommittees to consider certain important areas specifically and in detail.

Under the chairmanship of the distinguished Senator from Mississippi since he has assumed that responsibility, we have seen decided cuts in the budget proposals made by the administration and more time spent in hearing witnesses and carrying on surveys and making inquiries.

As far as I am concerned, I am going to vote for the conference report. Naturally, I am disappointed in what happened on the research and development amendment. I blame no one for it. The effort has not ended and I still expect that we will be more successful and bring about an alinement not only in what is necessary for military and scientific development—and a lot of it is—but also in that which can be allocated to the National Science Foundation and other civilian agencies engaged in basic research, in that way carrying out the basic purposes and intent of Congress, as I am sure all my colleagues in this Chamber will agree.

Again, my sincere thanks to the distinguished Senator from New Hampshire and also the distinguished Senator from Mississippi, chairman of the committee, as well as all members of the committee, who I think have worked so diligently on this matter.

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

Mr. STENNIS. Mr. President, the Senator from New Hampshire has the floor; has he not?

The PRESIDING OFFICER. The Senator relinquished the floor.

Mr. PROXMIRE. Mr. President, just one question.

Mr. STENNIS. Mr. President, I yield to the Senator from Wisconsin.

Mr. PROXMIRE. This will take only a minute or two.

Mr. President, I have discussed the possibility of providing for a line item authorization for independent research and development. I realize the difficulty, but I am very hopeful that the ingenuity of the Senator from Mississippi and his committee will find a way to do that.

I ask the Senator if it would be possible to line-item the entire bill, weapon by weapon and item by item. I know that the chairman of the committee (Mr. STENNIS) inquired of the Defense Department about writing a bill in line-item fashion some time ago, but the Defense Department said that under their current accounting system, it would create a hardship to immediately impose a line-item bill upon them.

But I wonder if it would be possible to look forward, perhaps next year, to a line-item bill, with weapons systems specified by line-item, similar to every other authorization bill that we have before the Senate. It seems to me this would give us far greater opportunity for effective oversight, by enabling us to pick up the various weapons systems and discuss what we wanted to do with reference to specific amounts.

Mr. STENNIS. Mr. President in response to the Senator from Wisconsin—and I have to be brief, because others want the floor—he has certainly correctly stated the situation. I wish we could have a line item system also; but I am convinced that the line item system would not be as simplified as it is in the ordinary bill, or as the Senator from Wisconsin might think.

The preparation of the bill is tied to this accounting system, as the Secretary of Defense has now made it clear, and it would require some time to make a change. But as a substitute, we deliberately set out, in effect, to give every Senator a line item lead and line item information in the testimony and in the committee report; and I think we have made some considerable headway on that. This we expect to continue to do, and will follow it up even further next year.

Our report this year, just by quick reference, was 121 pages in length, and had many, many pages of these itemized, detailed dollar amounts spelled out, not only for this year but for last year's program.

Mr. PROXMIRE. The report was very helpful and highly competent, but I, once again, want to emphasize the fact that there is no substitute for a line-item bill. I think this would afford much better possibilities for effective oversight, and I do hope that the Senator will work with the Defense Department along that line. I realize they have an accounting problem, but this is giving them a notice of 6 or 8 months, and I would think they could adjust their acounting system in that length of time and present a line-item bill, so that Congress can do its proper job, which is to control the purse. This is, after all, by far the biggest and most important authorization bill we have.

Mr. STENNIS. Mr. President, I am hopeful something can be done along that line. It would be helpful to the Senate, without question.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, I am confident that the conference committee brought in an excellent report. It is not everything the Senate wanted, and not everything the House wanted. A conference report is generally a compromise.

In order to save time, I ask unanimous consent that a brief statement by me be printed in the RECORD at this point.

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

STATEMENT BY SENATOR STROM THURMOND

Mr. President, I rise in support of the Conference Report on H.R. 17123 which authorizes appropriations for Fiscal Year 1971 to cover the costs of military procurement and research and development.

The conferees selected Rep. L. Mendel Rivers, Chairman of the House Armed Services Committee, as chairman of the conference. The Senate conferees were headed by our distinguished chairman, Mr. Stennis of

Mississippi, and fought hard for the provisions of the bill as approved by the Senate.

Of course, Mr. President, it was not possible for all of the provisions of the Senate bill to be upheld, but in my opinion we have brought back to the Senate a good bill.

The bill, as agreed to in conference, totals $19.9 billion. This represents $676 million less than the bill as it was presented to the Congress by the Defense Department.

Mr. President, I urge the Senate to approve this legislation. In my opinion it represents the bare minimum to preserve the national security of this country. Frankly, the Congress is moving perilously close to crippling our military establishment. I just pray that we are doing enough in national defense, and that generations to come will not suffer as the result of any mistakes which may be made today in the area of military preparedness.

Mr. THURMOND. Mr. President, the managers on the part of the House made a rather complete statement setting out the controversial points, stating the position of the House and the position of the Senate, the final action taken, and the reasons for such final action. That statement appears in the conference report beginning on page 11 and ending on page 33. I ask unanimous consent that that portion of the report be printed in the RECORD at this point.

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

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

TITLE I—PROCUREMENT

Prior-year funds

Included in the Department of Defense fiscal year 1971 authorization request were items identified as "Prior Programs to be Justified" involving both procurement and R.D.T. & E. accounts for each of the several Services and Defense Agencies.

The bill as passed by the House of Representatives deleted the $334,800,000 of new authorization requested by the Departments for these various older programs. The Senate concurred in the House action in denying the Department's new request for new authorization in the amount of $334,800,000. However, in addition to concurring with the House action, the Senate was of the view that the Department of Defense had failed to identify or rejustify these various prior year programs for which these amounts had previously been made available but not yet obligated. Further, it was established that these unobligated funds would not be used until some time after Fiscal Year 1971.

In view of these circumstances, the Senate in addition to agreeing with the House reduction, also reduced the requested new obligational authority by the same amount in view of the availability of these prior year funds for use during fiscal year 1971.

Although the Department of Defense objected to this Senate action as representing a departure from the "full funding" concept to the "incremental funding" concept, it was unable to persuade the conferees that this action would adversely affect procurement or research and development of the Department. Therefore, the House accepted the Senate action.

The various reductions in affected programs had previously been outlined in the Senate Report, No. 91-1016, and result in a reduction in the authorizations provided for departmental programs throughout titles I and II of the bill as agreed to by the conferees.

AIRCRAFT

Navy and Marine Corps

For the Navy, the House authorized $79 million for the procurement of the S-3A ASW aircraft. The Senate deleted all procurement funds for the S-3A but provided a corresponding amount, $79 million, for research and development on the aircraft.

The conferees agreed to restore the $79 million to the procurement account. This matter is discussed further below in the review of the conferees' action on Navy research and development programs.

The Senate recedes.

Air Force

The House bill had provided a $30,000,000 authorization for appropriations for Fiscal Year 1971 for an international fighter aircraft. The Senate denied this request. However, after considerable discussion, the Senate receded from its position and the conferees restored the $30,000,000 authorization.

The Congress, in the fiscal year 1970 weapons authorization law (Public Law 91-121) authorized to be appropriated $28,000,000 to initiate procurement of a Free World fighter aircraft. The intention of the Congress was to make available a fighter aircraft to meet the needs of the Free World Forces in Southeast Asia, and to accelerate the withdrawal of United States Forces from South Vietnam and Thailand.

The statutory language authorizing the initiation of this procurement stipulated that the Air Force shall "prior to the obligation of any funds appropriated pursuant to this authorization, conduct a competition for the aircraft which shall be selected on the basis of the threat as evaluated and determined by the Secretary of Defense."

The conferees, in taking this action last year, emphasized their support of the request of the Deputy Secretary of Defense that "necessary adjustments" be made in "the military procurement authorization bill in order to permit the Department of Defense to proceed expeditiously with the development of a new Free World fighter aircraft by the Air Force."

The Secretary of Defense, at that time, also emphasized his conviction that this type of aircraft should be made available as quickly as possible to Free World Forces when he said:

"For some time the Department of Defense has been studying the issues incident to the development of an improved International Fighter Aircraft. Such an aircraft should (*a*) have adequate capabilities to handle the existing threat, (*b*) be as inexpensive as feasible, and (*c*) be simple to maintain and operate. When the military budget was presented to Congress earlier this year, the Department of Defense consideration of the issues involved had not proceeded sufficiently to justify making a request for resources to meet the objectives cited.

"Our continuing review over the past few months, however, has validated the objectives, and a draft concept for an International Fighter Aircraft has been completed. The concept highlights, inter alia, the utility our allies, particularly in the Asian theater, might find for a new fighter aircraft and alternative programs which might be undertaken to make such an aircraft available.

"In particular, we now believe it is desirable to consider an appropriate aircraft the South Vietnamese might use, as part of the Vietnamization process, defending against the potential North Vietnamese MIG threat."

In view of these circumstances, the Congress endorsed the action requested by the Department of Defense and provided the necessary authority for the initiation of this vital program in fiscal year 1970. However, despite the fact that the need for this type of aircraft has grown more acute, no final action has yet been taken by the Department of Defense to go forward with this procurement action.

The conferees neither appreciate nor understand the "foot dragging" that is evidently taking place in both the Department of Defense and the Air Force on this vital program.

It should not be necessary to point out that the Nixon Doctrine for providing independent nations with the equipment and weapons necessary to guarantee their independence, requires that we have available a simple and relatively inexpensive fighter aircraft. Such an air weapons system must be made available at the earliest practicable date if we are to safely withdraw United States Forces now operating and maintaining our own fighter aircraft in Southeast Asia. The availability of this type of aircraft is, in the view of the conferees a matter of the greatest urgency and should, in our national interest, be accomplished as expeditiously as possible.

The conferees, therefore, in authorizing an additional $30 million for this program, suggest and urge the Secretary of Defense to personally resolve whatever remaining problems may have heretofore prevented the Air Force from going forward with this procurement action so that these aircraft can be made available to our Free World allies as soon as humanly possible.

The conferees are unaware of any legal or procedural problem that would prevent the Secretary of Defense from reaching a final decision on this procurement action. Therefore, it is expected that such a decision will be forthcoming from the Secretary without further delay.

MISSILES

Army

The House bill in its authorization of funds for procurement of missiles for the Army provided $660.4 million for the SAFEGUARD antiballistic missile system. The House authorization included $25 million for the advance preparation of five sites for the Modified Phase II deployment. The Senate bill provided $650.4 million for procurement for SAFEGUARD and added language which prohibits the expenditure of funds for initiating deployment of an antiballistic missile system at any site other than Whiteman Air Force Base, Knobnoster, Mo., except that funds could be authorized for initiating advance preparation for an antiballistic missile system site at Francis E. Warren Air Force Base, Cheyenne, Wyo. The Senate provision specified that it was not to be construed as a limitation on further obligation or expenditure of funds in connection with the continued deployment of the ABM system at Grand Forks Air Force Base, N. Dak., or Malmstrom Air Force Base, Great Falls, Mont., the two sites where deployment was commenced under the authority of the fiscal 1970 authorization and will be continued under the authorization in the present bill. The Senate language in effect prohibits the advance preparation for four sites as authorized by the House bill and limits the deployment of the Safeguard system to the protection of strategic missile deterrent. The

Senate conferees were adamant in their position.

In accepting the Senate amendment, the House conferees want to make very clear and to emphasize their belief that adequate protection of the national command and control function is essential to our security, and the House conferees interpret the conference action as not prohibiting follow-on studies of present and future programs to assure the survivability of this vital element of our national defense.

Section 401 of the Senate bill included authorization for military construction in connection with the Safeguard system in the amount of $334 million, of which $8.8 million is for 400 units of family housing (200 at Malmstrom and 200 at Grand Forks), $322 million for Safeguard-related construction at the approved Safeguard sites and other installations, and $3.2 million for construction at Kwajalein. The House bill contained no such construction authorization. However the House has already approved identical dollar amounts for military construction in connection with Safeguard in its passage of the military construction authorization bill, H.R. 17604. Therefore, the House recedes.

The House bill authorized $90.3 million for procurement of the Improved Hawk missile. The Senate bill reduced the authorization for the Improved Hawk to $53.3 million, a reduction of $37 million. The conferees agreed to an authorization of $81.4 million, a restoration of $28.1 million of the proposed Senate reduction.

The Senate reduction would have deleted all of the funds for procurement of missiles during fiscal 1971, leaving only the funds for continued modification of ground-support equipment and separate engineering services.

Such action might well have resulted in a 6-month break in production, with added program costs. At the urging of the House conferees, therefore, the Senate agreed to the restoration of the $28.1 million, which is consistent with the Army's requirements under a revised procurement plan which calls for a stretchout of the initial production rate to reduce concurrency to the minimum.

In agreeing to the restoration of these funds, it is the intention of the conferees that the procurement for the fiscal 1971 buy not be consummated until the successful completion of a testing program to ensure the operational readiness of the missile subject to the approval of the Secretary of Defense.

In its request for missile funding the Army included an amount of $106 million for the Tow which is one of the Army's heavy antitank weapons. The Army has in its inventory another heavy antitank weapon (the Shillelagh missile) which, in range and lethality, is equal to or superior to the Tow and is presently in production at a price less than the Tow. Although the Shillelagh was developed to be fired from tanks, it can be adapted to a ground mode for the use of infantry troops or to a heliborne mode.

The House Committee felt that if this adaptation could be accomplished within a reasonable timeframe and at an acceptable cost, it would result in an eventual significant savings in present and future procurement of such a weapon. Therefore, the Committee approved an amount of $106 million, not specifically for the Tow, but for a *heavy antitank weapon*, provided the Army (1) conducted tests to determine the adaptability of the Shillelagh to the infantry and heliborne modes, and (2) if affirmative results were obtained, awarded a contract for the Army's total requirement for such missiles to the low bidder in a competition between the producers of the Tow and the producers of the Shillelagh.

Although the Army did not perform the aforesaid tests, they advised the Committee that they had conducted a special and intensive reevaluation of the Tow and Shillelagh systems for the infantry and helicopter roles. The results of this review established to the satisfaction of the Army that each of these weapons should be continued in their presently developed modes. Therefore, at the request of the Senate conferees, the House recedes from its provisional approval of the $106 million for a *heavy antitank weapon* and agrees to authorize that amount for Tow funding.

Navy and Marine Corps

The House bill authorized $52.7 million for the procurement of the Sparrow missile for the Navy. The Senate bill authorized $46 million, a reduction of $6.7 million.

The House recedes.

The House bill authorized $25.6 million for the procurement of the Improved Hawk missile for the Marine Corps. The Senate bill authorized $10.8 million, a reduction of $14.8 million. The missile is procured for the Marine Corps by the Army. In view of the recently revised procurement program under which the Army is proceeding, procurement of the Improved Hawk missiles for the Marine Corps could not be reasonably expected to commence until well into FY 1972. Therefore, since it appeared that money would not actually be required until 1972 for the Marine Corps the House conferees agreed to the Senate position.

The House recedes.

Air Force

The House bill eliminated all procurement funds for the Maverick missile and called for extending the development phase for another year to allow further development prior to procurement. The Senate restored $3.1 million of the House reduction. The $3.1 million will allow retaining present contract options and the production price advantages of the current contract while additional testing is performed.

The House recedes.

The House bill authorized $15 million in procurement funds for modification of the Falcon missile. The Senate bill had denied the $15 million. The conferees agreed to a restoration of $6 million.

Naval Vessels

The House included $152 million for the advance procurement of the third *Nimitz*-class nuclear-powered aircraft carrier (CVAN–70). The Senate bill deleted these funds because the President in submitting the budget indicated that funds would not be obligated until completion of a study in process to assess future requirements for attack carriers. The Conference Committee reaffirmed the findings of a Joint House-Senate Subcommittee on CVAN–70 that this new carrier is needed. However, because of the singular treatment of this carrier in the President's budget message by making a condition of the building of the carrier dependent upon the outcome of a study being undertaken by the National Security Council and because the Administration, despite many pleas, has failed to make a final decision on the carrier, the Conference decided not to include the advance procurement for the CVAN–70 in this year's authorization bill. This is without prejudice to any action in future years.

The House recedes.

The House added on to the Naval vessel construction request of the President an additional $435 million for new construction for the Navy. These additional funds will provide: one fast submarine (SSN–688 class), $166 million; long lead time procurement for an additional such submarine, $22.5 million; one submarine tender, $102 million; one destroyer tender, $103 milion; two oceanographic research ships, $7.5 million; and landing crafts, $10 million and service craft, $24 million. The Senate bill contained no such additions but approved a Naval construction program as requested by the President with the exception of the aforementioned CVAN–70 funds which were deleted by the Senate.

The additional ship construction items authorized by the House bill were designated by the Secretary of Defense as the first priority should additional funds be made available by the Congress for the Department of Defense.

The House conferees were able to convince the Senate conferees of the necessity for this additional ship construction program in view of the critical state of the Navy, and this additional $435 million was therefore retained in the bill.

The Senate recedes.

The House bill included language which would have required that $600 million of the funds authorized for Naval vessels would be authorized to be appropriated only for expenditure in Naval shipyards. The Senate bill contained no such provision. In view of the fact that the Department of Defense and the Navy strongly objected that the limitation was unworkable, the Conference Committee agreed to eliminate this provision.

The House recedes.

The House bill included a provision that no funds should be spent for shipbuilding until the National Security has made its report to the President with respect to the nuclear attack aircraft carrier CVAN–70. The Senate bill had no such provision. In view of the elimination of the funds for the advance procurement for the CVAN–70, there is no further necessity for this provision.

The House recedes.

The House bill included a provision that would require the construction of the new DD–963 class destroyer at the facilities of at least two different United States shipbuilders. The Senate bill had no such provision. The addition of this language was designed to make the Navy aware of the Congressional intent that the private shipbuilding industry be encouraged on the Atlantic Coast, the Gulf Coast and the Pacific Coast. The Senate conferees were adamant in their opposition to this provision.

The House recedes.

Tracked combat vehicles

The M60A1E2 tank is a modification of the M60A1. This modification consists primarily of a new turret and barrel which permits the firing of the Shillelagh missile and the 152mm caseless round. This is the same basic firepower to be incorporated in the Main Battle Tank presently being developed.

The Army has invested more than a quarter of a billion dollars in the M60A1E2 development and the program has been plagued with problems of stability and maintainability for the past five years. However, recent test results suggest that fixes for these problems have been found, and that this can be finally determined by the Engineering and Service Testing which the Army has scheduled for the near future.

The Senate deleted the $12.1 million which the Army requested this year to continue the testing of the M60A1E2. This action would have ended the program just when there is reason to believe that it may prove successful. The House conferees felt that such action would result in the loss of almost a quarter of a billion dollars plus five years of effort and might deny the Army an interim missile firing tank which it states it urgently needs pending the deployment of the new Main Battle Tank during the late seventies and early eighties. Therefore, at the request of the House conferees the Senate conferees receded from their position and the $12.1 million was restored. However, it was the decision of the conferees that there should be no further funding of the M60A1E2 unless the Engineering and Service Testing to be completed in 1971 establishes that the fixes proposed for this tank meet the needs of the Army.

The Army requested $67.6 million for fiscal 1971 for M60A1 procurement. The Senate reduced that amount by $10.9 million which represents the cost of 150 tank chasses which was expected to be recoverable from the M60A1E2 program which would have been terminated by the Senate action discussed above.

With the restoration of the M60A1E2 program by the conferees, the 150 tank chasses were no longer available for the M60A1 program. Therefore, at the request of the House conferees, the $10.9 million was restored.

The Senate recedes.

The House approved a Marine Corps request in the amount of $1.3 million for a training device to be used in connection with a new amphibious vehicle under development. Subsequently, the Marine Corps recommended deferral of this $1.3 million because development of the training device has not been completed. Therefore, the Senate deleted this amount and the House conferees agreed to such deletion for the above-stated reason.

Other weapons

The House bill contained a provision that none of the funds authorized shall be obligated for the procurement of M–16 rifles until the Secretary of the Army has certified to the Congress that at least three active production sources will continue to be available in the United States during fiscal year 1971. The Senate bill contained no such provision.

The Senate conferees agreed to the position of the House with the understanding that in the coming year, both Houses will give attention to developing permanent policy looking beyond fiscal year 1971 on the question of having an adequate industrial capacity for meeting procurement requirements of this kind, taking into account contingencies that might arise.

TITLE II—RESEARCH AND DEVELOPMENT

General

Both the Senate and House modified the Research and Development budget request submitted by the Department of Defense. The original request of the Department of Defense totaled $7,401,600,000. The conferees agreed upon $7,101,600,000, or a reduction of $300 million below the amount requested by the Department of Defense. The amount agreed upon is $164 million less than that previously approved by the House and is $164.1 million above the amount recommended by the Senate.

ARMY

For the Army, the conferees agreed upon a total of $1,635,600,000. This reflects a reduction of $100,300,000 below the departmental request and is $10 million less than was authorized by the Congress last year.

In its initial consideration, the House reduced the Army Research and Development authorization by $88 million, leaving flexibility with the Department of Defense to apply the reductions on the basis of military priorities.

The Senate, in its review, reduced the Army authorization by $126.7 million, specifying reductions to be taken in some sixteen projects. The specific program reductions are spelled out in the Senate Report (No. 91–1016). The conferees agreed to accept the Senate reductions on all of these projects except the Cheyenne helicopter and the SAM–D missile.

In the case of the Cheyenne, the Senate receded from its position and restored the full $17.6 million requested by the Department.

For the Sam-D, the Senate receded on $8.8 million of the $15 million in disagreement. The conferees authorized appropriations totaling $83.1 million for the Sam-D program.

Close Air Support—Roles and Missions

During the conference it was brought to the attention of the conferees that a roles and missions question has arisen concerning close air support for the Army. The allegation has been made that there is competition for this mission between the Harrier aircraft, the Cheyenne helicopter and the proposed AX aircraft. The House conferees want to make their position perfectly clear and state unequivocally that they see no competition among these aircraft. The House conferees agree with the decision of the Deputy Secretary of Defense that these weapon systems are complementary and not competitive.

Main Battle Tank (MBT–70)

While not an item in disagreement, the House conferees are concerned about the austere support proposed by the Army for the gas turbine engine development for the Main Battle Tank (MBT–70/XM803). The proposed engine program for this tank of the future supports a "derated" diesel engine. Diesel engines of the type being developed for this important weapon system are based on technologies of the 1950's, or early 1960's, rather than the technology of this decade.

The House conferees question the wisdom of relying on past technology for weapons systems of the future rather than capitalizing on the latest technology available and that which offers greater growth potential in the future. For this reason, the House conferees strongly urge the Army to proceed with the development of the gas turbine engine for the Main Battle Tank on a basis at least equal to that of the derated diesel engine development program.

NAVY AND MARINE CORPS

The conferees agreed on $2,156,300,000. This amount is $56 million below the Departmental request and is $41 million below the amount previously recommended by the House.

In its report, the Senate identified some thirteen programs for adjustment. In the case of the S–3A aircraft, $79 million submitted in the Procurement authorization request was transferred to Research and Development because the two aircraft which the funds would buy are required initially for development and test. The Senate expressed concern that ". . . concurrency of research and development and procurement is to be avoided, and that a more orderly progression is to be achieved to insure that technical problems have been minimized by the time production is started."

The conferees agreed to leave the $79 million in the Procurement authorization with the clear understanding that these two aircraft were to be treated as Research and Development test aircraft and the action is not to be interpreted as approval for release to production of the S–3A aircraft.

The conferees urge that the Secretary of Defense consider the use of the transfer authority to transfer $79 million for the S–3A from Procurement to the R.D.T. & E. appropriation consistent with the use of these funds.

Of the remaining 12 programs adjusted by the Senate, the conferees agreed to restore the following amounts to the programs indicated:

	Millions
Defense research sciences	+$2.3
Destroyer helicopter system	+5.0
F–14B/C	+5.2
Air launched/surface launched antiship missile (Harpoon)	+14.0
Point defense system development	+3.8
Advanced surface ship sonar development	+.7
Surface effect ships	+10.0

The funds restored for the F–14 aircraft program are to support the development of the advanced technology engine and are not to be used for the development of the avionics package for the F–14C aircraft.

AIR FORCE

For the Air Force, the conferees agreed on an authorization totaling $2,806,900,000. This reflects a reduction of $120,800,000 from the amount requested by the Department of Defense. The amount agreed upon by the conferees is $102.8 million below that previously authorized by the House.

The Senate, in its report, identified sixteen programs for reduction in authorization amounts. The conferees agreed to restore all or portions of the reductions on ten programs as follows:

	Millions
Innovations in education and training	+$0.2
Advanced fire control/missile technology	+2.8
Subsonic cruise armed decoy (SCAD)	+10.0
Advanced tanker	+.5
B–1	+25.0
F–111 squadrons	+6.4
Short range air-to-air missile	+5.0
Minuteman rebasing	+27.0
Armament/ordnance development	+7.0
Truck interdiction	+5.0

During the past year, there has been widespread criticism, discussion and debate concerning the schedule slippages and cost overruns of military hardware contracts. While some of the criticism has been justified, it is important for everyone to obtain a better understanding of some of the reasons why cost overruns sometimes occur and by reasons beyond the control of the parties immediately concerned.

The contract that best serves both the public and contractor interest is that one which is funded at a rate which produces the maximum return for each dollar spent. When a contract is funded at either a greater or lesser level than the optimum, waste inevitably results and that waste is accompanied by schedule slippage. That is the beginning of the cost overrun.

Thus, in the case of the B–1, the House supported a Defense Department recommended funding level of $100 million for fiscal year 1971. That sum was reduced to $50 million by the Senate. In spite of urging by the House conferees, the Senate conferees did not agree to the restoration of the full sum. Thus the seeds of cost overrun have now been sown in this weapons system and the House conferees, therefore, give fair warning of this unfortunate fact.

The $6.4 million for the F–111 had been deleted by the Senate because these funds had been identified for use on the AIM–7G missile, which was later determined not to be required in fiscal year 1971. The Senate agreed to restore these funds to support development of the F–111 Aircraft.

In the case of the Short Range Air-to-Air Missile, a total of $13 million was agreed upon by the conferees to be authorized. This amount will enable the Air Force to pursue three alternatives to meet their requirement resulting from the recent Air Force cancellation of the AIM–82 program.

The Senate Conferees agreed to the full restoration of $27 million for Minuteman rebasing with the understanding that the reoriented program would exclude efforts previously planned for hard rock development.

In the case of Armament/Ordnance Development, the Secretary of Defense advised that technical difficulty has precluded development of the Hard Structure Munition in Fiscal Year 1971 but that the funds would be applied to other munitions development. The Senate conferees agreed to restore these funds upon the redirection of this program.

DEFENSE AGENCIES

For Defense Agencies, the conferees agreed on an authorization totaling $452,800,000. This amount is $22.9 million less than that requested by the Department of Defense and is $7.9 million below the amount previously recommended by the House.

In its earlier report, the Senate identified several program areas for reduction. The conferees agreed to restore $7.8 million of these reductions to the Advanced Research Projects Agency (ARPA). This restoration of authorization would be applied to the Defense Research Sciences program in the amount of $4.8 million and to the Advanced Engineering Program in the amount of $3 million.

Independent Research and Development

The Senate adopted language in Section 203 which provided for the following:

(a) Restricted payments to contractors for independent research and development (IR&D), bidding and proposal (B&P) and other technical effort (OTE) work which is relevant to Defense functions and operations.

(b) Required negotiation of advance agreements with all contractors who received more than $2 million in IR&D, B&P, or OTE in their last preceding year.

(c) Required that negotiations of advance agreements be based on submitted plans and a technical evaluation of the IR&D portion of those agreements.

(d) In the event negotiations are held with any company required to enter into an advance agreement, but no agreement is reached, reimbursement would be made in an amount substantially less than the contractor otherwise would have been entitled to receive.

(e) The Department of Defense was required to report to Congress with regard to IR&D, B&P and OTE expenditures.

(f) Established a ceiling of $625 million on payments to be made pursuant to advance agreements negotiated under the act, and

(g) Repeal of Section 403 of the fiscal year 1970 act which limited payments for IR&D, B&P and OTE to 93 percent of the total cost contemplated by the Department.

The House version of the bill contained no comparable language.

Early this year a House Armed Services Subcommittee held hearings and issued a report on IR&D. The Subcommittee concluded that the control of defense expenditures for IR&D, B&P and OTE could be achieved through improved administration, coupled with adequate oversight, rather than through legislation. The recommendations of the Subcommittee were similar to the Senate language with the exception of the establishment of a ceiling and the section regarding relevancy.

The Senate conferees maintained that greater congressional oversight was necessary to assure adequate controls over governmental payments for IR&D, B&P and OTE to defense contractors. The House conferees acceded to the Senate where the language coincided with its subcommittee recommendations. However, in the opinion of the House conferees, specific ceilings on the total DOD reimbursement and the language with respect to relevancy were not acceptable.

Control through restrictive congressional ceilings

The provisions of the Senate language established a ceiling of $625 million for the DOD reimbursement of IR&D, B&P and OTE costs to approximately 50 major contractors and was applicable to payments under cost type contracts only. The House conferees considered this provision as a line item in the authorizing procedure. During its hearings, it was established that such a line item provision was administratively impractical. Moreover, upon examination of the computation of the Senate ceiling amount, in the view of House conferees, it was found that it was, at best, an arbitrary amount, and there were questions as to the relationship of the ceiling with costs incurred by the affected contractors and contracts. The Senate conferees conceded to the House position and the language related to the establishment of a ceiling was deleted.

Relevancy

The House conferees agreed with the basic aim of the Senate language which required that payments should be made only for IR&D, B&P and OTE that was related to department functions or operations. However, with respect to basic research conducted as IR&D it cannot always be directly related to a DOD operation or function. Basic research is that type of research which is directed toward increase of knowledge in science rather than an application to a specific product. The development of such fundamental achievements in science is vital to military research and national interests. The House conferees were of the opinion that the relevancy phrase in the Senate language would unduly inhibit the conduct of needed basic research. The conferees agreed to delete the reference to relevancy and substitute the words "in the opinion of the Secretary of Defense, a potential relationship to a military function or operation" to assure a broad interpretation of the relationship of basic research to military requirements.

Other Technical Effort (OTE)

The conferees agreed to eliminate legislative references to OTE because of the lack of specific definition of this category of cost. The Department in its testimony before the House Subcommittee on IR&D stated that OTE as a category of cost would no longer be used and that greater efforts would be made to correctly classify "OTE" costs as IR&D or B&P, or otherwise in the negotiation of agreements and contracts.

Relevancy of Research to DOD Activities

Section 204 of the Senate bill provided language identical to that contained in the fiscal year 1970 procurement act. It required that research would be conducted only on work having a direct and apparent relationship to a specific military function or operation.

The House version of the bill contained no comparable provision this year. After considering the findings in the House Subcommittee Report on R. & D., it was unanimously concluded that a comparable section should not be included because of the adverse impact of narrow interpretations of relevancy in the conduct of *basic* research. Accordingly, House conferees maintained that the criteria of "direct and apparent relationships" should not be used as a determining factor in the support of basic research efforts of contractors, universities, or non-profit institutions. However, the conferees agreed that applied research should have a demonstrable relevance to a military requirement.

The Senate agreed to delete the phrase "direct and apparent relationship" and substitute "in the opinion of the Secretary of Defense, a potential relationship" to offer greater assurance that *basic* research activities may be conducted to provide the broadest body of scientific knowledge to support future military needs.

Interagency Council on Domestic Applications of Defense Research

The Senate amendment contained a provision in Section 205 which, if enacted, would have established an interagency advisory council to be known as the Interagency Advisory Council on Domestic Applications of Defense Research. The Council was to be composed of eight members of various governmental departments, which would have the objective to encourage and support cooperative Department of Defense-domestic research projects.

The House bill contained no comparable provision.

The House conferees pointed out that there appears to be no need for a statutory council of this type in view of the existence of the research coordinating mechanisms of the existing Federal Council for Science and Technology and, in particular, the Department of Defense-domestic agency study group formed under the Federal Council to accomplish this particular objective. The House conferees also pointed out that no hearings had been conducted by the House Committee on Armed Services on this particular provision and therefore were unwilling to accept the Senate language without a more persuasive justification of a requirement for the creation of this new statutory body.

The Senate therefore reluctantly receded from its position and agreed to delete Section 205.

Permissive Authority for Research on Single Reentry Systems for Minuteman III and Poseidon

Section 206 of the Senate bill provided permissive authority for the Secretary of Defense to initiate a program of research on a single reentry vehicle system for Minuteman III and Poseidon. The section provided no additional funds but stipulated the funds would be transferred from other projects. The House bill contained no such provision.

The Senate recedes.

Increase in the Level of Domestic Research Effort

The Senate amendment included a provision as section 207 expressing the sense of Congress that an increase in government support of basic scientific research is necessary to preserve and strengthen the Nation's technology base, which in turn is essential both to the protection of the national security and the solution of unmet domestic requirements.

The resolution further provided that a larger share of the increased support that should be forthcoming should be provided through the National Science Foundation.

The language of the Senate provision also stipulated that the National Science Foundation should be provided with a 20% increase in the amount of research funds made available to it for the fiscal year beginning July 1, 1971.

The House bill contained no comparable provision.

The House conferees were generally sympathetic to the objectives reflected in the sense of Congress provision on domestic research effort. However, the House conferees pointed out that this matter had not been the subject of House Committee hearings, and therefore was not a matter on which the House members were prepared to act. The House conferees, however, were sympathetic to the objectives of this provision, and therefore agreed to accept the Senate language with an amendment reflecting the House position.

Reports To Be Submitted on Request to Senate and House Committees

Section 208 of the Senate bill contained language requiring agencies of the Federal Government to submit to the House and Senate Committees on Armed Services and the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations, a copy of any report, study, or investigation requested by such committee if the report, study, or investigation was financed in whole or in part with Federal funds and was prepared by a person outside the Federal Government. The only exception provided by the language of the Senate section would be with respect to the exercise of Executive Privilege by the President. The House bill contained no such provision.

While conferees of both houses agreed that a greater effort was advisable in the surveillance of reports prepared by outside persons or agencies financed by the Department of Defense, it was agreed that the language of the section is unnecessary as a means of obtaining compliance with requests for copies of reports and studies.

The Senate recedes.

TITLE III—RESERVE FORCES

The House bill provided that for the fiscal year ending June 30, 1971, the Selected Reserve of the Coast Guard Reserve would be programmed to attain an average strength of not less than 16,590. The corresponding section of the Senate bill provided for an average strength of the Coast Guard Reserve of 15,000.

The minimum Coast Guard Selected Reserve strength required to carry out early response wartime missions is 16,590, as determined by the Coast Guard's "Force Analysis Study" and discussed in detail in House Report No. 91-1022. Budgetary limitations have forced a reduction in the actual Selected Reserve strength from approximately 17,000 to a current level of about 15,000. The budget request of $25.9 million for fiscal year 1971, and recruiting and training capabilities, will not permit the Coast Guard to reach a Selected Reserve strength of 16,590 during fiscal year 1971. In view of this situation, the conferees have agreed on an authorized strength of 15,000 for fiscal year 1971.

However, it is the belief of the House conferees that Coast Guard Selected Reserve strength should be adjusted upward next year to the 16,590 minimum required for wartime missions, and every effort should be made by the Coast Guard to plan and fund for the attainment of that level at the earliest possible date.

The House recedes.

TITLE IV—ANTI-BALLISTIC MISSILE CONSTRUCTION AUTHORIZATION: LIMITS ON DEPLOYMENT

The Senate bill contained a separate title IV which authorized military construction in connection with the Safeguard anti-ballistic missile system and included language limiting the deployment of the Safeguard to specified sites in connection with the defense of our strategic missile deterrent. The House bill contained no such separate title. For reasons indicated earlier, the House agreed to the Senate provisions of construction authority in the present bill and the inclusion of Senate language on the limitation of deployment. Therefore, the House recedes on the inclusion of a separate title in regard to the ABM.

TITLE V—GENERAL PROVISIONS

Authority for the transfer of military equipment to the State of Israel

The Senate amendment to H.R. 17123 included a new Section 501 providing the President with authority to transfer military equipment to the State of Israel. There was no comparable position in the House-passed bill.

The Senate Committee on Armed Services, in recommending this provision of law, explained its action in its Committee report as follows:

"The Committee action arises out of a recognition of the deteriorating military balance and the threat to world peace resulting from the deepening involvement of the Soviet Union in the Middle East, particularly their support of a war of attrition against Israel.

"The Committee believes that the sale to Israel of aircraft, and equipment necessary to use, maintain and protect such aircraft, should be authorized at once to facilitate action by the administration consistent with our policy of support for the security of Israel. The rapidity with which the military balance in the Middle East is being adversely affected by direct Soviet intervention calls for an authority in law that would make possible the sale of arms necessary to offset any past, present or future increased military assistance to other countries of the Middle East.

"In Section 501 the Committee affirms its view that the restoration and subsequent maintenance of the military balance in the Middle East is essential to the security of Israel and to world peace. In recognition of the severe economic burden presently borne by Israel in providing for its own defense, the Committee further provides that the credit terms upon which the authorized arms should be transferred be not less favorable than the terms extended to other countries receiving the same or similar armaments."

The managers on the part of the House fully concur in the urgent need for Presidential authority of this kind. However, notwithstanding the Senate action, it is the feeling of the Conferees that an expiration date should be provided in this authorization in order that the customary periodic authorization surveillance by Congress will be maintained as in other authorizations.

In order to effect this intention of the Conferees, language was added to the original Senate language which now provides that "the authority contained in the second sentence of this section shall expire September 30, 1972."

The Congress and the Committees responsible for the granting of this authority will be required to review the need for possible extension of this authority beyond September 30, 1972.

It is further understood that the Executive Branch will provide the Congress and the Committee responsible for this authorization with a semi-annual report on the implementation and utilization of the authority provided by this new section of law.

In order to insure that there is no doubt as to the interpretation of the Senate language, the Managers on the part of the House, the Senate Conferees concurring, reiterate their understanding that the language of the Senate amendment covers ground weapons, such as missiles, tanks, howitzers, armored personnel carriers, ordnance, etc., as well as aircraft. Further, it is intended that the words "equipment appropriate to * * * protect such aircraft" in the original Senate amendment be construed broadly and that they not be narrowly interpreted by the Executive Branch as imposing a requirement that only those ground weapons which are to be deployed by Israel in the physical proximity to airfields may be acquired by Israel under the authority of this section.

Support of Southeast Asia forces

The House bill contains a provision, Section 401, providing that funds authorized under this or any other act may be used in support of Vietnamese and other Free World forces in Vietnam and local forces in Laos and Thailand and for related costs on such terms and conditions as the Secretary of Defense may determine.

The corresponding section of the Senate bill, Section 502, provides a ceiling of $2,500,000,000 on such funds and provides amendments to:

1. Provide support to Vietnamese and other Free World forces "in support of Vietnamese forces." This amendment removed the geographical limits imposed by the phrase "in Vietnam" for the purpose of border sanctuaries and related operations.

2. Provide that no funds may be used in the form of additional pay for other Free World forces in Vietnam if the amount of such payment was greater than the amount of special pay authorized to be paid, for an equivalent period of service, to members of the United States armed forces. The purpose of this amendment was to insure that funds provided by the section would not provide additional pay for other Free World forces in excess of the $65 per month hostile fire pay provided for U.S. forces.

3. Prohibit the use of funds authorized in this section to support Vietnamese or other Free World forces "in actions designed to provide military support or assistance to the governments of Cambodia or Laos."

4. Provide that no defense article be furnished to the South Vietnamese or other Free World forces in Vietnam or local forces in Laos or Thailand with funds authorized pursuant to this section unless the government of those forces has agreed that such defense articles will not be transferred to a third country without notification to and the consent of the President of the United States.

The House receded from its position and accepted the amendments of the Senate, with further amendments to provide a dollar limitation of $2,800,000,000 for fiscal year 1971 and to provide that the restriction on use of funds for additional pay for other Free World forces shall not apply "to the continuation of payments of such additions to regular base pay provided for in agreements executed prior to July 1, 1970."

The conferees would like it understood that the change in the dollar limitation to $2,800,000,000 from the Senate ceiling is solely for the purpose of supplying flexibility to the Department of Defense should it be determined that additional money, if made available, would have the effect of speeding up Vietnamization with the resulting possibility of more rapid withdrawal of U.S. troops.

The exception provided under the limitation of additional pay to other Free World forces is to assure that the U.S. will not renege on agreements already signed with the governments of such forces.

Requirement of certification by the Department of Defense on the structural integrity of the F-111 as a prior consideration for the obligation of funds

Section 503 of the Senate bill provides that of the funds authorized for the procurement of the F-111 aircraft, $283 million may not be obligated until the Secretary of Defense has determined that the F-111 has been subjected to and successfully completed a comprehensive structural integrity test program and has approved a program for the procurement of the aircraft and has certified the approved programs and findings to the Committees on Armed Services. The House conferees were satisfied that this provision would in no way delay the further procurement of this vitally needed aircraft; and, in fact, the Department of Defense has advised the conferees that it has no objection to this requirement and was prepared to provide the needed certification as to the readiness of this aircraft. Therefore, the House recedes.

The House conferees wish to reiterate that the agreement upon language in the bill in no way reflects agreement with the position stated in the Senate report to the effect that the procurement authorized in the present bill represents the final increment of the F-111 procurement.

It is pointed out that the funds available for the F-111 for fiscal year 1971 will not even complete the fourth wing. The House conferees are unswerving in their belief that four full wings of F-111's should be procured; and it is clear, as the earlier House report indicates, that the Air Force believes six wings are required but such have been precluded for budgetary reasons. The House conferees believe that future decisions should be made in the future, and *not* made now on an arbitrary basis. A present decision on all future requirements for the F-111 is both unnecessary and unwise.

As the report of the Senate Committee makes clear, "no other aircraft in the Air Force inventory can compete with the F-111." The House conferees, therefore, will not accept the imposition of constraint on future procurement of this aircraft and shall insist that the Department of Defense consider further procurement for fiscal year 1972 if necessary for defense requirements and that no prohibition should be placed on the Air Force in planning studies for a fifth or sixth wing.

LIMITATIONS AND CONTROLS ON THE C–5A PROGRAM

Section 504 of the Senate amendment contained language which would prohibit the obligation or expenditure of $200 million authorized to be appropriated for the procurement of the C–5A aircraft unless the Secretary of Defense submitted a plan for its expenditures to the Committees on Armed Services of the Senate and House of Representatives and such Committees approved the plan.

The House bill contained no comparable restriction or prohibition.

The conferees on the part of the House pointed out that they share the concern of the Senate in this matter. However, the action recommended by the Senate raises serious Constitutional questions in requiring that the Executive Branch come into agreement with the respective Committees on Armed Services before going forward with a discretionary action of this kind. Moreover, the Senate provision would, if enacted, have the effect of putting the Armed Services Committees in a position of acting as joint program managers on a matter which in the view of the House conferees should more properly be the final responsibility of the Department of Defense.

In view of these House reservations, the conferees agreed to amend the Senate language to require the submission of a proposed plan of expenditure to the Committees on Armed Services of the Senate and House of Representatives with the further requirement that none of the $200 million could be obligated or expended until after the expiration of 30 days from the date upon which the plan had been submitted to the Congress.

The balance of the Senate language containing the various prohibitions and restrictions remained unchanged. The House, therefore, recedes from its position and accepts the Senate amendment with an amendment.

Requirement of authorization legislation on naval torpedoes beginning in fiscal year 1972

Section 505 of the Senate bill would provide that after December 31, 1970, no funds will be appropriated for use by the Navy for the procurement of torpedoes and related support equipment unless the appropriations of such funds has been authorized by legislation enacted after such date. The House bill contained no such provision.

The Senate amendment is consistent with language adopted by the House last year but stricken from the conference report at the insistence of Senate conferees.

The House recedes.

Chemical and biological warfare

The Senate amendment included in Section 506, language which reaffirmed the prohibition on the procurement of CBW delivery systems contained in P.L. 91–121. However, the Senate amendment contained three additional provisions not previously appearing in the language relating to CBW last year.

Briefly, these three additions are as follows:

I. Subsection 506(b) amended last year's permanent provisions on CBW activities by making more rigid the provisions on disposal of any biological or lethal chemical agent.

II. Subsection 506(c) of the Senate language provided that the Secretary of Defense shall enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the danger inherent in the use of herbicides and the ecological and physiological effects of the defoliation program in South Vietnam, and

III. Section 506(d) barred future disposition of chemical and biological agents unless they have been detoxified or made harmless.

There was no comparable House provision.

The Department of Defense advised the Conferees that it had no objection to the language of the Senate amendment but was concerned over the possibility that situations could arise where immediate disposal of quantities of CBW agents or munitions would be required to assure safety to individuals. Thus, it was pointed out that the delays in disposal actions caused by the notification requirements in Section 506 could in such cases jeopardize the safety of individuals. Additionally, the disposal of small laboratory quantities of lethal agents is a daily recurring action in research and development and in such instances notification for each action through the Department of Defense to HEW and the Congress would not be feasible.

The Conferees concurred in this reservation of the Department of Defense and, therefore, agreed to amend the Senate language to overcome these problems. The amended language appears as a new paragraph (g) and is self-explanatory.

The language is as follows:

"(g) Nothing contained in this section shall be deemed to restrict the transportation or disposal of research quantities of any lethal chemical or any biological warfare agent, or to delay or prevent, in emergency situations either within or outside the United States, the immediate disposal together with any necessary associated transportation, of any lethal chemical or any biological warfare agent when compliance with the procedures and requirements of this section would clearly endanger the health or safety of any person."

The House, therefore, recedes from its position and accepts the Senate language with an amendment.

Premature disclosure of defense contract awards

Section 507 of the Senate bill precludes the Secretary of Defense from furnishing information in advance of any public announcement to any individual concerning the identity or location of a person or corporation receiving a Defense contract. The House bill contained no such provision.

The House recedes.

Employment priority for persons affected by reductions-in-force

Section 508 of the Senate bill provides a sense of the Congress Resolution that the various executive departments will give priority in filling vacant positions with career Civil Service employees who are being displaced in the Department of Defense or other departments through reductions-in-force.

The House conferees were in agreement that this amendment had no place in the Military Procurement bill and insisted that regulations or legislation regarding Civil Service employees was properly the jurisdiction of the Post Office and Civil Service Committee. Furthermore, it should be noted that the Executive Branch is already implementing the policy proposed by the provison.

The Senate recedes.

Limitation on permanent change of station assignments

Included in the Senate language as Section 509 was a Senate floor amendment which directed the Secretary of Defense to initiate new procedures aimed at reducing the expenditures in connection with permanent changes of station for military personnel.

The language of the Senate amendment also directed that there be effected "not less than a 25-percent reduction" in expenditures for permanent changes of station assignments beginning July 1, 1971, "and in each fiscal year thereafter."

The Department of Defense, in commenting on this Senate action, maintained that the enactment of this provision would "present extreme administrative and budgetary problems, as well as problems in manpower programs, especially considering the short time allowed for compliance and the turbulent situation with respect to military manpower."

The Navy advised the conferees that enactment of this provision would have a devastating impact on its already austere ship to shore rotation policy. Among other things, the Navy pointed out that—

"The Navy is a sea duty oriented force and must provide a relatively equitable opportunity for shore assignments because of the privations associated with duty at sea. There are approximately 335,000 enlisted and 37,000 officer sea billets compared to 151,000 enlisted and 41,000 officer shore billets. Increasing tour lengths of duty ashore would require disproportionate extensions at sea. There are 36 "deprived" enlisted ratings, comprising 46% of the enlisted population. Men in these ratings now spend 12 to 16 years at sea during a normal 20-year career."

The House conferees fully concur in the general objectives of the Senate language. The conferees were unanimous in their view that the Armed Services frequently require military members to change duty assignments without any genuine military requirement for such transfer. These frequently unnecessary permanent changes of assignment are essentially due to either outmoded service policy or poor management, and simply result in unnecessary expenditures of millions of dollars while at the same time causing great inconvenience and hardship to service families.

On the other hand, the House conferees concede that lack of stability in the size of the Military Establishment and the personnel movements required by our commitments in Southeast Asia and other parts of the world make acceptance of the Senate language impractical at this time. Therefore, that portion of the Senate language requiring specified reductions in expenditures was deleted by the conferees.

The House therefore recedes from its objection to the Senate amendment, with an amendment that reflects the sense of Congress that the Department of Defense must initiate promptly new procedures with respect to domestic and foreign permanent change of station assignments for military personnel.

Requirement for the annual authorization for the number of active duty personnel

Section 510 of the Senate bill provides that beginning on July 1, 1971, an authorization for the average annual active duty strength of the Armed Forces would be required as a condition precedent to the appropriation of funds for this purpose.

There was no comparable House provision.

The House conferees had no objection to the Senate language, and therefore accepted the Senate amendment.

Encouragement of contractors to use closed military facilities

Section 511 of the Senate bill requires the Secretary of Defense to encourage recipients of defense contracts to use military installations being closed and to offer employment to former employees of military installations who are unemployed as a result of such closures. House conferees believed that such a proposed policy would introduce serious complications to the Department of Defense procurement program. Most defense installations are constructed for specialized purposes and would require substantial rearrangement for production purposes. House conferees insisted on a deletion of this section.

The Senate recedes.

No change in the command structure of U.S. Armed Forces

Section 512 of the Senate bill provides that no modification or change in the command structure of the United States armed forces shall be made until the Senate and House Committees on Armed Services of the 92nd Congress shall have had 60 days to examine the document known as the Fitzhugh Report. The House bill contained no such provision.

The House conferees opposed the language as unnecessary and subject to misinterpretation.

The Senate recedes.

MILITARY RECRUITING AT COLLEGES

The bill as recommended by the Armed Services Committee and passed by the House contained language in Section 402 which would have prohibited the use of funds authorized for appropriation, to be used for grants to any institution of higher learning when the Secretary of Defense or his designee determines that recruiting personnel of the armed forces were being barred from the premises or property of such institution.

The language provided that the prohibition would not apply under circumstances in which the Secretary of Defense or his designee determines the expenditure is a continuation or renewal of a previous grant to such institution which is likely to make a significant contribution to the defense effort.

The language of the section also provided that the Secretaries of the military services are required to furnish to the Secretary of Defense the names of any institutions of higher learning which the Secretary determines are barring military recruiters from the campus of the institution.

The Senate amendment contained no similar provision.

The Senate conferees expressed support of the objectives of the House language but expressed concern that the language of the provision might, under certain circumstances, result in a denial of federal funds to a college or university despite the fact that neither the students nor the faculty were responsible for denying military recruiters the opportunity to be located on campus.

In view of these reservations, the House conferees agreed to modify the House language to provide that this prohibition would apply when military recruitment was "barred by the policy of the institution."

The Senate therefore recedes and accepts the House position with an amendment.

SUMMARY

The bill as presented to the Congress by the President totaled $20,605,489,000. The bill as passed the House totaled $20,571,489,000. The bill as passed the Senate totaled $19,242,889,000.

The bill as agreed to in conference totals $19,929,089,000.

The figure arrived at by the conferees is $642,400,000 less than the bill as it passed the House, $686,200,000 more than the bill as it passed the Senate, and is $676,400,000 less than the bill as it was presented to the Congress by the President.

The House recedes from its disagreement to the amendment of the Senate to the title of the bill and agrees to the same.

L. MENDEL RIVERS,
PHILIP J. PHILBIN,
F. EDWARD HÉBERT,
MELVIN PRICE,
CHARLES E. BENNETT,
SAMUEL S. STRATTON,
LESLIE C. ARENDS,
ALVIN E. O'KONSKI,
WILLIAM G. BRAY,
BOB WILSON,
CHARLES GUBSER,
Managers on the Part of the House.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. FULBRIGHT. Mr. President, I have already made some points on this matter. I wish to say that I hope the Senator from Mississippi will agree about the line item matter that the Senator from Wisconsin mentioned. We have discussed this before. This is the most important bill that is presented in this fashion.

It would be much easier for the Senate and the country to understand what we are doing if it were presented by line items, and I hope the Senator from Mississippi will urge that the Defense Department develop this procedure. It would be much more understandable. I doubt that we will ever get any degree of control over the military appropriations until the bill is reduced to line items, so that we will know much more about what is actually being bought, and how much it costs.

Awhile ago, in his opening remarks, the distinguished chairman of the committee stated that he was very much in favor of legislative supervision. I, too, am in favor of that. But one item taken out of the Senate's bill was the provision concerning access to what are called "think tank" reports.

The Foreign Relations Committee has asked the Pentagon for these reports on a number of occasions—reports made by such organizations as the Institute for Defense Analysis, the Rand Corp. and others. One I specifically had reference to was requested a long time ago: The study of the command and control decisions in connection with the Tonkin Gulf affair, a very sad affair in our history. That affair happened during in the previous administration, of course; it had nothing to do with this administration.

But the Defense Department has adamantly refused to supply that report, although it was not prepared within the Department, and it was not an internal working paper. It was prepared by the Institute for Defense Analysis, a private organization which gets practically all its funds from the Defense Department. I still do not see any valid reason for this type of study not being made available to Congress. It was paid for by public funds.

But they classify everything that does not suit their current policy line. I mean if any study casts reflections upon their current policy, they classify it.

Incidentally, in that connection, I was very pleased that the Scranton committee report on students was not classified, because I understand the recommendations of that report are not compatible with Mr. AGNEW's views on what should be said today. If anything comparable happened in the military, they would classify it.

How does one exercise legislative supervision over agencies of the executive branch? The Senator says he is for it. How are we going to do that job, if studies made under contract by the experts—such as they are—are not available to the committees?

Perhaps the Armed Services Committee can get access to these reports. I am not sure whether the Senator has ever been refused or not. But certainly the Committee on Foreign Relations is denied a report whenever they do not want us to see it. They will say that it is only for the eyes of certain people or give some such excuse, there is no effective way that I know of to break that down. I have thus far been unable to do it, in any case. The Foreign Relations Committee has been turned down in a number of instances.

They have been extremely reluctant to cooperate in furnishing information in a number of areas. The Senator from Missouri (Mr. SYMINGTON), for nearly 2 years, has held certain hearings dealing with our commitments abroad. In some cases, they have been cooperative, and in many others they have not. It is a very capricious business; whenever something becomes sensitive, for example, concerning nuclear weapons—for reasons that are not quite clear to me, they are extremely sensitive about nuclear weapons—they do not want to testify. They have testified some; the barrier is not complete. But if, all of a sudden, they become apprenhensive about something, they will, without any, to me, reasonable reason, make a distinction and refuse to testify.

Of course, I am bound to say that this is not peculiar to the Pentagon. This also happens with the State Department. So I do not mean to say it is only the Military Establishment. But it makes legislative supervision extremely difficult, even impossible to make effective.

I do not know what the Senator from Mississippi had in mind when he was speaking about that. He was very enthusiastic, and thought it was important to have effective legislative supervision. Surely he will agree that unless we have cooperation by the executive branch, unless we have available all the material relevant to the matters we are responsible for and interested in, it is extremely difficult, if not impossible, to carry out proper legislative supervision.

Finally, Mr. President, this is such a big bill, involving almost $20 billion, that I am very reluctant to cause any pain to the majority leader or any Senator, but, especially since I am opposed to several things which I have already mentioned and shall not repeat, I should like the opportunity to vote against this bill, simply to make positive my disapproval of a number of the procedures that have been followed, and some of the substantive changes that have been made—above all, the one which I have already belabored or talked about with regard to the international fighters. It involves both the jurisdiction of the committee of which I am a member, and a great deal of money. There is no precedent for that kind of action.

I would like to have a record vote on this matter, if the majority leader feels that it is not impossible. We have had a number of record votes recently on bills of far less consequence than this. This involves almost $20 billion and is a peculiar bill without line items. Most of the country does not know what is in it. I do not know whether the majority leader feels that we can have a record vote.

Mr. MANSFIELD. We can, if the Senator desires, and he knows that. But we have already voted on this bill once, when it was brought before the Senate.

I am thinking of the schedule that confronts the Senate. I would appreciate it if there were no roll call vote, but if the Senator wants one, I would join him in asking for it.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the yeas and nays be rescinded.

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

Mr. FULBRIGHT. Mr. President, I do not want to be arbitrary about it. I appreciate what the Senator says. This bill has been voted on before, in a different form. I have no doubt that the position of the conference committee and the Senator from Mississippi will be sustained. Therefore, I will not insist upon a record vote. But I want the RECORD to show that I do not approve of various items I have mentioned and others. I do it not because I criticize the Senator from Mississippi. I appreciate his position as chairman, and I know the difficulty with the House and how difficult they are in conference.

I just want to make it perfectly clear that these procedures involve not just $20 billion—that is this bill—but the overall Military Establishment, which follows similar practices in its other activities. The total budget for the Defense Department amounts to well over $70 billion. I think it is high time that we begin to reform these procedures, and that we make it possible to exercise legislative oversight along the lines the Senator has mentioned.

I would hope the Senator from Mississippi would cooperate in bringing some pressure to bear upon the Pentagon to make these studies available. It is my understanding that the conference report states that the provision voted by the Senate was not necessary and that is the reason why they took it out. I think it is necessary. I do not know why it can be said not to be necessary, when I have specific instances in which the studies from the "think tanks" have been refused to the Committee on Foreign Relations.

So I would hope that the Senator from Mississippi would lend his good offices to requesting the Pentagon to make available these relevant studies, so that we can at least be informed upon how our constituents' money is being spent.

In any case, I will not insist upon a rollcall vote for the reasons given, although I want the RECORD to be quite clear that I vote against this measure orally.

Mr. STENNIS. Mr. President, I want to emphasize what I have already said. This report in many ways is better and more explicit and more informative than a so-called line item bill could possibly be. Nothing is withheld. It is all reflected in this 121-page printed report.

I appreciate the Senator's position on his amendment. I am sorry to have not made law. He excepted the executive privilege point from the amendment, which I thought was commendable, and we tried to get agreement on this. I do not know whether the Senator was in the Chamber when I quoted our former colleague Senator Hayden.

Mr. FULBRIGHT. And I have experienced it.

Mr. STENNIS. I yield the floor.

Mr. EAGLETON. Mr. President, the 91st Congress will claim its place in history, I believe, as the first postwar Congress which scrutinized the military budget as closely as it did domestic requests.

Although I have argued for an overall limitation on defense and against certain provisions, I have generally supported the action of the Senate Armed Services Committee. The committee's responsibilities are heavy, yet it managed to prune $1.329 billion from the Pentagon's $20.237 billion military procurement request. As I stated on August 27 of this year:

> Although there are some sections of this bill with which I disagree, I believe that the Committee's overall efforts are highly deserving of praise.

Defense appropriations will be acted on later this month, but in large part the debate over military spending and national priorities has centered on the military procurement authorization bill. We now have the conference report before us.

It recommends $686.2 million more than the original Senate bill—an amount greater than many of us would have hoped, but less than it would have been in times past.

The Senate receded to the House and added the following amounts for the following items:

	Millions
Freedom Fighter	+2.3
Hawk missile	+28.1
Maverick	+6.0
Cheyenne	+17.6
SAM–D	+8.8
Defense research sciences	+2.3
Destroyer helicopter system	+5.0
F–14B/C	+5.2
Air launched/surface launched antimissile (HARPOON)	+14.0
Point defense system development	+3.8
Advanced surface ship sonar development	+0.7
Surface effect ships	+10.0
Innovations in education and training	+0.2
Advanced fire control/missile technology	+2.8
Subsonic cruise armed decoy (SCAD)	+10.0
Advanced tanker	+0.5
B–1	+25.0
F–111 squadrons	+6.4
Short-range air-to-air missile	+5.0
Minuteman rebasing	+27.0
Armament/ordnance development	+5.0
ARPA	+7.8

And, in addition to money restorations, restrictive language pertaining to independent research and development was dropped, as was the spending ceiling for such efforts which had been rightly imposed by the Senate Armed Services Committee.

The conference also deleted the Senate provision which required reports, studies, or investigations financed with Federal funds and prepared by persons outside the Federal Government be supplied on request to the House and Senate Committees on the Armed Services and the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations.

Section 502, which provides a ceiling of $2.5 billion on funds authorized to be expended under this or any other act in support of Vietnamese or other free world forces in Vietnam and local forces in Laos and Thailand, was raised by $300 million to $2.8 billion in conference.

Further, the Senate provision directing "not less than a 25-percent reduction" in expenditures for permanent changes of station assignments beginning July 1, 1971, was deleted, as was the congressional committee oversight over the expenditure of the $200 million Lockheed "contingency fund."

The most important concession in terms of dollars came on Chairman RIVERS annual demand that Congress authorize $435 million for shipbuilding—over and above the President's budget request. The Rivers booty will be used to build:

> One fast submarine (SSN–688 class), $166 million; long lead time procurement for an additional such submarine, $22.5 million; one submarine tender, $102 million; one destroyer tender, $130 million; two oceanographic research ships, $7.5 million; landing crafts, $10 million, and service craft, $24 million. The Senate bill contained no such additions but approved a Naval construction program as requested by the President with the exception of the aforementioned CVAN–70 funds which were deleted by the Senate.

As we pass on this additional $435 million which the administration did not request, it is interesting to reflect on the education bill the President vetoed because it was $453,321,000 over his request. We can safely predict that the legislation before us will not be vetoed, but I trust that the administration will be prepared to answer to taxpayers and their children who pay for Mr. RIVERS' largesse.

The second item with which I take strenous exception is less costly to the taxpayer, but it is representative of the problems we face in controlling military spending. The Senate receeded, and authorized the expenditure of $12 million more for the M60AE2 tank. This means that the $10.9 million the Senate cut for 150 M60A1 chassis which would have been returned from the parking lots of Detroit where they have moldered for years, will also be restored.

The Senate Armed Services Committee wisely canceled the M60A1E2 program this year. As the committee report states:

> The Committee recommends denial of the $12.1 million for this tank. Work on the M60A1E2 started in 1965 and was to be a product improvement to the M60A1, primarily by adding a new turret and the 152mm gun SHILLELAGH main armament system. Funds were provided in 1966 and 1967 for production, but the tanks were never assembled because of technical problems. The Army has requested $12.1 million to continue effort toward solution of the problems. The current investment in 300 tanks and 243 turrets total almost $260 million and the Army estimates that about $110 million more is required to field 543 of these tanks for an ultimate cost of about $684,400 each.
>
> In spite of the substantial investment in the M60A1E2 program and the optimism of the Army that the fix has been identified, the Committee believes that further funding

of the program is not warranted and the $12.1 million requested in 1971 is denied. As explained under the M60A1 program, $10.9 million of the $57.3 million in recoverable assets will be used for that program. The remainder will offset other future requirements.

Continuously bungled since 1965, the M60A1E2 remained to be the object of unrealistic and persistant optimism by its project managers when testifying before Congress.

The "Detroit tank," as Senator STENNIS calls it, has never left the parking lots there where it stands unfinished because of technical difficulties. It exemplifies what Secretary Packard referred to when he stated earlier this year, "Frankly in defense procurement, we have a real mess."

This slightly upgraded tank will cost over three times what our present M60A1 costs—$684,400 each. It will be even more expensive than the new super dream tank, the MBT-70, which is itself a dubious investment.

How the House Armed Services Committee managed to foist this tank on the Senate and the public—even against the advice of some high military officials in Europe where it is to be used—is totally incomprehensive to me.

Obviously, those of us who have fought what we consider unnecessary military spending are disappointed that the conference committee brought back a bill $686.2 million more than the Senate passed.

But, in fairness, the conference bill is $642.4 million less than the bill originally passed by the House, and $676.4 million less than the administration request.

The Senate position on the ABM was upheld. There will be no area defense.

The House agreed to the Jackson amendment granting authorization to the President to transfer military equipment to Israel, and defining "aircraft and equipment necessary to use, maintain, and protect such aircraft," broadly.

And, importantly, the provision which prohibits "the use of funds—to support Vietnamese or other free world forces in action designed to provide military support or assistance to the governments of Cambodia or Laos" has been retained.

After 2 years of continuous scrutiny and heated debate, this conference report is not all that many of us would desire. And yet, I believe it reflects a change in the way Congress views military spending which this 91st Congress has spearheaded.

Some provisions in this bill are obnoxious to me but on final passage it is necessary to weigh the bill in its entirety.

I have done so, and will vote for final passage.

Mr. JACKSON. Mr. President, the Senate will shortly vote to approve the conference report on the Defense Procurement Act, thus sending to the President for signature a measure which includes a provision vitally affecting the security of Israel and the peace of the Middle East.

Section 501 of the act contains a clear statement of congressional policy, soon to be part of our public law, that expresses the grave concern of the Congress at the deepening involvement of the Soviet Union in the Middle East. The language of section 501 articulates, in a mere 11 lines, 110 words, the crucial center of American policy in the Middle East.

The Congress has said, by its overwhelming support for section 501, that the deepening involvement of the Soviet Union in the Middle East presents a "clear and present danger to world peace."

The Congress has said that this involvement "cannot be ignored by the United States."

The Congress has pledged that the President shall have the authority to restore the military balance in the Middle East.

The Congress has pledged that the President shall have the authority to maintain the military balance in the Middle East.

The Congress has provided for military credits to Israel to counteract past Soviet action in providing military assistance to other countries of the Middle East.

The Congress has provided for military credits to Israel to counteract any present military assistance to other countries of the Middle East.

The Congress has provided for military credits to Israel to counteract any future increased military assistance to other countries of the Middle East.

Mr. President, I first drafted section 501 in June of this year and introduced it in the Senate Committee on Armed Services on June 17. It seemed to me even then that the restraint exercised by the administration, expressed in the decision to hold in abeyance the sale of jet aircraft to Israel, might fail to induce similar restraint on the part of the Soviet Union. Indeed, I was concerned at the unrelenting buildup of Soviet forces in Egypt, and at the dangers arising out of that buildup in combination with the declared policy of the UAR to wage a war of attrition against Israel.

My concern was deepened when, in August, the United States sought to initiate negotiations in which I felt our position was seriously prejudiced by apparent doubts as to the solidity of the American position resulting from our prior restraint. Had the provision of an adequate level of military aid to Israel preceded the abortive peace initiative, the calculated and disingenuous violations of the cease-fire provisions might not have resulted. But result they did, and as section 501 came to the floor of the Senate the fragility of the balance in the Middle East was more precarious than ever before. The Soviets and Egyptians had succeeded in accomplishing by clandestine behavior, under the cover of darkness and self-imposed Western restraint, what they had failed to accomplish by overt military means: they had degraded Israel's first line of defense, the unchallenged supremacy of her air force in the skies above the Suez Canal.

To many who read of the agreement of the House to section 501, a Senate measure, it seemed that the timing of the Congress in adopting a clear statement of policy and granting vital legislative authority had been fortuitous indeed.

However, in spite of my obvious pleasure at the affirmative response to this important congressional initiative, I cannot help but wonder whether our interests, and the interests of world peace, might not have been better served had we recognized sooner the urgent necessity for determination in the face of adversity and the danger of irresolution under challenge.

Final passage of this measure comes at a time when the Sphinx no longer can pronounce "Gamal Abdel Nasser" to the imponderables of the future of the Arab world. One would have been tempted, a short week ago, to say of Nasser's passing, "the center cannot hold." Whether mere anarchy will be loosed upon the world of the Middle East will depend, now more than ever, on our determination. It will depend on the success with which we can discourage the Soviets from sharing the vacuum Nasser has left behind with an even greater presence than they have thus far managed to build upon the exploitation of the tragic conflict between Arabs and Israelis. Success in this goal—the discouragement of the Soviet appetite for further influence in Egypt—will depend upon our capacity to demonstrate that continued exploitation of local conflict in the Middle East is a dangerous and unprofitable proposition.

The assistance available to Israel under the terms of section 501 will be a crucial element in this endeavor. The authority is broad, virtually all inclusive, as the conference report makes clear. The terms upon which credits will be extended are generous, including very long periods of repayment and negligible interest charges.

The broad authority and generous terms are an essential element of section 501, sharing with a clear and direct policy statement in the importance of the measure as a whole. The provisions and terms are exceptional because they are required for an adequate response to an exceptional situation.

Section 501, Mr. President, represents more than aid to a brave ally whose survival is threatened by a Soviet policy of expansion. It is equally an affirmation that the United States will act decisively to assure the security of a progressive and democratic nation anxious to live in peace and to survive in freedom.

Mr. HATFIELD. Mr. President, we know that our democratic system is based upon a complex and interrelated balance of powers, both between the branches of Government and within them. The final decisions which we reach involve compromises and mitigating influences which make them never wholly acceptable to all, yet tolerable to a sufficient number.

The convictions of those who speak and act in dissent from proposed or prevailing policies find reasonance within the councils of decisionmaking—at least, such is the design of our system. Thus, although the holders of contrary opinion may not prevail, our structure provides that they are to be heard and in at least minimal terms, make some impression.

During the past 2 years, throughout

the country and within Congress, a deepening concern over the extent and wisdom of our Government's military expenditures has emerged. In congressional debate that progressively has become more focused, and in public convictions which have become more intense, the purpose and degree of our expenditures in the name of defense have been scrutinized.

A majority of the public, and a significant force within Congress, have grown to believe that our present expenditures, for a mulitude of reasons, are excessive and not wholly justified by the legitimate demands of our Nation's security.

Some believe that the appropriate offices of Government have acknowledged this concern—that our defense spending has been reduced and our priorities reordered. Yet, careful examination of our budget expenditures finds this difficult to reveal.

Reductions which have been accomplished seem largely the result of a lowered number of troops in Vietnam, rather than a decisive choice to reallocate the thrust of Government spending by curtailing the defense budget. The past 2 years may have yielded certain accomplishments, but one is hard pressed to enthusiastically enumerate them.

However, whatever limited impact that might have resulted from those who have called for rational restraint of military spending is nearly disintegrated by the results of the conference committee report on the military authorization bill.

Its substance causes one to wonder whether 2 years of penetrating debate have ever been heard—or have ever been genuine dialog.

Consider briefly the facts. The difference in money between the House and Senate authorization requests—about $1.3 billion—was divided about evenly, as would be expected. Thus, the final bill is below the original request made by the Defense Department. Although we can be certain this is no surprise to the Pentagon budget planners, who allow for such contingencies, yet it is a movement in at least the right direction.

However, on issues of procedure and substance, it seems that the modifications made by the Senate were sacrificed to the House version, with only certain exceptions—such as—the Senate's position on the ABM question, and the decision to withhold funds for the new carrier until the National Security Council completes its review.

Those positions, further, were not contrary to the wishes of the administration. In particular, nearly half of the Senate believed that the committee's ABM position was not justifiable. Yet, the cost of preserving these positions, it appears, was the emasculation of an inordinate portion of all the other provisions favored by the Senate.

Others have enumerated their positions given up in the conference committee, including a ceiling on Department of Defense reimbursements to major contractors for independent research and development, the limitations on nonmilitary related research sponsored by the Department of Defense, the establishment of an Interagency Council on Domestic Applications of Defense Research, the Brooke amendment relating to a research on a single reentry system for Minuteman III and Poseidon, and the provision requiring reports done for Federal agencies, such as the Department of Defense, to be submitted to the appropriate House and Senate Committees if requested—as well as several other provisions on which the Senate receded to the House.

But most costly, and most distressing to me, are the authorizations maintained in the conference committee report, at the insistence of the House, that were not even requested by the Department of Defense.

Most noticeable is the authorization of $435 million in new construction for naval vessels above the amount requested by the President and the Department of Defense.

I have no idea as to how the House conferees could convince the Senate conferees that the Navy needed $435 million more for ship construction than the Navy themselves requested and the President believed necessary.

Also authorized are funds for the Cheyenne helicopter, a program which the Pentagon announced it was canceling a year ago.

Further, $17.6 million is authorized for the so-called Freedom Fighter, a plane which the Air Force has not requested and sees no need of developing.

It is unbelievable to me that in a time of inflation, when the President has already vetoed bills that were above the President's requests, that the House conferees should insist, and the Senate agree, to authorize $480 million for projects that are not, in the judgment of the President and the Department of Defense, necessary for the security of our country.

I can only trust that the Appropriations Committee will see fit not to fund these inflationary and needless authorizations.

There has been extensive discussion about the need to reorder priorities, and the progress that has been made in that regard. Yet, the evidence of the conference committee's report indicates that if priorities are to be affected, they will be tipped in favor of increased, unregulated military spending.

When one considers the total effect of the actions taken by the conference committee, examining not only the differences in funding, but also the changes in the substantive and procedural provisions, it is clear that even the most modest attempts to assert some control and direction over defense spending have been almost completely to no avail.

The viability of our system depends upon its responsiveness to all the voices that are raised in the final decisions that are reached.

There must be accommodation in some manner to these various voices if our system—if the process of decisionmaking—is to merit the support of its participants.

With regret, I conclude that the action of the conference committee illustrates a total unresponsiveness to those who in any way feel that the requests and wishes of the Defense Department can be legitimately questioned and safely altered.

Thus, I shall vote against acceptance of the conference committee report, and do so for two reasons: First, because I continue to believe that the level of military spending is not in the best interests of our Nation and can be safely reduced. Second, and perhaps more crucial, because the report illustrates a basic failure of our legislative system to be responsive and adaptive to the variety of viewpoints that are reflected and represented. That, in the long run, is perhaps the most pressing threat to the real security of our country. It is ironic that the report authorizing billions for national defense should be such an illustrative symbol of why so many people believe that our own internal security, and the faith in our institutions, is eroding, jeopardizing our future.

Mr. MAGNUSON. Mr. President, I do not want to delay the Senate, but there has been much talk about line items. I do not want the misimpression to go abroad that these line items are not looked at. This is an authorization bill; when the Defense Department budget comes before the Appropriations Committee, as members of the Appropriations Committee well know, it comes in line items, and each item is scrutinized individually. The Appropriations Committee can get whatever reports it needs, and we double check each item at that time. The Appropriations Committee has not been mentioned much in this discussion.

So I hope the impression will not be created that Congress does not look at each of these items, one by one, including those that are classified. In the latter case we still get the information, and we determine whether to keep it classified.

Mr. FULBRIGHT. About a month ago I asked for one of these studies. I got a letter back saying, "No," and they even classified the letter that said "No."

Mr. MAGNUSON. They sometimes do that. The Appropriations Committee gets classified information, as much as it wants. There is always an argument on the Senate floor and in the committee as to what we should leave classified or what we should not leave classified. But the full Appropriations Committee gets this information, and then we pass on it. Some of it has to be classified. I have been very disappointed sometimes, as has the Senator from Arkansas, about the way in which the Defense Department puts the classified stamp on, and in the way in which they use the word "restricted." But the point is that every expenditure is scrutinized in the Defense Appropriations Subcommittee.

The PRESIDING OFFICER. The question is on agreeing to the conference report. [Putting the question.]

Mr. FULBRIGHT. I vote "no."

The conference report was agreed to.

Mr. STENNIS subsequently said: Mr. President, earlier today the Senate voted to adopt the conference report on H.R. 17123.

I now move that the vote by which the conference report was agreed to be reconsidered.

Mr. THURMOND. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

FORMER SENATOR CARL HAYDEN'S 93D BIRTHDAY

Mr. MANSFIELD. Mr. President, inasmuch as the name of our former colleague, Senator Hayden, has been mentioned, I should like to remind Senators that tomorrow is Senator Hayden's 93d birthday. I hope that Senators will keep that in mind and be prepared to pay their respects in some small way to a long-time colleague, a great man.

REORGANIZATION PLAN NO. 4 OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1261, Senate Resolution 433, to disapprove Reorganization Plan No. 4 of 1970.

The PRESIDING OFFICER (Mr. ALLOTT). The resolution will be stated.

The assistant legislative clerk read the resolution, as follows:

Resolved, That the Senate does not favor the Reorganization Plan Numbered 4 transmitted to the Congress by the President on July 9, 1970.

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

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

Mr. MAGNUSON. Mr. President, I am pleased to speak again in favor of Reorganization Plan No. 4. I support this proposal wholeheartedly, and trust that others will join me in opposing Senate Resolution 433 disapproving the reorganization plan.

The proposed plan is smaller than I had hoped the President might recommend. I have expressed on many occasions the desire that the Coast Guard be placed in any reorganization plan of this nature and that the oceanic and atmospheric program might well be housed in an independent agency. But these two exceptions should not be allowed to detract from the many merits of the proposal, and after waiting 10 years to see a strong oceans program developed in the United States, I do not feel that we can wait any longer.

This is a great step forward. The Senator from South Carolina is chairman of a subcommittee of the Committee on Commerce, and he is in agreement with this proposal and knows the urgency of it.

The national oceanic and atmospheric program has been thoroughly studied in the last 10 years. Rejection of the President's proposal now in order to study the alternatives would be redundant and would cause inexcusable delay. The President's proposal has the support from Dr. Stratton and all of the other members of the Commission on Marine Science, Engineering and Resources who originally recommended the creation of NOAA.

I was a congressional adviser to that Commission. The Commission put in long hours and long weeks of work. It has the unequivocal support of Dr. Edward Wenk, the former Executive Secretary of the National Council on Marine Resources and Engineering Development. And it has my complete support.

Approval of this plan will provide an important first step enabling this Nation fully and wisely to use and understand the oceans and the atmosphere. Wisely administered, NOAA will greatly enhance the quality of our environment, our security, our economy, and our ability to meet increased demands for food and raw materials. I am confident that the Secretary of Commerce will give NOAA the support and backing which are absolutely essential if the visions and hopes of the Stratton Commission are to become a reality for the Nation.

Some of the opponents to the creation of a NOAA have objected to the placement of a resource development function and an environmental protection function in the same agency. They have pointed out what has happened historically when resource development and environmental protection are placed in the same department or agency. The establishment of the Environmental Protection Agency is an attempt to create a separation of those two functions, and I think it can work in that case. But the argument implies that it is impossible to have both resource development and environmental protection in the same department. If that is the case, we are going to have to reorganize the Department of Defense, the Department of Health, Education, and Welfare, the Department of Agriculture, the Department of Transportation, the Atomic Energy Commission, the Department of the Interior, and every other agency that has developmental as well as environmental protection responsibilities. The argument also ignores the political climate that has been created in the last year or so. The political concern, awareness, and pressure to protect and enhance our environment simply has not been a real political force until the last year. But it is a real presence now.

If history is prolog, then we must learn from the history of those departments and agencies that have developed resources at the expense of environmental quality. But the real question is whether it is desirable in all cases to separate the resource development and the environmental protection functions. Every serious environmentalist that I know of who has looked at the problems has found that we cannot simply stop all development to protect the environment. And clearly we cannot tolerate resource development at the complete expense of environmental quality. Rather, we seek a proper mixture of the two. And that is what René Dubos and other prominent ecologists mean by the term "wise use."

Creation of the National Oceanic and Atmospheric Administration will enhance the possibility that we will use the marine environment wisely. It will have scientific capability; technological skill to work in the oceans; the experience to improve international programs in the marine and atmospheric sciences; the capability to monitor and predict weather and a growing understanding of the problems of weather modification; the biological, economic, legal, and political skills not only to rehabilitate our fisheries but also to enhance them; and they will have the experience of the ably managed national sea grant and college program. None of the programs coming into the National Oceanic and Atmospheric Administration have been administered in the past with callous neglect of the environment. Just the opposite is true. Most of the leaders of the agencies that would comprise NOAA were expressing concern for the quality of a marine and atmospheric environments long before we in the Congress developed our environmental awareness. There is no reason to believe that the mere placement of NOAA in the Department of Commerce will change that awareness or direction.

As I mentioned earlier, Mr. President, we have waited more than 10 years for this opportunity. No more delay can be tolerated. The matter has been thoroughly studied and well thought out both with respect to the executive and the legislative branches of Government. The time to move is now. I urge that we in the Senate join our colleagues in the House in rejecting Senate Resolution 433.

Mr. NELSON. Mr. President, on July 28, I introduced Senate Resolution 433, which if agreed to by the Senate, would constitute congressional rejection of Executive Reorganization Plan 4 which proposes to establish a National Oceanic and Atmospheric Administration—NOAA—in the U.S. Department of Commerce.

On July 28, August 11, August 21, and September 23, I made Senate floor statements regarding my concern with plan 4. Further, on July 28 and on September 1, I testified before the Senate Government Operations Subcommittee on Executive Reorganization regarding the NOAA plan.

Thus, today, I will summarize my position and comment on what I believe is very significant language in the Government Operations Committee report on the reorganization plan.

At the outset, let me make clear my strong support for plan 3, which creates the Environmental Protection Agency. This plan clearly demonstrates the President's commitment to restoring the quality of the environment and the introduction of Senate Resolution 433 has in no way been intended to be critical of the President's environmental efforts.

Also, the Subcommittee on Executive Reorganization, chaired by Senator ABRAHAM RIBICOFF, and the full Government Operations Committee have been very helpful in hearing and carefully considering all the various views on the reorganization plans.

My concern with plan 4 is based not on the question of its merits, but on its timeliness. For the future of our environment and of the human race itself, one of the most chilling forecasts imaginable is being made by marine scientists, who now say that if we continue to pollute the sea at the present accelerating

pace, all productive ocean life will be destroyed in 25 to 50 years.

At this late stage in history we are still ill-prepared to meet the challenge of properly protecting the marine environment. In the past 20 years, 900 square miles of U.S. coastal wet lands, a vital link in the chain of ocean life, have been drained and filled for all kinds of development. But as yet, there is no meaningful national program to protect the coastal environment. Each year, tens of millions of tons of solid wastes—from garbage and trash to junked automobiles—are dumped into the sea off U.S. coasts. Yet, no Federal agency is setting tough environmental regulations to halt this ecologically destructive practice. And though pollution control standards programs are established for close-in coastal waters, nowhere in the Federal Government is there an effort of any significance for pollution control beyond the 3-mile zone offshore. It is, in effect, frontier days on the high seas.

Each year, 3,000 to 5,000 new oil wells are drilled in the oceans off the U.S. coast. Yet last year, reports by the President's Panel on Oil Spills confirmed that we do not have the technology at present to control a major marine oil spill, and further estimated that with foreseeable drilling and accident rates, we can expect a Santa Barbara-scale disaster once a year by 1980. Floating airports are being discused for waters in the Great Lakes and the oceans off the coast of several of our major cities. Yet, nowhere in the Federal Government is there a program to develop comprehensive environmental plans and regulations to protect against possibly disastrous consequences of these and other massive intrusions into the sea.

Reorganization Plan 4 would not resolve these questions. Instead, in this Nation's first major oceans policy step this decade, it would establish a NOAA in a department whose mission the 1969–70 U.S. Government Organization Manual describes as "to promote full development of the economic resources of the United States."

Almost every national conservation organization has expressed serious reservation about the creation of NOAA by plan 4 without agreements on where the responsibilities for protecting the coastal and marine environments will be placed.

I ask unanimous consent that a list of the organizations that have gone on record in this regard, along with some of their statements, be printed in the RECORD at the conclusion of my remarks, along with other materials pertaining to this matter.

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

(See exhibit 1.)

Mr. NELSON. Mr. President, further, none of the several very comprehensive reports that have been done in recent years on marine affairs have recommended placing a NOAA in the development-oriented Department of Commerce. The January 1969 report of the Commission on Marine Science, Engineering, and Resources—the Stratton Commission—recommended an independent NOAA. The Ash Council, appointed by the President to study and recommend government reorganization, reportedly recommended a new marine environment agency under the Secretary of the Interior.

And, the administration bill introduced last year would put the coastal zone management program in the Department of the Interior. The bill by Senator MUSKIE first proposing an environmental protection agency would have transferred the Environmental Science Services Administration from the Department of Commerce to EPA. And legislation I introduced this year would establish a comprehensive program for marine environment protection in the Department of the Interior.

The implementation of any of these proposals would represent a more timely step toward establishing a national policy on the oceans than plan 4. All would give much greater emphasis at this important stage to ocean environmental protection.

Sound arguments can be made for putting NOAA in Commerce, as plan 4 does. And though many thoughtful people would prefer an independent NOAA or a new marine affairs agency in the Department of the Interior, NOAA in Commerce may well prove to be a workable step. However, it would have been even better if we had waited to settle the very important marine environmental questions before establishing the Commerce Department NOAA.

Thus, it is my position that NOAA should not be established at this time. And by introducing Senate Resolution 433, it has been my purpose to create a constructive dialog about the implications of plan 4, so that it would not be given a blanket approval without any discussion and without a clear understanding of what NOAA in Commerce is expected to do and how it is expected to relate to other agencies.

And I believe that the hearings by the Senate Government Operations Subcommittee on Executive Reorganization, along with those on the House side, have carefully delineated the distinctions between development and environmental standard setting and the importance of keeping these functions separate.

Further, I believe the Government Operations Committee has very carefully reviewed the implications of establishing this new agency now along with EPA and has clearly spelled out in its committee report the important principles and conclusions which must be observed if plan 4 is allowed to go into effect.

First, the Senate committee report clearly identifies ocean resource development as the primary mission of NOAA in Commerce. It describes NOAA as "an agency whose major concern is the development of a national oceanic and atmospheric program of research and development."

The evidence that this is the design of NOAA in plan 4 is very convincing. Describing the mission of NOAA, President Nixon said in his message to Congress:

> I expect that NOAA would exercise leadership in developing a national oceanic and atmospheric program of research and development.

And the Stratton Commission report, from which much of the thinking for NOAA is derived, stated that the mission of such an agency would be "to insure the full and wise use of the marine environment in the best interests of the United States."

Second, the committee report makes it clear that NOAA in Commerce would have to comply fully with the provisions of the National Environmental Policy Act, as do all Federal agencies. It said:

> Though the primary mission of NOAA will be oriented toward research, technology and resource development, the Agency of course must, as must all Federal agencies, comply with all applicable provisions of the National Environmental Policy Act of 1969.

I would expect many of NOAA's activities to pose major environmental effects and thus to require section 102 reports under the act.

Third, the committee report recognized and strongly concurred in the principle that programs to protect the environment should be separated, in separate departments, from programs for resource development. The report said:

> As the central question of the hearings, the committee finds consistency in the principle that in our oceans policies, environmental standard-setting and enforcement should be kept separate from other Federal activities. As such, the committee firmly believes that Reorganization Plans 3 and 4 preserve this position by placing environmental standard-setting functions in EPA and marine research technology and development functions in NOAA.

This very important principle was cited by President Nixon in proposing EPA. A major reason for EPA, he said, would be that—

> It will insulate pollution abatement standard-setting from the promotional interests of other departments.

As we have seen from the sad history of built-in conflicts of interest in many Federal agencies charged with both development and environmental protection, this is a wise and necessary course.

In this testimony before the Senate subcommittee on September 1, Mr. Andrew M. Rouse, Executive Director of the President's Advisory Council on Executive Reorganization—the Ash Council made it clear this principle should apply in our oceans policies as well. He said:

> Our view is that any authority created by Congress that deals with setting pollution control standards is not to be in a resource using or promoting agency; so that, if Congress creates authority to set standards with regard to ocean pollution control, that authority should be placed in the Environmental Protection Agency and not in a resource using agency.

Responding to a question on whether this same principle should apply in any coastal zone management program, the Ash Council representative said that although the Council has not studied coastal zone management proposals because they are now in pending legislation, his view is that—

> If there is authority in that bill which gives standard setting and enforcement functions, those functions should be in EPA.

Fourth, the committee report clearly identified EPA as an independent agency with broad environmental responsibilities, and also made it clear that NOAA's research and data-gathering activities would be only one source for EPA in the latter's environmental protection plans, programs and actions. The report said:

In summary, EPA was described as an agency which would be responsible for standard-setting and enforcement for all aspects of the environment—for sea-related concerns as well as earth and air problems—and the committee shares this view.

Further, the committee report saw EPA as having the mandate to carry out environment standard setting and enforcement "respecting the coastal and ocean environments as well as other important areas." And it added that NOAA would be "one important element to formation of a strong, permanent marine environment policy by the Environmental Protection Agency."

Fifth, the committee report made clear that its position on plan 4 did not indicate support for coastal zone management being assigned to NOAA. It said:

During the committee hearings, mention was made by several witnesses, including the Secretary of Commerce, of the coastal zone management program proposed in legislation now pending before Congress. The committee does not intend that its endorsement of Plan No. 4 should in any way be interpreted as a position for or against administration of the coastal zone management program, if enacted, in NOAA. Indeed, the Administration has not finally determined its position with respect to this question, as Secretary Stans told the subcommittee.

And at another point, the report said:

There is a natural tendency in newly created Government agencies to expand their jurisdiction as far as possible and to assume new duties at every opportunity. This tendency will require careful scrutiny by the Office of Management and Budget in NOAA's early years of existence if inefficiency is to be avoided.

And:

The committee desires to emphasize the fact that approval by the committee of this plan does not in any way modify, enlarge, or diminish the legislative jurisdiction of standing committees of the Senate.

Ocean environment programs such as solid waste dumping control, environmental regulation of offshore facilities and resource use, pollution control of any sort, or any ocean environment standard-setting, enforcement, planning and management program should not in my judgment be assigned to NOAA in the Department of Commerce.

In sum, if the Congress permits plan 4 to go into effect, the report of the Senate Government Operations Committee will serve as an important guide not only for the roles and the conduct of NOAA and EPA in our national oceans policies—making very clear that environment programs are in EPA and development is in NOAA—but for future congressional decisions on the coastal zone and the sea. This is my view, and I believe it is the view of the national environmental organizations that have opposed plan 4.

And the report goes far to clear up the important question as to whether NOAA is envisioned as a "development" agency, an "environmental protection" agency, or both. It is development—that is its mission—and environmental protection programs should be kept separate.

Finally, in view of the significant environmental impact that many of NOAA's activities will undoubtedly will pose, and in view of the complexity and vulnerability of our ocean environmental systems, it is important, in my view, that whoever is appointed as the administrator of NOAA be an individual with broad experience and expertise in environmental matters.

EXHIBIT 1

LIST OF CONSERVATION ORGANIZATIONS EXPRESSING RESERVATIONS REGARDING REORGANIZATION PLAN 4

American Forestry Association.
American Institute of Biological Sciences.
American Scenic and Historic Preservation Association.
Association of Midwest Fish and Game Commissioners.
Izaak Walton League.
National Association of Conservation Districts.
National Audubon Society.
National Wildlife Federation.
Sport Fishing Institute.
Trout Unlimited.
Western Association of State Game and Fish Commissioners.
Western Division of the American Fisheries Societies.
Wildlife Management Institute.
The Wildlife Society.
International Association of Fish and Game Commissioners.

STATEMENT OF ANDREW M. ROUSE, EXECUTIVE DIRECTOR, PRESIDENT'S ADVISORY COUNCIL ON EXECUTIVE ORGANIZATION, AT SENATE SUBCOMMITTEE HEARING SEPTEMBER 1

Mr. ROUSE. That is correct, Senator Nelson.

Senator NELSON. And what was your rationale for the establishment of EPA?

Mr. ROUSE. I think, in your opening remarks, you stated the gist of it, but I think it would be useful to go over how the Council arrived at an independent Agency for Environmental Protection, because it touches on matters that concern you.

The Council started out with a predilection to place in one agency all of those activities which would enable the head of that agency to make all the necessary policy trade offs that apply to the area of cognizance of the agency. And they leaned in their deliberations toward doing that with the whole area of natural resources and their development.

They found, however, that it was not feasible to do that, in this case for two fairly important reasons.

POLLUTION ABATEMENT

The first was that pollution abatement, the problem with which they were concerned, is a problem which permeates all of the activities of government and the instrumentalities that use resources in one way or another.

The second reason was that these concerns were universal to many of the agencies of Government. It would seem totally inappropriate to place the pollution control function in any one agency which would give that agency control over certain activities of other agencies involved in resource use or promotion the area and would probably induce a bias towards the interests of the managing agency.

The Council concluded that they would make an exception to the general rule they had set for themselves and to recommend to the President that a separate agency be created for environmental protection.

The gravamen of that reasoning was that you should not place an activity which was universal to the activities of all other agencies, most of them resource promoting, or resource using, or resource exploiting agencies, in an existing agency, and that you should create a new one for it in order to deal specifically with the standard-setting enforcement problem.

Now, the question that they were then faced with, Senator, was how much could they put into an environmental protection agency without seriously damaging the missions of existing agencies that had primary interests in certain areas which were at the same time resource using, and, on the other side of the coin, pollution creating activities.

"WHERE YOU BREAK THE JOINTS PROBLEM"

And that problem, which we called the "Where you break the joints problem," is the one that we had to wrestle with in putting together Reorganization Plan 3.

The general rule is to put in as much as was necessary to insure the central standard-setting function would have teeth.

Senator NELSON. Do I understand it was the fundamental position of the Council that you favored separating the environment aspects from the development aspects as a matter of principle?

Mr. ROUSE. That is exactly right, sir; that is, the pollution abatement and control aspects.

OCEAN WATERS DETERIORATING

Senator NELSON. As I know you are well aware, many of the marine scientists are alarmed about the rapidly deteriorating quality of ocean waters, particularly in those critical places of our marine estuaries, breeding ground for much of the life of the entire sea. They are concerned that at the presently accelerating pace we will rather dramatically pollute this limited, especially fragile area of the marine environment in the next 25 to 50 years with serious threats to the continued productivity of the oceans.

Thus, what concerns me about it is where the responsibility for coastal zone management would go, the responsibility respecting control of pollutants going into the oceans, the responsibility in the whole marine environmental effort, and that issue remains unresolved at the moment.

Do you have any view about where that aspect of environmental responsibility should be put?

Mr. ROUSE. Our view is that any authority created by Congress that deals with setting pollution control standards should not be placed in a resource using or promoting agency; so that, if Congress creates authority to set standards with regard to ocean pollution control, that authority should be placed in the Environmental Protection Agency and not in a resource using agency.

Senator RIBICOFF. Will the Senator yield?

Do you conceive then that this Environmental Protection Agency would take precedence over NOAA when it came to matters of pollution-setting standards?

Mr. ROUSE. I guess the short answer to your question, Senator, is "Yes." The question of precedence bothers me a little, but our belief is that the standard-setting activity ought not to be in a resource using, promoting or exploiting agency.

OCEAN AND SHORELINE MUST BE PROTECTED

Senator RIBICOFF. In other words, you agree with the position that Senator Nelson takes, that we must do everything possible to protect the ocean and the shoreline, and that if we do create NOAA which has development aspects we must make sure that the overdevelopment in NOAA does not do to the environment what overdevelopment in this Nation has done to the entire environment?

Mr. ROUSE. I agree, entirely.

Senator RIBICOFF. So, when Senator Nelson makes a statement that he would hope that the report would make this very clear, irrespective of if we decide to vote favorably on the report, you would feel that it would cer-

tainly be appropriate for the report to have very strong language as to the intention of the Senate as to the role of the environment in NOAA?

Mr. ROUSE. I agree with you. I think it should.

Senator NELSON. Just so I am clear on this, you think the Environmental Protection Agency would be a more appropriate place than any other Federal agency for this responsibility, coastal zone management, and so forth; is that correct?

Mr. ROUSE. Let me say, first, that we did not study the coastal zone bill or the authorities created in it simply because it was pending legislation and our mandate related primarily to existing legislation.

But my view on that, Senator Nelson, is that those activities associated with grants to States proposed in the coastal zone bill, both to establish organizations for coastal management and then the operating grants subsequent to that probably need not be in EPA. But if there is authority in that bill which establishes standard setting and enforcement functions, those functions should be in EPA. That is, it is possible to separate a grant-giving activity from a standard-setting activity.

Senator NELSON. But so far as the environmental aspect of the oceans are concerned then, standard setting and enforcement respecting the environment, you believe this ought to go in the Environmental Protection Agency?

Mr. ROUSE. Yes, sir.

Senator NELSON. Thank you, Mr. Chairman.

Senator RIBICOFF. Thank you very much.

EXCERPT FROM SEPTEMBER NEWSLETTER OF THE CONSERVATION FOUNDATION

THE ROLE OF THE COMMERCE DEPARTMENT

What are the responsibilities and constituency of the Department of Commerce—in law and in practice?

The basic charter which established the department in 1903 states that its primary mission is: "To foster, promote and develop the foreign and domestic commerce, the mining, manufacturing, shipping, and fishery industries, and the transportation facilities of the United States." (15 U.S. Code 1512)

A 1969 department brochure states that this historic mission "has evolved . . . to encompass broadly the responsibility to foster, serve and promote the nation's economic development and technological advancement."

Commerce has shown an environmental awareness in some aspects of its regional programs under the Economic Development Administration. But its performance is not uniformly reassuring; and one can expect that NOAA will be the subject of considerable pressure from the oceanographic industry. (In seeking funds for fiscal 1968 from the Senate Appropriations Committee, ESSA described its Marine Environment Program as a portion of the "national effort . . . to establish a vigorous oceanographic program with the prime objective of exploiting the mineral and biological resources of the oceans.")

According to a staff official of the Council on Environmental Quality, Commerce's performance during eight months of complying with the mandates of the National Environmental Policy Act of 1969 is very disappointing—the most disappointing of any departmental or agency in the government.

A review of Commerce's record under that act through mid-September shows that (1) Commerce has been the slowest federal agency to comply with the act and with the Council's guidelines for administering it; (2) the Secretary of Commerce's internal instructions to department units and officials for complying with the act are weaker than those of other departments and agencies; (3) the Secretary of Commerce has designated what is regarded as the most "commercial" agency in the department, the Business and Defense Services Administration, to have overall responsibility for department compliance with the act; and (4) Commerce had not as of September 16 filed a single one of the required statements on the impact of proposed "major federal actions significantly affecting the quality of the human environment." The Commerce procedures were "vague, unresponsive to our guidelines and generally unsatisfactory," said the Council staff member.

The Commerce Department's procedures for implementing the act merely repeat the act's generalized description of actions to be covered. In contrast to other department and agency heads, the Secretary of Commerce's instructions authorize the "heads of operating units" to determine which of their actions require environmental impact statements. Also, while the heads of most departments and agencies have retained in their own offices responsibility for compliance with the act, or have delegated it to an under secretary or assistant secretary, Secretary Stans' August 19 order says that the "focal point for coordinating the department's efforts to improve environmental quality," including review of environmental statements and their transmission to the Council, is the Business and Defense Services Administration.

BDSA's mission, a 1969 Commerce brochure states, is to "provide information, services, and assistance essential to business growth and technical development," to apply "the considerations of importance to American business in the policy-making process of the federal government," and to present "in light of national objectives, the considered views of business in administering government programs." The administrator of BDSA, William D. Lee, is an engineer who joined the department in 1969 after 28 years with the General Electric Company, most recently in its marketing division.

Commerce has commented on one environmental statement filed by another agency. This involved a Long Island Lighting Co. application to the Atomic Energy Commission for a permit to build a controversial nuclear power plant at Shoreham, on the eastern shore of Long Island Sound.

The Commerce Department's comments: "Since we have no direct jurisdiction in law with respect to the proposal, the department will defer commenting on its merits at this time . . . Our only general interest at this time is to state our full support for timely action on this and any other similar application for expanded power generation facilities. The urgent need for increased national power capacity requires that these proposals be reviewed and decided as quickly as feasible to allow earliest possible construction if approved, or sufficient lead time to develop acceptable alternatives. As we are all aware, undue delay in administrative review can only further contribute to potential power failures and 'brown-outs' which the nation can ill afford."

What role did ESSA play in developing Commerce's comments on the Shoreham application to the AEC? Explained an ESSA official: "We were invited to comment and we said that we feel there is need for an evaluation of the tradeoffs between the economic benefits of the site and the environmental impacts on Long Island Sound. But our views did not prevail at the department level and were not reflected in the department's comment to the AEC."

The first report of the Council on Environmental Quality in August said simply that NOAA "provides new opportunities to improve understanding of oceanic and atmospheric resources." Council chairman Train, testifying at an August 12 hearing of the House Merchant Marine and Fisheries Committee, was asked these questions by Congressman Dingell:

"Tell us what philosophical qualifications, what clientele, what ability, what in-house capacity would justify turning NOAA over to the Department of Commerce? What has the department ever done in the field of conservation of resources, or resource management, that would justify them having that agency in their tender clutches?"

STATEMENT OF LOUIS S. CLAPPER ON BEHALF OF THE NATIONAL WILDLIFE FEDERATION ON REORGANIZATION PLAN NO. 4

Mr. Chairman, I am Louis S. Clapper, Conservation Director for the National Wildlife Federation which has its national headquarters at 1412 Sixteenth Street, N.W., here in Washington, D.C.

Ours is a private organization which seeks to attain conservation goals through educational means. The Federation has independent affiliates in all 50 States and the Virgin Islands. These Affiliates, in turn, are made up of local groups and individuals who, when combined with associate members and other supporters of the National Wildlife Federation number an estimated 2½ million persons.

We welcome the invitation and opportunity to comment upon proposed Reorganization Plan No. 4 of 1970, creating a new National Oceanic and Atmospheric Administration within the Department of Commerce.

Mr. Chairman, throughout its existence, the National Wildlife Federation has stood for the conservation of natural resources. In this context, we construe conservation as being "wise use" rather than pure preservation. Wise use, of course, requires sound management. And to be sound, management must be predicated upon principles which can be ascertained only through sound basic research. So, in our opinion, management and development is so closely interrelated with research that the functions are inseparable.

As a responsible organization representing responsible citizens, the National Wildlife Federation is interested and concerned with efficient government. We have analyzed the President's proposed reorganization plan No. 4 and recommend that the Committee render an advrese report upon it because we do not think it will result in more efficient government. In fact, we think it will promote inefficiency and may result in dangerous depletion of valuable public natural resources.

I should point out, Mr. Chairman, that we have applauded a basic principle in reorganization plan No. 3—that the regulatory functions of the Federal Government relating to pesticides and radiation be separated from those agencies which promote development and use. For example, we feel that public confidence is shaken when the Department of Agriculture is reluctant to ban the use of DDT because it has not been proven that dangers from them are imminent. In a similar manner, we fear AEC is biased in regulating tolerances of radiation. Therefore, we feel that it is entirely consistent for us to oppose Reorganization Plan No. 4 for the same basic reason—that management and research of the basic marine fisheries resources should be separated from the development of exploitive functions of the Federal Government. There are serious concerns on our part that these basic resources would be subordinated to exploitation.

I suppose this can be considered as a charge of conflict of interest.

We note from the most recent Annual Report of the Department of Commerce that: "The historic mission of the Department is to 'foster, promote, and develop the foreign and domestic commerce' of the United States. This has evolved, as a result of legislative and administrative additions, to encompass broadly the responsibility to foster, serve and promote the nation's economic development and technological advancement." Further, the same Annual Report describes

the Environmental Science Services Administration and says: "The mission of ESSA is to ensure the safety and welfare of the public, to further the Nation's agriculture, industry, transportation, and communications, and to assist those Federal departments and agencies that are concerned with the national defense, the exploration of outer space, the management of the Nation's mineral and water resources, the protection of the public health against environmental pollution, and the preservation of the Nation's wilderness and recreation areas."

Now, we are confident that these are laudable and highly desirable functions. We agree that the Nation's economic development and technological advancement should be promoted. And, we have no objection whatever to Federal funds being allocated to these purposes. However, we simply feel that *protection* of important natural resources will come out second best in an agency with the primary mission of promotion.

In fact, Mr. Chairman, I should like to emphasize this point: we likely would not be here today to speak in opposition to Plan No. 4 if only the promotion aspects of the program of the Bureau of Commercial Fisheries were transferred to the Department of Commerce. We long have felt that efforts to promote the harvest and sale of fish and shellfish truly is a function of the Department of Commerce, and so advised the Administration before Plan No. 4 was announced. However, we are equally convinced that management of the marine fisheries resources, and the related research efforts, should remain in the same agency and coordinated with the Bureau of Sport Fisheries and Wildlife.

I should not like for any confusion to exist about an attitude of the National Wildlife Federation. Our organization stands for conservation as defined by wise use and not for preservation for preservation's sake. We do not intend that commercial fisheries be abandoned or abolished so long as a sustained yield can be maintained. It was my privilege to participate in the direction of the administration of fish and wildlife resources in Tennessee prior to assuming my present responsibilities more than a decade ago. I am well aware of how aquatic resources can be husbanded and managed for the maximum production and ultimate public benefit. I am also aware of the difficulties and shortcomngs in managing and developing oceanic resources, and speaking frankly, we fear the fisheries well may be sacrificed to ocean farming or aquaculture and ocean engineering—that long-time objectives and values for the many will be sacrificed for short-time benefits for a few.

Secretary Maurice H. Stans has testified that 60 per cent of the Commerce Department personnel are assigned to scientific and research work. However, we hope and trust the Subcommittee will investigate to find out how many of these efforts are oriented principally toward improved exploitation and development rather than protection of the resources.

What assurance could the good Secretary provide us that the biological research and management programs on marine fisheries would receive funding equitable with promotional and developmental activities?

We are more than a little concerned that some people are saying: "NOAA is better than nothing." Is this true? We find little assurance that the new alignment would be an improvement over the present organization whereby the two bureaus work together well within the Fish and Wildlife Service. If there is so much merit in collecting together in one agency all Federal functions relating to the oceans, why shouldn't offshore oil leasing and regulation be transferred to the new agency from Interior? What about regulation of the dumping of wastes outside the U.S. territorial limit of three miles, a function currently the responsibility of the Corps of Engineers? Or pollution law enforcement now split between the Federal Water Quality Administration and the Coast Guard? Why aren't these functions being lodged in NOAA?

And, the Congress currently is considering proposals for coastal zone management. Questions arise about whether this program is to be administered as part of NOAA or Interior? The Administration has testified that it would be located in the Interior Department. To us, this would make sense because many of the problems relating to the sea have their origins on the adjacent lands: pollution of a myriad sort, siltation, and filling and draining of estuarine areas which provide nursery areas for fish and shellfish as well as homes for furbearers and waterfowl.

To conclude, Mr. Chairman, I might say that we are terribly concerned about national priorities—priorities that say the construction of dams, canals, highways, space ships and supersonic transports are more important than solving the Nation's environmental ills, that one moon shot is more valuable to society than providing for the Nation's outdoor recreational needs, that a weapon's development is considered more important than air and water pollution abatement projects. We contend that now is the time to give first consideration to the ocean environment rather than to its exploitation. Otherwise, the rape of the sea may follow the pattern of the rape of the land; in our haste to reap the benefits of these resources, we will damage or destroy their values forever and thereby further diminish the quality of life on earth.

One cannot help but think of how man has so relentlessly pursued the great whales that their actual existence is threatened, of how the United States right now is trying to protect both Atlantic and Pacific salmon from international overexploitation, and of how the offshore oil "blows" or "spills" have highlighted the precarious predicament of marine resources. And, then, we inevitably must conclude as responsible citizens that the long-term costs of putting "exploitation" or "development" before "environmental management" are too great to be tolerated.

It is in this context of priorities, Mr. Chairman, that we recommend that the Congress vote to reject Reorganization Plan No. 4.

Again, we offer our thanks for the privilege of making these observations.

STATEMENT OF ROLAND C. CLEMENT, VICE PRESIDENT, NATIONAL AUDUBON SOCIETY, SEPTEMBER 1, 1970

Senator, I appreciate this opportunity to join my conservation colleagues in discussing the implications of the Executive Branch's Reorganization Plan No. 4 (NOAA). As I believe you know, the National Audubon Society has already filed a comment on this plan, in which, essentially, we urge that the Congress give this much more study before consenting to its passage.

Mr. Chairman, as the Audubon Society's chief scientist I wish to share additional views prompted by my own examination of this plan, since I was not present when our first statement was drafted.

I call particular attention to the fact that NOAA, as outlined by the President, would be almost wholly oriented toward the physical aspects of the marine environment. These are important elements of our planet, but I would, for this very reason, question including the biologically-oriented Bureau of Commercial Fisheries—it would become a mere appendage. This Bureau has been no special champion of conservative resource use—having been dominated by exploitation-minded interests from the first—but it would be completely swamped in NOAA, especially if NOAA is put under the Department of Commerce.

Mr. Chairman, what I am saying is that NOAA would make more sense without a diminutive biological appendage. As an experienced biologist, I urge the Congress to leave fisheries and marine mammal research in the Department of Interior, at least for the time being.

One reason for my view is that at least ⅔ of our marine fish are dependent on the estuarine zone for part of their life cycle—so it makes more sense to keep fisheries and coastal zone management together in a biologically-oriented Department like Interior. Research is not just data collecting, but thinking about the implications of these data, and this is best done in conjunction with like-minded colleagues since it is a matter of asking questions.

I think Mr. Nixon was misinformed when he justified his inclusion of fisheries work in NOAA on the basis that "food from the oceans will increasingly be a key element in the world's fight against hunger." Ninety percent of the ocean's surface is of very low biological productivity, and we are already overexploiting many fisheries resources because the oceans remain a "commons" over which neither we nor the U.N. have succeeded in imposing responsibility. And even if there were significant untapped resources there—which I question—we are up against the same economic obstacle, called "effective demand" that plagues food production on land.

Mr. Chairman, we are sensitive to your suggestion that there is indeed a new climate of opinion regarding the importance of the environment today, and we try never to be doctrinaire about new opportunities for cooperation and leadership. But our own long experience with governmental policy implementation has taught us to insist on additional safeguards where land use questions are involved. After all, the organic act of 1898 which created the U.S. Army Corps of Engineers charged it with preventing the dumping of wastes in navigable waters; and it took ten long years after the passage of the Wildlife Coordination Act, in 1958, before the Corps really undertook to decide a dredge-and-fill case on environmental criteria! Finally, we are told that the Department of Commerce was the last agency to file a report with the Environmental Quality Council under section 102 of the Environmental Quality Act of 1969. This may be nothing reprimandable but neither does it speak for that Department's enthusiasm for environmental controls.

Mr. Nixon has urged moving a step at a time in reorganizing government departments. We agree heartily with this recommendation and suggest that the Congress take an even shorter step than it was asked to take, and defer action on NOAA until all of us have studied its implications more fully.

STATEMENT OF THE NATIONAL AUDUBON SOCIETY ON REORGANIZATION PLAN NO. 4

The National Audubon Society appreciates this opportunity to comment on Reorganization Plan Number 4.

Although we are not opposed to the establishment of a National Oceanic and Atmospheric Administration *per se*, we have serious reservations about this plan. We believe there are a great many questions that should be asked before setting up this agency which will have such an important impact on two vital resources—the oceans and the atmosphere—and indeed the whole environment. Unless these questions can be answered satisfactorily in the remaining days Congress has in which to act, we believe the plan should be shelved.

One of the first questions the Committee should explore is the wisdom of placing NOAA in the Commerce Department, instead of making it an independent agency as the Stratton Commission recommended. In a dialogue with the House Subcommittee on Re-

organization, Congressman Alton Lennon admitted that he would have preferred an independent NOAA, but said he felt the problem was too important to delay acting upon. We agree that the problem of our oceans and atmosphere is important, but should expediency rather than wisdom be the criterion for enacting this plan.

Although proponents of NOAA have scoffed at conservationists' reservations about placing NOAA under Commerce, they have never satisfactorily resolved our doubts.

We are not casting a slur upon the Commerce Department, nor are we judging it by its name. Whatever its title, the fact is that historically and statutorily this is the agency whose function is to promote economic development, and this is certainly a legitimate function. Although in recent years, scientific-technological programs such as those of ESSA have constituted a large portion of the Department's activities, we can only assume that the Department is still charged with responsibility to the commercial or business segment of our economy. Given this dual thrust, what priority will NOAA and environmental problems have? Presumably, the Secretary of Commerce will have ultimate authority over decisions made by the Administrator of NOAA. Given human nature, the Secretary's judgment will reflect the total Department's philosophy and, we believe, its institutional biases.

In testimony on Plan 4, Dwight A. Ink, Assistant Director of the Office of Management and Budget, said, "The President noted his objection in principle to the creation of new agencies in his message transmitting Plans No. 3 and 4. He stated that he was making an exception to that principle in creating the Environmental Protection Agency mainly to avoid the institutional biases that the primary missions of existing Departments were almost certain to bring to bear on environmental decisions generally and on the critical matter of standard-setting in particular."

We find it difficult to believe that the Department of Commerce is the only federal agency free of institutional bias. Incidentally, we are supporting Plan 3 (EPA) primarily because of the problems which have been evident in the past caused by institutional biases in the regulation of pesticides and other pollutants.

Through ESSA's and other programs, the Commerce Department has a strong base in technology and science, according to the Secretary. We agree. But if our nation has learned one thing in recent years, it is that technology alone—without careful consideration of its impact on the environment—can be a mixed blessing. We submit that a broad base in science and technology and expertise in data-gathering does not automatically guarantee the wisdom and sensitivity needed to make critical decisions about the environment.

One of the arguments advanced for placing NOAA in the Commerce Department is that ESSA will be the new agency's largest component. This argument might be acceptable if you considered only the number of personnel to be shuffled, but is has no bearing on philosophical and policy questions. It is understandable that no Secretary wants to lose 40% of his personnel to another agency, but is that any reason to place additional personnel in the agency?

Another important question which should be asked by this Committee is: What is NOAA and what will it become? Obviously, whatever decision is made about NOAA will have repercussions on important existing programs and proposed programs, such as coastal zone management.

We understand that during this Committee's hearings on this plan, Secretary Stans said that he expected NOAA to grow. He also said that the Administration has not decided whether coastal zone management should be put into NOAA if it is enacted. This is somewhat surprising since the Administration's coastal zone bill, written months before the reorganization plan was submitted to Congress, puts the coastal zone program under the jurisdiction of the Secretary of Interior. But it now appears obvious that the Secretary of Commerce would like to have it in NOAA.

This points out the vagueness of just what NOAA will encompass, and what dominos will fall if it is enacted now. According to the President's message on Plan Number 4, "NOAA would exercise leadership in developing a national oceanic and atmospheric program of research and development. . . ." According to Dwight Ink, "the bulk of its activities will involve research, monitoring and data-gathering on various aspects of the environment." What is it then? We believe the limits and responsibilities of NOAA need to be better defined. Its components are a mixture, since much of the Bureau of Commercial Fisheries' activities are promotional and concerned with harvesting, while on the other hand the Sea Grant program involves research grants, and ESSA is a data-gathering agency. We wonder whether this is the best combination of functions?

If coastal zone management winds up in the Commerce Department which we hope it will not—how will it fit into NOAA? Where does jurisdiction over the oceans stop—at the water's edge, at the 12-mile limit, or somewhere else?

The environmental health of our coastal zone is inextricably tied to land use, and our estuaries are among the most critical and threatened segments of our nation. Estuaries are the nursery for a great percentage of our fish and wildlife and are a vital part of our eco-system, yet miles and miles of them have been dredged, filled and developed already. In other words, they have been destroyed. Management of the coastal zone will certainly involve regulatory functions, which do not appear to be part of NOAA's mandate. The Congress should consider carefully whether coastal zone policy should ultimately be controlled by the Commerce Department or some other agency, for the type of decisions which it will involve require a different type of expertise than data-gathering. We are not convinced that the sensitivity to ecological relationships that will be needed to make wise use of our coastal zone, as well as the oceans, is inherent in the philosophy of the Commerce Department.

Because of the importance of our oceans and atmosphere, we respectfully urge this committee to give thoughtful consideration to the long-range effects of approving Plan Number 4 as constituted without further, very careful study.

STATEMENT OF J. W. PENFOLD, CONSERVATION DIRECTOR, THE IZAAK WALTON LEAGUE OF AMERICA, WITH RESPECT TO REORGANIZATION PLAN NO. 4

Mr. Chairman: I am J. W. Penfold, conservation director of the Izaak Walton League of America. The League is a nationwide organization of volunteer citizens who are dedicating their time, energies and resources to the protection and restoration of environmental quality. We believe our membership represents a good cross section of the public. We appreciate the privilege of expressing our views on Reorganization Plan #4 to establish within the Department of Commerce a National Oceanography and Atmospheric Administration.

Very quickly and briefly, Mr. Chairman, we oppose the Plan as being premature and unresponsive to the needs of the American public for a truly meaningful national oceanographic and marine program. We respectfully urge that your Committee and the Congress reject the plan.

We are not opposed to the transfer of some of the agencies in Plan No. 4 to the Department of Commerce (many of them belong there). Nor are we opposed to having the Department of Commerce administer their programs in a way which is responsive to the needs of the environment. In fact, from our conversations with Department representatives, they should be commended for giving such consideration more attention than would have been possible a few years ago. We are opposed because NOAA is being held out as *the* national environmental program for our oceans and estuaries. Quite frankly, we don't see how the American public can be expected to believe that any more than any other agency of government can be considered an "environmental" agency simply because it relies on, administers, regulates, or has control over some of the basic resources which the environment provides.

In our view, approval of Reorganization Plan #4 would be tantamount to making the decision that the basic ocean and marine policy of the United States is first and foremost to develop and exploit these resources. We do not believe that this was the intent of Congress when, over the years, it authorized the various programs and agencies which would be transferred to Commerce. They were individual responses to specialized moods and while many of them belong in Commerce, some do not. Consolidating them in NOAA at this time, particularly in the absence of a legislatively determined comprehensive marine policy, would be doing by executive indirection what Congress has yet to decide. The current debate over a Coastal Zone Management Plan illustrates that point rather conclusively. In fact, we believe that the issues raised by the Coastal Zone Management Plan are central to the development of a comprehensive marine policy and that matter should be disposed of first before we assign scientific and technological capability to any agency of government.

Even the Stratton Commission Report (and this in no way disparages the importance of that document) stated rather clearly that there should be an independent NOAA, among other things, to "serve marine industry and the marine interests of the American public." Yet Reorganization Plan #4 hardly takes into account the totality of those interests. Side by side with the Stratton Commission Report and the proposals for NOAA we have available the equally important Estuary Study by the Bureau of Sport Fisheries and Wildlife, just as Congress has also authorized for the Nation's direction, the Fish and Wildlife Coordination Act, the Estuarine Protection Act, legislation to establish River Basin Commissions, the Environmental Policy Act of 1969 and other marine and marine-oriented programs.

Further, the outstanding decision by the U.S. Court of Appeals in Zabel V. Tabb raises new hopes and challenges with respect to the Army Corps of Engineers whose own programs have a tremendous impact on our estuarine and deep sea resources.

In short, Mr. Chairman, Plan #4 is premature and incomplete in essential ways. Even the Stratton Commission Report, on which the proponents of Plan #4 rely so heavily, appears to have recognized this fact when it recommended an "independent" agency reporting directly to the President. According to the report, the case "for independent status is compelling." The Commission specifically rejected the idea of consolidating all Federal marine and atmospheric functions into a single, massive organization at this time. Yet the reasons for denying consolidation to the Interior Department or to a Department of Natural Resources one year ago are being swept aside in difference to the Department of Commerce—the critical difference being that the cart of commerce will be pulling the horse of the marine environment, including any coastal management plan which Congress may authorize.

The issues in Reorganization #4 go beyond any controversy between sport or commercial fisheries and beyond whether the Commerce Department can muster teams of expert biologists in marine ecology. Plan #4 is saying that at a time when the marine environment is threatened as never before, the Nation should engage in a program for its development—and it is saying it without a clear declaration of Congressional intent.

Mr. Chairman, we strongly recommend that Congress reject Plan #4 at this time until Congress has an opportunity to articulate a national marine policy and to develop a comprehensive program to implement it. This could begin with consideration of the Coastal Zone Management Plan and such other proposals. The argument is being made that such considerations and further reorganizations will follow NOAA. We believe they should come first. Our experience has been that in the race for these environmental resources, the exploiter and the developer reach them before the biologist, the ecologist and social scientist have an opportunity to understand them and their implications for the betterment of man. The result has almost universally been increased burdens, both on the public and on government.

Further, we recommend that Congress, in establishing a basic marine policy, consider the following recommendations of the National Council on Marine Resources:

1. That the Nation "preserve the ocean environment by accelerating scientific observations of the oceans and its interactions with the coastal margin to provide a basis for (a) assessing and predicting man-induced and natural modifications of the character of the oceans, (b) identifying damaging or irreversible effects of waste disposal factors at sea, and (c) comprehending the interaction of various levels of marine life to prevent depletion or extinction of valuable species as a result of man's activities."

We append to this brief statement a copy of our Washington Newsletter for August which discusses in somewhat more depth, for the information of our membership, our rationale for opposing Reorganization Plan #4. We submit this for the record or for the Committee files as is appropriate.

We appreciate the privilege of expressing our views.

[From the Washington Star, Aug. 8, 1970]

ENVIRONMENTAL BLUNDER

A while back, we had some kind words to say for the President's plan to put most of the government's environmental watchdog activities under a single officer. The creation of the Environmental Protection Agency does not guarantee the success of the fight against pollution. But the independent agency, if it is backed by sufficient determination and adequate funds, makes that vital victory possible.

When EPA was introduced to Congress it was accompanied by a related environmental reorganization plan, involving the creation of the National Oceanic and Atmospheric Administration within the Department of Commerce. And it must regretfully be said that NOAA—despite the appropriate acronym—shows nothing of the bright promise of its organizational sibling.

The chief argument favoring the creation of EPA—the unification of the effort to preserve the threatened environment—is the strongest argument against NOAA. If the concept of consolidation is right—and it is—then it must be wrong to crack off two of the chief components of the environment and treat them as separate entities.

The fact is that the environment cannot truly be separated into component parts. It is a unity. That which affects the land, the air or the rivers affects the oceans as well. Logic demands that the oceans and the atmosphere be placed under EPA's sheltering roof.

Why that demand was disregarded is not clear. Still more obscure is the rationale for placing NOAA within the Department of Commerce. It is an administrative decision somewhat akin to appointing the undertaker as lifeguard at the beach. Fairness dictates that there must be no assumption of a conflict of interest. But prudence whispers that no swimmer will venture far beyond his depth.

Congress, which must give tacit approval to the reorganization plans, should hail the birth of EPA and should scuttle NOAA. The President should then put the official concern for the oceans and the atmosphere under the independent agency, where it belongs.

[From The Washington Post, Aug. 11, 1970]

BRITISH EXPERT CITES PERIL IF OCEAN BEDS ARE POLLUTED

(By Stuart Auerbach)

A leading expert on food and population problems warned yesterday that the world's last great untapped food resource—the ocean beds—is being ruined by pollution.

The food from the ocean floor, both animal and vegetable, is needed if man is to feed the estimated 7 billion persons who will inhabit the earth by the year 2000, Lord Ritchie-Calder told the third annual Congress of Food Science and Technology meeting here.

"I still believe we can husband the creatures of the sea as we have husbanded the creatures of the land," he said.

"I still believe we can enhance the world's food supply from the ocean, but we are rapidly reducing our options if we tolerate the kind of irresponsible and avaricious ignorance which is threatening the living waters of the sea as it has destroyed so much of the living waters of the land."

Ritchie-Calder said "grim warnings about the impairment of marine biology" were given at a conference on the international uses of sea resources held at Malta.

He said the thin film of oil spreading over all the world's ocean is cutting the amount of sunlight reaching the bottom depths and disturbing the natural process of photosynthesis—the way land and sea plants grow.

He called the Army's plan to dump 66 tons of deadly nerve gas on the ocean bottom "shocking" and "reckless." Using the ocean bottom as a dumping ground for munitions, he added, could interfere with future mining activities.

The British peer, a professor at the University of Edinburgh in Scotland, long has advocated the cultivation of "the food riches of the seas" with "sea pastures, sea farms, sea ranches and sea stud farms."

He proposed putting electric fences around areas of the ocean as big as Texas to form huge ranches to grow fish, which could be bred specially, much the way cattle are now bred. These areas, he said should be under international control.

With the world's population growth—a doubling of the present 3.6 billion in 20 years—these resources will be needed to feed residents of the earth. And the ocean's resources must be shared, he said, since three-fourths of all the people on earth will live in underdeveloped countries by 1980.

While he praised the "green revolution" that is producing greater grain yields across the world, Ritchie-Calder said cereals can't fill nutritional needs.

Saying that people need more protein, he declared, "There is a great danger that this belly-filling will be regarded as the answer to the food problem to the disadvantage of better nutrition."

But Dr. George W. Irving Jr., administrator of the U.S. Department of Agriculture's Research Service, said that new foods with protein supplementation are winning favor all over the world.

Agriculture Secretary Clifford M. Hardin told the conference that the United States is beginning to win its fight against hunger. He said 10.4 million Americans—50 per cent more than a year ago—are now on food assistance programs and food stamp distribution has risen 64 per cent in six months.

There are now only 15 counties or independent cities in the nation without federal food supplement programs for the poor, he said.

[From The Washington Post, Aug. 14, 1970]

MARINE SCIENTISTS CITE DANGERS OF CANCER BUILDUPS BY OIL SPILLS

(By David Hoffman)

A team of marine scientists charged yesterday that no federal agency monitors, nor is any equipped to monitor, the buildup of cancer-causing petroleum byproducts in the flesh of edible sea creatures.

Testifying before the Senate antitrust subcommittee, the three scientists from Woods Hole Oceanographic Institution recommended that oil at sea be considered a powerful poison. They said perhaps ten million tons are being dumped each year in the ocean and that pollution is on the increase as companies move drill rigs farther out to sea.

Drs. John M. Hunt, Max Blumer and Howard Sanders based their report on first-hand study of a 650-ton oil spill off the southern coast of Cape Cod, a few miles from Woods Hole.

They concluded that the oil killed almost 95 per cent of all bottom creatures immediately and that ten months after the spill the oil, though invisible, is still spreading outward. Hydrocarbons of the sort known to cause cancer in man and animals remains, odorless and invisible, in the tissues of oysters and mussels—even after frying.

As marine scientists see it, dumping nerve gas off the coast of Florida poses a lesser health hazard than spillage of oil.

Hunt points out that nerve gas in liquid form has a 12-hour half life, that 30 per cent of it will decay in five days. By comparison, he said, the half life of hydrocarbons in crude oil, while not precisely known, can be measured in years. Hunt is chairman of the Woods Hole chemistry department.

The scientists also came down hard against the use of chemical detergents or dispersants in dissolving oil slicks.

It was recommended at the hearing that oil companies contribute a percentage of their revenues to a research fund that could study long and short-term effects of petroleum pollution.

Sanders, a senior Woods Hole scientist, called for controlled oil spills "in selected localities where the biology has been carefully monitored beforehand." He grew quite emotional in pleading for a moratorium on deep drilling and dumping of waste below "the thermocline."

Beginning approximately 1,200 feet below the surface, and extending to the bottom, is a layer of water in which temperature changes hardly at all. The fauna below the 1,200-foot thermocline is believed too fragile to survive the stress of waste or petroleum pollution.

WE'RE MAKING A CESSPOOL OF THE SEA

(By Gaylord Nelson, a U.S. Senator from Wisconsin, taken from National Wildlife magazine, August 1970)

In the Atlantic Ocean, about 7000 feet off the sunshine and salt-spray wonderland of Miami Beach, there is a manmade phenomenon known as the "Rose Bowl". Mockingly named for its unpleasant fragrance, the "bowl" is a large, bubbling splotch of ugly brown sprawling over those famous blue-green waves.

The "bowl" is caused by raw, untreated sewage piped into the Atlantic from the fabulous hotels and other Miami Beach facilities and from three other nearby communities. The wind and the tide have to be

just right, however, to wash the wastes and debris back in from the sea and onto the beaches. And for those who can stand the strench, fishing around the "bowl" is excellent.

Ordered ten years ago by Florida's health department to treat its sewage, Miami Beach is now taking its first step—extending the discharge pipe one mile further out to sea in hopes the wastes will be picked up by the offshore Gulf Stream and carried away to the mid-Atlantic. But scientists question whether this will do any good. Dr. Durbin Tabb, marine biologist at the University of Miami, says that because of prevailing winds, extending the pipe means the sewage is just going to be blown back in-shore on somebody else's beach.

With a southeast Florida megalopolis of 10 million people predicted in 20 years, Dr. Tabb and other scientists believe the "Rose Bowl" is one more ominous sign that big trouble lies ahead for that supposedly limitless resource on which the booming Florida economy is built, the sea and the beaches.

Fishermen, professional divers and marine scientists, whose lives are entwined with the sea, report similar situations all along America's coastlines.

Filter cigarette butts, bandages and bubblegum have been found in stomachs of fish caught near New York City's sewage sludge dumping ground 8 to 10 miles out in the Atlantic.

NIGHTMARISH BEACH SCENES

Some northern New Jersey beaches near the Atlantic shipping lane into New York Harbor have been turned into a nightmarish scene of tar from oil slicks, plastic bottles, broken dolls, even dead animals thrown into garbage somewhere.

People are sometimes driven from their waterfront homes in Galveston Bay in Texas near the Gulf of Mexico by the stench from thousands of decaying fish killed by pollution.

In the Panacea, Florida, area on the Gulf Coast, one of the state's last national frontiers, crab fishermen are coming in with only a tenth of their catch of five years ago, while real estate and land developers fill in and destroy hundreds of acres of fertile marsh areas, the Army Corps of Engineers is planning to cut new waterways, and industry pours poisonous wastes down once wild rivers into the Gulf.

Batches of mackerel caught in Pacific Ocean waters off central California last year contained so much DDT that they were impounded by federal health officials as unfit for human consumption, while in the sea off a southern U.S. coast, scientists have found miles-long slicks containing pesticide levels 10,000 times higher than surrounding waters.

"If only I could get the majority of Americans under the surface of the sea to witness what's going on," says Dr. Rimmon C. Fay, a collector of marine specimens who has been diving in the Pacific off Los Angeles for years. When he turns over rocks now in that undersea wasteland caused by sewage and industrial pollution, he finds "it's foul and putrid underneath".

Throughout history we've believed that at the sea's edge man's power to destroy stopped and nature's invincibility began. In her 1951 book *The Sea Around Us*, even Rachel Carson saw the oceans as one last haven, safe forever. How could it be otherwise, when the oceans are so vast the continents are just islands in their midst, so deep a Mount Everest could be lost beneath their surface, so powerful their waves have tossed a 2600-ton breakwater around like a cork? How does one pollute the volume of the sea, 350 million cubic miles? How poison an environment so rich it harbors 200,000 species of life?

Yet last year Stanford University ecologist Paul Ehrlich projected the end of all important life in the sea by 1979, and the probable end of the human species shortly thereafter, in a grim scenario based on current trends. I've talked to Dr. Ehrlich and other ecologists since, and there is no disagreement among them that the oceans are on the way to destruction. The only issue is when. Some scientists say that it will take perhaps 50 years at the present rate.

The vulnerability of the marine environment becoems dramatically clear when we realize that even though the oceans blanket three-fourths of the earth, their productivity is mostly limited to the rich waters over the continental shelves, narrow bands of undersea lands extending from our coastlines. Eighty percent of the world's saltwater fish catch is taken from these shallow coastal waters that make up only a tiny fraction of the total sea area. In addition, almost 70 percent of all usable fish and shellfish spend a crucial part of their lives in the estuaries—the coastal bays, wetlands and river mouths—that are 20 times more fertile than the open sea, seven times more productive than a wheatfield.

Cut the chain of life in the coastal marshes and bays, destroy the myriad bottom organisms and pollute the waters above the continental shelves, and inevitably we will eliminate the great ocean fisheries that are vital in feeding an exploding world population.

Pollution or overfishing, and sometimes both, have gouged fisheries around the world. Several bottom fish species off the Pacific Northwest have been virtually exhausted by Russian fleets with factory ships that take the bounty home all canned and labeled. The once-mammoth sardine fishery off California is now gone. The croaker, a popular food fish, has virtually disappeared from much of its native East Coast waters. Off New York, fish are becoming afflicted with a strange disease that rots away fins and tails, and in dirty Pacific waters off Southern California, fish are being found with high rates of deformities and disease.

THE HIGH PRICE OF PROGRESS

Today our accelerating exploitation of the marine environment in the name of "progress" at any price is aimed directly at the continental shelf and its coastal resources, the tiny Achilles Heel of the sea. In our greedy rush to create more land, vital United States coastal wetlands are being dredged and filled for highways, industry, bridges, waterfront homes—to the tune of almost 900 square miles in 20 years. In spite of scientists' warnings, this continues at an accelerating pace from Galveston to Chesapeake Bay. Meanwhile, our remaining estuaries are fed 30 billion gallons of sewage and industrial wastes every day, poisoning fish, choking out oyster and clam beds, and rendering the bays and wetlands unfit for almost any use.

While the vise tightens on the critical inshore areas that lace our coastlines, the pressure builds on the ocean itself. More and more, the continental shelf waters and beyond are a tempting dumping ground for our garbage, especially for those cities and industries looking for a new way to ease the burden of the national cleanup push on inland waters.

In 1968 alone, 37 million tons of solid wastes were dumped in ocean waters off the United States. The wastes—taken out to sea by barge and ship—include garbage and trash, waste oil, dredging spoils, industrial acids, caustics, cleaners, sludges and waste liquor, airplane parts, junked automobiles, spoiled food, and even radioactive materials. During his papyrus boat trip in the Atlantic last year, author-explorer Thor Heyerdahl sighted plastic bottles, squeezes tubes, oil and other trash that had somehow been swept on the currents to mid-ocean.

One big new proposal calls for piping the concentrated wastes of up to 50 industries in the Delaware River Valley more than 80 miles out to sea. But Dr. Howard Sanders of the Woods Hole Oceanographic Institute in Massachusets says wastes could wreck even more havoc on low tolerance life in the ancient, almost unvarying environment of the deep sea than in a little stream in our backyard.

LOOSE DUMPING REGULATIONS

Regulations on ocean dumping and other activities are so loose now that it amounts to every-man-for-himself on the high seas. A chief regulator, the United States Army Corps of Engineers, recently confirmed that it didn't even know how many ocean-dumping permits it has issued. And "letters of permission" handed out by the Corps for dumping more than three miles off our coasts are, the agency admits, "really an acknowledgement that anyone can do anything they please when outside our jurisdiction."

As yet, no one really knows who has what rights and responsibilities in the ocean environment, and state, federal and international jurisdictions remain in their historically chaotic tangle. The origin of national sovereignty over the first three miles of sea bed was the range of a cannon shot in the 17th Century.

Perhaps more than any other problem, the dramatic, sudden oil-well blowouts in the sea and the oil tanker breakups have begun to awaken us to the total inadequacy of our present ocean policies. The list of places where oil has blackened beaches, killed untold thousands of birds, and posed lingering threats to marine animal and plant life already includes many of the great recreational areas of this nation and the world: Florida, the Gulf Coast, New England, New Jersey, Puerto Rico, Southern California, southern England.

What famous coastline will be next? According to a report last year by the President's Panel on Oil Spills, we can expect a Santa Barbara-scale disaster every year by 1980 if present trends continue. Yet in a shocking invitation for trouble, we will be drilling 3,000 to 5,000 new undersea oil wells worldwide each year by 1980, even as the experts confirm we do not possess the technology to contain the oil from ocean disasters. And oil-carrying tankers are being built to monumental scales, cutting transportation costs but increasing the risks of gigantic spills.

How many more oil spills like the one in the Santa Barbara Channel and the breakup of *Torrey Canyon* off England will it take before all nations realize the human race is now so populous and generates so much waste that we can no longer treat the environment as if it were created for our limitless plunder?

Radioactivity from nuclear fallout can be found in any 50-gallon sample of water taken anywhere in the sea. Investigators of a massive die-off of sea birds off Britain last year found unusually high counts of toxic industrial chemicals used in making paints and plastics. Because of the use of toxic, persistent pesticides worldwide, species of sea birds such as the brown pelican have been pushed to the brink of extinction over large portions of their ranges, and there is evidence these poisons can attack phytoplankton, a food fundamental in the chain of ocean life.

Ironically, while we continue the gruesome process of polluting the sea, we are laying big new hopes on ocean space for everything from floating jetports to housing developments. The conclusion is unavoidable. If tough, intelligent action is not taken now, we will make the same wreckage of the oceans as we have of the land and of our sprawling, decaying cities. There will be more reckless exploitation, user conflicts, gigantic oil spills and other environmental disasters, and the ultimate destruction of marine life.

And the greatest losers of all will be the people of America and the world—the hundreds of millions of people to whom the coastlines and the sea mean recreation, or a home, or a livelihood, or peace and inspiration, or—because of the food provided for whole nations by the great fisheries—survival itself. Destroy this vital frontier, and in effect we will be slamming the door on our last chance for a livable world and for a decent future for generations to come.

STEPS TO SURVIVAL

The day is already tragically late, but there is still reason to hope. As astronaut Neil Armstrong expressed it, "We citizens of earth, who can solve the problems of leaving earth, can also solve the problems of staying on it." But make no mistake, it is going to be a tremendous task. Turning back the massive assault on the sea and meeting our other staggering environmental problems will mean dramatic modifications in our present policies and priorities, including, at the very least, the following three steps:

1. We must end, by 1975, all dumping of wastes into the sea, the Great Lakes and the coastal areas of our rivers and bays, except for liquid wastes treated at least to levels equal to the natural quality of the ocean waters.

Rather than using the sea as a last-ditch catchall for our wastes, our only rational choice now is to put our sophisticated technology to work finding ways to recycle our wastes back into the economy as useful new products. As Dr. Athelstan Spilhaus, president of the American Association for the Advancement of Science, said, "We are running out of an 'away' to throw things away."

2. We must prohibit any new activity—from building offshore jetports to the drilling of additional oil wells—until we set tough, new controls to avoid the chaos and destruction in the sea that is everywhere apparent on the land.

And for once the public must be fully informed and consulted at every step in decisions on whether cities are built off our coasts, whether a new sea horizon is created with the paraphernalia of marine industry, whether huge new super-tankers whose wrecks could smear whole coastlines with oil will be allowed.

We should never have permitted oil drilling anywhere under the sea until we understood and could control the dangers. Stricter enforcement of regulations for offshore oil wells is not a sufficient answer. Now, the only logical course is to halt *all* drilling in ecologically sensitive areas—such as the Santa Barbara Channel—and to prohibit new drilling *anywhere*, until there is convincing evidence it will not harm the marine environment, and until we have the technology to contain oil spills. Until we know more, all our untapped oil and mineral deposits under federal jurisdiction in the sea should be held unexploited in a National Marine Resources Trust, which should be established immediately.

3. We must halt the reckless dredging and filling of priceless wetlands and the carving up of ocean front in the name of "progress".

Faced with a coastal environment crisis, Maryland, Massachusetts and the San Francisco Bay area, among others, have taken first steps toward outlawing the "right to destroy" that has in effect been claimed by private interest lobbies, and set new standards to protect remaining wetlands.

Curtailing these long-standing practices is not easy. But the framework for these desperately needed new national standards could—and should—be taken in this session of Congress. The Marine Environment and Pollution Control Act which I introduced earlier this year would do this. Under its provisions, the Secretary of the Interior would take on major new responsibilities to protect that part of the ocean environment under his jurisdiction, at the same time setting a model which the states could well follow in their own parts of the seabed. This kind of legislation would be only a beginning in saving our oceans.

These "environmental quality" policies will be adopted only when the majority of Americans demand them in a sustained political action drive at every level of this society. There will be action in the public interest only when the land developers, the oil interests, Congress and local governments know the public means business. Citizens must take a stand now for their friend, the sea. They must use every device within the political process to see that it is protected.

Finally, all nations must together establish an International Policy on the Sea that sacrifices narrow self-interests for the protection of this vast domain that is a common heritage of all mankind. It is a challenge that will test our intelligence as a species, but a task of highest priority for the future of the human species. We must acknowledge our interdependence with all of nature, including the sea, rejecting the prevailing philosophy of Western civilization that man can dominate the planet while ignoring the works and forces of nature. For as Thoreau said: "What is the use of a house if you haven't got a tolerable planet to put it on?"

[From the Stevens Point Daily Journal]

COUSTEAU SAYS OCEANS ARE DYING

MONTE CARLO.—"The oceans are dying. The pollution is general."

That's the appraisal of Jacques Yves Cousteau, back from 3½ years' exploration and movie-making around the world.

"There was a mountain of talk about the sinking of the Torrey Canyon but the oil that polluted the sea at the time was only 1 per cent of the normal annual pollution," the underwater explorer said.

"People don't realize that all pollution goes to the seas. The earth is less polluted. It is washed by the rain which carries everything into the oceans where life has diminshed by 40 per cent in 20 years. Fish disappear. Flora too."

Cousteau and his crew aboard the Calypso returned Tuesday after covering more than 155,000 miles.

"An excess of fishing is also pollution," Cousteau said. "The oceans are being scraped. Eggs and larvae are disappearing. In the past, the sea renewed itself. It was a complete cycle. But this balance was upset with the appearance of industrial civilization. Shrimps are being chased from their holes by electric shocks. Lobsters are being sought in impossible places. Coral itself is disappearing."

But Cousteau said he had hope. "Very strict action must be taken," he declared. "The United States and the Soviet Union are making considerable efforts in this direction. The European nations are starting to act."

I again commend the Committee on Government Operations and the chairman of the subcommittee who conducted the hearings and wrote, I think, a very fine report which draws a distinction very carefully between the development activities and the standard setting and enforcement of environmental standards.

I would hope that the chairman is considering printing in the RECORD in full the rather short committee report. I think it summarizes the whole matter. I would ask unanimous consent to have it done myself. However, I think the chairman of the committee wishes to do it.

Mr. President, I yield the floor.

Mr. RIBICOFF. Mr. President, Senate Resolution 433 would disapprove Reorganization Plan 4 of 1970 submitted by President Nixon to the Congress on July 9. The plan will create a National Oceanic and Atmospheric Administration within the Department of Commerce.

This plan was referred to the Committee on Government Operations where hearings were held by the Subcommittee on Executive Reorganization and Government Research, which I chair. Subsequently, the full committee considered the disapproval resolution and reported it to the Senate with the recommendation that it not be agreed to, thereby supporting the reorganization plan. The action of the committee was unanimous.

The purpose of this reorganization is to pull together in one place the facilities, personnel, and authority necessary to develop and safeguard marine resources and the atmospheric environment. With this concern, NOAA is designed to provide for the first time a unified approach to the problems of the oceans and atmospheric environment. The principal parts of the new agency—accounting for 94 percent of its budget and 97 percent of its personnel—will be:

First, the Environmental Science Services Administration which we created by reorganization plan in 1965 and which is already a part of the Department of Commerce;

Second, most of the Bureau of Commercial Fisheries, now in the Department of the Interior;

Third, the Office of Sea Grant Programs of the National Science Foundation.

Other units of NOAA are:

Fourth, the marine minerals technology program of the Bureau of Mines in the Department of the Interior;

Fifth, the marine sports fishing program of the Bureau of Sports Fisheries and Wildlife in the Department of the Interior;

Sixth, elements of the U.S. Lake Survey of the Department of the Army.

Upon the establishment of NOAA, the following programs are to be transferred to it by executive action:

Seventh, the National Oceanographic Data and Instrumentation Centers of the Department of the Navy; and

Eighth, the national data buoy program of the Department of Transportation.

NOAA, upon absorbing all these functions and authorities, will be headed by an official who will hold a rank comparable to that of Undersecretary and who will report to the Secretary. The new agency will have an estimated 1971 budget of about $270 million and over 12,000 personnel. The President justifies the drawing together of these activities as making possible "a balanced Federal program to improve our understanding of the resources of the seas, and permit their development and use while guarding against the sort of thoughtless exploitation that in the past laid waste to so many of our precious natural assets."

The new agency is a result of a recom-

mendation of the Commission on Marine Science, Engineering, and Resources appointed by President Johnson and headed by Dr. Julius A. Stratton. Without taking time to review the Stratton Commission's history and its landmark report, I will just say today that the new agency closely parallels the recommendations of that distinguished study panel and that Dr. Stratton gives his unqualified support to Reorganization Plan No. 4.

The principal issue concerning Plan No. 4—and the major objection raised by the junior Senator from Wisconsin—centered on the possible conflict between NOAA's research and developmental mission and environmental protection of the oceans. During the hearings, the committee took a very serious view of this objection and one day of hearings was devoted to this question and other points raised by the junior Senator from Wisconsin.

Although the facts may have been slow emerging, I believe the administration has now made clear its intent to establish the Environmental Protection Agency as chief standard-setter and enforcer of antipollution laws, while NOAA's basic mission will be focused toward research, technology and resource development of the oceans and atmosphere. Through this dual—but certainly not incompatible—thrust, the committee agrees that EPA, as outlined in Reorganization Plan No. 3, should indeed be the autonomous agency in the arrangement and hold overall responsibility for environmental protection—for sea-related concerns as well as earth and air problems. A large majority of witnesses shared this view.

The agency faces an almost impossible task of satisfying everyone from the public to Congress, plus bringing order to the current fragmented approach to pollution control. But its purpose and mandate is to unify the fragmented attack on this critical ecological problem.

The Congress has, over the years, enacted a considerable body of legislation concerning the oceans and the atmosphere, and additional legislation in these areas is pending. The success of these programs depends, in large measure, upon the manner in which they are administered, and improvement in their management is definitely needed. The committee believes that NOAA, under its proposed structure and organization and with the missions and responsibilities assigned to it, constitutes, at the very least, a good beginning.

Reorganization Plan No. 4 is certainly not the ultimate solution to the question of preserving and developing our oceans. But it is an important step forward. It is responsible progress. It should be approved.

Again, because this is a resolution of disapproval, those who vote on this plan who are for the plan will vote "no" on the disapproving resolution and that automatically will be a vote for the plan. I urge adoption of Reorganization Plan No. 4.

I ask unanimous consent that an excerpt from the committee report be printed at this point in the RECORD.

There being no objection, the excerpt from the report (Rept. No. 91-1242) was ordered to be printed in the RECORD, as follows:

HEARINGS

Hearings on Plan No. 4 were held by the Subcommittee on Executive Reorganization and Government Research on July 28 and 29 and September 1, 1970. On July 28, a resolution of disapproval (S. Res. 433) was filed in the Senate by Senator Gaylord Nelson.

Testifying in support of Plan No. 4 were Senator Ernest F. Hollings; Maurice H. Stans, Secretary of Commerce; Rocco C. Siciliano, Under Secretary of Commerce; Dwight Ink, Assistant Director, Office of Management and Budget; and Andrew M. Rouse, Executive Director, Advisory Council on Executive Organization. Testifying in opposition to the plan were Senator Gaylord Nelson, Roland C. Clement, vice president, National Audubon Society; Louis S. Clapper, conservation director, National Wildlife Federation; and Joseph W. Penfold, conservation director, Izaak Walton League. Senator Frank E. Moss submitted a statement in support for the record.

In addition, numerous interested organizations and individuals submitted their views for insertion in the record of the hearings.

MAJOR ISSUES

What will NOAA's value be as a separately established agency? If a major new oceanic agency should be formed, then why should not all existing ocean- and atmosphere-related activities come under its authority?

A central issue before the committee was how many Federal sea and atmosphere functions should come under a single administration and what type of authority would this new administration hold over marine affairs?

Reorganization Plan No. 4 is essentially a regrouping of existing entities and programs within a new functional division. Any proposal to reorganize around a specific function must necessarily result also in some breaking up of the functional structure of the existing organizations involved.

It is clear that, given the complexity of modern society, there can be no comprehensive and mutually exclusive set of functions into which governmental activities can be divided. The objective of sound public management must be to strive for an organization that emphasizes those functions which require special attention, support, and control. Because the problems and priorities of society are constantly in transition, it is necessary from time to time to reexamine the structure of government. When adjustments are found to be required to bring organizational strength to bear on new, or newly perceived, problems or needs of society, they should be made.

Reorganization Plan No. 4 has been recommended by the President to strengthen the ability of the executive department to deal with research and development of oceanic and atmospheric resources. The need for greater and more comprehensive emphasis upon this function was pointed out by both the President's Advisory Council on Executive Organization and by the Commission on Marine Science, Engineering, and Resources.

The atmospehric and oceanic environments have a fundamental and pervasive influence upon the activities of society. It must be recognized that it would be impracticable to include every governmental entity and program which has oceanic or atmospheric implications within a single functional organization. To do so would result in the fragmentation of other functional organizations which meet equally important needs of society.

The President's decision to omit the Coast Guard from the proposed reorganization was made in recognition of the fact that the Coast Guard has important duties with regard to the functions of the Department of Transportation. The disfunctional effect of removing those duties from the Department of Transportation was deemed to exceed the benefits of closer Coast Guard association with NOAA's functions.

Obviously, defense oriented activites also will have implications in the area of atmospheric and oceanic resources, and coordination between the defense agencies and the proposed NOAA will have to be achieved by other than direct organizational control.

Another example of particular significance is that of offshore mineral and oil development. While the reorganization plan proposes to transfer the limited research activities of the Marine Technology Center of the Bureau of Mines to NOAA, there will remain in the Department of the Interior the responsibility for the administration of the development of oil and other minerals in the publicly owned offshore lands. The committee believes that this is appropriate. There is an intimate association between the development of mineral resources on the outer continental shelf and on the continental public lands. There is an obvious need for uniform policies and controls concerning the development of publicly owned resources. There is also a need for comprehensive consideration of the supplies of particular resources from all sources when developmental decisions are made. Furthermore, the actual operations involved in offshore oil development are closely related to the technological expertise which exists in the Department of the Interior because of its broad responsibilities regarding energy resources.

The committee believes that in view of these considerations it is clear that these and many other programs which have significant and important relationships to oceanic and atmospheric resources must nevertheless continue to be administered by agencies other than NOAA if previously established goals are to be attained and if congressional mandates are to be carried out. It is the committee's view that coordination between these activities and those of NOAA can be achieved without fundamental organizational changes.

The committee recognizes that Plan 4 creates a number of uncertainties and leaves many questions unanswered. Some of these uncertainties are due to the nature of the reorganization plan procedure which makes no provision for congressional amendment or revision. Accordingly, as experience demonstrates the need for changes in the structure or mission of NOAA, necessary amendments will have to be handled by the congressional committees having legislative jurisdiction over the subject matter. In this connection, the committee desires to emphasize the fact that approval by the committee of this plan does not in any way modify, enlarge or diminish the legislative jurisdiction of standing committees of the Senate.

This committee has a longstanding policy that the creation of new agencies and organizations, whether by legislation or by reorganization plan, should not result in, or create, the stage for any unnecessary or inefficient duplication of programs or functions. There is a natural tendency in newly created Government agencies to expand their jurisdiction as far as possible and to assume new duties at every opportunity. This tendency will require careful scrutiny by the Office of Management and Budget in NOAA's early years of existence if inefficiency is to be avoided.

While further organizational changes may be desirable in this very complex area of marine science and development, the committee agrees, for at least the present, with the President's recent observation: "* * * that in practical terms, in this sensitive and rapidly developing area, it is better to proceed a step at a time—and thus be sure that we are not caught up in a form of organizational indigestion from trying to rearrange too much at once."

Both the Secretary and Under Secretary of the Department of Commerce testified before the subcommittee on the purposes expected to be achieved from the proposed reorganization. In his statement, the Secretary of Commerce stressed that NOAA, by combining in a single administration the major Federal programs dealing with the seas and atmosphere, could better achieve a balanced Federal program to enable us more effectively to research and develop the environment, and in some cases, to exercise some degree of control over it. Probably the most immediate benefit, Secretary Stans suggested, is that in NOAA the Department of Commerce "will have brought together in one organization an outstanding and competent group of people, including the scientifically trained ESSA commissioned officer corps, which will provide a vital resource in developing a responsive national oceanic and atmospheric program.

"A force of some 13,000 people," he continued, "with its impressive spectrum of talent, represents a formidable national capability to move forward."

Other witnesses from the Department of Commerce emphasized how the disparate efforts of the many government agencies concerned with marine and atmospheric matters have led to a large variety of research programs, but with very special aims and with almost no cohesion. As such, the committee believes a newly formed NOAA is the major component necessary to meet the Nation's needs for developing and wisely utilizing the Nation's ocean and atmosphere resources. Moreover, it is one important element to formation of a strong, permanent marine environment policy by the Environmental Protection Agency.

If NOAA is placed under the Department of Commerce, will its effectiveness be impaired? Would it not be in the public interest to form NOAA under an agency other than the Department of Commerce?

Of vital interest to the committee was the question of how wisely placed is NOAA under the Department of Commerce, if it is to effectively carry out the functions vested in it by Congress?

In administrative terms, NOAA would bring together eight related sea and atmospheric programs from five departments and agencies.

By designating the Administrator of the proposed NOAA a level III official, the administration has given that position high ranking within the Commerce Department.

Thus, the Administrator of NOAA would have equal rank with the Under Secretary of the Department, an arrangement which suggests the NOAA leader will have recognized stature. Certainly, this position level satisfied those who feared the oceanic function would subserve several layers of Cabinet authority.

It should also be noted that, if the plan becomes effective, the largest element of the National Oceanic and Atmospheric Administration will be the Environmental Science Services Administration (ESSA), whose functions were vested in the Secretary of Commerce by Reorganization Plan No. 2 of 1965. By assuming the activities of ESSA, NOAA's responsibilities will include observing and predicting the state of the oceans and lower and upper atmosphere. And since ESSA with its 10,000 employees would become the nucleus of NOAA, it was also suggested by Commerce Department witnesses that very little disruption would be caused by forming NOAA under Commerce. In this connection, it was pointed out that more than 80 percent of the personnel in the proposed agency are already in the Department of Commerce.

A more compelling argument for assigning the agency to Commerce, however, was Secretary Stans' testimony before the subcommittee that NOAA in this Department represented "a logical extension of our scientific and technological activities." Noting that this Department already has the "solid base of science and technology" which will "buttress the foundations of an exciting and vigorous NOAA," the Commerce Secretary underscored the strong science capability of his Department while describing the depth and scope of several other of his agency's technological activities which already contribute to marine and atmospheric objectives.

As Commerce Under Secretary Rocco C. Siciliano separately observed:

"We have said publicly but apparently it is not too well known yet, that more than 60 percent of our people and more than 60 percent of the budget in the Department of Commerce are concerned with science and technology."

In addition to ESSA, which comprises 74 percent of NOAA's budget and 83 percent of its personnel, the hearing record provides a long list of scientific and research activities the Department supports as part of its oceans and atmospheric function. Thus the committee feels that NOAA, set within a Commerce Department framework, enjoys invaluable scientific assistance in developing a broad and comprehensive national program in marine and atmospheric matters. Importantly, it is from these research-based efforts that program directions for the wise utilization of marine resources must be derived.

Senator Hollings reinforced this view in his appearance before the subcommittee when he declared:

"Another point that should be emphasized is that somehow when you get to the Department of Commerce this is the Department in government that would only be concerned with developmental and economic issues and that somehow the other environmental concerns will take a back seat and not be considered whatsoever. The fact is the opposite. In the Department of Commerce, you have the Coast and Geodetic Survey which does not work for profit interests; you have the Environmental Science Services Administration which does not work for profit interests and is not just mission-oriented toward business development. You have the Bureau of Standards."

Continuing he said:

"The fact of the matter is that the environmental and statistical information employed by all of the U.S. Senators and Congressmen alike is obtained from the Bureau of Standards in that particular department. Sixty percent of the Department of Commerce at the present time has its budget or its personnel in science and technology."

The committee finds convincing the testimony of Secretary Stans and Senator Hollings that the assignment of NOAA to the Department of Commerce will in no way impair the effectiveness of the new agency, but, rather, could enhance it. According to the testimony of the Secretary of Commerce and other Administration witnesses, considerable machinery now exists for the coordination of the scientific and technological activities of the Department of Commerce with those of other Federal agencies having related responsibilities. In addition, it appears that additional coordinating machinery will be developed to meet requirements as they arise, and the committee is satisfied that the need for coordination will be met.

To what extent does NOAA fulfill the function that the Commission on Marine Science, Engineering and Resources (Stratton Commission) outlined in oceanography?

It was noted in testimony that the proposal for a NOAA was advanced in early 1969 in the report "Our Nation and the Sea," which was prepared by the Commission on Marine Science, Engineering and Resources under the chairmanship of Dr. Julius A. Stratton. The Commission did not advocate drawing together all Federal marine and oceanic programs. Rather, it preferred that many activities—such as the Corps of Engineers' program for the protection of the Coasts and the Geological Survey—maintain their identities and be strengthened in their current locations. However, the Commission did conclude that present Federal marine activities have developed over the years in unplanned fashion and with a highly fragmented program impact.

The Commission's proposal was a NOAA, similar to that outlined in Reorganization Plan No. 4, bringing together a number of interrelated marine and atmospheric programs under tighter coordination and more unified management.

Certain committee testimony, however, reflected concern that the Stratton Commission advocated NOAA as an independent agency and implied that the presently proposed agency does not entirely follow the study panel's recommendations.

The committee was therefore anxious to learn from Administration witnesses how the NOAA advocated by the Stratton Commission differs from the NOAA proposed in Reorganization Plan No. 4.

An examination of the proposed organization and structure of NOAA and the testimony of principal administration witnesses reveals that it follows the recommendations of the Stratton Commission, with two exceptions. The Commission recommended that NOAA be established as an independent agency and that the Coast Guard be transferred to it. Following additional study, the President decided that it would be preferable to place NOAA within an existing agency—the Department of Commerce. With respect to the Coast Guard, the national data buoy development project which is administered by the Coast Guard will be transferred to NOAA by executive action. However, it was felt that since the basic functions of the Coast Guard relate to law enforcement, maritime safety, navigation aid, military readiness, etc., it would be inappropriate to place it in an agency whose major concern is the development of a national oceanic and atmospheric program of research and development.

It was further suggested that such independence as NOAA would enjoy should be preserved or possibly increased to the point of making the agency an independent body, as the Stratton Commission had recommended. The committee feels that the "independence" factor is of no real consequence in evaluating the performance of NOAA since its principal function is to research, monitor and develop a broad information base for ocean and atmosphere resources, primarily to strengthen the capability of the United States to utilize the resources of the sea. The proposed Environmental Protection Agency, EPA, to which NOAA will report these baseline findings and results, will be the standard-setting mechanism for environmental matters.

Since the EPA, as outlined in Reorganization Plan No. 3, has the basic and overall responsibility for environmental protection, the committee feels the two agencies are entirely complementary and that only the EPA need remain autonomous. Further, as noted, to create an independent NOAA at this time could well deprive the new agency of an opportunity for the closest support, guidance and assistance from the Department of Commerce's outstanding and already established research apparatus.

The committee feels that NOAA is in an excellent position in the Department of Commerce to perform its statutory responsibilities. The present distribution of Federal ocean and atmosphere responsibilities clearly indicates that the activities of NOAA would fit most appropriately in this department.

Is the purpose of NOAA to assist in developing the resources of the sea? Is its primary

environment function that of promotion or protection, or possibly, both?

Concern was voiced by committee members Senator Muskie and Harris that it might be unworkable to house development or promotion activities under the same roof as enforcement responsibilities. In supporting the need for a NOAA, opposition was expressed by Senator Nelson, who appeared as a witness, to an oceanic agency which would combine these possibly incompatible functions.

But the committee, after listening to administration witnesses, felt that streamlining our environmental structure to bring it up to date would be only half the task. The committee accepts the administration thesis that NOAA and EPA will have separate, though complementary functions, with NOAA serving as an important resource for EPA by assisting and providing information for marine environment protection programs. Additionally, NOAA strengthens our marine resource development capabilities. This jurisdictional distinction, while at first unclear, was much better clarified through subsequent subcommittee testimony and a response by the Department of Commerce to eight committee questions submitted by Senator Nelson.

Mr. Dwight Ink, assistant director of the Office of Management and Budget, noted in his testimony before the subcommittee that the type of program to be carried out by NOAA differs considerably from EPA. NOAA will not be setting standards affecting the programs of other agencies; it will not be an enforcement agency; the bulk of its activities will be of a research, monitoring and data gathering nature on various aspects of ocean systems.

A separate EPA, on the other hand, was said by Mr. Ink to be "Justified on the grounds that its programs might be buried in the massive on-going efforts in which cabinet departments are involved and not receive the attention it requires at top levels of government. There is no such danger in the case of NOAA, especially in the Department of Commerce, where it will constitute almost half of the resources of the Department and be headed by an officer having a rank equivalent to an under secretary."

In summary, EPA was described as an agency which would be responsible for standard-setting and enforcement for all aspects of the environment—for sea-related concerns as well as earth and air problems—and the committee shares this view.

In response to one of Senator Nelson's questions on this point, the Commerce Department letter said:

"The reasoning that pollution abatement standard-setting should be insulated from the promotional interests of other departments is consistent with the concept of NOAA being placed in the Department of Commerce. We would expect EPA within its authority to set necessary pollution abatement standards for the seas. NOAA will monitor, observe, try to predict the physical environment of the air, oceans, and the live resources of the seas. NOAA intends to work closely with EPA in the same fashion that ESSA does today with the Department of Health, Education, and Welfare on air pollution problems. ESSA monitors and predicts air pollution potential for the air quality control regions which in turn implement control actions. EPA will be an enforcement agency."

As the central question of the hearings, the committee finds consistency in the principle that in our oceans policies, environmental standard-setting and enforcement should be kept separate from other Federal activities. As such, the committee firmly believes that Reorganization Plans No. 3 and 4 preserve this position by placing environmental standard-setting functions in EPA and marine research technology and development functions in NOAA.

CONCLUSIONS

Objections to Reorganization Plan No. 4 have been based on practical considerations but, with the evidence of the hearings record, a clearer explanation of the correlative functions of NOAA and EPA has been given. The matter of whether NOAA was essentially development or enforcement-focused was explained by Administration witnesses. And it was brought out that NOAA, while perhaps a less visible agency than EPA, would certainly be a no less vital one.

Yet as important as looking to the future is the need—right now—to fashion a flexible oceanic and atmospheric agency, especially when so much in the oceanic field remains undiscovered and unpredictable. In the past decade we have experienced improbable advances in space exploration automation technology and the management sciences. We may reasonably expect in the coming decade no less startling breakthroughs and discoveries on the oceanic frontier. Accordingly, we must assure that the Government is organized to deal effectively with the environmental challenge to the seas our country now faces.

Though the primary mission of NOAA will be oriented toward research, technology, and resource development, the Agency of course must, as must all Federal agencies, comply with all applicable provisions of the National Environmental Policy act of 1969. The Agency must, also, pursuant to Section 102 of the Act, annually review its existing statutory authority, administrative regulations, policies, and procedures. This legislation specifies that the annual report propose to the President and to the Congress whatever new executive or legislative authority it finds necessary to make its authority consistent with the provisions and purposes of this act.

The committee expects that NOAA will diligently pursue this review and that appropriate legislative recommendations will be prepared for presentation to the Congress within 1 year's time.

During the committee hearings, mention was made by several witnesses, including the Secretary of Commerce, of the coastal zone management program proposed in legislation now pending before Congress. The committee does not intend that its endorsement of Plan No. 4 should in any way be interpreted as a position for or against administration of the coastal zone management program, if enacted, in NOAA. Indeed, the Administration has not finally determined its position with respect to this question, as Secretary Stans told the subcommittee.

With respect to Reorganization Plan No. 4 itself, it must also be noted that chapter 9 of title V of the United States Code sets forth the conditions and requirements upon which the measure has been submitted. The committee believes these conditions are satisfied and that the plan meets the statutory test.

It has been demonstrated to the satisfaction of this committee that the establishment of NOAA is vitally necessary and that the place for the proposed agency is in the Department of Commerce. NOAA can be most effective there because it will be associated with the Department already having primary responsibility for research, monitoring, and development regarding the sea and atmosphere. And EPA is properly established as an independent agency, with the mandate to carry out environmental standard-setting and enforcement responsibilities, respecting the coastal and ocean environments as well as other important areas.

Although reasonable men may differ with respect to the activities and programs which should be brought together within NOAA, the committee believes that the evidence presented fully supports the President's contention that NOAA, under its proposed structure and organization, will constitute, at the very least, a good beginning to the achievement of the ultimate goal of the development of a unified, consolidated approach with respect to policies and programs relative to the oceans and the atmosphere.

Based upon its long experience in the field of executive reorganization and management, as well as upon the evidence presented, the committee believes that a convincing case has been made for Reorganization Plan No. 4. Accordingly, the committee recommends that Senate Resolution 433 be rejected thereby allowing Reorganization Plan No. 4 of 1970 to become effective.

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

Mr. RIBICOFF. I yield.

Mr. NELSON. Mr. President, I again commend the Senator from Connecticut for the hearings he conducted and for the very fine report that the committee wrote.

I emphasize, as I have stated from the beginning in my testimony before the subcommittee and in all the statements I have made since that my concern has been over the matter of timeliness and if the issues of the settlement of the coastal zone management program and other marine environment aspects were already settled, it would then be timely to establish NOAA. Many conservationists would prefer that NOAA be an independent agency. It is not my position that it is inappropriate per se to have NOAA with its functions in the Department of Commerce.

That may very well be as good a place to put it as to make it an independent agency, though I would have some preference for the latter.

My purpose was to be sure that we had a vehicle, which was the resolution I introduced, so that hearings could be conducted and so that those who had a viewpoint to express on this matter would have an opportunity to be heard. The conservationists were heard, as well as representatives of the administration, and a representative of the Stratton Commission, and a representative of the Ash committee.

I think it has been a fruitful discussion and that the hearings were very useful. And I think the dialog and the committee report set a predicate for what I am interested in discussing at a subsequent date when the proposals come to the Senate floor for the assignment of the responsibilities for coastal zone management and other marine environment responsibilities.

On that score, I know that some very distinguished authorities, including the Senator from South Carolina (Mr. HOLLINGS), who has studied this matter as thoroughly as anyone in either House of the Congress, may have a different belief about where the responsibility for coastal zone management ought to be placed. However, when that issue is before the Senate, that will be the appropriate time to further discuss the issues which have been raised by the introduction of this resolution, where we have discussed the maintenance of a separation of this resolution, where we have environmental standard setting enforcement.

Mr. RIBICOFF. Mr. President, I understand the question raised by the distinguished Senator from Wisconsin. The Senator from Wisconsin, as well as the

Senator from South Carolina (Mr. HOLLINGS), testified at length. Their testimony was of the highest order.

Both Senators have a deep understanding and commitment to the problems of the ocean and the protection of the ocean and also a desire to develop the ocean for commerce and for its natural resources, as well as the problems of preserving our environment.

I understand that the coastal zone management bill is now before the Commerce Committee and the subcommittee chaired by the distinguished Senator from South Carolina.

Since it has not been reported in the Senate, there was absolutely no way in which our committee could make a determination on what should happen to the coastal zone management proposal.

At a subsequent date, the Senator from South Carolina and the Commerce Committee, under the chairmanship of the Senator from Washington (Mr. MAGNUSON), will undoubtedly report out a bill.

At that time, the Senate will have an opportunity to discuss what will happen with coastal zone management. I cannot imagine, when that bill is reported out, that either the Senator from South Carolina or the Senator from Washington are going to do violence to the preservation of our environment.

We can be sure that the oceans will be kept as free of pollution as possible.

I further point out to the Senator from Wisconsin that I agree with him. I, too, feel that we must preserve our environment in every phase and not destroy our oceans and turn them into dead seas.

We have, I think, Reorganization Plan No. 3 which goes into effect tomorrow, as well, giving the supervision and control.

So, when plan No. 4 is adopted, establishing NOAA in the Commerce Department, NOAA will take actions in the field of the oceans and all its phases, but it will also be subject to the rules and regulations and to the mandates of EPA, which goes into effect at the same time.

I would have preferred, perhaps, a much broader program in handling our natural resources. I have thought for a long time there should be a department for the environment and natural resources, but if we could not get that, NOAA is definitely a step forward and it does bring together many agencies and programs that do have things in common affecting the development of our oceans.

Consequently, while I understand the point the Senator from Wisconsin is making, it would be most unfortunate if we turn down this reorganization plan. I believe it is a step forward in progress, better management, and more effective use of taxpayer's dollars, as well as developing our oceans with an overall program.

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

Mr. RIBICOFF. I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, first I want to thank our distinguished friend, the Senator from Connecticut, for his understanding and the comprehensive coverage given this important subject of NOAA to be implemented as an administration within the Department of Commerce.

We have over the years expended annually $800 million in oceanic and atmospheric programs and we have over 55,000 personnel in some 22 agencies and departments serving these programs. This is a very fine step forward. It is not all that we wanted. President Nixon should be commended for having taken this step, at least even without the Coast Guard, to put about 13,000 people, with a budget of about $300 million under the Department of Commerce to provide an excellent beginning for a national oceanic and atmospheric program. Part of their program will be development of ocean resources.

I say in the same breath when I talk about the development of the ocean resources in the Department of Commerce that I know of no other department or agency in the United States more concerned environmentally than our Department of Commerce.

I have the greatest respect and admiration for our distinguished colleague, the Senator from Wisconsin. He is a leader in environmental affairs. Yet, when he or I make a talk on the environment, where does he go? To the Bureau of Standards in the Department of Commerce, or to ESSA, the Environmental Science Services Administration, or to the Coast and Geodetic Survey, or to the Weather Bureau. Sixty percent of the personnel and budget of the Department of Commerce are oriented toward science and technology. They are concerned with the environment.

I can see our distinguished colleague from Illinois (Mr. PERCY) who went to the heart of the nerve gas problem we had in connection with defense appropriations, so they would adhere to the environmental concerns we had.

It was the leadership of the distinguished Senator from Washington (Mr. MAGNUSON) that called the hand on nerve gas. He held hearings and assumed responsibility. Since that time we have learned there are 238 waste disposal sites in the oceans and Great Lakes approved by our Government for dumping. Our Subcommittee on Oceanography is going to go into that after the elections in November. I feel we are concerned with our environment. I do not want to go along with the idea that the Department of Commerce is solely development oriented.

The Senator from Wisconsin talks about timeliness. Everyone knows that after 12 years it is time to do something. We have talked about it, we have discussed it, and we have studied it.

The Senator from Washington (Mr. MAGNUSON) told me that at one time he had two rooms up there full of nothing but studies and reports. We tried under President Kennedy and President Johnson to get a strong oceans programs, and now under President Nixon we are getting something done on this score.

With respect to timeliness and other matters concerning coastal zone management, this is far too early to start the debate. While we have had these hearings, environmentalists have testified on coastal zones. The distinguished mayor from Newport Beach, Calif., testified for the National League of Cities in support of a coastal zone bill. We had extensive hearings by the Subcommittee on Oceanography, but the full committee will not take that up until after the November elections, at which time we will have more than sufficient time to give the matter every bit of consideration and report back to the Senate a coastal and estuarine zone management bill, and it will be discussed in full.

I do not want to mislead the Senator from Wisconsin. I support assignment of the coastal zone management responsibility to NOAA, which will be in the Department of Commerce. The Stratton Commission recommended that it be in NOAA. So I am not trying to mislead and say we do not know. Our Commerce Committee bill calls for it to go into NOAA.

What does the coastal zone bill do? The coastal zone bill is a grant-in-aid program to the States to assist the coastal States in planning and implementing their plans. The coastal States need planning and development, but planning particularly with respect to environmental problems.

There is an entire chapter in the Stratton Commission report devoted to the coastal zone. This was 2 years before everyone got the environmental bug. The Stratton Commission studied this and that was one of their main concerns. They stated to the States, "We want to implement a grant-in-aid program to be controlled by the States, to bring about development with environmental counsel in protecting our coastal and estuarine environment."

Since Reorganization Plan No. 4 takes away many of the capabilities of the Department of Interior—their inhouse fisheries capability has been removed and Federal Water Quality Administration has been moved to the Environmental Protection Agency, which the Senator from Wisconsin said he approved. It is only natural we put coastal zone management in NOAA.

But as the Senator from Connecticut stated, that will come at the appropriate time after the election when we come back in November. By way of timeliness, it is certainly not timely now to inject into this debate what may happen.

The Senator should be commended. The Senator from Washington (Mr. MAGNUSON) worked long and hard. I am sure there will be a statement placed in the RECORD by the Senator from Tennessee (Mr. BAKER). We have been working together and we have been traveling together. We have had hearings with testimony by environmentalists and many other interests. This is not untimely. It is not done quickly. It is done after everyone has gotten consideration, particularly the environmentalists.

Mr. PERCY. Mr. President, will the Senator yield so we can ask for the yeas and nays?

Mr. HOLLINGS. I yield to the Senator from Illinois to request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HOLLINGS. Mr. President, I have

the privilege of speaking today on behalf and in support of the President's Reorganization Plan No. 4, establishing the National Oceanic and Atmospheric Administration in the Department of Commerce, and to speak in opposition to Senator NELSON's resolution of disapproval of plan No. 4. I address my comments to the area of environment that has raised some of the most difficult questions that have been asked about the proposed reorganization.

Not long ago I supported Senator Moss' attempt to have a Department of Natural Resources and Environment created. As you know, many thought that creation of such a department would neatly package all environmental concerns and that department would have almost sole responsibility and authority for combating environmental problems. But creation of a single, large department of Natural Resources and Environment proved to be impossible. It would take years to obtain such a department in Congress.

What is necessary then is the strengthening of the authority and responsibility of certain existing departments, such as the Department of the Interior, the Department of Defense, the Department of Agriculture, and the Department of Health, Education, and Welfare, only to name a few, and to consolidate functions and capabilities where we can. That is what the President has proposed with Reorganization Plan No. 3 to create an independent Environmental Protection Agency. And that is what he proposes by the establishment of the National Oceanic and Atmospheric Administration in the Department of Commerce.

But these two new organizations will not be the only Federal organizations still having responsibilities. I have just begun looking at the problems of ocean pollution and of waste management, and when you look at these problems, you find that the Department of the Interior has a responsibility that will continue after this reorganization; the Department of Health, Education, and Welfare has responsibility that will continue; the Atomic Energy Commission has responsibility that will continue; the Environmental Protection Agency will take on the responsibilities of the Federal Water Quality Administration and the Bureau of Solid Waste Management; the National Oceanic and Atmospheric Administration will continue monitoring and research functions that the Environmental Science Services Administration presently carries on; and the Corps of Engineers and the Department of Housing and Urban Development will continue their responsibilities. Not all of those agencies are known as environmental agencies. But they all have developmental programs that have environmental impacts, and because they are not known as environmental agencies does not disqualify them or take away from them the responsibility for acting to protect the quality of our environment. Nor would it disqualify the Department of Commerce.

Whatever may have been the reputation of the Department of Commerce during the 1930's as the Department of Big Business, clearly that is not the case now. And certainly none of the elements that the President proposes to place in the National Oceanic and Atmospheric Administration could be called the tools of big business. The Environmental Science Services Administration with the Weather Bureau and the Coast & Geodetic Survey provide monitoring services and mapping and charting services for the Nation as a whole.

No one has ever called American fisheries, serviced by the Bureau of Commercial Fisheries, big business. The Tiburon facility of the Bureau of Mines has an important marine minerals technology program that will be important to the Nation as we develop our ability to work in the oceans and resolve some of the international problems related to that work. But it is not a tool of big business. Nor is the sea grant program, which has benefitted so many universities and other marine programs around the United States. The U.S. Lakes Survey is a counterpart of the Coast & Geodetic Survey in the Great Lakes, and the data buoy program from the Coast Guard is another technology program that could hardly be accused of operating solely for the profit motive.

Granted there are business functions that the Department of Commerce performs. The Economic Development Administration and the Regional Planning Commissions, the Business and Defense Services Administration, all provide economic advice and assistance. But these are also available to the National Oceanic and Atmospheric Administration to complement some of the roles that the NOAA will have. The fact is that over 60 percent of the budget and personnel of the Department of Commerce are presently devoted to science and technology. And these capabilities in science and technology in the Maritime Administration, in the National Bureau of Standards, in the Clearinghouse for Scientific and Technical Information can be of great assistance to the new NOAA.

When Senator MAGNUSON began his attempts in 1959 to strengthen our Nation's oceanographic programs he and the rest of Congress found that the Federal organization was in complete disarray. Administrative steps to correct the problems through the Interagency Committee on Oceanography proved insufficient, and when we established the Cabinet-level National Council on Marine Resources and Engineering Development in 1966 we did so only as a temporary expedient until a more permanent structure could be created. We also created the Commission on Marine Sciences, Engineering and Resources in 1966, and after 2 full years of study and hearing over a thousand witnesses, the Marine Science Commission recommended the creation of an independent National Oceanic and Atmospheric Agency that would have the components that we are now concerned with plus the Coast Guard.

The Marine Science Commission benefited greatly from the studies that had preceded their study: From the National Academy of Sciences; from the Panel on Oceanography of the President's Science Advisory Committee; from the hearings in both the Senate and the House in 1965; and finally from the studies that its own seven panels conducted. All of these studies showed a strong concern for the quality of the marine environment. The Stratton Commission report is permeated with environmental concern. Every page of the report indicates that concern. And the Marine Science Commission report is also the "Bible" on which an exciting program is being proposed by the Department of Commerce to be presented to the Office of Management and Budget for the coming fiscal year.

When I had the privilege of testifying before the Subcommittee on Executive Reorganization I stated:

> Essentially we need an agency with a broad range of responsibilities and capabilities in the marine and atmospheric environments. NOAA is not conceived solely as an oceanographic agency, devoted only to the science of the ocean. NOAA is conceived as a socially and scientifically relevant agency. The development of scientific and technological capabilities and services for the nation will be important functions for the new Administration. But equally important are the economic, environmental, legal, political, diplomatic, and other social activities relevant to NOAA's responsibilities. Marine programs have been in such disarray that to attempt to harvest the riches of the oceans without better Federal organization and national programs for wise resource management will only lead to environmental disaster.

Mr. President, the time to face the issue whether this Nation will create a strong oceanic and atmospheric program is now. It has been well studied. It has broad environmental concerns. And lest there be any question in anyone's mind that the legislative intent of the Senate was when it approved the National Oceanic and Atmospheric Administration, I want to state clearly that the NOAA will have scientific, technological, resource development, monitoring, mapping, and charting services among its many duties. But sound resource management techniques and concern for the quality of the marine and atmospheric environments are inseparable parts of the proposed program. And let anyone who is looking at the intent of the Senate in approving this organization know that this is what we intend and this is what we expect of NOAA.

Mr. President, I want to try to dispel some of the misunderstandings and misgivings about coastal zone management that have been expressed during the debate on NOAA.

The idea originated with the Commission on Marine Science, Engineering, and Resources as a response to the burgeoning population and conflicting and competing uses of the coastal and estuarine zones of the United States. They suggested that NOAA administer a program of coastal zone management. Senator MAGNUSON and Senator TYDINGS subsequently introduced bills which would have assigned the responsibility to the National Council on Marine Resources and Engineering Development in the absence of NOAA, but it was intended that if NOAA came into being, the bills would

be amended to place the responsibility there.

Last year the administration introduced its coastal zone management bill, and proposed to amend the Federal Water Pollution Control Act. This bill would then have been assigned to the Federal Water Quality Administration. As we all know, the Federal Water Quality Administration now goes to the new Environmental Protection Agency. And if the administration still intends the program to be administered by the Department of the Interior, it will have to redraft its bill to place it there, otherwise it would go to the Environmental Protection Agency.

On September 16 the Subcommittee on Oceanography reported a redrafted coastal and estuarine zone management bill to the full Committee on Commerce. We hope that the full committee will meet in executive session on it soon. As presently redrafted the bill would assign the responsibility to the Department of Commerce, to be administered by the NOAA.

There seems to be a major misconception of what the coastal and estuarine zone bill is all about. Essentially it is a Federal grant-in-aid bill with two major parts: The one for planning purposes, the other for implementing those plans. The first part would provide grants-in-aid to the States to assist them in developing coastal and estuarine zone management plans and programs. Once the State has developed an acceptable plan and program, it would then be qualified to receive grants to help them implement the plan and program.

The bill we are proposing to the full committee does not change the jurisdiction of any Federal department or agency. Rather, we strengthen the roles of Federal, State, and local governments by insisting that they all participate in the planning process. We think that all interests, Federal, State, local, and public must be taken into consideration in the planning.

The principal function of the Department of Commerce would be to administer a grant-in-aid program under our proposed bill, and to assist the States in performing the planning function. But in no way is it proposed that it be a Federal takeover of control, nor an encroachment on the existing jurisdiction of Interior, Defense, and the Corps of Engineers, Housing and Urban Development, Health, Education, and Welfare, and the other Federal departments and agencies that have authority and responsibility in the coastal zone.

Specifically, the proposed bill defines the outer extent of the coastal zone as the outer limit of the territorial sea—three nautical miles at present. The Outer Continental Shelf Lands Act begins its jurisdiction at 3 nautical miles or farther out if the historical boundary of the State extended beyond 3 miles. Thus, this proposed bill would in no way encroach on the jurisdiction of the Department of the Interior under the Outer Continental Shelf Lands Act.

Mr. President, I would hope everyone would oppose this resolution. I counsel once more as the Senator from Connecticut pointed out: To unanimously disapprove the resolution, and vote in behalf of the President's Reorganization Plan No. 4, would be a "no" vote.

Mr. ALLOTT. Mr. President, I do not know whether there are enough Senators on the floor to have the yeas and nays ordered, but I request the yeas and nays.

The yeas and nays were ordered.

Mr. PERCY. Mr. President——

The PRESIDING OFFICER. The question is on the adoption of the resolution. The yeas and nays have been ordered——

Mr. PERCY. Mr. President, I have a statement to make.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, in the absence of the Senator from South Dakota (Mr. MUNDT) and the Senator from New York (Mr. JAVITS), first and second ranking Republican members of the committee, who are necessarily absent, I would like to make a statement on behalf of the minority members, which will actually state the administration's position. The distinguished Senator from New York (Mr. JAVITS) has participated actively in all of the proceedings in connection with this reorganization plan and is in full accord with the comments I now make.

Mr. President, I oppose Senate Resolution 433 which is now before the Senate. While I have the utmost respect for the work of the junior Senator from Wisconsin, especially in the area of environmental quality control, I think the resolution he has offered in opposition to the President's Reorganization Plan No. 4 threatens to block a critically needed new agency and set back the efforts to develop important new data for improving the environment.

Having served on the Executive Reorganization Subcommittee of the Government Operations Committee and having participated in the hearings and executive deliberations on this plan, I have heard the full range of arguments—pro and con—on its merits. I remain fully persuaded that the President's proposal is sound. Charges that the Department of Commerce, because of its interest in commercial affairs, will neglect environmental considerations simply do not hold water today in light of the Department's contemporary programs and activities. Furthermore, the plan has the support of people who have been very close to the problems including the members of the Stratton Commission, and the House and Senate Subcommittees on Oceanography. And, it should be said at this point, that the Government Operations Committee voted unanimously to disapprove the resolution which we are now debating.

Reorganization Plan No. 4, to create a National Oceanic and Atmospheric Administration within the Department of Commerce, represents the second major plank in the President's proposal to reorganize the government more effectively in the use of our Nation's resources. There is widespread agreement that the reorganization and centralization proposed in the plan before us will be an important step toward realizing the oceans benefits.

Under this plan, programs and functions now scattered among four separate departments and one agency are to be transferred to NOAA. Of the various components of NOAA, the Environmental Science Services Administration, already located in the Department of Commerce, will constitute about 73 percent of the budget and 83 percent of the personnel of NOAA. These elements of ESSA include the Weather Bureau, Coast and Geodetic Survey, Environmental Data Service, National Environmental Satellite Center, and ESSA Research Laboratories. From the Interior Department will come the Bureau of Commercial Fisheries functions related to the marine environment, marine sports fish activities, and the Marine Minerals Technology Center. From the Department of the Army will come the U.S. Lake Survey of the Corps of Engineers. From the National Science Foundation will come the Office of Sea Grant program. Other components include the National Oceanographic Data Center and National Oceanographic Instrumentation Center of the Department of the Navy, and the national data buoy program of the Coast Guard.

The purpose of the reorganization is to pull together, on a unified basis, research, exploration, development, conservation, monitoring, and educational activities as they relate to oceanic and atmospheric functions.

Congress took the first initiative in this area when it passed the Marine Resources and Engineering Development Act in June of 1966, setting forth in an unprecedented statement our national purpose of advancing not only our study of the oceans, but our beneficial use of them. Congressional support for a stronger ocean policy is today, and has been through the years, strongly bipartisan. This support is based on the conviction that important national needs can be met in the oceans and that action is required. The reorganization plan submitted by the President is clearly intended to implement this philosophy, and provide a sound basis for action.

Dr. Edward Wenk, Jr., one of the Nation's most renowned experts in the field of oceanography, in his testimony before the House Government Operations Committee, was asked, "What would the National Oceanic and Atmospheric Administration proposed in Reorganization Plan No. 4 give us?" His response:

We would gain an efficiency in our study of the oceans by combining the technological capabilities of ships, buoys and spacecraft with biological and atmospheric research.

We would cut down the wastage involved in interagency competition.

We would have at last in the Federal civilian structure, a focal point of attention and operating ability in one visible place.

We would have a high-level spokesman within the Government to insure that civilian marine matters receive adequate attention in the setting of priorities.

We would gain uniform standards for research and exploration.

We would have built-in recognition that the proper focus of our ocean program is on the multiplicity of uses in contrast to research and development.

We would have a unity in budget presentation and consideration.

For persons seeking ocean technical data, for businessmen wanting to know the direction and content of Federal civilian oceanographic activities, and for the student wanting basic information, the existence of a centralized civilian oceanic "home" in Washington will cut down on confusion and delay.

In urging approval of Reorganization Plan No. 4, Dr. Wenk warned that its defeat would deal a profound setback—to both advocates of better knowledge and use of the oceans, and persons interested in our environment.

There has been some criticism of the President's decision to place NOAA within the Department of Commerce. These arguments contend that the need exists today to preserve rather than exploit such resources and that such preservation is less likely to occur in the Commerce Department because of its commercial activities.

I believe those who make such argument, and I regret that some conservation groups are among them, are not giving due credit to the Department and its present head, Maurice Stans, himself a strong conservationist.

The Department of Commerce is, and has been for some time, a multiservice agency with general purpose responsibilities in science and technology. Examples are the National Bureau of Standards, whose services extend across lines to all Federal agencies, the Census Bureau, whose activities contribute to the programs of virtually every department of Government, and the Weather Bureau, whose activities serve a much larger constituency than just Commerce. ESSA, which will make up almost three-fourths of NOAA, already has many environmental responsibilities and performs them very well. ESSA, for example, works very closely with HEW in monitoring and measuring air pollution. More than half the Department's personnel and budget are concerned with science and technology, and Secretary Stans has pointed out that he regards economic development in a much more sophisticated manner than merely to exploit today and forget tomorrow.

Furthermore, there have been a lot of mistaken assumptions about the role of NOAA in regard to pollution.

The reasoning that pollution abatement standard-setting should be insulated from the promotional interests of other departments is consistent with the concept of NOAA being placed in the Department of Commerce. We would expect EPA, created by Reorganization Plan No. 3, to set necessary pollution abatement standards for the seas. NOAA will monitor, observe, try to understand and predict the physical environment of the air, oceans, and the live resources of the sea.

NOAA is intended to work closely with EPA in the same fashion that ESSA does today with the Department of Health, Education, and Welfare on air pollution problems. ESSA monitors and predicts air pollution potential for the Air Quality Control Regions which in turn implement control actions. EPA will be a standard-setting and enforcement agency whereas the role of NOAA will be to describe, predict, explore, develop technology and generate greater understanding of the oceans and atmosphere.

To those who of late question the rationale of putting this responsibility in the Department of Commerce, I refer them to words of another President, who 5 years ago submitted the reorganization plan which created ESSA. At that time, President Johnson said:

ESSA will then provide a single national focus for our efforts to describe, understand and predict the state of the oceans, the state of the lower and upper atmosphere and the size and shape of the earth. Establishment of ESSA (in Commerce Department) will mark a significant step forward in the continual search by the Federal Government for better ways to meet the needs of the nation for environmental science services.

Reorganization Plan 4 is a logical, rational, and well-conceived extension of the proposal which President Johnson submitted in 1965 and which this Congress properly accepted.

I commend President Nixon for submitting an excellent organizational plan. I urge my colleagues to give the plan their unqualified support by voting down the resolution of disapproval. The views of your Committee on Government Operations would thereby be endorsed and the country would be permitted to get on with the job of advancing our knowledge of and ability to use beneficially the oceans and the atmosphere.

Mr. NELSON. Mr. President, I want to take only 2 minutes. I think perhaps the distinguished Senator from Illinois, was not aware of what I said about the reason for introducing the resolution. I do not criticize the creation of NOAA and it's placement in the Department of Commerce, per se, I do not criticize it as bad per se. What I have been critical of, and what almost every major conservation organization in America that has made a statement on it and those who testified before the committee have been concerned about is the failure to settle the issue of where the responsibility for coastal zone management and other marine environment responsibilities would go prior to the creation of NOAA.

I think all of the conservationists that made any comment expressed the concern that I do regarding joining together the coastal zone management program on other marine environmental programs with NOAA. I realize that that is the big point. The Senator from South Carolina (Mr. HOLLINGS), who went into the matter of coastal zone management, and who probably knows more about this subject than any other Member of Congress, feels confident that the appropriate place for coastal zone management would be in NOAA.

I want to make clear to the Senator from Illinois that I am not critical of the President for having created NOAA and putting it in Commerce. I am concerned about the timeliness of it. I proposed a resolution so we would have an opportunity to have a hearing. A thorough one was conducted by the Senator from Connecticut (Mr. RIBICOFF). The purpose was to have a hearing record, a dialog, and a discussion of that issue prior to deciding where to put coastal zone management and other marine environment responsibilites, a decision which, I realize as a practical matter, has to come at a later date. I had no expectation at all of defeating the plan. I wanted the issue discussed and debated. However, because of the question of timeliness. I intend to vote for the resolution I introduced.

I have on numerous occasions commended the President for creating an environmental protection agency, which is a step in the right direction, and which should have been taken a long time ago. I think EPA has great potential for improving the Nation's environmental standard and enforcement programs, and the President is to be congratulated for it. My only reservation is about the timeliness of plan 4 to establish NOAA.

Mr. PERCY. Mr. President, I appreciate that further explanation. It has been my feeling that Reorganization Plan No. 4 is a logical, rational, and well conceived extension of the proposal which President Johnson submitted in 1965 and which this Congress properly accepted.

I have confidence that the Secretary of Commerce, who has great responsibilities, and whose responsibilities will be further accentuated by the comments of the distinguished Senator from Wisconsin, being a strong conservationist, will implement this program with conservation uppermost in mind.

I think the dialog and the contribution which the Senator has made has caused our committee to take an extra hard look at this matter. We have great confidence that it can be pursued.

I commend President Nixon for the organizational plan he has proposed. I expect the Senate to approve the reorganization plan, but I think in our colloquy the Senator from Wisconsin has made another contribution to this subject.

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

Mr. PERCY. I yield.

Mr. MAGNUSON. Mr. President, I know the subject of ecology is popular now, but I used to talk about it before and I was whistling in the wind. For many years we had programs for research and development in fish, wildlife, and coastal matters. We had many programs on bank construction. We had programs on wave research and most of the subjects that go with this whole matter.

Most of them have been handled, way in the beginning, by the old Coast and Geodetic Survey. They handled most of the oceanographic research that was done.

They worked under the Department of Commerce. Then the only other argument that was made was that the Fish and Wildlife Service had been, years ago, put into the Department of the Interior.

As to wildlife, they had exercised great responsibility and done a good job, but there was another department that split that department in half, and there was a constant argument with commercial fisheries—people dealing with the oceans, mainly—because the bays, the

places like Puget Sound and Chesapeake Bay had their own State rules.

We thought this would be a good way to have the Department of the Interior do the job that relates literally to their name, interior, because the Department of Commerce has done most of the work in this field in years past; and now we thought we would have a better chance, as the Senators point out, to tie all this together and see where we can go from here.

I personally have always favored, as the Senator from Colorado has heard me say on many occasions, the idea that we ought to have a separate agency for oceanography. If we had only one-twentieth of what has been spent on the space program over the years—which we have approved, too—we would have gotten a lot farther in this effort.

I must say that most of the Presidents have done a good job. President Eisenhower increased the budget amount for oceanography, as have President Kennedy, President Johnson, and now President Nixon; but when we started this, oceanography—which is a many-splendored thing; it is not any exact science, it includes everything—was in 22 different agencies, and when they had an interagency committee, whoever was running the Navy program usually controlled it, because they had the big money and they were doing the most research.

We have made great strides, and when we talk about "environmental fields," we are also talking about research on the uses of the ocean. For example, we do not know yet how to talk under water very well. As to fish life, the State Department was always in that business, and we never could get anyone in the State Department with a title who had any status to deal with conservation of fish in the oceans. He was always the head of the commercial fisheries department, and he would go to some of these international meetings and sit across the table from, in every case, a Cabinet officer, who had a right to make a decision right then and there.

These are all the things we are trying to put together here a little bit, and that is why I said that, while this plan is not exactly all I wanted, or all that other Senators wanted, it is a big step forward, and I, too, compliment the committee on their work on this measure.

We will turn over to the new department the warehouse we have full of reports. They can have them for free.

THE WET FRONTIER OF INNER SPACE

Mr. HATFIELD. Mr. President, "The Wet Frontier of Inner Space" was the title of an editorial in an Oregon newspaper discussing the need for this country to accelerate its efforts in the area of oceanography. I entered the editorial in the RECORD some time ago, and quoted from it in another speech.

I am committed to the idea that our country must focus its attention on our oceans. Naturally, this takes many shapes. My earliest contact came on the area of sea-grant college work, where, as Governor of Oregon at the time, I assisted Oregon State University as it established its program. The current concern over our oceans' environmental protection is warranted, for pollution of the oceans can be as deadly, and with more long-range effects, than is the pollution of our Nation's rivers and streams. In addition to oceanographic education and pollution, we need to move ahead in the areas of food research and development—both in protecting our fish supply and developing commercial food substitutes from ocean life. We also need increased attention on assessing the ocean's potential as a source of minerals. We must see what mineral wealth is available—and I know it to be great—and how we can utilize it in harmony with protecting the current life and ecological balances.

These comments, Mr. President, are a prelude to a few of my thoughts on the matter before us today. I cosponsored two NOAA proposals, with my good friends Senator TOWER and Senator MURPHY, which would have carried out some aspects of the current proposal. I met with White House staff as the they developed this plan.

I am not totally satisfied with the finished product, but I will support it. All legislation is compromise, and this is no exception. What is important about this is that these vital functions are brought together where they can receive increased public attention. Our country's oceanographic efforts need and deserve to be before the public. I feel much of the Federal effort in this area has returned benefits far above their initial dollar costs. In fact, I recently said in a speech in Portland, Oreg., that my listeners should go to the campus of Oregon State University to examine their oceanography program, and I called it "one of the best investments of our tax dollars that I know."

There are those who question the assignment of this program to the Department of Commerce. I, too, have some questions in my mind as to whether this is the proper spot. I will support this program, though, with the comment that I intend to follow its course closely. If it appears that the focus is too one-sided, and proper attention is not being given to all facets of our ocean-related efforts, then I will be among the leaders of those trying to correct the situation. I hope that this never will occur.

I believe that this Nation must move ahead—our fishing industry suffers every day from a lack of attention to the problems of fish production, fish retrieval, and the many other interrelated areas. We need more Federal assistance to our sea-grant colleges, and I will do anything possible to assist that worthwhile program's growth. Pure research is needed, as is applied research. Our future mineral needs will call for development of our sea resources. We should act before the pressures of the moment are so great that adequate protections cannot be developed to protect the fragile marine ecology.

Mr. McCLELLAN. Mr. President, Reorganization Plan No. 4 is essentially a regrouping of existing entities and programs within a new functional division. Any proposal to reorganize around a specific function must necessarily result also in some breaking up of the functional structure of the existing organizations involved.

It is clear that, given the complexity of modern society, there can be no comprehensive and mutually exclusive set of functions into which governmental activities can be divided. The objective of sound public management must be to strive for an organization that emphasizes those functions which require special attention, support, and control. Because the problems and priorities of society are constantly in transition, it is necessary from time to time to reexamine the structure of government. When adjustments are found to be required to bring organizational strength to bear on new, or newly perceived, problems or needs of society, they should be made.

Reorganization Plan No. 4 has been recommended by the President to strengthen the ability of the executive department to deal with research and development of oceanic and atmospheric resources. The need for greater and more comprehensive emphasis upon this function was pointed out by both the President's Advisory Council on Executive Organization and by the Commission on Marine Science, Engineering, and Resources.

The Committee on Government Operations recognizes that Plan No. 4 creates a number of uncertainties and leaves many questions unanswered. Some of these uncertainties are due to the nature of the reorganization plan procedure which makes no provision for congressional amendments or revision. Accordingly, as experience demonstrates the need for changes in the structure or mission of NOAA, necessary amendments will have to be handled by the congressional committees having legislative jurisdiction over the subject matter. In this connection, the committee desires to emphasize the fact that approval by the committee of this plan does not in any way modify, enlarge or diminish the legislative jurisdiction of standing committees of the Senate.

Mr. President, the idea of change—the concept of reorganizing—whether on a personal or governmental level creates a paradox in most situations. It may augur good on the one hand and yet may bode visions of ill in the minds of others. In any event most of us approach change with some trepidation. Such is the case with Reorganization Plan No. 4, to establish a National Oceanic and Atmospheric Administration in the Department of Commerce.

The catfish farmers of America, for example, are quite concerned over the proposed realinements of governmental functions contained in Reorganization Plan No. 4.

Catfish farming is a fledgling, bustling and intriguing industry of the South. It is also in the happy position of being unable to supply the increasing demands for its product. In 1965 there were 2,000 acres in production of catfish. Today, 5 short years later, there are 55,000 acres committed to this new industry. Like most new industries, however, it is not without its problems.

There are grave—sometimes crippling—problems of diseases, which may destroy a whole crop of catfish. Governmental assistance, especially through continued research, is essential to the growth and prosperity of this novel endeavor. Governmental aid and assistance has, thus far, been very helpful to the industry and it is hoped that it will continue to be forthcoming.

Catfish farmers are, however, concerned that the inclusion of the Bureau of Commercial Fisheries and the Bureau of Sport Fisheries and Wildlife, which has provided a high priority to the development of the catfish farming industry, into the National Oceanic and Atmospheric Administration in the Department of Commerce, may adversely affect their best interests.

I am hopeful that this will not be the case and am quite sure that the new administration, as well as the Secretary of Commerce, will insure that the move does not in any way diminish the Federal Government's efforts on behalf of the catfish farming industry. In this connection, the senior Senator from Arkansas fully intends to follow the administration of this new organization quite closely to see if the catfish farmers are adequately serviced by NOAA.

Meanwhile, I have also received expressions of concern about Reorganization Plan No. 4 from the American Congress of Surveying and Mapping of Little Rock, Ark.

This organization is concerned about the effect that the new plan will have on the U.S. Coast and Geodetic Survey which, as a part of the Environmental Sciences Services Administration—ESSA—will become an element of NOAA. Actually, ESSA will constitute the largest segment of the newly proposed agency and, as such, will, I am sure, make every effort to see that the integrity of the U.S. Coast and Geodetic Survey is protected and maintained. As is the case with the catfish farmers, however, I will see that the Secretary of Commerce, and the newly created National Oceanic and Atmospheric Administration, are fully advised regarding the expressions of concern over this new arrangement. And, in so doing, I will strongly urge that every effort be made to conduct the new administration in such a fashion as to dispel these expressions of apprehension that have been made from the two sources to which I have referred.

Mr. CASE. Mr. President, today our environment is in grave danger. With the aid of technological and scientific developments we have accelerated the pollution of the soil, the air, and the waters to a point where irreparable harm to the health and livability of our surroundings is a distinct possibility.

The choice before our Nation is clear: We can reverse the tide of environmental destruction while there still is time, or we can permit apathy, ignorance or downright stupidity to bring on a nightmare that could rival nuclear warfare in its horrors.

I am certain that most, if not all, Americans will opt for saving our environment while there still is a chance to do it.

If this is the course we choose, as I believe we should, we must make sure that there is no conflict between decisions designed to protect our environment and those designed to develop new resources.

It was with this purpose in mind that I introduced more than a year ago, S. 2312, a bill to create a new Department of Conservation and the Environment. My bill was designed specifically to eliminate the disarray and confusion which exists between, and even within, Federal agencies over their role in protecting our environment.

In my view, Reorganization Plan No. 4 contains some elements which could lead in directly the opposite direction.

Among other things, I am concerned about the inclusion of the Bureau of Sports Fisheries in the National Oceanic and Atmospheric Administration which would be created within the Commerce Department through Reorganization Plan No. 4.

The Bureau of Sports Fisheries, particularly through its marine laboratories such as the one located at Sandy Hook in my State, has contributed a great deal to the protection of our marine environment. There is some question over whether it would be able to continue to make this contribution if it were to be placed under the Commerce Department, which has primary responsibility for development of our resources.

At a press conference announcing submission of Reorganization Plan No. 4, Russell Train, Chairman of the Council on Environmental Quality, was asked why the National Oceanic and Atmospheric Administration was not incorporated in the Environmental Protection Agency proposed by Reorganization Plan No. 3.

He replied that the Environmental Protection Agency is "intended to focus on the control of pollution while oceans programs, obviously, go far beyond that, development efforts of all sorts."

Experience has shown that no man, no Government agency, can serve two masters effectively. We cannot provide adequate protection of the environment by placing responsibility for this function upon agencies which also are charged with the development and exploitation of natural resources.

It seems to me, therefore, that the Bureau of Sports Fisheries is being incorporated into the wrong agency. It is oriented to the environment and should be included in the Environmental Protection Agency, not NOAA, which has development efforts of all sorts. Therefore, I shall oppose Reorganization Plan No. 4 and continue to press for a reorganization of the environmental functions of the Federal Government into an agency singly devoted to environmental protection.

Mr. EAGLETON. Mr. President, President Nixon's Reorganization Plan No. 4 would establish a National Oceanic and Atmospheric Administration in the Commerce Department. Senator NELSON'S Senate Resolution 433 would disapprove that plan. I support Senate Resolution 433.

Right now a number of important, far-reaching proposals are before Congress concerning coastal zone management, offshore marine resource protection and use and protection of the Great Lakes. The question of whether NOAA should be placed under the Commerce Department aside, it seems to me that there is little sense in leaping ahead to approve an organizational structure when we have yet to determine what form and what direction these important new programs will take.

The administration and Congress should work together in fitting structure to function. But until we know what those functions will be, and how they will be discharged, I think it both unwise and untimely to create in advance a structure that may not prove to be responsive to the needs of the future.

Mr. BAKER. Mr. President, as a member of the Air and Water Pollution Subcommittee of the Committee on Public Works, and as ranking Republican member of the Commerce Committee's Subcommittee on Oceanography and Subcommittee on Energy, Natural Resources and the Environment, I am vitally interested in the acceptance of the President's Reorganization Plan No. 4. I believe that it is essential to recognize the President's initiative in this area, and approve his plan to establish a unified and effective approach to the problems of the oceans and atmosphere.

I would like to review, in response to some of the criticism which has been leveled against NOAA, some of the background which has led to its creation.

As those who share a concern for the welfare of our oceans and their resources must know, the question of organization of a national oceanographic program has been thoroughly considered and discussed, particularly in recent years. In 1966 this body passed legislation establishing a Commission on Marine Science, Engineering and Resources. After a most exhaustive study of the problem, that Commission, which has come to be known by the name of its illustrious Chairman, Dr. Julius Stratton, as the Stratton Commission, submitted its report entitled "Our Nation and the Sea" in January of 1969.

Immediately upon taking office, the Nixon administration turned its attention to this very significant problem. A task force was established under the leadership of Dr. James Wakelin to study the recommendations of the Stratton Commission and the results of that task force's study were forwarded to the President. Independently, the Ash Committee on Executive Reorganization was instructed, among other things, to consider what would be the most effective organization for our oceans and atmospheric program.

In short, nothing could be further from the fact than the suggestion that Reorganization Plan No. 4 has been hastily conceived or is not based upon a thorough study of the problem by the most knowledgeable and concerned individuals both within and outside government. In this connection, it should be noted that the Subcommittee on Oceanography of the Commerce Committee under the able chairmanship of the Senator from South

Carolina (Mr. HOLLINGS) has held 8 days of hearings on his bill, S. 2841, which embodied the Stratton Commission recommendations for a National Oceanographic and Atmospheric Agency.

The President has followed closely in Reorganization Plan No. 4 the recommendations of the Stratton Commission, including their recommendation that the Bureau of Commercial Fisheries and the marine and anadromous fisheries functions of the Bureau of Sport Fisheries and Wildlife in the Department of Interior be transferred to an Oceanographic and Atmospheric Agency. It differs from the recommendations of the Stratton Commission in only two respects, neither of which are presently controversial.

First, instead of establishing an independent Oceanographic and Atmospheric Agency, that agency will be lodged within the Department of Commerce under the leadership of an Under Secretary.

Second, only the data buoy program of the Coast Guard will be transferred to the agency.

Reorganization Plan No. 4 and the motion of disapproval presently before this body have been given thorough consideration by the Committee on Government Operations. One entire day of hearings was devoted to hearing from proponents of the disapproval resolutions. In a most comprehensive report, which I commend to the attention of any Senator who has not already had occasion to read it, the Committee on Government Operations recommended approval of Reorganization Plan No. 4 and an adverse vote on the pending resolution, S. Res. 433, which would disapprove that plan. Just this past Monday the House of Representatives voted down a similar disapproval resolution.

In addition, the reorganization plan has been carefully analyzed by the numerous organizations most directly involved both within and outside of government, and has met with the approval of virtually all of them. For example, on June 22 the board of directors of the National Oceanography Association issued a statement reading in part as follows:

> The organization being proposed by the Nixon Administration to lead Federal civilian oceanographic affairs appears to be a good one. While many would have preferred a National Oceanic and Atmospheric Agency independent of any existing department, the planned assignment of a NOAA-like organization to the Department of Commerce is a workable compromise.
>
> It is important to keep in mind the basic objectives of reorganization. It is the NOAA board's belief that the national need for a stronger oceanographic effort requires better Federal focus, more attention and improved coordination. All of these basic aims will be well-served by the proposed National Oceanic and Atmospheric Administration in the Department of Commerce. On balance, the Nixon Administration organization recommendations for oceanography merits our support as serving the national interest.

I am told that Dr. Julius Stratton supports the plan, as does Edward Wenk, Jr., former Executive Secretary of the National Council on Marine Resources and Engineering Development. Chairman MAGNUSON and Senator COTTON, the ranking minority member of the Senate Committee on Commerce, which was responsible for the legislation establishing the Stratton Commission and the National Council on Marine Resources and Engineering Development, both support the reorganization plan. You have already heard from Senator HOLLINGS in support of Reorganization Plan No. 4.

I am pleased to be able to add my name to that list of distinguished Members of this body and of the oceanography community who support Reorganization Plan No. 4. I cannot too strongly urge this body to reject Senate Resolution 433 so that we can proceed with the important business of establishing a National Oceanographic and Atmospheric Administration and, under its leadership, a national oceanographic and atmospheric program.

RETIREMENT OF REAR ADM. O. D. WATERS, JR., OCEANOGRAPHER OF THE NAVY

Mr. MAGNUSON. Mr. President, Rear Adm. O. D. Waters, Jr., for the past 5 years commander of the world's largest marine science activity as Oceonagrapher of the Navy, retired Wednesday, September 23.

At impressive change of command ceremonies aboard the oceanographic research ship U.S.S. *Lynch* at the Washington Navy Yard, Admiral Waters was succeeded by Rear Adm. W. W. Behrens, Jr. A large assembly of military and civilian leaders attended the ceremony.

My colleagues in the Congress will agree that Admiral Waters leaves a magnificent and unprecedented record of accomplishment, and extend to Admiral Behrens a warm welcome and their best wishes for similar success.

Military oceanography was effectively unified under the command of the Oceanographer of the Navy in August 1966, soon after Congress enacted the Marine Resources and Engineering Development Act, calling for a coordinated, comprehensive and long-range program in marine science, and listing certain policy objectives.

It is to the great credit of the Department of Defense, the Navy, and to Admiral Waters as Oceanographer of the Navy, that the act and its objectives, insofar as they apply to our Nation's defense and security, have been efficiently and with dedication carried forward.

The administration and the Navy gave appropriate recognition to Admiral Waters' distinctive record as Oceanographer of the Navy. Dr. Robert A. Frosch, Assistant Secretary of the Navy for Research and Development presented the admiral with the President's Distinguished Service Medal and read the citation from the Secretary of the Navy which stated:

> For exceptionally meritorious service to the Government of the United States in duties of great responsibility as Oceanographer of the Navy from September, 1965 to September, 1970.
>
> Admiral Waters came to his job at a time when the Navy's oceanographic effort was widely distributed among various elements of the Naval establishment. More than any one individual, he was responsible for carrying through a program to bring all of these oceanographic efforts under centralized direction. As a result, the Oceanographer now supervises all of the oceanographic efforts from planning phases to final execution. This has included the work of 27 field activities, more than 30 survey and research ships, and such other platforms as submarines, deep research vehicles, helicopters, buoys, fixed towers and manned bottom habitats. His centralized direction has made it possible to provide the Navy and its Fleet with a more efficient support program and to cooperate actively with other government agencies and civilian interests in the oceanographic field. By his personal skill and resourcefulness, his dedication and his effective leadership, he has enhanced the scientific and military posture of the Navy while making the most effective utilization of limited resources of men and money. By his dynamic leadership and skill in management, Rear Admiral Waters has reflected great credit upon himself, the Office of the Oceanographer of the Navy, and the Navy service.

Mr. President, the Navy first assured a coordinated and comprehensive oceanographic program by a major reorganization, similar to that contemplated for many nonmilitary marine activities in Reorganization Plan No. 4, now pending in Senate and House Committees on Government Operations.

In the Navy, in August 1966, a new Office of the Oceanographer of the Navy was established as an independent command and with the designation of high ranking Assistant Oceanographers. The Chief of Naval Research was assigned additional duty as Assistant Oceanographer for Ocean Science. The Deputy Chief of Naval Material was appointed Assistant Oceanographer for Ocean Engineering and Development. An Assistant Oceanographer for Operations was authorized but has not been named, and Admiral Waters has directed operations while that billet has been vacant. Since the initial reorganization, the commander, Naval Weather Service Command, has been appointed Assistant Oceanographer for Environmental Prediction, of particular importance to antisubmarine warfare and to the optimum ship routing program.

Admiral Waters has used his expanded authority to advance objectives of the Marine Resources and Engineering Development Act, including: Preservation of the United States as a leader in marine science. Effective utilization of the scientific and engineering resources of the Nation. Encouragement of private enterprise in exploration, technological development, marine environment. Development and improvement of the capabilities, performance, use and efficiency of vehicles, equipment, and instruments for use in exploration, research, surveys, and the transmission of energy in the marine environment.

To expedite the Navy's oceanographic program, Admiral Waters created four divisions: Science, Engineering, Operations, and Environmental aspects.

The Science Division includes acoustics, geophysical research chemical processes and factors influencing the propagation of sound in the marine environment such as ocean circulation, internal waves and marine organisms.

Ocean engineering is designed to provide the Navy with technical capability

to operate at any time, place, and depth within the ocean that national defense may require, and includes a deep ocean technology program and deep submergency systems projects initiated by Admiral Waters.

The Operations Division conducts oceanographic surveys in support of the fleet on a worldwide basis and has an active role in amphibious operations, mining and mine countermeasures, and prediction of ice formation and movement in polar seas.

Last year Admiral Waters received the Navy League award for making the outstanding contribution in any field of science that has furthered the development and progress of the Navy and Marine Corps.

A year before that the Public Relations Society of America presented Admiral Waters with its highest award, the Silver Anvil, for his work in stimulating public awareness of the importance of oceanography and the education and training of future oceanographers.

One of Admiral Waters' major acts was to declassify 90 percent of the Navy's voluminous raw data, making it available to legitimate users. The fisheries and oil industries have been two of the beneficiaries. The admiral has visited all universities now granting degrees in oceanography, and has worked directly with Governors of States in strengthening State oceanographic programs.

Each year the Oceanographer of the Navy has held a 3-day symposium of military oceanography, where Navy or institutional scientists, engineers and technicians have reviewed accomplishments and reported on progress on the Navy's numerous projects.

This year the symposium was held at Annapolis, Md., with the Naval Ship Research and Development Laboratory as host, and with the Naval Research Laboratory and Naval Ordnance Laboratory close by.

Last year the symposium was at Seattle, where the Applied Physics Laboratory of the University of Washington was host and where the Department of Oceanography of the university maintains a separate laboratory.

Mr. President, if I may digress a moment I would like to state activities of these two laboratories as officially summarized by the Navy and which give a concept of the type of marine science activity in progress there.

Applied Physics Laboratory—APL—research and development effort in the areas of underwater acoustics, transducers, and instrumentation required for guidance and control systems and for underwater ranges. Detailed measurements of internal waves and their effect on sound propagation.

Under the direction of Dr. Joseph E. Henderson, APL also developed in previous years an unmanned research vehicle, capable of operating at a depth of 12,000 feet, and at a 5-knot speed for 6 hours, recording data on magnetic tape, and its track subject to acoustic command from a boat or shore station many miles away.

Meanwhile the Department of Oceanography at the university separate from APL, conducts, the Navy advises, research on inshore, coastal and open sea areas with emphasis on physical and chemical oceanography and model studies; physical and biological oceanography of the Arctic Ocean; geomagnetism as it affects mine warfare, and studies of nutrient and trace element distributions.

One of the two oldest oceanographic institutions in the United States, founded 40 years ago, the Department and its laboratories have graduated some of the Nation's foremost oceanographers, among them scientists holding prominent posts in universities or Government agencies in many parts of the United States.

Admiral Waters held previous symposiums at the Navy Ship Research and Development Laboratory, with its emphasis on mine and antisubmarine warfare, Panama City, Fla., and at the Naval Research and Development Center, San Diego, with its mission:

> Naval analysis, research, development, test, evaluation, systems integration, and fleet engineering support in undersea warfare and ocean technology.

Mr. President, I would be remiss if I did not note two distinctive projects developed in Puget Sound during Admiral Waters' administration as Oceanographer of the Navy.

One is the new, large catamaran research and rescue vessel, the Navy's first, built in Seattle, recently launched, and now being outfitted. Admiral Waters attended the launching of this unique giant twin-hulled craft that will provide recovery and escort services for submarines, recover weapons, and carry trained divers to provide rescue and salvage when needed.

The other is the Navy's hydrofoil development program, also centered in Puget Sound. Three of the Navy's operating hydrofoils were constructed in Seattle and two continue to operate there as part of the development program. One, a 60-ton water jet-propelled gunboat, designed and built by Boeing, has been assigned to the Pacific fleet for evaluation. It and a second hydrofoil gunboat, the latter built in the East, have "demonstrated outstanding performance capabilities in excess of design requirements," the Navy has advised.

Major projects inaugurated by Admiral Waters while serving as Oceanographer of the Navy include the marine geophysical survey program, commenced in 1966 and still underway, the deep submergence systems project, and the deep ocean technology program, top priority for the latter being the development of reliable, long-edurance power sources for deep diving vehicles. Emphasis is being placed on fuel cells which will fill the gap between short endurance batteries and heavy nuclear reactors, but Admiral Waters concedes there is much development work still to be done.

One of the most satisfying accomplishments of the Navy while Admiral Waters has been its oceanographer, is two survey ships, the U.S.S. *Silas Bent*, operational since 1967, and the U.S.S. *Kane*, delivered in 1968. Both are fitted with a radically new shipboard survey system for automatic collection of oceanographic, hydrographic, and geophysical data. Each has 16 different winch systems and can anchor in 4,000 fathoms. On station they can lower an instrument package that measures temperature, sound velocity, salinity, ambient light and depth, and underway they can measure water depth, gravity, magnetism, seismic profiles, surface temperature and take precise navigational fixes.

Admiral Waters has stated:

> Russia has a larger number of research ships than the U.S. fleet, but our ships, at least our newest ones, are better equipped. U.S. oceanographic shore facilities, inadequate as they are, are much superior to Russia's.

Mr. President, some of the accomplishments which ably indicate naval capabilities in science and technology were the aftermath of accidents or catastrophes.

In October 1968, the submersible *Alvin*, built by the Navy for ocean science and operated by the Woods Hole Oceanographic Institution, sank well out in the Atlantic, when cables attaching her to her mother ship parted. A year later she was located in water almost a mile deep and brought to the surface in remarkably good condition.

The tragic loss of the U.S.S. *Scorpion* in May 1968, demonstrated even more spectacularly Navy deep ocean capabilities. The submarine disappeared while en route from the Mediterranean to Norfolk, Va., and presumably somewhere in the vicinity of the Azores.

In October of that year a naval research vessel using certain sophisticated instruments and electronic devices located debris of the stricken submarine at a depth of more than 11,000 feet 450 miles from the Azores. Photographs were taken by equipment capable of withstanding a pressure of 4 tons per square inch, and more than a year after the *Scorpion* went down there were additional fragmentary findings which are being analyzed by the Navy in an effort to determine the cause of the catastrophe.

The Navy's great oceanographic program is so organized that it will continue to expand under the new Oceanographer of the Navy. As the Navy concedes, its action in 1966 of providing the Oceanographer with centralized authority has strengthened the Navy's overall oceanographic program and substantially enhanced Navy's cooperation and coordination with the national program projected by the Marine Resources and Engineering Development Act.

Mr. President, appropriate committees of Congress are now considering Reorganization Plan No. 4, designed to establish a National Oceanic and Atmospheric Administration which would include some of our major nonmilitary programs of marine science, technology, and training in an integrated, comprehensive, and well-coordinated organization.

In other words, under Reorganization Plan No. 4, civilian oceanography would, in large measure, attain cohesion and leadership similar to that which has been

advancing military oceanography since August 1966.

Military oceanography would remain in the Department of Defense, essentially in the Navy Department under the command of the Oceanographer of the Navy.

The National Oceanic and Atmospheric Administration would be in the Department of Commerce, which has the major scientific and technological administrative capability.

It would include the Environmental Science Services Administration which monitors atmospheric, oceanic, and geophysical phenomena on a worldwide basis, the Bureau of Commercial Fisheries and Marine Sport Fisheries, Office of Sea-Grant Programs, the Marine Minerals Technology Center, and the U.S. Lake Survey.

The National Oceanographic Data Center and National Oceanographic Instrumentation Center would be transferred to NOAA. Both were created to serve national purposes and serve many Government agencies and the public. The Navy has perhaps been the greatest user and was given what has been described as "housekeeping" duties, which will now be undertaken by NOAA. This will not interfere with the naval oceanographic program which, as stated before, already makes 90 percent of its oceanographic data available to whoever may have use for it.

Two other oceanographic activities will be transferred to NOAA, the U.S. Lake Survey and the national data buoy development project, the latter from the Department of Transportation.

Assuming that Reorganization Plan No. 4 goes into effect—it has my support and that of the ranking minority member of the Committee on Commerce and of the chairman of the Subcommittee on Oceanography—a major responsibility devolves upon the President to appoint a qualified administrator.

I am hopeful that it may be a civilian who has the long-range vision, the dedication, and the administrative capability of our retiring Oceanographer of the Navy.

Mr. President, if I may add one further word—the Navy's Oceanographic Advisory Committee, which includes retired admirals of great distinction, civilian oceanographers, and industrial leaders concerned with Navy efficiency and superiority, recommended at a recent meeting that the Oceanographer of the Navy be upgraded to vice admiral.

The committee declared this recommendation well justified "as a consequence of the vastly increased responsibilities of the Oceanographer in recent years and the importance of the Navy's oceanographic efforts in the national interest."

A bill to carry out this recommendation was introduced by Senator HENRY M. JACKSON, Senator ERNEST F. HOLLINGS, and myself, and referred to the Armed Services Committee. It has not been acted on by the committee.

Mr. President, we will continue to press for enactment of this legislation. If not enacted during the present session of Congress, it will be reintroduced in the 92d Congress.

The Oceanographer of the Navy, with his numerous and complex responsibilities on which, to a material extent, the security and perhaps survival of the Nation depends, merits one of the highest ranks in the Navy.

The United States has been fortunate in having had three able and distinguished rear admirals as Oceanographer of the Navy, each of whom advanced the Navy's capabilities to operate in the deep ocean.

The first was Rear Adm. E. C. Stephan, the second Rear Adm. Denys W. Knoll, and the third, who served longer than his predecessors, is Rear Adm. O. W. Waters, Jr. Each brought to the Oceanographic Office a distinguished background in science and technology and a high dedication to the Navy and its mission.

Time does not permit me to deal with the careers of each of these three officers, but I do want to say a few words about the rear admiral who is now retiring.

Admiral Waters entered the U.S. Naval Academy in 1928 after graduating from the Strayer Business College in Washington. As a midshipman, he was managing editor of the Academy year book, "Lucky Bag." He graduated with the class of 1932, ninth in his class.

Subsequently he served as gunnery and fire control officer aboard the flagship of the commander in chief, Asiatic Fleet then attended the Naval Postgraduate School at Annapolis, where he majored in Ordnance Engineering.

Early in World War II and before Pearl Harbor, he served in the American Embassy in London, both as a naval attaché and as technical observer in mine recovery operations. Back in the United States he established the U.S. Navy's first mine disposal school, where he was officer in charge until early in 1943. Later during the war he was assistant operations officer and war plans officer on the staff of the commander in chief, Atlantic Fleet, contributing to prosecution of the antisubmarine campaign.

In the final months of the war and for a year after, he commanded the U.S.S. *Laffey* in the Pacific and participated in "Operation Cross-Roads," the atomic bomb tests at Bikini. Later, as senior technical officer and mine development project officer at the Naval Ordnance Laboratory, the future admiral was engaged in the design of atomic weapons.

Other billets prior to becoming Oceanographer of the Navy in September 1965, included service on the staff of the Supreme Allied Commander, Atlantic; commander of Destroyer Squadron 2 in the Near East; commander of the Naval Weapons Station at Yorktown; commander of the Mine Force, Pacific Fleet; and commander of the Naval Base, Long Beach, Calif.

Admiral Behrens, Jr., who succeeds Admiral Waters, also has had a distinguished Naval career, which includes direction of naval amphibious operations in Southeast Asia, submarine service, nuclear power management and assignments in international affairs.

Mr. HOLLINGS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HOLLINGS. A Senator who favors the present plan, Reorganization Plan No. 4, would vote "nay"; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HOLLINGS. Let us vote.

The PRESIDING OFFICER (Mr. CRANSTON). The question is on agreeing to the resolution. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. EAGLETON (when his name was called). On this vote I have a pair with the Senator from Louisiana (Mr. ELLENDER). If he were present and voting, he would vote "nay." If I were permitted to vote I would vote "yea." I therefore withhold my vote.

Mr. BYRD of West Virginia (after having voted in the negative). On this vote I have a pair with the junior Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH) and the Senator from Ohio (Mr. YOUNG) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Missouri (Mr. SYMINGTON) and the Senator from New Jersey (Mr. WILLIAMS) would each vote "nay."

I also announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from New York (Mr. JAVITS) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Tennessee (Mr. BAKER), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER) and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. JAVITS), and the Senator from South Dakota (Mr. MUNDT) would each vote "nay."

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from California (Mr. MURPHY). If present and voting, the Senator from Illinois would vote "yea" and the Senator from California would vote "nay."

On this vote, the Senator from New York (Mr. GOODELL) is paired with the Senator from Colorado (Mr. DOMIMICK). If present and voting, the Senator from New York would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 5, nays 47, as follows:

[No. 348 Leg.]

YEAS—5

Case	Metcalf	Proxmire
Mansfield	Nelson	

NAYS—47

Allen	Griffin	Packwood
Allott	Gurney	Pearson
Boggs	Hansen	Percy
Brooke	Harris	Ribicoff
Byrd, Va.	Hart	Russell
Church	Hatfield	Saxbe
Cook	Holland	Schweiker
Cooper	Hollings	Scott
Cotton	Hughes	Smith, Maine
Cranston	Jordan, Idaho	Spong
Curtis	Long	Stennis
Dole	Magnuson	Stevens
Eastland	Mathias	Thurmond
Ervin	McGovern	Tower
Fannin	McIntyre	Williams, Del.
Fong	Miller	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mr. Eagleton, for.
Mr. Byrd of West Virginia, against.

NOT VOTING—46

Aiken	Fulbright	McCarthy
Anderson	Goldwater	McClellan
Baker	Goodell	McGee
Bayh	Gore	Mondale
Bellmon	Gravel	Montoya
Bennett	Hartke	Moss
Bible	Hruska	Mundt
Burdick	Inouye	Murphy
Cannon	Jackson	Muskie
Dodd	Javits	Pastore
Dominick	Jordan, N.C.	Pell
Ellender	Kennedy	Prouty
Randolph	Talmadge	Young, N. Dak.
Smith, Ill.	Tydings	Young, Ohio
Sparkman	Williams, N.J.	
Symington	Yarborough	

So the resolution was not agreed to.

NABISCO-ASTRA BREAKTHROUGH ON FISH PROTEIN

Mr. MAGNUSON. Mr. President, within the next few weeks, the first federally sponsored plant for processing fish protein will become operational. This plant is located in Aberdeen, Wash., in the great Pacific Northwest.

With population increasing at a geometric progression rate, while the world's food supply only increases arithmetically, we are faced with a problem that seems unsurmountable. This is but one of the reasons why we have such a keen interest in the development of fish protein. Another reason is the realization that protein deficiency can be just as pernicious in its effects as starvation.

The nutrition that is available from the sea is one of the most promising aspects known today for alleviation of protein deficiency through the processing of fish to produce fish protein. Any attempt to utilize these resources commands scrutiny. This is why my interest in the development of fish protein brought the recent development by National Biscuit Co., and Astra Nutrition to my attention.

Early in 1970, the National Biscuit Co. and Astra Nutrition of Sweden conceived a joint effort and formed the Nabisco-Astra Nutrition Development Corp.

These firms have pioneered a revolutionary breakthrough in processing herring by evisceration, deboning, solvent extraction, drying, and milling to produce a fine, tasteless and odorless, powder-like material that is 93 percent to 94 percent pure protein. The product, known as EFP 90, is available now in reasonable quantities.

Nabisco has taken on the task of developing new food products or in modifying other products to provide greater nutrition through the use of this essential substance, which is so high in the protein which is required for all life processes. This constitutes a truly comprehensive approach to this pervasive problem.

I ask unanimous consent to have printed in the RECORD an article from Food Engineering, August 1970, describing in detail the nature of the revolutionary new process, product characteristics, including a nutritive analysis along with worldwide feeding potential.

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

PURE FISH PROTEIN

(By Frank K. Lawler)

With the aid of technical and marketing innovations, a new approach to bridging the protein gap in world nutrition is being taken by Nabisco-Astra Nutrition Development Corp.

The innovations are many and important. They range from raw material procurement through processing and quality control, to marketing techniques. And production of EFP—fish protein concentrate from eviscerated fish rather than whole fish—is one of the important achievements. So also is the supply of fresh fish for a high-quality product. This is achieved by a factory ship and 11 trawlers that go where the fish are.

Equally important in the new approach is the teaming of Astra's protein processing achievements with the food product development, production and marketing knowhow of National Biscuit Co. Main marketing thrust of the team will be toward developing countries, where protein is in critical shortage. But it is recognized that there also is an important need for upgrading foods in developed countries by raising protein levels.

Nabisco is developing food products that lend themselves to protein enrichment and that are formulated to suit eating habits and buying power in developing countries.

Nabisco is well prepared for this assignment. It now manufactures and markets foods in 13 countries outside the United States, encompassing an area with more than 400 million people. So it knows how to formulate foods that appeal to widely diverse preferences.

Astra is no neophyte, either. Its group consists of six product divisions, pharmaceuticals being the biggest. It is concerned with corrosion inhibitors, household articles, leisure and sports items, plant protectants, feeds, medical electronics, nursing requisites and nutrition.

The nutrition division has been researching food since the mid-50's. It built a pilot plant to produce eviscerated-fish protein in 1961, and converted it to full-scale production five years later. Another land-based factory in Sweden began producing large quantities of the fish protein early this year. At the same time, a 25,000-ton ship was converted into a floating protein factory.

EFP TOP QUALITY PROTEIN

EFP meets new quality concepts. It will not offend anyone's food sensibilities. The product has 92–94% protein, with a solvent residue less than 100 ppm and as low as 50 ppm. It is produced on the factory ship virtually from live fish, with processing equipment that meets dairy sanitation standards.

With its superior quality, EFP is expected to command a price at least 20% higher than the price of protein from whole fish. Higher price is indicated by the fact that it takes 8½ lb. of fish to produce 1 lb. of EFP. Only 6½ lb. of fish is required for 1 lb. of FPC from whole fish. The latter is only 81–82% protein compared to more than 90% for EFP 90 (Astra's trade name).

"EFP undoubtedly will be the best protein buy in the market on the basis of protein yield." That is the opinion of a Nabisco-Astra executive. It is better, for example, to pay say 50c/lb. for a 94% protein than 30c/lb for a 40% protein.

EFP can stand on its own in nutrition values, as can be seen from the table comparing essential amino acid content of EFP with casein, egg and beef. If used alone as a protein enriching ingredient, EFP comes close to meeting all amino acid requirements. It even exceeds some of those requirements. The combination of EFP and soya flour gives even better than recommended amino ac.d levels.

Added to EFP's nutritional values are the very important attributes of being tasteless and odorless. It also is quite stable when stored in a cool dry place. And shelf-life of products containing it are determined by other ingredients rather than by the protein.

Nor is that all. Important functional values likely will be engineered into the protein. Such are being pursued in the research laboratories of both Nabisco and Astra. This research can make a major contribution to the

performance of the ingredient by achieving properties such as wettability, solubility and whippability, as well as crumb structure, or texture. EFP is free of grittiness as produced, and it can be used as an ingredient even in soft candies.

CHALLENGING OPPORTUNITIES

EFP has excellent potential in developed nations as an ingredient in foods for which protein enrichment is desired. Among such foods may be snacks, meat analogs, products for institutional feeding as in school lunch programs, emergency military rations, and civilian survival rations.

To dream a little, "Fish in Chips" could be made by adding EFP to the formula for chip-type snacks made from dehydrated potatoes. More importantly, meat analogs can be made nutritionally equal, or better, than the meat itself by supplementing EFP with textured vegetable protein.

There is the opportunity, too, for vegetable protein suppliers to add fish protein to their products, and vice versa. They then can offer ingredient protein that equals or exceeds nutritional requirements for amino acid balance. In fact, such combinations are in the pilot-plant stage.

With potential sales of textured vegetable protein estimated in billions of dollars by 1980, the future for eviscerated fish protein and for combination vegetable-fish proteins truly is tremendous.

PROCESS IS SOPHISTICATED

Innovations in the EFP process were developed by Astra researchers. Then efficient, sanitary equipment to carry out the various steps of the process was built—mostly by Alfa Laval in Sweden, with other firms making important contributions. Alfa Laval is world-famous for its advanced dairy processing equipment.

Equipment is made of stainless steel to resist corrosion and prevent metal contamination of product. It is designed to avoid places where bacteria can build up. And it is arranged for efficient in-place cleaning.

The major process innovation, evisceration, is performed mechanically by equipment for which patent application has been made. Bone also is mechanically separated from the fish.

To avoid an explosion hazard, apparatus containing solvent, or its vapors, is ventilated over inert-gas condensers. And means of rinsing with nitrogen or blanketing with carbon dioxide are provided where sparks could ignite an explosive atmosphere.

OPERATIONS STEP BY STEP

Steps in the preparation of the fish and the extraction of fat are illustrated in the flow diagrams. Eviscerated fish are cut into segments, washed to remove viscera and blood, pulped in water, and boiled. Then the material goes through a deboner a desludging centrifuge, a hot-water treatment and a second centrifuge.

Now it enters a continuous extractor where neutral fat and phospholipids are dissolved out. The fat solvent flows countercurrent to the fish pulp through the extractor, and it is centrifuged on discharge to clarify it for return to the recovery plant. Protein material from the extractor goes into a tank where solvent is added, then it is centrifuged to separate the solvent for reuse in the extraction process. Now the fish pulp passes through a steam-heated agitating desolventizer where any remaining solvent and odorous substances are removed. Drying in a steam-heated unit, milling, and bagging of finished protein complete the operation.

Fat solvent used in the process is isopropyl alcohol. The extracting agent is removed from the fats by boiling off in an evaporator, then is deodorized and concentrated.

Patents covering process arrangement, method, and apparatus have been applied for in most industrialized countries and fishing nations.

Astra considers some of the earlier fish protein concentrating techniques to be superficial and incomplete. Successful production of FPC involves many intermingled biotechnical and biochemical problems. These had to be solved by well coordinated research and development, technical studies, knowledge of advanced techniques in chemical processing equipment and construction, and experience in sea fishing on a large scale.

Successful processing requires continous operations carried out at the lowest possible temperatures for best quality. Continuous checks must be made on the purity and concentration of new and distilled solvent. And continuing analysis for bacteria, on both material being processed and finished product, is required.

Still other factors in successful processing are minimizing loss of solvent, automatic process control, centralized supervision, and high standards of sanitation.

In its land-based operations in Sweden, Astra has produced the high-quality protein from herring, which are in good supply in Scandinavian waters. And having used fat fish, the extraction process has demonstrated good capability and versatility.

FDA has recognized only hake as raw material for producing fish protein for human consumption. Canada, however, approves herring and similar fat fish such as pilchards, sardines and anchovies.

DEVELOPS PRODUCTS MARKETS

National Biscuit Co. had for some time been seeking a way to help relieve the world protein shortage. It found the answer in Astra and its high quality protein from eviscerated fish. So Nabisco-Astra Nutrition Development Corp. was set up on a 50-50 ownership basis. Astra is producing the protein, and Nabisco is developing products enriched with it and market testing those products.

The big challenge to Nabisco is to develop protein-enriched foods that are compatible with the eating habits, tastes and pocketbooks of potential markets in developing nations. Furthermore, these products are preferably made primarily from raw materials indigenous to the area involved.

To date Nabisco's R&D lab has come up with 34 potential protein-enriched foods for developing countries. These incorporate EFP at an average level of 20%. Now the company is appraising the food habits in potential markets so as to refine the products to suit ethnic tastes. Quite a variety of foods have been developed, ranging from pasta to meat analogs, and including sandwich spread, cookies and crackers.

In marketing such foods, Nabisco will approach a market as a whole. It will not zero-in on any one group of people. The last thing it wants to do is create the image of a "poor man's food" for any product. That would very seriously impair acceptance among those who need it most.

None of the EFP-enriched items is on the market yet. But Nabisco hopes to have a few representative products going by the end of this year. Some research projects are nearing a conclusion.

There is real urgency behind this project. Protein is seriously short now. And the equivalent of another world in terms of population will develop in the 35 years between 1965 and 2000, with population doubling from 3½ billion to 7 billion.

DEVELOPING MARKETS

Highly experienced in international operation. Nabisco is approaching potential markets cautiously. It is exploring possibilities through classical market research techniques. Actual product samples are handed out to determine consumer reactions and preferences as precisely as possible. The researchers will find out which type of product will be bought by the greatest number of people with the greatest frequency. Local market research organizations and local people are utilized when feasible.

In its moves to introduce popular, low cost, protein-rich foods in the nations that need them most, Nabisco will work with any organization that can help. It is utilizing the cooperation of UNICEF, FAO, the U.S. State Department (including AID), and businessmen in developing countries.

ASTRA RESEARCHES USES

Research by Astra has shown cereals and bread to be suitable for EFP enrichment. Addition of 5% fish protein to flour brought bread protein content from 11 to 15%. A strong enrichment effect is attained even in the presence of reducing sugar. Enrichment of hard bread has given a nutritional value equivalent with casein.

A critical test is the use of the protein in faffa, an Ethiopian baby food. Faffa with powdered milk or fish protein as the sole source of animal protein is being tested in a study of child growth. Tests also are under way with gruel containing fish protein, and with enriched foods integrated into a complete diet.

Top executive of Nabisco-Astra Development Corp. is Per E. Hoel, who also is head of Astra Nutrition U.S.A., Inc. (marketing firm for EFP 90) and who serves as vice-president of Astra Pharmaceutical Products, Inc., Boston. Executive Vice-President of Nabisco-Astra is Harry J. Watson, National Biscuit Co., New York City. (End)

HOW EFP COMPARES NUTRITIONALLY

[Essential amino acid content expressed in grams per 16g nitrogen]

Amino acid	Animal ingredients					Vegetable ingredients			
	FAO Std.	Astra EFP 90	Casein	Egg	Beef	Wheat	Soya	Corn	Cottonseed
Lysine	4.2	9.8	8.1	7.2	8.4	2.3	6.3	2.8	4.4
Leucine	4.8	8.5	10.1	8.8	8.4	7.2	7.7	13.0	5.9
Isoleucine	4.2	5.1	6.6	5.7	5.1	3.2	5.3	4.6	3.8
Methionine	2.2	3.6	3.1	3.8	2.3	1.4	1.3	1.8	1.4
Phenylalanine	2.8	4.6	5.4	5.7	4.0	4.8	4.8	4.4	5.2
Threonine	2.8	5.1	4.3	5.3	4.0	2.9	3.8	4.0	3.6
Tryptophane	1.4	1.6	1.3	1.3	1.1	1.1	1.3	0.6	1.2
Valine	4.2	6.2	7.4	8.8	5.7	3.9	5.2	5.2	4.9

TOTAL ANALYSIS OF EFP (RAW MATERIAL USED FOR PROTEIN CONCENTRATE IS EVISCERATED HERRING)

	Percent
Crude protein	92.6
True protein	92.2
Undigestible true protein	1.3
Digestible true protein	90.9
Amides	.4
Water-soluble crude protein	3.9
Ammonium nitrogen, N	.04
Available lysine of crude protein	10.3
Lysine of crude protein	10.3
Fat according to the chloroform methanol method (2:1 v/v)	.072
Water	4.73
Ash	6.4
Calcium, Ca	1.84
Phosphorus, P	1.20
Chloride, NaCl	.67
Traces of solvent	.002
Iron, Fe	.008

AMINO ACID ANALYSIS OF EFP

	g/100g substance	g/16gN	g/16gN essential amino acids
Aspartic acid	9.84	10.76	
Threonine	4.45	4.95	4.95
Serine	4.19	4.92	
Glutamin acid	14.60	15.95	
Proline	3.66	4.02	
Glycine	4.08	4.47	
Alanine	5.97	6.52	
Valine	5.95	6.63	6.63
Methionine	3.55	3.85	3.85
Isoleucine	4.68	5.28	5.28
Leucine	8.27	9.03	9.03
Tyrosine	3.66	4.06	
Phenylalanine	3.84	4.23	4.23
Lysine	9.38	10.28	10.28
Histidine	2.60	2.83	
NH_3	1.43	1.41	
Arginine	6.39	6.98	
Cystine [1]	1.16	1.25	
Tryptophane [2]	1.65	1.78	1.78
Total	99.35	109.20	46.03

[1] Stanford Moore, J. Biol. Chem. 238 (1963) p. 235.
[2] Spies & Chambers' method, Analytical Chem. 1984. vol. 20, p. 30; and 1949, vol. 21, p. 1249.

Note: Essential amino acids per total amino acids equal 42.2 percent.

AUTHORIZATION FOR AN ADDITIONAL PRINTING OF COMMITTEE REPORT NO. 91-1231 TO CORRECT ERRORS

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from California (Mr. CRANSTON), I make the following statement:

On September 23, the Committee on Labor and Public Welfare filed a report on S. 3657 authorizing the veterans educational assistance allowance payments for eligible veterans to begin the new 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 repayment obligations under certain circumstances.

Since the report was printed, a number of errors have been found by the committee in the report. Therefore, at the request of the Senator from California (Mr. CRANSTON), I ask unanimous consent that an additional printing be authorized of Senate Report No. 91-1231, correcting the errors.

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

S. 4423—INTRODUCTION OF A BILL RELATING TO BOMBINGS

Mr. FANNIN. Mr. President, after a spring and summer of shocking violence and senseless bombings, there seems to be a welcome respite.

That, at least, is what one must gather from the newspapers, radio, and television.

Hopefully, the lull comes because those who have encouraged or condoned violence are having second thoughts in the wake of the University of Wisconsin tragedy.

Perhaps that explosion did more than murder 33-year-old Robert Fassnacht, cause $6 million damage and destroy irreplaceable research material. Perhaps that explosion has shaken the conscience of enough people to put a damper on such cowardly acts.

I would hope so.

It would be wrong, however, to rely on wishful thinking to curb the activities of bomb-prone extremists. We must have positive action.

The Justice Department says that 333 bombing incidents were reported to the FBI from January 1 through September 11 of this year. Of these, 25 were on college campuses and 11 were near campuses or in college towns.

FBI Director J. Edgar Hoover has reported that during the last school year there were 14 bombings and 246 incidents of arson or attempted arson on campuses.

These statistics—bad as they are—are only a small part of the over-all bombing picture. Not all bombings and threats are reported to the FBI.

Eugene T. Rossides, Assistant Secretary of the Treasury, probably gave a more complete picture when he appeared before the permanent Subcommittee on Investigations of the Committee on Government Operations.

He said that in a 15-month period ending last April there were 4,330 bombings in the Nation. There were an additional 1,475 attempted bombings and a reported 35,129 threatened bombings.

Mr. Rossides said the figures graphically reveal that terrorist acts of violence and anarchy by bombing have reached menacing proportions in our country.

And this testimony came even before Robert Fassnacht died at Wisconsin and before Policeman Larry Minard died as the result of an explosion in Omaha.

President Nixon has called on Congress to enact new antibombing measures to help put an end to these horrible acts. Some of these measures have now passed the House, but are not yet law.

Mr. President, I introduce and send to the desk a bill to make it a Federal crime to bomb businesses engaged in interstate commerce or buildings where federally assisted programs are carried out. I ask that it be appropriately referred.

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

The bill (S. 4423) to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes, introduced by Mr. FANNIN, was received, read twice by its title, and referred to the Committee on the Judiciary.

Mr. FANNIN. Mr. President, my bill would make it a Federal crime to bomb the property of any business involved in interstate commerce. It defines the businesses covered as those hiring five or more employees—the standard gage for determining what business is in interstate commerce.

The bill makes it a crime to bomb any property used in connection with any federally assisted program.

Violation of this act would carry a minimum mandatory prison term of 5 years or fine of not less than $5,000. Maximum penalty would be 10 years in prison or $10,000 fine, or both.

I feel that a crime as vicious as bombing should carry tough mandatory sentences.

In addition, this bill provides for more stringent penalties for bombings which result in injury or death in buildings where federally assisted programs are in operation. In such cases, capital punishment or imprisonment for any term of years could be imposed.

Other provisions of this bill are similar or identical with proposals made by President Nixon last March 25.

Anyone transporting explosives with knowledge or intent that they will be used to kill, injure, or intimidate persons or blow up buildings illegally would be subject to up to 10 years in prison and $10,000 fine. If involved in a bombing which caused personal injury, the sentence could run up to 20 years and $20,000 fine. For a bombing in which someone is killed, the maximum penalty is death or life imprisonment.

Unauthorized possession of explosives in federally owned or leased buildings would be punishable by up to a year in prison and a fine of up to $1,000.

Persons making bomb threats could be sentenced to up to 5 years in prison, compared with the current 1-year maximum.

This bill would provide new authority for Federal officers to move against those who are plotting violent overthrow of our Government.

But local and State authorities are not deprived of jurisdiction. This bill does not relieve local responsibility to investigate bombings and find the bombers.

Hopefully, it will give new impetus to State and local authorities. It should encourage close cooperation between all levels of law enforcement.

Terrorism has no place in America.

Mr. President, our Nation is dedicated to the rule of law. When any group tries to subvert freedom through terrorism, we must strengthen the law to meet that challenge.

The bill I am introducing will help to accomplish that objective.

Mr. President, I yield the floor.

STATUS OF UNFINISHED BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of morning business on tomorrow, the unfinished business, Senate Joint Resolution 1, be laid before the Senate.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when Senate Joint Resolution 1 the unfinished business, is temporarily laid aside tomorrow, it remain in that status until the conclusion of morning business on Monday next, October 5, 1970.

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

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

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

FEDERAL-AID HIGHWAY ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, for the purpose of making it the pending business, with the understanding that there will be no action thereon tonight, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1272, S. 4418.

The PRESIDING OFFICER (Mr. HOLLINGS). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 4418), to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

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

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

Mr. PERCY. Mr. President, the Federal-Aid Highway Act of 1970 is the pending business, and will be before the Senate tomorrow. Members will be interested in the highway apportionments authorized by the bill, S. 4418, for each State for the fiscal years 1972 and 1973.

I ask unanimous consent, on behalf of Senator COOPER, ranking minority member of the Committee on Public Works, that there be printed in the RECORD tables showing the apportionments authorized by the bill for fiscal years 1972 and 1973, together with the apportionments for fiscal year 1971, as made under existing law by the 1968 Highway Act.

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

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION

APPROXIMATE APPORTIONMENT OF FEDERAL-AID INTERSTATE, ABC, AND URBAN HIGHWAY FUNDS FOR FISCAL YEAR 1972, PURSUANT TO S. 4418

[Thousands of dollars]

State	Interstate ($4,000,000)	ABC ($1,050,000)	Urban ($375,000)	Total ($5,425,000)	State	Interstate ($4,000,000)	ABC ($1,050,000)	Urban ($375,000)	Total ($5,425,000)
Alabama	77,773	20,718	4,895	103,386	Nebraska	19,600	17,688	2,414	39,702
Alaska		50,540		50,540	Nevada	19,600	10,687	650	30,937
Arizona	77,498	13,812	3,660	94,970	New Hampshire	19,600	5,072	496	25,168
Arkansas	20,384	15,791	1,227	37,402	New Jersey	108,662	16,706	10,499	135,867
California	312,581	50,560	43,380	406,521	New Mexico	37,593	15,268	1,128	53,989
Colorado	68,482	17,293	3,679	89,454	New York	226,263	43,378	56,738	326,379
Connecticut	108,702	8,508	5,553	122,763	North Carolina	71,893	26,692	4,083	102,668
Delaware	19,600	4,978	537	25,115	North Dakota	19,600	13,102		32,702
Florida	106,232	21,446	7,569	135,337	Ohio	113,876	36,142	20,573	170,591
Georgia	77,851	24,820	5,332	108,003	Oklahoma	30,380	20,589	3,638	54,607
Hawaii	53,038	4,928	1,654	59,620	Oregon	92,434	16,048	2,378	110,860
Idaho	19,600	11,277		30,877	Pennsylvania	181,574	39,996	22,223	243,793
Illinois	209,602	38,249	25,743	273,594	Rhode Island	43,512	5,213	2,381	51,106
Indiana	58,761	23,274	7,865	89,900	South Carolina	29,949	14,690	1,293	45,929
Iowa	51,234	23,310	3,723	78,267	South Dakota	19,874	13,793	368	34,035
Kansas	43,747	22,783	2,786	69,316	Tennessee	49,784	21,813	5,112	76,709
Kentucky	58,526	18,375	2,885	79,786	Texas	166,169	60,323	24,567	251,059
Louisiana	125,832	16,509	5,954	148,295	Utah	57,467	10,526	1,459	69,452
Maine	20,384	7,840	408	28,632	Vermont	21,991	4,878		26,869
Maryland	102,743	10,389	6,733	119,865	Virginia	107,330	20,876	7,019	135,225
Massachusetts	109,564	13,502	13,351	136,417	Washington	110,191	16,813	4,980	131,984
Michigan	156,094	32,158	17,497	205,749	West Virginia	126,969	11,270	1,253	139,492
Minnesota	75,107	26,612	5,354	107,073	Wisconsin	38,102	24,390	6,813	69,305
Mississippi	35,006	17,573	812	53,391	Wyoming	29,988	10,989		40,977
Missouri	84,594	27,885	8,504	120,983	District of Columbia	56,762	4,631	4,289	65,682
Montana	47,902	17,822	606	66,330	Puerto Rico		6,475	3,352	9,827

APPROXIMATE APPORTIONMENT OF FEDERAL-AID A-B-C FUNDS FOR FISCAL YEAR 1972, PURSUANT TO S. 4418

[In thousands of dollars]

State	55 percent primary ($577,500)	35 percent secondary ($367,500)	10 percent urban ($105,000)	Total ($1,050,000)	State	55 percent primary ($577,500)	35 percent secondary ($367,500)	10 percent urban ($105,000)	Total ($1,050,000)
Alabama	11,159	8,114	1,445	20,718	Nevada	6,459	4,100	128	10,687
Alaska	30,714	19,675	151	50,540	New Hampshire	2,830	1,801	441	5,072
Arizona	8,231	5,093	488	13,812	New Jersey	7,836	2,519	6,351	16,706
Arkansas	8,520	6,431	840	15,791	New Mexico	8,842	5,694	732	15,268
California	28,059	12,201	10,300	50,560	New York	25,466	10,515	7,397	43,378
Colorado	9,993	6,196	1,104	17,293	North Carolina	13,536	11,512	1,644	26,692
Connecticut	4,420	2,335	1,753	8,508	North Dakota	7,481	5,217	404	13,102
Delaware	2,830	1,801	347	4,978	Ohio	18,870	11,197	6,075	36,142
Florida	11,018	6,537	3,891	21,446	Oklahoma	11,584	7,691	1,314	20,589
Georgia	13,262	9,625	1,933	24,820	Oregon	8,957	5,969	1,122	16,048
Hawaii	2,830	1,801	297	4,928	Pennsylvania	20,377	12,458	7,161	39,996
Idaho	6,406	4,384	487	11,277	Rhode Island	2,830	1,801	582	5,213
Illinois	21,124	11,018	6,107	38,249	South Carolina	7,360	6,116	1,214	14,690
Indiana	12,261	8,499	2,514	23,274	South Dakota	7,985	5,514	294	13,793
Iowa	12,922	9,182	1,206	23,310	Tennessee	11,583	8,673	1,557	21,813
Kansas	12,880	8,583	1,320	22,783	Texas	34,806	21,001	4,516	60,323
Kentucky	9,436	7,614	1,325	18,375	Utah	6,064	3,753	709	10,526
Louisiana	8,852	6,060	1,597	16,509	Vermont	2,830	1,801	247	4,878
Maine	4,170	3,027	643	7,840	Virginia	11,049	8,201	1,626	20,876
Maryland	5,322	3,174	1,893	10,389	Washington	9,147	5,900	1,766	16,813
Massachusetts	7,090	2,967	3,445	13,502	West Virginia	5,650	4,831	789	11,270
Michigan	17,274	10,341	4,543	32,158	Wisconsin	13,299	8,993	2,158	24,390
Minnesota	14,739	9,903	1,970	26,612	Wyoming	6,498	4,219	272	10,989
Mississippi	9,182	7,313	1,078	17,573	District of Columbia	2,830	1,810		4,631
Missouri	15,508	10,128	2,249	27,885	Puerto Rico	2,830	3,006	639	6,475
Montana	10,529	6,971	322	17,822					
Nebraska	10,220	6,954	514	17,688					

APPROXIMATE APPORTIONMENT OF FEDERAL-AID INTERSTATE, ABC AND URBAN HIGHWAY FUNDS FOR FISCAL YEAR 1973, PURSUANT TO S. 4418

[Thousands of dollars]

State	Interstate ($4,000,000)	ABC ($1,050,000)	Urban ($450,000)	Total ($5,500,000)	State	Interstate ($4,000,000)	ABC ($1,050,000)	Urban ($450,000)	Total ($5,500,000)
Alabama	77,773	20,718	5,874	104,365	Nebraska	19,600	17,688	2,897	40,185
Alaska		50,540		50,540	Nevada	19,600	10,687	781	31,068
Arizona	77,498	13,812	4,392	95,702	New Hampshire	19,600	5,072	595	25,267
Arkansas	20,384	15,791	1,473	37,648	New Jersey	108,662	16,706	12,599	137,967
California	312,581	50,560	52,056	415,197	New Mexico	37,593	15,268	1,354	54,215
Colorado	68,482	17,293	4,414	90,189	New York	226,263	43,378	68,086	337,727
Connecticut	108,702	8,508	6,664	123,874	North Carolina	71,893	26,692	5,900	103,485
Delaware	19,600	4,978	644	25,222	North Dakota	19,600	13,102		32,702
Florida	106,232	21,446	9,190	136,868	Ohio	113,876	36,142	24,687	174,705
Georgia	77,851	24,820	6,399	109,070	Oklahoma	30,380	20,589	4,366	55,335
Hawaii	53,038	4,928	1,984	59,950	Oregon	92,434	16,048	2,853	111,335
Idaho	19,600	11,277		30,877	Pennsylvania	181,574	39,996	26,667	248,237
Illinois	209,602	38,249	30,892	278,743	Rhode Island	43,512	5,213	2,858	51,583
Indiana	58,761	23,274	9,437	91,472	South Carolina	29,949	14,690	1,548	46,187
Iowa	51,234	23,310	4,467	79,011	South Dakota	19,847	13,793	441	34,108
Kansas	43,747	22,783	3,343	69,873	Tennessee	49,784	21,813	6,134	77,731
Kentucky	58,526	18,375	3,462	80,363	Texas	166,169	60,323	29,481	255,973
Louisiana	125,832	16,509	7,144	149,485	Utah	57,467	10,526	1,751	69,744
Maine	20,384	7,840	490	28,714	Vermont	21,991	4,878		26,869
Maryland	102,743	10,389	8,079	121,211	Virginia	107,330	20,867	8,423	136,629
Massachusetts	109,564	13,502	16,022	139,088	Washington	110,191	16,831	5,976	132,980
Michigan	156,094	32,158	20,996	209,248	West Virginia	126,969	11,270	1,504	139,743
Minnesota	75,107	26,612	6,425	108,144	Wisconsin	38,102	24,390	8,176	70,668
Mississippi	35,006	17,573	975	53,554	Wyoming	29,988	10,989		40,977
Missouri	84,594	27,885	10,205	122,684	District of Columbia	56,762	4,631	5,146	66,539
Montana	47,902	17,822	728	66,452	Puerto Rico		6,475	4,022	10,497

APPROXIMATE APPORTIONMENT OF FEDERAL-AID ABC FUNDS FOR FISCAL YEAR 1973 PURSUANT TO S. 4418

[In thousands of dollars]

State	55 percent primary ($577,500)	35 percent secondary ($367,500)	10 percent urban ($105,000)	Total ($1,050,000)	State	55 percent primary ($577,500)	35 percent secondary ($367,500)	10 percent urban ($105,000)	Total ($1,050,000)
Alabama	11,159	8,114	1,445	20,718	Nevada	6,459	4,100	128	10,687
Alaska	30,714	19,675	151	50,540	New Hampshire	2,830	1,801	441	5,072
Arizona	8,231	5,093	488	13,812	New Jersey	7,836	2,519	6,351	16,706
Arkansas	8,520	6,431	840	15,791	New Mexico	8,842	5,694	732	15,268
California	28,059	12,201	10,300	50,560	New York	25,466	10,515	7,397	43,378
Colorado	9,993	6,196	1,104	17,293	North Carolina	13,536	11,512	1,644	26,692
Connecticut	4,420	2,335	1,753	8,508	North Dakota	7,481	5,217	404	13,102
Delaware	2,830	1,801	347	4,978	Ohio	18,870	11,197	6,075	36,142
Florida	11,018	6,537	3,891	21,446	Oklahoma	11,584	7,691	1,314	20,589
Georgia	13,262	9,625	1,933	24,820	Oregon	8,957	5,969	1,122	16,048
Hawaii	2,830	1,801	297	4,928	Pennsylvania	20,377	12,458	7,161	39,996
Idaho	6,406	4,384	487	11,277	Rhode Island	2,830	1,801	582	5,213
Illinois	21,124	11,018	6,107	38,249	South Carolina	7,360	6,116	1,214	14,690
Indiana	12,261	8,499	2,514	23,274	South Dakota	7,985	5,514	294	13,793
Iowa	12,922	9,182	1,206	23,310	Tennessee	11,583	8,673	1,557	21,813
Kansas	12,880	8,583	1,320	22,783	Texas	34,806	21,001	4,516	60,323
Kentucky	9,436	7,614	1,325	18,375	Utah	6,064	3,753	709	10,526
Louisiana	8,852	6,060	1,597	16,509	Vermont	2,830	1,801	247	4,878
Maine	4,170	3,027	643	7,840	Virginia	11,049	8,201	1,626	20,876
Maryland	5,322	3,174	1,893	10,389	Washington	9,147	5,900	1,766	16,813
Massachusetts	7,090	2,967	3,445	13,502	West Virginia	5,650	4,831	789	11,270
Michigan	17,274	10,341	4,543	32,158	Wisconsin	13,299	8,933	2,158	24,390
Minnesota	14,739	9,903	1,970	26,612	Wyoming	6,498	4,219	272	10,989
Mississippi	9,182	7,313	1,078	17,573	District of Columbia	2,830	1,801		4,631
Missouri	15,508	10,128	2,249	27,885	Puerto Rico	2,830	3,006	639	6,475
Montana	10,529	6,971	322	17,822					
Nebraska	10,220	6,954	514	17,688					

FEDERAL-AID HIGHWAY FUNDS APPORTIONED FOR THE FISCAL YEAR 1971

[In thousands of dollars]

State	Interstate ($4,000,000)	ABC ($1,100,000)	TOPICS ($200,000)	Rural ($125,000)	Total ($5,425,000)	State	Interstate ($4,000,000)	ABC ($1,100,000)	TOPICS ($200,000)	Rural ($125,000)	Total ($5,425,000)
Alabama	74,558	20,529	2,675	2,566	100,328	Nebraska	16,386	16,582	1,147	2,284	36,399
Alaska		44,173	131	6,695	50,999	Nevada	24,265	9,631	300	1,403	35,599
Arizona	59,271	13,674	1,488	1,770	76,203	New Hampshire	21,913	4,766	526	613	27,818
Arkansas	24,265	14,568	1,084	1,991	41,908	New Jersey	109,995	20,735	8,550	1,369	140,649
California	353,819	64,623	21,539	5,335	445,316	New Mexico	40,690	14,014	962	1,932	57,598
Connecticut	70,678	10,194	3,134	897	84,903	New York	188,003	62,782	22,918	4,767	278,470
Colorado	54,723	16,915	2,026	2,151	75,815	North Carolina	51,078	25,529	2,610	3,342	82,559
Delaware	9,604	4,671	457	613	15,345	North Dakota	23,559	11,577	350	1,689	37,175
Florida	67,228	23,007	5,595	2,333	98,163	Ohio	167,815	41,690	11,245	3,997	224,747
Georgia	77,655	24,443	3,224	3,047	108,369	Oklahoma	29,596	19,853	2,195	2,563	54,207
Hawaii	51,627	5,058	739	613	58,037	Oregon	84,162	15,323	1,662	1,985	103,132
Idaho	28,185	10,006	421	1,435	40,047	Pennsylvania	198,274	46,067	12,664	4,366	261,371
Illinois	216,031	45,569	12,777	4,266	278,643	Rhode Island	20,306	5,688	1,196	613	27,803
Indiana	76,322	24,281	4,465	2,763	107,831	South Carolina	42,493	13,760	1,425	1,797	59,475
Iowa	39,984	22,245	2,127	2,942	67,298	South Dakota	22,736	12,294	362	1,796	37,188
Kansas	31,909	21,432	1,952	2,854	58,147	Tennessee	95,413	21,614	2,834	2,698	122,559
Kentucky	66,836	17,657	1,986	2,273	88,752	Texas	192,746	63,898	11,059	7,415	275,118
Louisiana	94,707	17,312	3,115	1,985	117,119	Utah	55,743	9,995	1,038	1,304	68,080
Maine	26,695	7,221	675	958	35,549	Vermont	27,479	4,336	213	613	32,641
Maryland	78,674	12,359	3,598	1,129	95,760	Virginia	92,590	21,578	3,450	2,564	120,182
Massachusetts	98,666	18,183	6,866	1,333	125,048	Washington	113,366	17,231	2,977	2,001	135,575
Michigan	160,642	36,499	9,024	3,670	209,835	West Virginia	132,966	10,621	1,047	1,398	146,032
Minnesota	86,201	26,012	3,262	3,278	118,753	Wisconsin	34,261	24,714	3,850	2,958	65,783
Mississippi	40,611	16,044	1,169	2,198	60,022	Wyoming	23,089	9,681	235	1,424	34,429
Missouri	75,930	28,467	4,422	3,409	112,228	District of Columbia	71,932	5,760	1,249		78,941
Montana	74,323	15,912	456	2,326	93,017	Puerto Rico		7,227	1,529	779	9,535

APPORTIONMENT OF FEDERAL-AID HIGHWAY FUNDS AUTHORIZED FOR THE FISCAL YEAR 1971

State	Primary highway system	Secondary or feeder roads	Urban highways	Subtotal	Interstate system	Total
Alabama	$9,565,055	$7,286,194	$3,678,182	$20,529,431	$74,558,400	$95,087,831
Alaska	26,325,916	17,667,140	179,635	44,172,691		44,172,691
Arizona	7,055,252	4,573,269	2,045,342	13,673,863	59,270,400	72,944,263
Arkansas	7,302,957	5,774,356	1,490,829	14,568,142	24,264,800	38,832,942
California	24,056,373	10,956,278	29,616,744	64,623,395	353,819,206	418,442,595
Colorado	8,565,670	5,563,629	2,785,582	16,914,881	54,723,200	71,638,081
Connecticut	3,788,737	2,096,639	4,308,657	10,194,033	70,677,600	80,871,633
Delaware	2,425,500	1,617,000	628,107	4,670,607	9,604,000	14,274,607
Florida	9,443,679	5,870,183	7,693,306	23,007,168	67,228,000	90,235,168
Georgia	11,367,192	8,642,525	4,433,497	24,443,214	77,655,200	102,098,414
Hawaii	2,425,500	1,617,000	1,015,527	5,058,027	51,626,400	56,684,427
Idaho	5,490,839	3,936,991	578,330	10,006,160	28,184,800	38,190,960
Illinois	18,106,508	9,893,857	17,568,790	45,569,155	216,031,200	261,600,355
Indiana	10,509,502	7,632,064	6,139,235	24,280,801	76,322,460	100,603,201
Iowa	11,075,707	8,244,692	2,924,797	22,245,196	39,984,000	62,229,196
Kansas	11,040,396	7,707,350	2,684,676	21,432,422	31,908,800	53,341,222
Kentucky	8,088,184	6,837,328	2,731,412	17,656,924	66,836,000	84,492,924
Louisiana	7,587,141	5,442,049	4,282,544	17,311,734	94,707,200	112,018,934
Maine	3,574,380	2,718,180	928,470	7,221,030	26,695,200	33,916,230
Maryland	4,561,422	2,849,929	4,947,319	12,358,670	78,674,400	91,033,070
Massachusetts	6,077,357	2,664,530	9,441,234	18,183,121	98,666,400	116,849,521
Michigan	14,805,999	9,285,616	12,407,820	36,499,435	160,641,600	197,141,035
Minnesota	12,633,818	8,892,670	4,485,468	26,011,956	86,200,800	112,212,756
Mississippi	7,870,293	6,566,962	1,606,836	16,044,091	40,611,200	56,655,291
Missouri	13,292,747	9,094,106	6,079,937	28,466,790	75,930,400	104,397,190
Montana	9,025,281	6,259,811	626,345	15,911,437	74,323,200	90,234,637
Nebraska	8,759,685	6,244,521	1,577,767	16,581,973	16,385,600	32,967,573
Nevada	5,536,248	3,682,076	412,773	9,631,097	24,264,800	33,895,897
New Hampshire	2,425,500	1,617,000	723,732	4,766,232	21,912,800	26,679,032
New Jersey	6,716,829	2,261,551	11,756,224	20,734,604	109,995,200	130,729,804
New Mexico	7,578,494	5,112,920	1,322,696	14,014,110	40,689,600	54,703,710
New York	21,828,231	9,441,638	31,512,190	62,782,059	188,003,200	250,785,259
North Carolina	11,602,769	10,337,723	3,588,805	25,529,297	51,077,600	76,606,897
North Dakota	6,412,046	4,684,715	480,653	11,577,414	23,559,200	35,135,614
Ohio	16,174,554	10,054,045	15,461,387	41,689,986	167,815,200	209,505,186
Oklahoma	9,928,791	6,905,972	3,018,054	19,852,817	29,596,000	49,448,817
Oregon	7,677,226	5,360,004	2,285,932	15,323,162	84,162,400	99,485,562
Pennsylvania	17,466,472	11,186,862	17,413,525	46,066,859	198,273,600	244,340,459
Rhode Island	2,425,500	1,617,000	1,645,051	5,687,551	20,305,600	25,993,151
South Carolina	6,308,724	5,491,862	1,959,488	13,760,074	42,492,800	56,252,874
South Dakota	6,844,730	4,951,706	497,435	12,293,871	22,736,000	35,029,871
Tennessee	9,928,633	7,787,791	3,897,406	21,613,830	95,412,800	117,026,630
Texas	29,833,764	18,858,317	15,205,462	63,897,543	192,746,400	256,643,943
Utah	5,198,198	3,369,807	1,42 ,203	9,995,208	55,742,400	65,737,608
Vermont	2,425,500	1,617,000	293,068	4,335,568	27,479,200	31,814,768
Virginia	9,470,383	7,363,935	4,743,500	21,577,818	92,590,400	114,168,218
Washington	7,839,994	5,298,008	4,092,869	17,230,871	113,366,400	130,597,271
West Virginia	4,842,593	4,338,206	1,439,970	10,620,769	132,966,400	143,587,169
Wisconsin	11,399,169	8,021,511	5,293,638	24,714,318	34,260,800	58,975,118
Wyoming	5,569,562	3,788,950	322,832	9,681,344	23,088,800	32,770,144
District of Columbia	2,425,500	1,617,000	1,717,521	5,760,021	71,932,000	77,692,021
Puerto Rico	2,425,500	2,699,532	2,102,198	7,227,230		7,227,230
Total	485,100,000	323,400,000	269,500,000	1,078,000,000	3,920,000,000	4,998,000,000

ADJOURNMENT UNTIL 10:00 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:00 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 9 minutes p.m.) the Senate adjourned until tomorrow, Friday, October 2, 1970, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, October 1, 1970*

The House met at 12 o'clock noon.

Rev. James E. Coates, Bethlehem Baptist Church, Washington, D.C., offered the following prayer:

O God, we beseech Thee ever to guide our Nation in the way of Thy truth and peace, so that we may never fail in the blessing which Thou hast promised to that people whose God is the Lord.

Forgive those national sins which do so easily beset us: Our wanton waste of the wealth of soil and sea; our desecration of natural beauty; our love of money; our complacency; and our neglect of our brethren—some black, some white, and some red—who suffer poverty and prejudice.

Grant the safe return of our President who has gone forth seeking peace and brotherhood among the nations.

Comfort with the hope that new leadership inspires that "cradle of civilization" now frozen in grief for its beloved defender, mourned also by world leaders.

Most gracious God, we humbly beseech Thee, especially for the Representatives in Congress assembled: that Thou wouldst be pleased to direct and prosper all their deliberations to the good, safety, honor, and welfare of the people. Grant these public servants, in their dedication to the people, the wisdom and courage to meet the challenges of these difficult times; through Jesus Christ our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4599. An act to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments; and

H.R. 12943. An act to amend section 3 of the act of November 2, 1966, to extend for 3 years the authority to make appropriations to carry out such act.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 15424, AMENDING MERCHANT MARINE ACT, 1936, UNTIL MIDNIGHT FRIDAY

Mr. CLARK. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight Friday night to file a conference report on H.R. 15424, to amend the Merchant Marine Act, 1936.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.