

articles. I would like to insert the article in the Record and I invite the attention of my colleagues to it:

LOCAL SPORTS GROUP HONORS OLDTIMERS
(By Merrill W. Granger)

The McKeesport Athletic Sports Association is a local group of sports enthusiasts banded together for the purpose of honoring old time athletes. Guiding lights behind the MASA are Eddie Stanko, "Fee Wee" Lesko and a number of other sports-minded individuals. Tomorrow at 6:30 p.m. at the Swedish Singing Society, the group will hold its first annual banquet honoring 20 old time sports figures of the district. The club realizes, Stanko says, that many deserving individuals have been passed up for the first affair, but he says the club had to start somewhere and members hope to make the fete an annual event, with different old timers to be honored each year.

Here is a thumbnail sketch of some of the old timers to be honored tomorrow night.

Al Duffy—Sponsored athletic teams in the Third Ward for years and was an athlete himself in his younger days.

John "Duke" O'Hara—Long time boxing trainer and manager in the district in the 20's, 30's and 40's when boxing was popular here.

Jock Simco—Veteran boxer here who often took on foes much heavier than himself in his heyday. Also served as boxing judge. Still follows sports closely.

Jimmy Velter—Popular softball player who performed for Sixth Ward teams. Was star shortstop for Glassport Griffin Oilers and was touted as a coming baseball star, but gave it up for softball.

Frank "Flash" Leonard—Mushball and softball pitcher who was one of best. Also good at basketball.

Abby Fallquist—Former McKeesport High

School baseball coach for 40 years who produced seven WPAL baseball champions at MHS, the most for any coach.

Water Willig—Sponsored the Willig basketball teams in the mid-30's, which beat such teams as the New York Celtics, Cleveland Rosenblums and Brooklyn Jewels.
John "Tank" Ruscini—Long time billiards star in McKeesport. Has had runs of nine in three-cushion billiards.

Glenn Kughen—Now 80, Glenn was a distance runner in his youth and claims to have raced an ostrich, motorcycle and a horse. Also claims he competed in the 1912 Olympics as a distance runner.

Dave Jenkins—Former Third Ward athlete who now sponsors various athletic teams there and is always willing to lend a helping hand to young athletes.

Charley Moon—Former McKeesport High football and baseball star, whose career was cut short by polio. Member of McKeesport High's 1938 championship football team.

Eg Ramsay, Jim Sharp and George Vukmanic—Three regular members of McKeesport High's 1921 state championship basketball team, which defeated Williamsport 24-21 in title game at State College.

Clyde Elder, Paul McAllister and Ralph McAllister—Members of that same MHS championship basketball squad.

Frank Todd—Organizer of Todd Boys Club and McKeesport Boys and Girls Club before World War II.

Dr. J. C. Kelly—Still playing golf at 88, he has been a long time sports fan and in his youth was an athlete, once catching the great Rube Waddell in an exhibition game for Butler against the Pirates.

And another former athlete, **Sam Vidnovic**, will act as master of ceremonies. Incidentally, Sam is in his 22nd year of sportscasting, starting it back when McKeesport High played Miami in the Orange Bowl.

AN 8-YEAR-OLD DESCRIBES GRANDMA

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. SKUBITZ. Mr. Speaker, sometimes we are kidded about the trite or insignificant things that we place into the CONGRESSIONAL RECORD. However, I sometimes think the simple things that take place in America may help cause its greatness. That is why I think you will enjoy what an 8-year-old had to say about grandmothers:

AN 8-YEAR-OLD DESCRIBES GRANDMA

An eight-year-old wrote this: "A grandmother is a lady who has no children of her own, so she likes other people's boys and girls.

"Grandmas don't have anything to do except be there. If they take us for walks, they slow down past pretty leaves and caterpillars.

"They never say, 'Hurry up.'
"Usually they are fat but not too fat to tie our shoes. They wear glasses, and sometimes they can take their teeth out.

"They can answer questions like why dogs hate cats and why God isn't married. They don't talk 'visitors' talk' like visitors do because it is hard to understand. When they read to us they don't skip words or mind if it is the same story again.

"Everybody should try to have a grandma, especially if you don't have television, because grandmas are the only grown-ups who always have time."

SENATE—Friday, October 2, 1970

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

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

O God whose love is boundless and whose grace is sufficient for all our need, bring our spirits in harmony with Thy spirit. Be Thou the strength and guide of every Member of this body. Grant to each one here fidelity to the truth, perseverance in the right, and submission to Thy will. Strengthen those who serve the Senators in ways great and small, anoint us all with the spirit of servanthood, and bind us together in a warm comradeship of heart and mind for the completion of the work before us.

Be with us at the end of the day, O Lord, that we may hear Thee say, "Well done, good and faithful servant." Watch over us in our separation and bring us back safely in newness of life.

In the name of Him whose name is above every name. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 2, 1970.

To the Senate:

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

RICHARD E. RUSSELL,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, October 1, 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 Subcommittee on the Status of Forces of the Committee on Armed Forces, the Committee on Foreign Relations, and the Committee on Finance all be authorized to meet during the session of the Senate today.

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

EXECUTIVE SESSION

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

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

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

DEPARTMENT OF DEFENSE

The assistant legislative clerk read the nomination of Richard J. Borda, of California, to be an Assistant Secretary of the Air Force.

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

OFFICE OF TELECOMMUNICATIONS POLICY

The assistant legislative clerk read the nomination of George Frank Mansur, Jr., of Texas, to be a Deputy Director of the Office of Telecommunications Policy.

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

DEPARTMENT OF TRANSPORTATION

The assistant legislative clerk read the nomination of Willard J. Smith, of Michigan, to be an Assistant Secretary of Transportation.

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE COAST GUARD

The assistant legislative clerk proceeded to read sundry nominations in the Coast Guard which had been placed on the Secretary's desk.

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

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

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

LEGISLATIVE SESSION

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

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

PLANT VARIETY PROTECTION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1265, S. 3070, an unobjected-to item on the calendar.

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

The Senate proceeded to consider the bill (S. 3070) to encourage the development of novel varieties of sexually reproduced plants and to make them available to the public, providing protection available to those who breed, develop, or discover them, and thereby promoting progress in agriculture in the public interest, which had been reported from the Committee on Agriculture and Forestry, with an amendment; and reported from the Committee on the Judiciary, with amendments. The amendment of the Committee on Agriculture and Forestry was to strike out all after the enacting clause and insert:

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TITLE I—PLANT VARIETY PROTECTION OFFICE

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Chapter 1.—ORGANIZATION AND PUBLICATIONS

Section 1. Establishment.

There is hereby established in the Department of Agriculture a bureau to be known as the Plant Variety Protection Office, which shall have the functions set forth in this Act.

Sec. 2. Seal.

The Plant Variety Protection Office shall have a seal with which documents and certificates evidencing plant variety protection shall be authenticated.

Sec. 3. Organization.

The organization of the Plant Variety Protection Office shall, except as provided herein, be determined by the Secretary of Agriculture (hereinafter called the Secretary). The office shall devote itself substantially exclusively to the administration of this Act.

Sec. 4. Restrictions on Employees as to Interest in Plant Variety Protection.

Employees of the Plant Variety Protection Office shall be ineligible during the periods of their employment, to apply for plant variety protection and to acquire directly or indirectly except by inheritance or bequest, any right or interest in any matters before that office. This section shall not apply to members of the Plant Variety Protection Board who are not otherwise employees of the Plant Variety Protection Office.

Sec. 5. Bond of Employees.

Such employees as the Secretary designates, before entering upon their duties, shall severally give bond, with sureties, in sums prescribed by the Secretary, conditioned for the faithful discharge of their respective duties and that they shall render to the proper officers of the Treasury a true account of all money received by virtue of their offices.

Sec. 6. Regulations.

The Secretary may establish regulations, not inconsistent with law, for the conduct of proceedings in the Plant Variety Protection Office after consultations with the Plant Variety Protection Board.

Sec. 7. Plant Variety Protection Board.

(a) APPOINTMENT.—The Secretary shall appoint a Plant Variety Protection Board. The Board shall consist of individuals who are experts in various areas of varietal development covered by this Act. Membership of the Board shall include farmer representation and shall be drawn approximately equally from the private or seed industry sector and from the sector of government or the public. The Secretary or his designee shall act as chairman of the Board without voting rights except in the case of ties.

(b) FUNCTIONS OF BOARD.—The functions of the Plant Variety Protection Board shall include:

- (1) Advising the Secretary concerning the adoption of Rules and Regulations to facilitate the proper administration of this Act;
- (2) Making advisory decisions on all appeals from the examiner. The Board shall determine whether to act as a full Board or by panels it selects; and whether to review advisory decisions made by a panel. For service on such appeals, the Board may select, as temporary members, experts in the area to which the particular appeal relates; and

(3) Advising the Secretary on all questions under section 44.

(c) COMPENSATION OF BOARD.—The members of the Plant Variety Protection Board shall serve without compensation except for standard government reimbursable expenses. Sec. 8. Library.

The Secretary shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Plant Variety Protection Office to aid the officers in the discharge of their duties.

Sec. 9. Register of Protected Plant Varieties.

The Secretary shall maintain a register of published specifications of United States protected plant varieties and a file of such other scientific and technical information as may be necessary or practicable.

Sec. 10. Publications.

(a) The Secretary may publish, or cause to be published, in such format as he shall determine to be suitable, the following:

(1) The specifications for plant variety protection including drawings and photographs.

(2) The Official Journal of the Plant Variety Protection Office, including annual indices.

(3) Pamphlet copies of the plant variety protection laws and rules of practice and circulars or other publications relating to the business of the Office.

(b) The Plant Variety Protection Office may print the heading of the drawings or photographs for protected plant varieties for the purpose of photolithography and may provide suitable copy for any lithography to appear on the same page.

(c) The Secretary may (1) establish public facilities for the searching of plant variety protection records and materials, and (2) from time to time, as through an information service, disseminate to the public those portions of the technological and other public information available to or within the Plant Variety Protection Office to encourage innovation and promote the progress of the useful arts.

(d) The Secretary may exchange any of the publications specified for publications desirable for the use of the Plant Variety Protection Office. The Secretary may exchange copies of specifications, drawings, and photographs of United States protected plant varieties for copies of specifications, drawings, and photographs of applications and protected plant varieties of foreign countries.

Sec. 11. Copies for Public Libraries.

The Secretary may supply printed copies of specifications, drawings, and photographs of protected plant varieties to public libraries in the United States which shall maintain such copies for the use of the public.

Chapter 2.—LEGAL PROVISIONS AS TO THE PLANT VARIETY PROTECTION OFFICE

Sec. 21. Day for Taking Action Falling on Saturday, Sunday, or Holiday.

When the day, or the last day, for taking any action or paying any fee in the United States Plant Variety Protection Office falls on Saturday, Sunday, a holiday within the District of Columbia, or on any other day the Plant Variety Protection Office is closed for the receipt of papers, the action may be taken or the fee paid, on the next succeeding business day.

Sec. 22. Form of Papers Filed.

The Secretary may by regulations prescribe the form of papers to be filed in the Plant Variety Protection Office.

Sec. 23. Testimony in Plant Variety Protection Office Cases.

The Secretary may establish regulations for taking affidavits, depositions, and other evidence required in cases before the Plant

Variety Protection Office. Any officer authorized by law to take depositions to be used in the court of the United States, or of the State where he resides, may take such affidavits and depositions, and swear the witnesses. If any person acts as a hearing officer by authority of the Secretary, he shall have like power.

Sec. 24. Subpenas, Witnesses.

(a) The clerk of any United States court for the district wherein testimony is to be taken in accordance with regulations established by the Secretary for use in any contested case in the Plant Variety Protection Office shall, upon the application of any party thereof, issue a subpoena for any witness residing or being within such district or within one hundred miles of the stated place in such district, commanding him to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and the production of documents and things shall apply to contested cases in the Plant Variety Protection Office insofar as consistent with such regulations.

(b) Every witness subpoenaed or testifying shall be allowed the fees and traveling expenses allowed to witnesses attending the United States district courts.

(c) A Judge of a court whose clerk issued a subpoena may enforce obedience to the process or punish disobedience as in other like cases, on proof that a witness, served with such subpoena, neglected or refused to appear or to testify. No witness shall be deemed guilty of contempt for disobeying such subpoena unless his fees and traveling expenses in going to, and returning from, one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret matter except upon appropriate order of the court which issued the subpoena or of the Secretary.

Sec. 25. Effect of Defective Execution.

Any document to be filed in the Plant Variety Protection Office and which is required by any law or regulation to be executed in a specified manner may be provisionally accepted by the Secretary despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed.

Sec. 26. Regulations for Practice Before the Office.

The Secretary shall prescribe regulations governing the admission to practice and conduct of persons representing applicants or other parties before the Plant Variety Protection Office. The Secretary may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Office of Plant Variety Protection any person shown to be incompetent or disreputable or guilty of gross misconduct.

Sec. 27. Unauthorized Practice.

Anyone who in the United States engages in direct or indirect practice before the Office of Plant Variety Protection while suspended or excluded under section 26, or without being admitted to practice before the Office, shall be liable in a civil action for the return of all money received, and for compensation for damage done by such person and also may be enjoined from such practice. However, there shall be no liability for damage if such person establishes that the work was done competently and without negligence. This section does not apply to anyone who, without a claim of self-sufficiency, works under the supervision of another who stands admitted and is the responsible party; nor to anyone who establishes that he acted only on behalf of any employer by whom he was regularly employed.

Chapter 3.—PLANT VARIETY PROTECTION FEES

Sec. 31. Plant Variety Protection Fees; Appropriations.

The Secretary shall, under such regulations as he may prescribe, charge and collect reasonable fees for services performed under this Act. The fees authorized by this section shall be established to substantially cover the costs or administration of this Act. Such fees shall be deposited into a fund to be available, without fiscal year limitation, for the administration of this Act. The initial capital of the fund shall consist of appropriations, which are hereby authorized to be made. Until such time as the Secretary prescribes fees as provided by this section, a fee of \$50 shall be charged for filing each application, subject to such adjustment as may be appropriate after fees are prescribed by the Secretary hereunder.

Sec. 32. Payment of Plant Variety Protection Fees; Return of Excess Amounts.

All fees shall be paid to the Secretary, and the Secretary may refund any sum paid by mistake or in excess of the fee required.

TITLE II—PROTECTABILITY OF PLANT VARIETIES AND CERTIFICATES OF PROTECTION

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Chapter 4.—PROTECTABILITY OF PLANT VARIETIES

Sec. 41. Definitions and Rules of Construction.

The definitions and rules of construction set forth in this section apply for the purposes of this Act.

(a) The term "novel variety" may be represented by, without limitation, seed, transplants, and plants, and is satisfied if there is:

(1) Distinctness in the sense that the variety clearly differs by one or more identifiable morphological, physiological or other characteristics (which may include those evidenced by processing or product characteristics, for example, milling and baking characteristics in the case of wheat) as to which a difference in genealogy may contribute evidence, from all prior varieties of public knowledge at the date of determination within the provisions of section 42; and

(2) Uniformity in the sense that any variations are describable, predictable, and commercially acceptable; and

(3) Stability in the sense that the variety, when sexually reproduced or reconstituted, will remain unchanged with regard to its essential and distinctive characteristics with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

(b) The terms "United States" and "this country" mean the United States of America, its territories and possessions, and the Commonwealth of Puerto Rico.

(c) The term "kind" means one or more related species or subspecies singly or collectively known by one common name, for example, soybean, flax, carrot, or radish.

(d) The term "date of determination" means the date when there has been at least tentative determination that the variety has been sexually reproduced with recognized characteristics, whether or not the novelty of those characteristics has been determined.

(e) The term "breeder" shall mean the person who—

(1) directs the final breeding creating the novel variety; or

(2) discovers the novel variety, and makes the tentative determination described in subsection (d). Where such actions are conducted by an agent on behalf of his principal, the principal, rather than the agent, shall be considered the breeder. The terms "breed", "develop", "originate", and "discover", and derivatives thereof shall each include the other.

(f) The term "sexually reproduced" shall include any production of a variety by seed.

(g) The term "basic seed" means the seed planted to produce certified or commercial seed.

(h) The term "testing" means testing or experimental use of a variety before any sale thereof. Sale for other than seed purposes of seed or other plant material produced as the result of testing shall not constitute a sale for the purpose of the preceding sentence or for the purpose of the following subsection.

(i) The term "public variety" means a variety sold or used in this country, or existing in and publicly known in this country; but use for the purpose of testing, or sale, or use as individual plants not known to be sexually reproducible, shall not make the variety a public variety.

(j) A variety described in a publication as specified in section 42(a)(1)(B) is "effectively available to workers in this country" if a source from which it can be purchased as indicated in such publication or readily determinable or if such publication teaches how to produce the variety from source-material effectively available to workers in this country.

Sec. 42. Right to Plant Variety Protection; Plant Varieties Protectable.

(a) The breeder of any novel variety of sexually reproduced plant (other than fungi, bacteria, or first generation hybrids) who has so reproduced the variety, or his successor in interest, shall be entitled to plant variety protection therefor, subject to the conditions and requirements of this title unless one of the following bars exists:

(1) Before the date of determination thereof by the breeder, or more than one year before the effective filing date of the application therefor, the variety was (A) a public variety in this country, or (B) effectively available to workers in this country and adequately described by a publication reasonably deemed a part of the public technical knowledge in this country which description must include a disclosure of the principal characteristics by which the variety is distinguished.

(2) An application for protection of the variety based on the same breeder's acts, was filed in a foreign country by the owner or his privies more than one year before the effective filing date of the application filed in the United States.

[(3) Another is entitled to an earlier date of determina-]

(3) Another is entitled to an earlier date of determination for the same variety and such other (A) has a certificate of plant variety protection hereunder or (B) has been engaged in a continuing program of development and testing to commercialization, or (C) has within six months after such earlier date of determination adequately described the variety by a publication reasonably deemed a part of the public technical knowledge in this country which description must include a disclosure of the principal characteristics by which the variety is distinguished.

(b) The Secretary may, by regulation, extend for a reasonable period of time the one year time period provided in subsection (c) for filing applications, and may in that event provide for at least commensurate reduction of the term of protection.

Sec. 43. Reciprocity Limits.

Protection under the Act may, by regulation, be limited to nationals of the United States, except where this limitation would violate a treaty and except that nationals of a foreign state in which they are domiciled shall be entitled to so much of the protection here afforded as is afforded by said foreign state to nationals of the United States for the same genus and species.

Sec. 44. Public Interest in Wide Usage.

The Secretary may declare a protected variety open to use on a basis of equitable remuneration to the owner, not less than a reasonable royalty, when he determines that such declaration is necessary in order to insure an adequate supply of fiber, food, or feed in this country and that the owner is unwilling or unable to supply the public needs for the variety at a price which may reasonably be deemed fair. Such declaration may be, with or without limitation, with or without designation of what the remuneration is to be; and shall be subject to review as under section 71 or 72 (any finding that the price is not reasonable being reviewable), and shall remain in effect not more than two years. In the event litigation is required to collect such remuneration, a higher rate may be allowed by the court.

Chapter 5.—APPLICATIONS: FORM, WHO MAY FILE, RELATING BACK, CONFIDENTIALITY**Sec. 51. Application for Recognition of Plant Variety Rights.**

(a) An application for a certificate of Plant Variety Protection may be filed by the owner of the variety sought to be protected. The application shall be made in writing to the Secretary, shall be signed by or on behalf of the applicant, and shall be accompanied by the prescribed fee.

(b) An error as to the naming of the breeder, without deceptive intent, may be corrected at any time, in accordance with regulation established by the Secretary.

Sec. 52. Content of Application.

An application for a certificate recognizing plant variety rights shall contain:

(1) The name of the variety except that a temporary designation will suffice until the certificate is to be issued.

(2) A description of the variety setting forth its novelty and a description of the genealogy and breeding procedure, when known. The Secretary may require amplification, including the submission of adequate photographs or drawings or plant specimens, if the description is not adequate or as complete as is reasonably possible, and submission of records or proof of ownership or of allegations made in the application. An applicant may add to or correct the description at any time, before the certificate is issued, upon a showing acceptable to the Secretary that the revised description is retroactively accurate. Courts shall protect others from any injustice which would result. The Secretary may accept records of the breeder and of any official seed certifying agency in this country as evidence of stability where applicable.

(3) A declaration that a viable sample of basic seed necessary for propagation of the variety will be deposited and replenished periodically in a public repository in accordance with regulations to be established hereunder. This declaration may be added by amendment.

(4) A statement of the basis of applicant's ownership.

Sec. 53. Joint Breeders.

(a) When two or more persons are the breeders, one (or his successor) may apply, naming the others.

(b) The Secretary, after such notice as he may prescribe, may issue a certificate of plant variety protection to the applicant and

such of the other breeders (or their successors in interest) as may have subsequently joined in the application.

Sec. 54. Death or Incapacity of Breeder.

Legal representatives of deceased breeders and of those under legal incapacity may make application for plant variety protection upon compliance with the requirements and on the same terms and conditions applicable to the breeder or his successor in interest.

Sec. 55. Benefit of Earlier Filing Date.

(a) An application for a certificate of plant variety protection filed in this country based on the same variety, and on rights derived from the same breeder, on which there has previously been filed an application for plant variety protection in a foreign country which affords similar privileges in the case of applications filed in the United States by citizens of the United States, shall have the same effect as the same application would have if filed in the United States on the date on which the application for plant variety protection for the same variety was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed. No application shall be entitled to a right of priority under this section, unless the applicant designates the foreign application in his application or by amendment thereto and, as required by the Secretary, furnishes such copy, translation or both, as the Secretary may specify.

(b) An application for a certificate of plant variety protection for the same variety as was the subject of an application previously filed in the United States or on behalf of the same person, or by his predecessor in title, shall have the same effect as to such variety as though filed on the date of the prior application if filed before the issuance of the certificate or other termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

(c) A later application shall not by itself establish that a characteristic newly described was in the variety at the time of the earlier application.

Sec. 56. Confidential Status of Application.

Applications for plant variety protection and their contents shall be kept in confidence by the Plant Variety Protection Office, by the Board, and by the offices in the Department of Agriculture to which access may be given under regulations. No information concerning the same shall be given without the authority of the owner, unless necessary under special circumstances as may be determined by the Secretary, except that the Secretary may publish the variety names designated in applications, stating the kind of which each applies.

Sec. 57. Publication.

The Secretary may establish regulations for the publication of any pending application when publication is requested by the owner.

Chapter 6.—EXAMINATION, RESPONSE TIME, INITIAL APPEALS**Sec. 61. Examination of Application.**

The Secretary shall cause an examination to be made of the application and if on such examination it is determined that the applicant is entitled to plant variety protection under the law, the Secretary shall issue a notice of allowance of plant variety protection therefor as hereinafter provided.

Sec. 62. Notice of Refusal; Reconsideration.

(a) Whenever an application is refused, or any objection or requirement made by the examiner, the Secretary shall notify the applicant thereof, stating the reasons therefor, together with such information and references as may be useful in judging the pro-

priety of continuing the prosecution of the application; and if after receiving such notice the applicant requests reconsideration, with or without amendment, the application shall be reconsidered.

(b) For taking appropriate action after the mailing to him of an action other than allowance, an applicant shall be allowed six months, or such other time as the Secretary in exceptional circumstances shall set in the refusal, or such time as he may allow as an extension. Without such extension, action may be taken up to three months late by paying an additional fee to be prescribed by the Secretary.

Sec. 63. Initial Appeal.

When an application for plant variety protection has been refused by the Plant Variety Protection Office, the applicant may appeal to the Secretary. The Secretary shall seek the advice of the Plant Variety Protection Board on all appeals, before deciding the appeal.

Chapter 7.—APPEALS TO COURTS AND OTHER REVIEW**Sec. 71. Appeals.**

From the decisions made under sections 44, 63, 91, 92, and 123 appeal may, within sixty days or such further time as the Secretary allows, be taken under the Federal Rules of Appellate Procedure. The Court of Customs and Patent Appeals and the United States Courts of Appeals shall have jurisdiction, with venue in the case of the latter as stated in 28 U.S.C. 2343.

Sec. 72. Civil Action Against Secretary.

An applicant dissatisfied with a decision under section 63 or 91 of this title, may, as an alternative to appeal, have remedy by civil action against the Secretary in the United States District Court for the District of Columbia. Such action shall be commenced within sixty days after such decision or within such further time as the Secretary allows. The court may, in the case of review of a decision by the Secretary refusing plant variety protection, adjudge that such applicant is entitled to receive a certificate of plant variety protection for his variety as specified in his application as the facts of the case may appear, on compliance with the requirements of this Act.

Sec. 73. Appeal or Civil Action in Contested Cases.

(a) A party to a proceeding under section 92 of this title, dissatisfied with the decision, may take an appeal under section 71 or may have remedy by civil action if commenced within sixty days after such decision or within such further time as the Secretary allows. A party contemplating appeal as provided herein shall notify all adverse parties of his intention and any such adverse party, not the Secretary, shall have the right, by notice served within ten days of the notice to him, to elect that any review shall be by civil action. In such suits the record in the Plant Variety Protection Office shall be admitted on motion of any party upon the terms and conditions as to cost, expenses, and the further cross-examination of witnesses, as the court imposes, without prejudice to the right of the parties to take further testimony. The testimony and exhibits of the record in the Plant Variety Protection Office when admitted shall have the same effect as if originally taken and produced in the suit.

(b) Such suit may be instituted against the party in interest as shown by the record of the Plant Variety Protection Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same State, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia, or any United States district court to which it

may transfer the case, shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Secretary shall not be made a party but he shall have the right to intervene. Judgment of the court in favor of the right of an applicant to plant variety protection shall authorize the Secretary to issue a certificate of plant variety protection on the filing in the Plant Variety Protection Office of a certified copy of the judgment and on compliance with the requirements of this Act.

Chapter 8.—CERTIFICATES OF PLANT VARIETY PROTECTION

Sec. 81. Plant Variety Protection.

(a) If it appears that a certificate of plant variety protection should be issued on an application, a written notice of allowance shall be given or mailed to the owner. The notice shall specify the sum, constituting the issue fee, which shall be paid within one month thereafter.

(b) Upon timely payment of this sum, and provided that deposit of seed has been made in accordance with section 52(3), the certificate of plant variety protection shall issue.

(c) If any payment required by this section is not timely made, but is submitted with an additional fee prescribed by the Secretary within nine months after the due date or within such further time as the Secretary may allow, it shall be accepted.

Sec. 82. How Issued.

A certificate of plant variety protection shall be issued in the name of the United States of America under the seal of the Plant Variety Protection Office, and shall be signed by the Secretary or have his signature placed thereon, and shall be recorded in the Plant Variety Protection Office.

Sec. 83. Contents and Term of Plant Variety Protection.

(a) Every certificate of plant variety protection shall certify that the breeder (or his successor in interest) his heirs or assignees, has the right, during the term of the plant variety protection, to exclude others from selling the variety, or offering it for sale, or reproducing it, or importing it, or exporting it, or using it in producing (as distinguished from developing) a hybrid or different variety therefrom, to the extent provided by this Act. If the owner so elects, the certificate shall also specify that in the United States seed of the variety shall be sold by variety name only as a class of certified seed and, if specified, shall also conform to the number of generations designated by the owner. Any rights, or all rights except those elected under the preceding sentence, may be waived; and the certificate shall conform to such waiver. The Secretary may at his discretion permit such election or waiver to be made after certifying and amend the certificate accordingly, without retroactive effect.

(b) The term of plant variety protection shall expire seventeen years from the date of issue of the certificate in the United States. If the certificate is not issued within three years from the effective filing date, the Secretary may shorten the term by the amount of delay in the prosecution of the application attributed by the Secretary to the applicant.

(c) The term of plant variety protection shall also expire if the owner fails to comply with regulations, in force at the time of certifying, relating to replenishing seed in a public repository: Provided, however, That the expiration shall not occur unless notice is mailed to the last owner recorded, as provided in section 101(d) and he fails, within the time allowed thereafter, not less than three months, to comply with said regulations, paying an additional fee to be prescribed by the Secretary.

Sec. 84. Certificate of Correction of Plant Variety Protection Office Mistake.

Whenever a mistake in a certificate of plant variety protection, incurred through the fault of the Plant Variety Protection Office, is clearly disclosed by the records of the Office, the Secretary may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of plant variety protection. A copy thereof shall be attached to each copy of the published specifications or certificate of plant variety protection and such certificate of correction shall be considered as part of the original certificate of plant variety protection. Every such certificate of plant variety protection shall have the same effect as if the same had been originally issued in such corrected form. The Secretary may issue a corrected certificate of plant variety protection without charge in lieu of and with like effect as a certificate of correction.

Sec. 85. Certificate of Correction of Applicant's Mistake.

Whenever a mistake of a clerical or typographical nature, or of minor character, or in the description of the variety, which was not the fault of the Plant Variety Protection Office, appears in a certificate of plant variety protection and a showing has been made that such mistake occurred in good faith, the Secretary may, upon payment of the required fee, issue a certificate of correction in the manner and with attachment of copies as in section 84, if the correction unquestionably could have been made before the certificate issued. Such certificate of plant variety protection shall have the same effect and operation in law on the trial of actions for causes therefrom arising as if the same had been originally issued in such corrected form.

Sec. 86. Correction of Named Breeder.

An error as to the naming of a breeder in the application, without deceptive intent, shall not affect validity of plant variety protection and may be corrected at any time by the Secretary in accordance with regulations established by him or upon order of a federal court before which the matter is called in question. Upon such correction the Secretary shall issue a certificate accordingly. Such correction shall not deprive any person of any rights he otherwise would have had.

Chapter 9.—REEXAMINATION AFTER ISSUE, AND CONTESTED PROCEEDINGS

Sec. 91. Reexamination After Issue.

(a) Any person may, within five years after the issuance of a certificate of plant variety protection, notify the Secretary in writing of facts which may have a bearing on the protectability of the variety, and the Secretary may cause such plant variety protection to be reexamined in the light thereof.

(b) Reexamination of plant variety protection under this section and appeals shall be pursuant to the same procedures and with the same rights as for original examinations. Abandonment of the procedure while subject to a ruling against the retention of the certificate shall result in cancellation of the plant variety certificate thereon and notice thereof shall be endorsed on copies of the specification of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(c) If a person acting under subsection (a) makes a prima facie showing of facts needing proof, the Secretary may direct that the reexamination include such interparty proceedings as he shall establish.

Sec. 92. Priority Contest.

(a) If the Secretary determines that two applications of different applicants may be based on the same variety, he may:

(1) Initiate a priority contest on his own motion whether or not one of the applications may have been certified; or

(2) Issue a certificate on the application

having the earliest effective filing date, with notice to all; or

(3) Issue a certificate naming alternative owners, under a single variety name acceptable to both.

(b) On request of any person when a certificate has been issued naming another as an owner or alternative owner, both having applied for protection on the same variety, the Secretary shall institute a priority contest, except that any person shall have forfeited his right to assert priority for the purpose of obtaining plant variety protection when an adverse certificate has issued if he fails to make the request within one year of the mailing of notice specified in part (2) above or if he fails to make the request within the period for taking action after refusal of his application on the basis of the adverse certificate.

Sec. 9. Effect of Adverse Final Judgment or of Non Action.

(a) A final judgment under section 92 adverse to an application from which no appeal or other review had been or can be taken or had shall constitute cancellation of any certifying on that application, and notice thereof shall be endorsed on copies of the specifications of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(b) Any person who has not proceeded in accordance with the provision of this chapter shall not be foreclosed or in any way prejudiced with respect to the defense of an infringement suit or affirmative relief under declaratory judgment proceedings.

(c) No person subject to an adverse decision in a proceeding under this chapter shall be foreclosed with respect to asserting comparable grounds in defense of an infringement suit or as a basis for affirmative relief under declaratory judgment proceedings.

Sec. 94. Interfering Plant Variety Protection.

The owner of a certificate of plant variety protection may have relief against another owner of a certificate of the same variety by civil action, and the court may adjudge the question of validity of the respective certificates, or the ownership of certificate. The provisions of section 73(b) of this title shall apply to actions brought under this section.

TITLE III.—PLANT VARIETY PROTECTION AND RIGHTS

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Chapter 10.—OWNERSHIP AND ASSIGNMENT		

Sec. 101. Ownership and Assignment.

(a) Subject to the provisions of this title, plant variety protection shall have the attributes of personal property.

(b) Applications for certificates of plant variety protection, or any interest in a variety, shall be assignable by an instrument in writing. The owner may in like manner license or grant and convey an exclusive right to use of the variety in the whole or any specified part of the United States.

(c) A certificate of acknowledgement under the hand and official seal of a person authorized to administer oaths within the United States, or in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant, license, or conveyance of plant variety

protection or application for plant variety protection.

(d) An assignment, grant, conveyance or license shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it, or an acknowledgement thereof by the person giving such encumbrance that there is such encumbrance, is filed for recording in the Plant Variety Protection Office within one month from its date or at least one month prior to the date of such subsequent purchase or mortgage.

Sec. 102. Ownership During Testing.

An owner who, with notice that release is for testing only, releases possession of seed or other sexually reproducible plant material for testing retains ownership with respect thereto; and any diversion from authorized testing, or any unauthorized retention, of such material by anyone who has knowledge that it is under such notice, or who is chargeable with notice, is prohibited, and violates the property rights of the owner. Anyone receiving the material tagged or labeled with the notice is chargeable with the notice. The owner is entitled to remedy and redress in a civil action hereunder. No remedy available by State or local law is hereby excluded. No such notice shall be used, or if used be effective, when the owner has made identical sexually reproducible plant material available to the public, as by sale thereof.

Chapter 11.—INFRINGEMENT OF PLANT VARIETY PROTECTION

Sec. 111. Infringement of Plant Variety Protection.

Except as otherwise provided in this title, it shall be an infringement of the rights of the owner of a novel variety to perform without authority, any of the following acts in the United States, or in commerce which can be regulated by Congress or affecting such commerce, prior to expiration of the right to plant variety protection but after either the issue of the certificate or the distribution of a novel plant variety with the notice under section 127:

(1) sell the novel variety, or offer it or expose it for sale, deliver it, ship it, consign it, exchange it, or solicit an offer to buy it, or any other transfer of title or possession of it;

(2) import the novel variety into, or export it from, the United States;

(3) sexually multiply the novel variety as a step in marketing (for growing purposes) the variety; or

(4) use the novel variety in producing (as distinguished from developing) a hybrid or different variety therefrom; or

(5) use seed which had been marked "propagation prohibited" or progeny thereof to propagate the novel variety; or

(6) dispense the novel variety to another, in a form which can be propagated, without notice as to being a protected variety under which it was received; or

(7) perform any of the foregoing acts even in instances in which the novel variety is multiplied other than sexually, except in pursuance of a valid United States plant patent; or

(8) instigate or actively induce performance of any of the foregoing acts.

Sec. 112. Grandfather Clause.

Nothing in this title shall abridge the right of any person, or his successor in interest, to reproduce or sell a variety of developed and produced by such person more than one year prior to the effective filing date of an adverse application for a certificate of plant variety protection.

Sec. 113. Right To Save Seed. Crop Exemption.

Except to the extent that such action may constitute an infringement under subsections (3) and (4) of section 111, it shall not infringe hereunder for a person to save seed produced by him from seed obtained, or

descended from seed obtained, by authority of the owner of the variety for seeding purposes and use such saved seed in the production of a crop for use on his farm, or for sale as provided in this section: *Provided*, That without regard to the provisions of section 111 (3) it shall not infringe any right hereunder for a person, whose primary farming occupation is the growing of crops for sale for other than reproductive purposes, to sell such saved seed to other persons so engaged, for reproductive purposes, provided such sale is in compliance with such State laws governing the sale of seed as may be applicable. A bona fide sale for other than reproductive purposes, made in channels usual for such other purposes, of seed produced on a farm either from seed obtained by authority of the owner for seeding purposes or from seed produced by descent on such farm from seed obtained by authority of the owner for seeding purposes or from seed produced by descent on such farm from seed obtained by authority of the owner for seeding purposes shall not constitute an infringement. A purchaser who diverts seed from such channels to seeding purposes shall be deemed to have notice under section 127 that his actions constitute an infringement.

Sec. 114. Research Exemption.

The use and reproduction of a protected variety for plant breeding or other bona fide research shall not constitute an infringement of the protection provided under this Act.

Sec. 115. Intermediary Exemption.

Transportation or delivery by a carrier in the ordinary course of its business as a carrier, or advertising by a person in the advertising business in the ordinary course of that business, shall not constitute an infringement of the protection provided under this Act.

Chapter 12.—REMEDIES FOR INFRINGEMENT OF PLANT VARIETY PROTECTION, AND OTHER ACTIONS

Sec. 121. Remedy for Infringement of Plant Variety Protection.

An owner shall have remedy by civil action for infringement of his plant variety protection under section 111. If a variety is sold under the name of a variety shown in a certificate, there is a prima facie presumption that it is the same variety.

Sec. 122. Presumption of Validity; Defenses.

(a) Certificates of plant variety protection shall be presumed valid. The burden of establishing invalidity of a plant variety protection shall rest on the party asserting invalidity.

(b) The following shall be defenses in any action charging infringement and shall be pleaded: (1) noninfringement, absence of liability for infringement, or unenforceability; (2) invalidity of the plant variety protection in suit on any ground specified in section 42 of this title as a condition for protectability; (3) invalidity of the plant variety protection in suit for failure to comply with any requirement of section 52; (4) that the asserted infringement was performed under an existing certificate adverse to that asserted and prior to notice of the infringement; and (5) any other fact or act made a defense by this Act.

Sec. 123. Injunction.

The several courts having jurisdiction of cases under this title may grant injunctions in accordance with the principles of equity to prevent the violation of any right hereunder on such terms as the court deems reasonable.

Sec. 124. Damages.

(a) Upon finding an infringement of the court shall award damages adequate to compensate for the infringement but in no event less than a reasonable royalty for the use made of the variety by the infringer, together with interest and costs as fixed by the court.

(b) When the damages are not determined by the jury, the court shall determine them. In either event the court may increase the damages up to three times the amount determined.

(c) The court may receive expert testimony as an aid to the determination of damages or of what royalty would be reasonable under the circumstances.

(d) As to infringement prior to, or resulting from a planting prior to, issuance of a certificate for the infringed variety, a court finding the infringer to have established innocent intentions, shall have discretion as to awarding damages.

Sec. 125. Attorney Fees.

The court in exceptional cases may award reasonable attorney fees to the prevailing party.

Sec. 126. Time Limitation on Damages.

(a) No recovery shall be had for that part of any infringement committed more than six years (or known to the owner more than one year) prior to the filing of the complaint or counterclaim for infringement in the action.

(b) In the case of claims against the United States Government for unauthorized use of a protected variety, the period between the date of receipt of written claim for compensation by the department or agency of the Government having authority to settle such claim, and the date of mailing by the Government of a notice to the claimant that his claim has been denied shall not be counted as part of the period referred to in the preceding paragraph.

Sec. 127. Limitation of Damages; Marking and Notice.

Owners may give notice to the public by physically associating with or affixing to the container of seed of a novel variety or by fixing to the novel variety, a label containing the words "Propagation Prohibited" and after the certificate issues, such additional words as "U.S. Protected Variety". In the event the novel variety is distributed by authorization of the owner and is received by the infringer without such marking, no damages shall be recovered against such infringer by the owner in any action for infringement, unless the infringer has actual notice or knowledge that propagation is prohibited or that the variety is a protected variety, in which event damages may be recovered only for infringement occurring after such notice. As to both damages and injunction, a court shall have discretion to be lenient as to disposal of materials acquired in good faith by acts prior to such notice.

Sec. 128. False Marking; Cease and Desist Orders.

(a) Each of the following acts, if performed in connection with the sale, offering for sale, or advertising of sexually reproducible plant material, is prohibited, and the Secretary may, if he determines after an opportunity for hearing that the act is being so performed, issue an order to cease and desist, said order being binding unless appealed under section 71:

(1) Use of the words "U.S. Protected Variety" or any word or number importing that the material is a variety protected under certificate, when it is not.

(2) Use of any wording importing that the material is a variety of which an application for plant variety protection is pending, when it is not.

(3) Use of the phrase "propagation prohibited" or similar phrase without reasonable basis, a statement of this basis being promptly filed with the Secretary if the phrase is used beyond testing and no application has been filed. Any reasonable basis expires one year after the first sale of the variety except as justified thereafter by a pending application or a certificate still in force.

(b) Anyone convicted of violating a binding and desist order, or of performing

any act prohibited in subsection (a) of this section for the purpose of deceiving the public, shall be fined not more than \$10,000 and not less than \$500.

(c) Anyone whose business is damaged or is likely to be damaged by an act prohibited in subsection (a) of this section, or is subjected to competition in connection with which such act is performed, may have remedy by civil action.

Sec. 129. Nonresident Proprietors; Service and Notice.

Every owner not residing in the United States may file in the Plant Variety Protection Office a written designation stating the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the plant variety protection or rights thereunder. If the person designated cannot be found at the address given in the last designation, or if no person has been designated, the United States District Court for the District of Columbia shall have jurisdiction and summons shall be served by publication or otherwise as the court directs. The court shall have the same jurisdiction to take any action respecting the plant variety protection, or rights thereunder that it would have if the owner were personally within the jurisdiction of the court.

Chapter 13.—INTENT AND SEVERABILITY
Sec. 131. Intent.

It is the intent of Congress to provide the indicated protection for new varieties by exercise of any constitutional power needed for that end, so as to afford adequate encouragement for research, and for marketing when appropriate, to yield for the public the benefits of new varieties. Constitutional clauses 3 and 8 of article I, section 8 are both relied upon.

Sec. 132. Severability.

If this Act is held unconstitutional as to some provisions or circumstances, it shall remain in force as to the remainder and other circumstances.

Chapter 14.—TEMPORARY PROVISION AND RELATED ENACTMENTS; EXEMPTED PLANTS; MISCELLANEOUS
Sec. 141. Effective Date.

This Act shall take effect upon enactment. Applications may be filed with the Secretary and held by him until the Office of Plant Variety Protection is organized and in operation.

Sec. 142. Amendment of Federal Seed Act.

The Federal Seed Act (53 Stat. 1275) is amended as follows:

(a) By adding at the end thereof:

"TITLE V—SALE OF UNCERTIFIED SEED OF PROTECTED VARIETY

"Section 501.

"(a) It shall be unlawful in the United States or in interstate or foreign commerce to sell by variety name seed not certified by an official seed certifying agency when it is a variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed; Provided, That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety."

(b) By adding at the end of section 102 the following wording: "Seed a variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed shall be certified only when

"(1) the basic seed from which the variety was produced was furnished by authority of the owner of the variety if the certification is made during the term of protection, and

"(2) it conforms to the number of generations designated by the certificate, if the certificate contains such a designation."

Sec. 143. Amendment of Judicial Code.

Title 28 of the United States Code, entitled Judicial Code and Judiciary, is amended as follows:

(a) After section 1544 add:

Sec. 1545. Decision of the Plant Variety Protection Office.

"The Court of Customs and Patent Appeals shall have nonexclusive jurisdiction of appeals under section 71 of the Plant Variety Protection Act."

(b) In section 1338 after "Patents" in the heading, after "patents" and after "patent" (both occurrences) insert ", plant variety protection".

(c) After section 2351 add:

2353. The Court of appeals has nonexclusive jurisdiction to hear appeals under section 71 of the Plant Variety Protection Act.

Sec. 144. Exempted Plants.

The provisions of this Act shall not apply to the seeds, plants, or transplants of okra, celery, peppers, tomatoes, carrots, and cucumbers.

Sec. 144. Sec. 145. Short Title.

This Act may be cited as the "Plant Variety Protection Act."

The amendments of the Committee on the Judiciary are as follows:

On page 53, line 16, after the word "costs", strike out "or" and insert "of"; on page 55, line 18, after the word "fax," strike out "(carrot"; on page 58, line 3, strike out "(3) Another is entitled to an earlier date of determina-"; on page 60, line 5, after the word "with", strike out "regulation" and insert "regulations"; on page 62, line 8, after the word "by", strike out "citizens" and insert "nationals"; on page 85, line 3, after the word "the", strike out "remainder" and insert "remaining provisions"; and on page 87, at the beginning of line 6, change the section number from "144" to "145".

Mr. MILLER. Mr. President, I ask the Senate to approve S. 3070, the Plant Variety Protection Act, which I introduced on October 23, 1969. I wish to extend my appreciation to Senator JORDAN of North Carolina, the chairman of the Subcommittee on Agricultural Research and General Legislation, and Senator ELLENBER, chairman of the Senate Agriculture Committee, and to Senator EASTLAND, chairman of the Senate Judiciary Committee, for their cooperation in getting the committee work accomplished without which this bill could not have reached the calendar.

All should be interested in the growth and well-being of agriculture, the world's largest industry. One of the smallest but most vital raw materials for this industry is seed. American farmers spend approximately three-quarters of a billion dollars for seed each year. The Plant Variety Protection Act is designed to encourage the development of new varieties of sexually reproduced plants by providing protection for those who breed and develop them, thus promoting the growth and well-being of agriculture.

Breeding programs, whether public or private, require substantial investments in research, facilities, land, and labor. A private company cannot afford to make such investments unless it has the opportunity to make a profit. Heavy commercial investments in research have already produced new varieties of corn and sorghum hybrids. One of the most

well-known discoveries of recent years is high lysine corn, the inbred lines of which would be covered by this bill. Hybrids have their own built-in protection for their developer, since he can control the inbred or parental stocks and the hybrid cannot be reproduced from hybrid seed. Therefore, hybrids are excluded from the bill.

The constitutional authority for providing plant variety protection is found in the authors and inventors clause of the U.S. Constitution—article I, section 8, clause 8—which gives Congress the power to secure "for limited times to authors and inventors the exclusive right to their respective writings and discoveries"; and also in the commerce clause—article I, section 8, clause 3. The Constitution clearly intended recognition of inventors and discoverers for their work in all segments of industry, including agriculture. Therefore, it is entirely proper to extend some form of rights to plant breeders of sexually reproduced plants.

Mr. President, this legislation will serve as a stimulus for investment of private funds in variety research and development of seed. Agricultural producers will benefit from the new and improved varieties providing larger yields, greater disease and insect resistance, increased protein, oil and fiber strength, and other crop improvements. The ultimate consumer will also benefit from the greater efficiency of crop production.

New and improved varieties of high-quality seed must be developed to keep our farmers competitive, both at home and abroad. American agriculture constantly needs new crop varieties, because the hazards from disease and insect pests are constantly changing. For example, some plants which are immune to certain diseases, such as rusts, are not immune to new strains of those diseases. We cannot afford to stand still. Passage of this bill will help us move forward.

The amendments were agreed to.

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

S. 3070

An act to encourage the development of novel varieties of sexually reproduced plants and to make them available to the public, providing protection available to those who breed, develop, or discover them, and thereby promoting progress in agriculture in the public interest

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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Chapter 1.—ORGANIZATION AND PUBLICATIONS	

Section 1. Establishment.

There is hereby established in the Department of Agriculture a bureau to be known

as the Plant Variety Protection Office, which shall have the functions set forth in his Act.
Sec. 2. Seal.

The Plant Variety Protection Office shall have a seal with which documents and certificates evidencing plant variety protection shall be authenticated.

Sec. 3. Organization.

The organization of the Plant Variety Protection Office shall, except as provided herein, be determined by the Secretary of Agriculture (hereinafter called the Secretary). The office shall devote itself substantially exclusively to the administration of this Act.

Sec. 4. Restrictions on Employees as to Interest in Plant Variety Protection.

Employees of the Plant Variety Protection Office shall be ineligible during the periods of their employment, to apply for plant variety protection and to acquire directly or indirectly, except by inheritance or bequest, any right or interest in any matters before that office. This section shall not apply to members of the Plant Variety Protection Board who are not otherwise employees of the Plant Variety Protection Office.

Sec. 5. Bond of Employees.

Such employees as the Secretary designates, before entering upon their duties, shall severally give bond, with sureties, in sums prescribed by the Secretary, conditioned for the faithful discharge of their respective duties and that they shall render to the proper officers of the Treasury a true account of all money received by virtue of their offices.

Sec. 6. Regulations.

The Secretary may establish regulations, not inconsistent with law, for the conduct of proceedings in the Plant Variety Protection Office after consultations with the Plant Variety Protection Board.

Sec. 7. Plant Variety Protection Board.

(a) APPOINTMENT.—The Secretary shall appoint a Plant Variety Protection Board. The Board shall consist of individuals who are experts in various areas of varietal development covered by this Act. Membership of the Board shall include farmer representation and shall be drawn approximately equally from the private or seed industry sector and from the sector of government or the public. The Secretary or his designee shall act as chairman of the Board without voting rights except in the case of ties.

(b) FUNCTIONS OF BOARD.—The functions of the Plant Variety Protection Board shall include:

(1) Advising the Secretary concerning the adoption of Rules and Regulations to facilitate the proper administration of this Act;

(2) Making advisory decisions on all appeals from the examiner. The Board shall determine whether to act as a full Board or by panels it selects; and whether to review advisory decisions made by a panel. For service on such appeals, the Board may select, as temporary members, experts in the area to which the particular appeal relates; and

(3) Advising the Secretary on all questions under section 44.

(c) COMPENSATION OF BOARD.—The members of the Plant Variety Protection Board shall serve without compensation except for standard government reimbursable expenses.

Sec. 8. Library.

The Secretary shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Plant Variety Protection Office to aid the officers in the discharge of their duties.

Sec. 9. Register of Protected Plant Varieties.

The Secretary shall maintain a register of published specifications of United States protected plant varieties and a file of such other scientific and technical information as may be necessary or practicable.

Sec. 10. Publications.

(a) The Secretary may publish, or cause to be published, in such format as he shall determine to be suitable, the following:

(1) The specifications for plant variety protection including drawings and photographs.

(2) The Official Journal of the Plant Variety Protection Office, including annual indices.

(3) Pamphlet copies of the plant variety protection laws and rules of practice and circulars or other publications relating to the business of the Office.

(b) The Plant Variety Protection Office may print the heading or the drawings or photographs for protected plant varieties for the purpose of photolithography and may provide suitable copy for any lithography to appear on the same page.

(c) The Secretary may (1) establish public facilities for the searching of plant variety protection records and materials, and (2) from time to time, as through an information service, disseminate to the public those portions of the technological and other public information available to or within the Plant Variety Protection Office to encourage innovation and promote the progress of the useful arts.

(d) The Secretary may exchange any of the publications specified for publications desirable for the use of the Plant Variety Protection Office. The Secretary may exchange copies of specifications, drawings, and photographs of United States protected plant varieties for copies of specifications, drawings, and photographs of applications and protected plant varieties of foreign countries.

Sec. 11. Copies for Public Libraries.

The Secretary may supply printed copies of specifications, drawings, and photographs of protected plant varieties to public libraries in the United States which shall maintain such copies for the use of the public.

CHAPTER 2.—LEGAL PROVISIONS AS TO THE PLANT VARIETY PROTECTION OFFICE

Sec. 21. Day for Taking Action Falling on Saturday, Sunday, or Holiday.

When the day, or the last day, for taking any action or paying any fee in the United States Plant Variety Protection Office falls on Saturday, Sunday, a holiday within the District of Columbia, or on any other day the Plant Variety Protection Office is closed for the receipt of papers, the action may be taken or the fee paid, on the next succeeding business day.

Sec. 22. Form of Papers Filed.

The Secretary may by regulations prescribe the form of papers to be filed in the Plant Variety Protection Office.

Sec. 23. Testimony in Plant Variety Protection Office Cases.

The Secretary may establish regulations for taking affidavits, depositions, and other evidence required in cases before the Plant Variety Protection Office. Any officer authorized by law to take depositions to be used in the courts of the United States or of the State where he resides, may take such affidavits and depositions, and swear the witnesses. If any person acts as a hearing officer by authority of the Secretary, he shall have like power.

Sec. 24. Subpenas, Witnesses.

(a) The clerk of any United States court for the district wherein testimony is to be taken in accordance with regulations established by the Secretary for use in any contested case in the Plant Variety Protection Office shall, upon the application of any party thereof, issue a subpoena for any witness residing or being within such district or within one hundred miles of the stated place in such district, commanding him to

appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and the production of documents and things shall apply to contested cases in the Plant Variety Protection Office insofar as consistent with such regulations.

(b) Every witness subpoenaed or testifying shall be allowed the fees and traveling expenses allowed to witnesses attending the United States district courts.

(c) A judge of a court whose clerk issued a subpoena may enforce obedience to the process or punish disobedience as in other like cases, on proof that a witness, served with such subpoena, neglected or refused to appear or to testify. No witness shall be deemed guilty of contempt for disobeying such subpoena unless his fees and traveling expenses in going to, and returning from, one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret matter except upon appropriate order of the court which issued the subpoena or of the Secretary.

Sec. 25. Effect of Defective Execution.

Any document to be filed in the Plant Variety Protection Office and which is required by any law or regulation to be executed in a specified manner may be provisionally accepted by the Secretary despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed.

Sec. 26. Regulations for Practice Before the Office.

The Secretary shall prescribe regulations governing the admission to practice and conduct of persons representing applicants or other parties before the Plant Variety Protection Office. The Secretary may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Office of Plant Variety Protection any person shown to be incompetent or disreputable or guilty of gross misconduct.

Sec. 27. Unauthorized Practice.

Anyone who in the United States engages in direct or indirect practice before the Office of Plant Variety Protection while suspended or excluded under section 26, or without being admitted to practice before the Office, shall be liable in a civil action for the return of all money received, and for compensation for damage done by such person and also may be enjoined from such practice. However, there shall be no liability for damage if such person establishes that the work was done competently and without negligence. This section does not apply to anyone who, without a claim of self-sufficiency, works under the supervision of another who stands admitted and is the responsible party; nor to anyone who establishes that he acted only on behalf of any employer by whom he was regularly employed.

CHAPTER 3.—PLANT VARIETY PROTECTION FEES

Sec. 31. Plant Variety Protection Fees; Appropriations.

The Secretary shall, under such regulations as he may prescribe, charge and collect reasonable fees for services performed under this Act. The fees authorized by this section shall be established to substantially cover the costs of administration of this Act. Such fees shall be deposited into a fund to be available, without fiscal year limitation, for the administration of this Act. The initial capital of the fund shall consist of appropriations, which are hereby authorized to

be made. Until such time as the Secretary prescribes fees as provided by this section, a fee of \$50 shall be charged for filing each application, subject to such adjustment as may be appropriate after fees are prescribed by the Secretary hereunder.

Sec. 32. Payment of Plant Variety Protection Fees; Return of Excess Amounts.

All fees shall be paid to the Secretary, and the Secretary may refund any sum paid by mistake or in excess of the fee required.

TITLE II—PROTECTABILITY OF PLANT VARIETIES AND CERTIFICATES OF PROTECTION

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Chapter 4.—PROTECTABILITY OF PLANT VARIETIES

Sec. 41. Definitions and Rules of Construction.

The definitions and rules of construction set forth in this section apply for the purposes of this Act.

(a) The term "novel variety" may be represented by, without limitation, seed, transplants, and plants, and is satisfied if there is:

(1) Distinctness in the sense that the variety clearly differs by one or more identifiable morphological, physiological or other characteristics (which may include those evidenced by processing or product characteristics, for example, milling and baking characteristics in the case of wheat) as to which a difference in genealogy may contribute evidence, from all prior varieties of public knowledge at the date of determination within the provisions of section 42; and

(2) Uniformity in the sense that any variations are describable, predictable and commercially acceptable; and

(3) Stability in the sense that the variety, when sexually reproduced or reconstituted, will remain unchanged with regard to its essential and distinctive characteristics with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

(b) The terms "United States" and "this country" mean the United States of America, its territories and possessions, and the Commonwealth of Puerto Rico.

(c) The term "kind" means one or more related species or subspecies singly or collectively known by one common name, for example, soybean, flax, or radish.

(d) The term "date of determination" means the date when there has been at least tentative determination that the variety has been sexually reproduced with recognized characteristics, whether or not the novelty of those characteristics has been determined.

(e) The term "breeder" shall mean the person who—

(1) directs the final breeding creating the novel variety, or

(2) discovers the novel variety, and makes the tentative determination described in subsection (d). Where such actions are conducted by an agent on behalf of his principal, the principal, rather than the agent, shall be considered the breeder. The terms "breed", "develop", "originate", and "discover", and derivatives thereof shall each include the other.

(f) The term "sexually reproduced" shall include any production of a variety by seed.

(g) The term "basic seed" means the seed planted to produce certified or commercial seed.

(h) The term "testing" means testing or experimental use of a variety before any sale thereof. Sale for other than seed purposes of seed or other plant material produced as the result of testing shall not constitute a sale for the purpose of the following subsection.

(i) The term "public variety" means a variety sold or used in this country, or existing in and publicly known in this country; but use for the purpose of testing, or sale or use as individual plants not known to be sexually reproducible, shall not make the variety a public variety.

(j) A variety described in a publication as specified in section 42(a)(1)(B) is "effectively available to workers in this country" if a source from which it can be purchased is indicated in such publication or readily determinable or if such publication teaches how to produce the variety from source-material effectively available to workers in this country.

Sec. 42. Right to Plant Variety Protection; Plant Varieties Protectable.

(a) The breeder of any novel variety of sexually reproduced plant (other than fungi, bacteria, or first generation hybrids) who has so reproduced the variety, or his successor in interest, shall be entitled to plant variety protection therefor, subject to the conditions and requirements of this title unless one of the following bars exists:

(1) Before the date of determination thereof by the breeder, or more than one year before the effective filing date of the application therefor, the variety was (A) a public variety in this country, or (B) effectively available to workers in this country and adequately describe by a publication reasonably deemed a part of the public technical knowledge in the country which description must include a disclosure of the principal characteristics by which the variety is distinguished.

(2) An application for protection of the variety based on the same breeder's acts, was filed in a foreign country by the owner or his privies more than one year before the effective filing date of the application filed in the United States.

(3) Another is entitled to an earlier date of determination for the same variety and such other (A) has a certificate of plant variety protection hereunder or (B) has been engaged in a continuing program of development and testing to commercialization, or (C) has within six months after such earlier date of determination adequately described the variety by a publication reasonably deemed a part of the public technical knowledge in this country which description must include a disclosure of the principal characteristics by which the variety is distinguished.

(b) The Secretary may, by regulation, extend for a reasonable period of time the one year time period provided in subsection (a) for filing applications, and may in that event provide for at least commensurate reduction of the term of protection.

Sec. 43. Reciprocity Limits.

Protection under the Act may, by regulation, be limited to nationals of the United States, except where this limitation would violate a treaty and except that nationals of a foreign state in which they are domiciled shall be entitled to so much of the protection here afforded as is afforded by said foreign state to nationals of the United States for the same genus and species.

Sec. 44. Public Interest in Wide Usage.

The Secretary may declare a protected variety open to use on a basis of equitable remuneration to the owner, not less than a reasonable royalty, when he determines that

such declaration is necessary in order to insure an adequate supply of fiber, food, or feed in this country and that the owner is unwilling or unable to supply the public needs for the variety at a price which may reasonably be deemed fair. Such declaration may be, with or without limitation, with or without designation of what the remuneration is to be; and shall be subject to review as under section 71 or 72 (any finding that the price is not reasonable being reviewable); and shall remain in effect not more than two years. In the event litigation is required to collect such remuneration, a higher rate may be allowed by the court.

Chapter 5.—APPLICATIONS: FORM, WHO MAY FILE, RELATING BACK, CONFIDENTIALITY

Sec. 51. Application for Recognition of Plant Variety Rights.

(a) An application for a certificate of Plant Variety Protection may be filed by the owner of the variety sought to be protected. The application shall be made in writing to the Secretary, shall be signed by or on behalf of the applicant, and shall be accompanied by the prescribed fee.

(b) An error as to the naming of the breeder, without deceptive intent, may be corrected at any time, in accordance with regulations established by the Secretary.

Sec. 52. Content of Application.

An application for a certificate recognizing plant variety rights shall contain:

(1) The name of the variety except that a temporary designation will suffice until the certificate is to be issued.

(2) A description of the variety setting forth its novelty and a description of the genealogy and breeding procedure, when known. The Secretary may require amplification, including the submission of adequate photographs or drawings or plant specimens, if the description is not adequate or as complete as is reasonably possible, and submission of records or proof of ownership or of allegations made in the application. An applicant may add to or correct the description at any time, before the certificate is issued, upon a showing acceptable to the Secretary that the revised description is retroactively accurate. Courts shall protect others from any injustice which would result. The Secretary may accept records of the breeder and of any official seed certifying agency in this country as evidence of stability where applicable.

(3) A declaration that a viable sample of basic seed necessary for propagation of the variety will be deposited and replenished periodically in a public repository in accordance with regulations to be established hereunder. This declaration may be added by amendment.

(4) A statement of the basis of applicant's ownership.

Sec. 53. Joint Breeders.

(a) When two or more persons are the breeders, one (or his successor) may apply, naming the others.

(b) The Secretary, after such notice as he may prescribe, may issue a certificate of plant variety protection to the applicant and such of the other breeders (or their successors in interest) as may have subsequently joined in the application.

Sec. 54. Death or Incapacity of Breeder.

Legal representatives of deceased breeders and of those under legal incapacity may make application for plant variety protection upon compliance with the requirements and on the same terms and conditions applicable to the breeder or his successor in interest.

Sec. 55. Benefit of Earlier Filing Date.

(a) An application for a certificate of plant variety protection filed in this country based on the same variety, and on rights derived from the same breeder, on which there

has previously been filed an application for plant variety protection in a foreign country which affords similar privileges in the case of applications filed in the United States by nationals of the United States, shall have the same effect as the same application would have if filed in the United States on the date on which the application for plant variety protection for the same variety was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed. No application shall be entitled to a right of priority under this section, unless the applicant designates the foreign application in his application or by amendment thereto and, if required by the Secretary, furnishes such copy, translation or both, as the Secretary may specify.

(b) An application for a certificate of plant variety protection for the same variety as was the subject of an application previously filed in the United States by or on behalf of the same person, or by his predecessor in title, shall have the same effect as to such variety as though filed on the date of the prior application if filed before the issuance of the certificate or other termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

(c) A later application shall not by itself establish that a characteristic newly described was in the variety at the time of the earlier application.

Sec. 56. Confidential Status of Application.

Applications for plant variety protection and their contents shall be kept in confidence by the Plant Variety Protection Office, by the Board, and by the offices in the Department of Agriculture to which access may be given under regulations. No information concerning the same shall be given without the authority of the owner, unless necessary under special circumstances as may be determined by the Secretary, except that the Secretary may publish the variety names designated in applications, stating the kind to which each applies.

Sec. 57. Publication.

The Secretary may establish regulations for the publication of any pending application when publication is requested by the owner.

Chapter 6.—EXAMINATION, RESPONSE TIME, INITIAL APPEALS

Sec. 61. Examination of Application.

The Secretary shall cause an examination to be made of the application and if on such examination it is determined that the applicant is entitled to plant variety protection under the law, the Secretary shall issue a notice of allowance of plant variety protection therefor as hereinafter provided.

Sec. 62. Notice of Refusal; Reconsideration.

(a) Whenever an application is refused, or any objection or requirement made by the examiner, the Secretary shall notify the applicant thereof, stating the reasons therefor, together with such information and references as may be useful in judging the propriety of continuing the prosecution of the application; and if after receiving such notice the applicant requests reconsideration, with or without amendment, the application shall be reconsidered.

(b) For taking appropriate action after the mailing to him of an action other than allowance, an applicant shall be allowed six months, or such other time as the Secretary in exceptional circumstances shall set in the refusal, or such time as he may allow as an extension. Without such extension, action may be taken up to three months late by paying an additional fee to be prescribed by the Secretary.

Sec. 63. Initial Appeal.

When an application for plant variety protection has been refused by the Plant Variety Protection Office, the applicant may appeal to the Secretary. The Secretary shall seek the advice of the Plant Variety Protection Board on all appeals, before deciding the appeal.

Chapter 7.—APPEALS TO COURTS AND OTHER REVIEW

Sec. 71. Appeals.

From the decisions made under sections 44, 63, 91, 92, and 128 appeal may, within sixty days or such further time as the Secretary allows, be taken under the Federal Rules of Appellate Procedure. The Court of Customs and Patent Appeals and United States Courts of Appeals shall have jurisdiction, with venue in the case of the latter as stated in 28 U.S.C. 2343.

Sec. 72. Civil Action Against Secretary.

An applicant dissatisfied with a decision under section 63 or 91 of this title, may, as an alternative to appeal, have remedy by civil action against the Secretary in the United States District Court for the District of Columbia. Such action shall be commenced within sixty days after such decision or within such further time as the Secretary allows. The court may, in the case of review of a decision by the Secretary refusing plant variety protection, adjudge that such applicant is entitled to receive a certificate of plant variety protection for his variety as specified in his application as the facts of the case may appear, on compliance with the requirements of this Act.

Sec. 73. Appeal or Civil Action in Contested Cases.

(a) A party to a proceeding under section 92 of this title, dissatisfied with the decision, may take an appeal under section 71 or may have remedy by civil action if commenced within sixty days after such decision or within such further time as the Secretary allows. A party contemplating appeal as provided herein shall notify all adverse parties of his intention and any such adverse party, not the Secretary, shall have the right, by notice served within ten days of the notice to him, to elect that any review shall be by civil action. In such suits the record in the Plant Variety Protection Office shall be admitted on motion of any party upon the terms and conditions as to costs, expenses, and the further cross-examination of witnesses, as the court imposes, without prejudice to the right of the parties to take further testimony. The testimony and exhibits of the record in the Plant Variety Protection Office when admitted shall have the same effect as if originally taken and produced in the suit.

(b) Such suit may be instituted against the party in interest as shown by the record of the Plant Variety Protection Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same State, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia, or any United States district court to which it may transfer the case, shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Secretary shall not be made a party but he shall have the right to intervene. Judgment of the court in favor of the right of an applicant to plant variety protection shall authorize the Secretary to issue a certificate of plant variety protection on the filing in the Plant Variety Protection Office of a certified copy of the judgment and on compliance with the requirements of this Act.

Chapter 8.—CERTIFICATES OF PLANT VARIETY PROTECTION

Sec. 81. Plant Variety Protection.

(a) If it appears that a certificate of plant variety protection should be issued on an application, a written notice of allowance shall be given or mailed to the owner. The notice shall specify the sum, constituting the issue fee, which shall be paid within one month thereafter.

(b) Upon timely payment of this sum, and provided that deposit of seed has been made in accordance with section 52(3), the certificate of plant variety protection shall issue.

(c) If any payment required by this section is not timely made, but is submitted with an additional fee prescribed by the Secretary within nine months after the due date or within such further time as the Secretary may allow, it shall be accepted.

Sec. 82. How Issued.

A certificate of plant variety protection shall be issued in the name of the United States of America under the seal of the Plant Variety Protection Office, and shall be signed by the Secretary or have his signature placed thereon, and shall be recorded in the Plant Variety Protection Office.

Sec. 83. Contents and term of Plant Variety Protection.

(a) Every certificate of plant variety protection shall certify that the breeder (or his successor in interest) his heirs or assignees, has the right, during the term of the plant variety protection, to exclude others from selling the variety, or offering it for sale, or reproducing it, or importing it, or exporting it, or using it in producing (as distinguished from developing) a hybrid or different variety therefrom, to the extent provided by this Act. If the owner so elects, the certificate shall also specify that in the United States seed of the variety shall be sold by variety name only as a class of certified seed and, if specified, shall also conform to the number of generations designated by the owner. Any rights, or all rights except those elected under the preceding sentence, may be waived; and the certificate shall conform to such waiver. The Secretary may at his discretion permit such election or waiver to be made after certifying and amend the certificate accordingly, without retroactive effect.

(b) The term of plant variety protection shall expire seventeen years from the date of issue of the certificate in the United States. If the certificate is not issued within three years from the effective filing date, the Secretary may shorten the term by the amount of delay in the prosecution of the application attributed by the Secretary to the applicant.

(c) The term of plant variety protection shall also expire if the owner fails to comply with regulations in force at the time of certifying, relating to replenishing seed in a public repository. *Provided, however,* That this expiration shall not occur unless notice is mailed to the last owner recorded as provided in section 101(d) and he fails, within the time allowed thereafter, not less than three months, to comply with said regulations, paying an additional fee to be prescribed by the Secretary.

Sec. 84. Certificate of Correction of Plant Variety Protection Office Mistake.

Whenever a mistake in a certificate of plant variety protection, incurred through the fault of the Plant Variety Protection Office, is clearly disclosed by the records of the Office, the Secretary may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of plant variety protection. A copy thereof shall be attached to each copy of the published specifications or certificate of plant variety protection and such certificate of correction shall be consid-

ered as part of the original certificate of plant variety protection. Every such certificate of plant variety protection shall have the same effect as if the same had been originally issued in such corrected form. The Secretary may issue a corrected certificate of plant variety protection without charge in lieu of and with like effect as a certificate of correction.

Sec. 85. Certificate of Correction of Applicant's Mistake.

Whenever a mistake of a clerical or typographical nature, or of minor character, or in the description of the variety, which was not the fault of the Plant Variety Protection Office, appears in a certificate of plant variety protection and a showing has been made that such mistake occurred in good faith, the Secretary may, upon payment of a required fee, issue a certificate of correction in the manner and with attachment of copies as in section 84, if the correction unquestionably could have been made before the certificate issued. Such certificate of plant variety protection shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

Whenever an error as to the naming of a breeder in the application, without deceptive intent, shall not affect validity of plant variety protection and may be corrected at any time by the Secretary in accordance with regulations established by him or upon order of a federal court before which the matter is called in question. Upon such correction the Secretary shall issue a certificate accordingly. Such correction shall not deprive any person of any rights he otherwise would have had.

Chapter 9.—REEXAMINATION AFTER ISSUE, AND CONTESTED PROCEEDINGS

Sec. 91. Reexamination After Issue.

(a) Any person may, within five years after the issuance of a certificate of plant variety protection, notify the Secretary in writing of facts which may have a bearing on the protectability of the variety, and the Secretary may cause such plant variety protection to be reexamined in the light thereof.

(b) Reexamination of plant variety protection under this section and appeals shall be pursuant to the same procedures and with the same rights as for original examinations. Abandonment of the procedure while subject to a ruling against the retention of the certificate shall result in cancellation of the plant variety certificate thereon and notice thereof shall be endorsed on copies of the specification of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(c) If a person acting under subsection (a) makes a prima facie showing of facts needing proof, the Secretary may direct that the reexamination include such interparty proceedings as he shall establish.

Sec. 92. Priority Contest.

(a) If the Secretary determines that two applications of different applicants may be based on the same variety, he may:

(1) Initiate a priority contest on his own motion whether or not one of the applications may have been certificated; or

(2) Issue a certificate on the application having the earliest effective filing date, with notice to all; or

(3) Issue a certificate naming alternative owners, under a single variety name acceptable to both.

(b) On request of any person when a certificate has been issued naming another as an owner or alternative owner, both having applied for protection on the same variety, the Secretary shall institute a priority contest, except that any person shall have forfeited his right to assert priority for the purpose of obtaining plant variety protection when an adverse certificate has issued if he fails to make the request within

one year of the mailing of notice specified in part (2) above or if he fails to make the request within the period for taking action after refusal of his application on the basis of the adverse certificate.

Sec. 93. Effect of Adverse Final Judgment or of Non Action.

(a) A final judgment under section 92 adverse to an application from which no appeal or other review had been or can be taken or had shall constitute cancellation of any certifying on that application, and notice thereof shall be endorsed on copies of the specifications of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(b) Any person who has not proceeded in accordance with the provision of this chapter shall not be foreclosed or in any way prejudiced with respect to the defense of an infringement suit or affirmative relief under declaratory judgment proceedings.

(c) No person subject to an adverse decision in a proceeding under this chapter shall be foreclosed with respect to asserting comparable grounds in defense of an infringement suit or as a basis for affirmative relief under declaratory judgment proceedings.

Sec. 94. Interfering Plant Variety Protection.

The owner of a certificate of plant variety protection may have relief against another owner of a certificate of the same variety by civil action, and the court may adjudge the question of validity of the respective certificates, or the ownership of the certificate. The provisions of section 73(b) of this title shall apply to actions brought under this section.

TITLE III.—PLANT VARIETY PROTECTION AND RIGHTS

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Chapter 10.—OWNERSHIP AND ASSIGNMENT	

Sec. 101. Ownership and Assignment.

(a) Subject to the provisions of this title, plant variety protection shall have the attributes of personal property.

(b) Applications for certificates of plant variety protection, or any interest in a variety, shall be assignable by an instrument in writing. The owner may in like manner license or grant and convey an exclusive right to use of the variety in the whole or any specified part of the United States.

(c) A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant, license, or conveyance of plant variety protection or application for plant variety protection.

(d) An assignment, grant, conveyance or license shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it, or an acknowledgement thereof by the person giving such encumbrance that there is such encumbrance, is filed for recording in the Plant Variety Protection Office within one month from its date or at least one month prior to the date of such subsequent purchase or mortgage.

Sec. 102. Ownership During Testing.

An owner who, with notice that release is for testing only, releases possession of seed

or other sexually reproducible plant material for testing retains ownership with respect thereto; and any diversion from authorized testing, or any unauthorized retention, of such material by anyone who has knowledge that it is under such notice, or who is chargeable with notice, is prohibited, and violates the property rights of the owner. Anyone receiving the material tagged or labeled with the notice is chargeable with the notice. The owner is entitled to remedy and redress in a civil action hereunder. No remedy available by State or local law is hereby excluded. No such notice shall be used, or if used be effective, when the owner has made identical sexually reproducible plant material available to the public, as by sale thereof.

Chapter 11.—INFRINGEMENT OF PLANT VARIETY PROTECTION

Sec. 111. Infringement of Plant Variety Protection.

Except as otherwise provided in this title, it shall be an infringement of the rights of the owner of a novel variety to perform without authority, any of the following acts in the United States, or in commerce which can be regulated by Congress or affecting such commerce, prior to expiration of the right to plant variety protection but after either the issue of the certificate or the distribution of a novel plant variety with the notice under section 127:

(1) sell the novel variety, or offer it or expose it for sale, deliver it, ship it, consign it, exchange it, or solicit an offer to buy it, or any other transfer of title or possession of it;

(2) import the novel variety into, or export it from, the United States;

(3) sexually multiply the novel variety as a step in marketing (or growing purposes) the variety; or

(4) use the novel variety in producing (as distinguished from developing) a hybrid or different variety therefrom; or

(5) use seed which has been marked "propagation prohibited" or progeny thereof to propagate the novel variety; or

(6) dispense the novel variety to another, in a form which can be propagated, without notice as to being a protected variety under which it was received; or

(7) perform any of the foregoing acts even in instances in which the novel variety is multiplied other than sexually except in pursuance of a valid United States plant patent; or

(8) instigate or actively induce performance of any of the foregoing acts.

Sec. 112. Grandfather Clause.

Nothing in this Act shall abridge the right of any person, or his successor in interest, to reproduce or sell a variety developed and produced by such person more than one year prior to the effective filing date of an adverse application for a certificate of plant variety protection.

Sec. 113. Right to Save Seed; Crop Exemption.

Except to the extent that such action may constitute an infringement under subsections (3) and (4) of section 111, it shall not infringe any right hereunder for a person to save seed produced by him from seed obtained, or descended from seed obtained, by authority of the owner of the variety for seeding purposes and use on his farm, or for sale as provided in this section: *Provided*, That without regard to the provisions of section 111(3) it shall not infringe any right hereunder for a person, whose primary farming occupation is the growing of crops for sale for other than reproductive purposes, to sell such saved seed to other persons so engaged, for reproductive purposes, provided such sale is in compliance with such State laws governing the sale of seed as may be applicable. A bona fide sale for other than reproductive purposes, made in channels usual for such other purposes, of seed produced on a farm either from seed obtained by authority of the owner for seeding pur-

poses or from seed produced by descent on such farm from seed obtained by authority of the owner for seeding purposes shall not constitute an infringement. A purchaser who diverts seed from such channels to seeding purposes shall be deemed to have notice under section 127 that his actions constitute an infringement.

Sec. 114. Research Exemption.

The use and reproduction of a protected variety for plant breeding or other bona fide research shall not constitute an infringement of the protection provided under this Act.

Sec. 115. Intermediary Exemption.

Transportation or delivery by a carrier in the ordinary course of its business as a carrier, or advertising by a person in the advertising business in the ordinary course of that business, shall not constitute an infringement of the protection provided under this Act.

Chapter 12.—REMEDIES FOR INFRINGEMENT OF PLANT VARIETY PROTECTION, AND OTHER ACTIONS

Sec. 121. Remedy for Infringement of Plant Variety Protection.

An owner shall have remedy by civil action for infringement of his plant variety protection under section 111. If a variety is sold under the name of a variety shown in a certificate, there is a prima facie presumption that it is the same variety.

Sec. 122. Presumption of Validity; Defenses.

(a) Certificates of plant variety protection shall be presumed valid. The burden of establishing invalidity of a plant variety protection shall rest on the party asserting invalidity.

(b) The following shall be defenses in any action charging infringement and shall be pleaded: (1) noninfringement, absence of liability for infringement, or unenforceability; (2) invalidity of the plant variety protection in suit on any ground specified in section 42 of this title as a condition for protectability; (3) invalidity of the plant variety protection in suit for failure to comply with any requirement of section 52; (4) that the asserted infringement was performed under an existing certificate adverse to that asserted and prior to notice of the infringement; and (5) any other fact or act made a defense by this Act.

Sec. 123. Injunction.

The several courts having jurisdiction of cases under this title may grant injunctions in accordance with the principles of equity to prevent the violation of any right hereunder on such terms as the court deems reasonable.

Sec. 124. Damages.

(a) Upon finding an infringement the court shall award damages adequate to compensate for the infringement but in no event less than a reasonable royalty for the use made of the variety by the infringer, together with interest and costs as fixed by the court.

(b) When the damages are not determined by the jury, the court shall determine them. In either event the court may increase the damages up to three times the amount determined.

(c) The court may receive expert testimony as an aid to the determination of damages or of what royalty would be reasonable under the circumstances.

(d) As to infringement prior to, or resulting from a planting prior to, issuance of a certificate for the infringed variety, a court finding the infringer to have established innocent intentions, shall have discretion as to awarding damages.

Sec. 125. Attorney Fees.

The court in exceptional cases may award reasonable attorney fees to the prevailing party.

Sec. 126. Time Limitation on Damages.

(a) No recovery shall be had for that part of any infringement committed more than six years (or known to the owner more than one year) prior to the filing of the complaint or counterclaim for infringement in the action.

(b) In the case of claims against the United States Government for unauthorized use of a protected variety, the period between the date of receipt of written claim for compensation by the department or agency of the Government having authority to settle such claim, and the date of mailing by the Government of a notice to the claimant that his claim has been denied shall not be counted as part of the period referred to in the preceding paragraph.

Sec. 127. Limitation of Damages; Marking and Notice.

Owners may give notice to the public by physically associating with or affixing to the container of seed of a novel variety or by fixing to the novel variety, a label containing the words "Propagation Prohibited" and after the certificate issues, such additional words as "U.S. Protected Variety". In the event the novel variety is distributed by authorization of the owner and is received by the infringer without such marking, no damages shall be recovered against such infringer by the owner in any action for infringement, unless the infringer has actual notice or knowledge that propagation is prohibited or that the variety is a protected variety, in which event damages may be recovered only for infringement occurring after such notice. As to both damages and injunction, a court shall have discretion to be lenient as to disposal of materials acquired in good faith by acts prior to such notice.

Sec. 128. False Marking; Cease and Desist Orders.

(a) Each of the following acts, if performed in connection with the sale, offering for sale, or advertising of sexually reproductive plant material, is prohibited, and the Secretary may, if he determines after an opportunity for hearing that the act is being so performed, issue an order to cease and desist, said order being binding unless appealed under section 71:

(1) Use of the words "U.S. Protected Variety" or any word or number importing that the material is a variety protected under certificate, when it is not.

(2) Use of any wording importing that the material is a variety for which an application for plant variety protection is pending, when it is not.

(3) Use of the phrase "propagation prohibited" or similar phrase without reasonable basis, a statement of this basis being promptly filed with the Secretary if the phrase is used beyond testing and no application has been filed. Any reasonable basis expires one year after the first sale of the variety except as justified thereafter by a pending application or a certificate still in force.

(b) Anyone convicted of violating a binding cease and desist order, or of performing any act prohibited in subsection (a) of this section for the purpose of deceiving the public, shall be fined not more than \$10,000 and not less than \$500.

(c) Anyone whose business is damaged or is likely to be damaged by an act prohibited in subsection (a) of this section, or is subjected to competition in connection with which such act is performed, may have remedy by civil action.

Sec. 129. Nonresident Proprietors; Service and Notice.

Every owner not residing in the United States may file in the Plant Variety Protection Office a written designation stating the

name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the plant variety protection or rights thereunder. If the person designated cannot be found at the address given in the last designation, or if no person has been designated, the United States District Court for the District of Columbia shall have jurisdiction and summons shall be served by publication or otherwise as the court directs. The court shall have the same jurisdiction to take any action respecting the plant variety protection, or rights thereunder that it would have if the owner were personally within the jurisdiction of the court.

Chapter 13.—INTENT AND SEVERABILITY

Sec. 131. Intent

It is the intent of Congress to provide the indicated protection for new varieties by exercise of any constitutional power needed for that end, so as to afford adequate encouragement for research, and for marketing when appropriate, to yield for the public the benefits of new varieties. Constitutional clauses 3 and 8 of article I, section 8 are both relied upon.

Sec. 132. Severability.

If this Act is held unconstitutional as to some provisions or circumstances, it shall remain in force as to the remaining provisions and other circumstances.

Chapter 14.—TEMPORARY PROVISION AND RELATED ENACTMENTS; EXEMPTED PLANTS; MISCELLANEOUS

Sec. 141. Effective Date.

This Act shall take effect upon enactment. Applications may be filed with the Secretary and held by him until the Office of Plant Variety Protection is organized and in operation.

Sec. 142. Amendment of Federal Seed Act.

The Federal Seed Act (53 Stat. 1275) is amended as follows:

(A) By adding at the end thereof:

"TITLE V.—SALE OF UNCERTIFIED SEED OF PROTECTED VARIETY

"Section 501.

"(a) It shall be unlawful in the United States or in interstate or foreign commerce to sell by variety name seed not certified by an official seed certifying agency when it is a variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed: *Provided*, That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety."

(b) By adding at the end of section 102 the following wording: "Seed of a variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed shall be certified only when

"(1) the basic seed from which the variety was produced was furnished by authority of the owner of the variety if the certification is made during the term of protection, and

"(2) it conforms to the number of generations designated by the certificate, if the certificate contains such a designation."

Sec. 143. Amendment of Judicial Code.

Title 28 of the United States Code, entitled Judicial Code and Judiciary, is amended as follows:

(a) After section 1544 add:

"Sec. 1545. Decision of the Plant Variety Protection Office.

"The Court of Customs and Patent Appeals shall have nonexclusive jurisdiction of appeals under section 71 of the Plant Variety Protection Act."

(b) In section 1338 after "Patents" in the heading, after "patents" and after "patent" (both occurrences) insert ", plant variety protection".

(c) After section 2351 add:

2353. The Court of appeals has nonexclusive jurisdiction to hear appeals under section 72 of the Plant Variety Protection Act.

Sec. 144. Exempted Plants.

The provisions of this Act shall not apply to the seeds, plants, or transplants of okra, celery, peppers, tomatoes, carrots, and cucumbers.

Sec. 145. Short Title.

This Act may be cited as the "Plant Variety Protection Act".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1246), explaining the purposes of the measure.

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

PURPOSE

This bill as amended provides for the issuance of "certificates of plant variety protection" assuring the developers of novel varieties of sexually reproduced plants of exclusive rights to sell, reproduce, import, or export such varieties, or use them in the production (as distinguished from the development) of hybrids or different varieties, for a period of 17 years. A Plant Variety Protection Office would be established in the Department of Agriculture to administer the law. Similar protection is now provided for sexually reproduced varieties through patents issued by the Patent Office.

STATEMENT

During the hearings by this committee's Subcommittee on Patents, Trademarks, and Copyrights on the legislation providing for a general revision of the patent laws, consideration was given to an amendment of the patent plant section of the patent law. Under the patent law, patent protection is limited to those varieties of plants which reproduce asexually, that is, by such methods as grafting or budding. No protection is available to those varieties of plants which reproduce sexually, that is, generally by seeds. Thus, patent protection is not available with respect to new varieties of most of the economically important agricultural crops, such as cotton or soybeans. The Patent Subcommittee conducted hearings on February 1, 1968, on an amendment to broaden the scope of plant patent protection so as to apply to sexually reproduced plants. A number of objections to this proposal were advanced during the hearings, and no further action in that area has been taken by the subcommittee.

Subsequently, legislation was introduced to encourage the development of novel varieties of sexually reproduced plants by the issuance of certificates of plant variety protection by the Department of Agriculture, S. 3070, to establish such protection, was reported by the Committee on Agriculture and Forestry, and on August 24 this legislation was referred to this committee for the purpose of reviewing its impact on the plant patent statute. The committee accordingly has examined S. 3070 and finds that it does not alter protection currently available within the patent system. The committee recommends the bill, S. 3070, favorably as amended.

THE SENATE SETS A RECORD ON ROLLCALL VOTES

Mr. MANSFIELD. Mr. President, the vote completed earlier this week on the military construction authorization bill marks the 322d rollcall vote of the second session of the 91st Congress.

Insofar as I have been able to ascertain, that is the highest number of rollcall votes ever registered by the Senate in any session of Congress in the Nation's history. During the years 1933 through 1969, the years in which the Senate has come closest to approaching that number were 1967 when there were 315 rollcall votes, 1964 when the total was 312, and 1968 when 280 votes were taken.

I ask unanimous consent, Mr. President, that at the conclusion of my remarks a list of the rollcall votes since 1933, by year and by session, be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered. (See exhibit 1.)

Mr. MANSFIELD. In my opinion, the Senate has been—and continues to be—in the process of forming a most respectable record of legislative accomplishments this year. That there have been thus far in 1970 322 issues on which the votes of Senators have been counted in an unimpeachable way is, I believe, a strong indication of the attentiveness Senators have given to the agenda of the 91st Congress.

May I say, furthermore, that at the second session of the 91st Congress the average hours of attendance for the 162 days we have been in session has been 7 hours a day. This is in addition to looking after the needs of constituents, meeting with various groups, performing chores downtown, meeting in committees, and attending to the numerous other duties and responsibilities which happen to be a Senator's lot.

EXHIBIT 1

TOTAL ROLLCALL VOTES

Year	Congress	Session	Total votes
1969	91st	1st	245
1968	90th	2d	280
1967	90th	1st	315
1966	89th	2d	238
1965	89th	1st	299
1964	88th	2d	312
1963	88th	1st	229
1962	87th	2d	227
1961	87th	1st	207
1960	86th	2d	207
1959	86th	1st	216
1958	85th	2d	202
1957	85th	1st	111
1956	84th	2d	135
1955	84th	1st	88
1954	83d	1st	88
1953	83d	1st	88
1952	82d	2d	129
1951	82d	1st	202
1950	81st	2d	229
1949	81st	1st	226
1948	80th	2d	110
1947	80th	1st	137
1946	79th	2d	142
1945	79th	1st	107
1944	78th	2d	95
1943	78th	1st	120
1942	77th	2d	95
1941	77th	1st	96
1940	76th	2d	151
1939	76th	1st	112
1938	75th	3d	81
1937	75th	1st and 2d	91
1936	74th	2d	67
1935	74th	1st	132
1934	73d	2d	122
1933	73d	1st	98

Mr. SCOTT. If the distinguished majority leader will yield, I think, too, that the Senate has done a great deal of work in this session and has passed a great many bills. There are some things which

still remain to be done with some matters pending between the two Houses, as well as some matters which we may not be able to finish, much as we would like to.

But I detect, I think, in the sentiment of the public some of the same feeling expressed by Cromwell at the end of the long Parliament that he had attended when he said something like this: "Gentlemen, in the name of God, go."

I rather think that the public is in Cromwell's position in wishing that, in the name of God, we would go home.

Mr. MANSFIELD. I would agree with the distinguished Republican leader with only this stipulation, that the people's business be done first, and I am sure that it will be.

Mr. SCOTT. So far as the people's business can be effectively transacted, I am in sympathy.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Illinois (Mr. PERCY) for not to exceed 15 minutes.

NATO BURDENSARING

Mr. PERCY. Mr. President, yesterday in Brussels, the defense ministers of European NATO countries agreed in principle that they will have to assume a greater share of NATO's costs if a large-scale withdrawal of U.S. troops from Europe is to be prevented. They agreed that burdensharing would be necessary.

This recognition is long overdue. For 25 years the United States has provided an exorbitant share of the men and money to defend Europe. Today, 25 years after the end of World War II, 300,000 American troops plus several hundred thousand dependents are still in Western Europe at an annual cost in Europe of \$3 billion, of which \$1.5 billion is a balance-of-payments loss to the United States. The total allocation of the Department of Defense budget to NATO forces is \$14 billion a year, including both troops in Europe and those stationed here assigned for NATO backup.

As it stands now, each European NATO country will decide what it can contribute. These contributions will be put together into a total package at the next meeting of the NATO defense ministers in November, and then presented to our Government as a basis for discussion.

However, there is one part of the report coming out of Brussels that is totally unrealistic. Although no specific dollar figures were agreed upon, sources at the defense ministers' meeting were quoted as saying that a "realistic" figure would be in the neighborhood of \$300 million annually. This figure is so totally inadequate that it would seem to insure a substantial withdrawal of U.S. troops from NATO after July 1, 1971, when current financial arrangements come to an end. The \$300 million would cover only one-fifth of the U.S. balance-of-payments drain alone associated with NATO and

only one-tenth of our direct costs in Europe. It represents 2.2 percent of our total NATO commitment.

Unless European NATO countries contribute a minimum of \$1.5 billion to at least cover the balance-of-payments costs of U.S. forces in Europe beginning July 1, 1971, I shall support reduction of our commitment in Europe. For 2 years I have been urging greater European financial assistance for U.S. forces in Europe on the basis that if such help was not forthcoming, the United States would be forced to withdraw troops. I have been withholding support for moves to reduce troops now in hopes of getting a realistic financial arrangement. But the offer of \$300 million is grossly inadequate.

There are two courses open at the moment. Either European countries substantially up the ante at their next meeting in November or the U.S. Congress will solve the financial problem in the fiscal 1972 budget of the Department of Defense next year.

Mr. President, I ask unanimous consent that an article from this morning's Washington Post be printed in the RECORD at this point.

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

ALLIES PLAN EXPANDED NATO AID
(By John M. Goshko)

BRUSSELS, October 1.—European members of NATO agreed today in principle that they will have to assume a greater share of the alliance's defense burden as a means of preventing large-scale withdrawal of U.S. troops from Europe.

However, the informal meeting of defense ministers from ten NATO nations did not achieve a common definition of what they mean by "burden sharing" or the best way of translating it into action. There seemed to be two schools of thought about how to approach the problem.

One, led by West Germany, favors a system of financial contributions to help defray the costs of stationing more than 300,000 U.S. servicemen in Europe. The other idea, advanced chiefly by Britain, is that the European NATO members should increase their own individual contributions of men and materiel to the total NATO force.

In the end, the participants decided on a compromise formula that would round up the specific contributions each is willing to make into an overall package and then present it to Washington as a basis for further discussion.

While conceding that the formula is somewhat vague and diffuse, sources at the meeting argued that it represents a necessary first step in coming to grips with the problem of burden sharing.

They outlined a plan under which representatives of the participating countries and NATO Secretary General Manlio Brosio would work out a draft of the package proposal.

The tentative idea is to have this draft reviewed and approved at another ministerial-level meeting in November and then to communicate it to U.S. Defense Secretary Melvin R. Laird for Washington's reaction by the beginning of December.

Although conference spokesmen insisted it was still too early to say how much money might be involved, some sources said it would be "realistic" to talk in terms of a joint European commitment totaling up to \$300 million.

Whatever the final figure, it is generally expected that the biggest share will be as-

sumed by West Germany, which has most of the U.S. troops in Europe on its soil. The Bonn government is known to be especially anxious to prevent any sizable reduction of U.S. forces, and some German sources hinted that Bonn would be willing to pay half of the \$300 million figure being mentioned.

Today's meeting was brought about largely through the initiative of West German Defense Minister Helmut Schmidt. The West Germans, aware of growing pressures in the U.S. Congress for force reductions in Europe, have come around to the idea that direct budget support for U.S. troops is essential if NATO strength is to be kept close to present levels.

The West Germans envision a system under which NATO members would either make direct payments toward the upkeep of U.S. troops or increase the percentage they pay in so-called infrastructure costs—those relating to salaries for European civilian employees, installations and utilities.

The British counter by arguing that the demand in the United States for reductions is dictated less by budgetary considerations than by a feeling that the Europeans are not making the maximum possible contribution to their own defense.

The British say this objection can best be overcome by individual NATO members contributing more of their own armed forces personnel and equipment. British sources said the Heath government was studying how Britain could best fulfill this aim.

Referring to the differences, the Netherlands defense minister, Willem den Toom, who chaired today's meeting, said: "We don't want to strengthen our defense if it means a reduction of the U.S. presence in Europe. There is agreement among us that the U.S. must be kept in Europe, and we know that we should lighten their burden. Some elements in the United States are urging a cut down of the U.S. effort in Europe. It is also known that the administration is against this, but we have found the situation imperative enough to get together on the cost problem."

"We have reached no decision, but the result is that everybody is positive toward burden sharing—even those who cannot go beyond a symbolic gesture."

Taking part in today's meeting were West Germany, Britain, Italy, the Netherlands, Denmark, Norway, Greece, Belgium, Turkey and Luxembourg. Neither Portugal nor France, which has withdrawn from participation in the military aspects of NATO, attended.

U.S. sources estimate that the overall annual cost of the U.S. commitment to NATO, including forces both in Europe and the United States, is \$14 billion. The total cost to the United States for that portion of its NATO forces actually stationed in Europe comes to approximately \$7 billion annually.

LEAD PAINT POISONING

Mr. PERCY, Mr. President, during the past week, the Select Committee on Nutrition and Human Needs, of which I am a member, has been studying the problem of lead paint poisoning.

At least 40 children have died in Chicago since 1966 from lead paint poisoning, mostly children living among the broken and crumbling walls of tenements. Every week about 10 new lead poison victims are discovered in Chicago. There are more cases of brain damage from lead poisoning in New York City than there were from measles before immunization programs began. There are more deaths and permanent cripples from it each year than there were in

an average polio year prior to widespread immunization against that disease.

Because of this grave problem, I would like to share with my distinguished colleagues some enlightening articles on the subject of lead poisoning written by Mrs. Lois Wille of the Chicago Daily News. Mrs. Wille was recently named winner of the Illinois Associated Press Editors Association's top award for writing the best feature series of 1969. Mrs. Wille's work is a credit not only to her paper and her profession, but a great service to public information.

I ask unanimous consent to have these informative and thought-provoking articles printed in the RECORD.

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

LEAD POISONING CASES: SLUMLORD PROSECUTION URGED
(By Lois Wille)

A housing official Tuesday urged State's Atty. Edward V. Hanrahan to prosecute landlords who refuse to repair lead-poisoned buildings.

"Some of these fellows ought to be jailed, said Victor Spallone, director of housing for the Cook County Public Aid Department.

A 1966 state statute provides that a landlord found guilty of criminal housing management can be fined \$1,000 and sent to jail for six months.

"It has never been used in a lead poisoning case," Spallone said. "Yet there are many examples of an owner's gross carelessness and greed destroying a child."

In the five years since the law was passed, at least 39 Chicago children have died from eating lead-based paint and plaster in deteriorating buildings.

Many more were left mentally retarded or with severe behavior problems from the brain-crippling lead chips.

Lead-based paint on interior walls and peeling paint and plaster are city housing code violations, but Housing Court has had little success in forcing owners to comply with the law.

A recent investigation by The Daily News showed that walls were repaired in only one of 20 lead poisoning cases, some dating back to 1967.

"At the same time Building Department officials send these lead poisoning cases to Housing Court, they should also send them to the state's attorney for prosecution," Spallone said.

But the only long-range method of wiping out the disease is massive new construction, he added, "to get people out of dangerous housing."

The mother of one of the lead-poison victims interviewed by The Daily News has been on a waiting list to get into public housing for seven years.

City health Comr. Murray C. Brown said that Housing Court, with its backlog of 9,500 cases, "is a completely dissatisfactory method" of preventing lead poisoning.

"STEP TOWARD COMMUNISM": HITS TALK OF FIXING POISONED WALLS
(By Lois Wille)

Any city program to repair lead-poisoned buildings could be "one more step toward communism," Building Comr. Joseph Fitzgerald said Wednesday.

He warned of the dangers he sees in New York's new policy of covering peeling walls in flats where children have been poisoned.

"If the city is going to start doing repairs on buildings—I don't think our forefathers would have intended this," Fitzgerald said.

Chicago Health Department crews make emergency repairs in rat-infested buildings,

but Fitzgerald said he would not want them to branch out into repair of lead-poisoned walls.

"It seems one more step toward communism or socialism—another step in that direction," he explained.

In general, according to Fitzgerald, there is little that can be done to remove the source of the brain-crippling disease.

He is opposed to city-initiated repair work, and when asked if he had any suggestions for forcing owners to repair their slums, he replied:

"That would be the answer to the whole housing problem. If I had that answer, I'd be running for President."

Pediatricians, backed by the American Academy of Pediatrics and the U.S. Public Health Service, maintain that lead poisoning will continue to destroy the minds of thousands of children unless slums are repaired.

Young children with "pica"—abnormal appetite—are likely to nibble paint and plaster chips. The lead is stored in their brains, and eventually can cause retardation or severe behavior problems.

In Chicago, 5 to 10 lead poison cases are discovered every week. Pediatricians complain that after treatment most of the children return to homes with broken, lead-poisoned walls.

Peeling walls and lead-based paints on interior walls are violations of the city housing code, but Housing Court has little success in forcing owners to comply with the law.

The Daily News studied 20 lead poison cases, some dating back to 1967, and found that adequate repairs had been made in only one case. Several have been in Housing Court for two or three years but are given monthly continuances.

WEST SIDE BOY, 3, DIES FROM PAINT POISONING (By Lois Wille)

A three-year-old boy has died from massive brain damage caused by lead poisoning, physicians at Cook County Hospital said Friday.

His grieving mother, Mrs. Phillip Bryant Jr., said she saw him put paint chips in his mouth several times.

"But I thought I got them out before he swallowed them," she said.

Mrs. Bryant, widowed in April, lives in a basement flat at 2919 W. Lexington. The walls are badly cracked and broken, with huge holes in the bedroom and entranceway.

Building inspectors reported the hazard last December, but no repairs were made. Mrs. Bryant says no one warned her of the danger in lead-based paint.

The dead child was Phillip Bryant III. "Named after his father," the mother said. "Now there's nothing left of them."

The little boy seemed fine until Aug. 10, when he "got sick all of a sudden, and fell into a kind of daze," Mrs. Bryant said.

His body grew rigid and she couldn't arouse him. His older sisters April, 4, and Rhonda, 5, started to cry and call their brother's name to waken him, the mother said, but he was stiff and motionless.

"I got a cab and took him to County, but I don't think he ever really woke up again."

"Doctors said he tried real hard. He tried to breathe, and they did everything to help him with a respirator machine. But he just couldn't make it."

The child died Aug. 13. Dr. Ira Rosenthal, chairman of pediatrics at County Hospital, confirmed that death was caused by lead poisoning.

It was the second suspected lead death within a month. The coroner's office said Stephanie Johnson, 2, of 4622 W. Jackson, died of lead poisoning on July 27, but chemical tests have not yet been completed.

In Stephanie's case, as in the case of Phillip Bryant, building inspectors found and reported the peeling paint and plaster—but repairs were not made.

Broken walls painted before 1940, when lead-based paint was commonly used, are an extreme hazard to small children. If they chew bits of the peeling paint, the lead will accumulate in their brain and may cause swelling and hemorrhaging—and death. Children who survive often are retarded or have behavior disorders.

On Dec. 12, 1969, a city building inspector reported 16 violations in the stone two-flat where Phillip Bryant lived. They include illegal conversion, rats, defective stairs, defective window frames, defective heating and broken walls and ceilings.

After five months and no response from the owners, the city sued, naming Joseph D. Berke and Bernard Friedman as defendants. They hold the building through a trust in Lawndale National Bank, and give "P.O. Box 45043" as their only address, according to city records.

Deputies were not able to find them to serve a summons, so the case was continued in Housing Court on July 13 and again on Aug. 10, the day little Phillip Bryant entered into a coma.

The next court date is Sept. 14. The Bryant family has lived in the 670-a-month basement flat for five years. Mrs. Bryant said her late husband, a construction laborer, never was able to find enough steady work to enable them to move to better housing.

He died in April of a heart attack.

LEAD PAINT TOLL: OUR POISONED, CRIPPLED KIDS

(By Lois Wille)

Every morning, cherubic little Lisa May Roy, 2, and her brother Dennis, 1, make a long, hot trip across the city for injections that suck the poisonous lead from their bodies.

Two tiny Chippewa Indians from Uptown—and how will they grow?

Doctors don't know, yet. But the paint and plaster they have eaten in their slum flat could ruin their brains.

The damage takes a while to show up. Mrs. Annette Dukes knows. Only now, two years after her son Daryl was poisoned in the Dukes' Englewood flat, she is seeing the ominous signs: Periodic convulsions, temper tantrums, extreme irritability.

When he starts school, will he be able to learn? Or will he forever be labeled "underachiever" because when he was 19 months old he ate peeling lead-poisoned plaster?

The worst of it is, his parents say, the plaster still is crumbling, despite clear city laws requiring repairs. His father's makeshift patches can't hold it. And his landlord, plus all the might of the city government, haven't put the walls together again.

Chicago is half-way to victory in its fight against lead poisoning, the brain-crippling disease of little children in bad housing.

No other city in the nation, according to experts with the U.S. Public Health Service, is doing such a good job of finding and treating the poisoned children.

But the second half of the job—fixing the poisoned walls—remains undone. And, so far, city officials have no firm plans for tackling it.

"We had a meeting recently to talk about it—people from the Building department, the Health Department and judges," says Franklin I. Kral, supervising judge of Housing Court.

"Quite truthfully, as of this moment we don't have any solutions."

As a result, thousands of children in poor housing may develop learning problems or behavior disorders.

No one knows how many already have been

hurt, although pediatricians think the 506 children treated for lead poisoning here in 1969 may be only one-fourth to one-half of those who were stricken.

"What we worry about," says Dr. Frederick Burg, pediatrician at Children's Memorial Hospital, "is undetected minimal brain damage—the irritable, cranky child who will be a poor achiever in school."

The danger is enormous. Physicians who have done follow-up studies on their lead patients reported that 25 to 50 per cent who showed initial symptoms of nervous system damage—convulsions, extreme irritability—will have permanent handicaps.

"I think many cases are missed," says Dr. Ira Rosenthal, chairman of pediatrics at Cook County Hospital. Despite everything physicians can do to find and treat the poisoned children, he says, "we're never going to get to the roots until we improve housing."

Judge Kral thinks the city's law, building and health officials "are not pushing too strongly" to force housing repairs because crumbling buildings with poisoned walls "are so widespread, such a mammoth problem."

He estimates that most of the 9,500 buildings with code violations now waiting action in Housing Court have loose paint and plaster poisoned with lead.

And, probably, most of them have small tenants who might nibble on the deadly chips.

Before 1940, lead-based paint was commonly used for interior walls, so every building more than 30 years old and not in good condition is a potential hazard.

If the old paint was not removed but merely covered with nonlead paint, cracks and flakings eventually will expose the poisonous layers.

If the plumbing is poor, the lead-soaked plaster will rot and crumble.

Children with "pica"—the medical term for an abnormal appetite—will nibble the paint and plaster chips—just as they will nibble dirt, cigaret butts or paper. Doctors don't know what causes pica, but they do know that well-fed children seem as susceptible as undernourished children.

Some suspect it is rooted in anxiety—in response, perhaps, to an anxious or absent mother.

If a child nibbles lead-soaked paint and plaster chips over a period of several months, the lead is deposited in his bones and brain. The brain may swell—particularly in summer, although physicians are not sure why. As it presses against the skull, some brain cells may be destroyed.

If the pressure is severe, the child may suffer convulsions, lapse into a coma and die. Officially, this hazard should not exist.

Loose lead and paint has been a city housing code violation for years, and on Oct. 9, 1969, the City Council authorized the Building Department "to order immediate repairs" of all housing units where lead-based paint is found.

Yet every week about 10 new lead-poison victims are discovered and treated, most of them at the Health Department clinic in the old, largely abandoned Municipal Contagious Disease Hospital, 3026 W. California.

Community representatives from the city's Urban Progress Centers fan out through rundown neighborhoods, urging mothers to bring their toddlers to the centers at least every six months for blood tests to detect lead.

Last year 48,000 tests were given to children, by far the biggest program of its kind in the nation.

There is evidence the tests are preventing deaths.

In 1966, when the program began, seven Chicago children died of lead poisoning. One child died in 1969. So far this year, there has been one suspected death, 2-year-old Stephanie Johnson, but chemical tests have not yet been completed by the coroner's office.

The lead that poisoned Lisa May Roy and her brother Dennis was detected in blood tests at Montrose Urban Progress Center, 901 W. Montrose. Every morning, a city minibus picks them up at their home and drives them to the West Side hospital for their daily injections from Dr. Henrietta Sachs, the Health Department pediatrician who directs the city's treatment program.

She gives out suckers and loving pats with every shot, which somewhat mollifies the howls that echo through the old halls.

"She's a female Albert Schweitzer," says Dr. Burg, who surveyed lead poisoning with the U.S. Public Health Service for three years. "She's the outstanding pediatrician in the country treating lead poisoning."

In the steaming hot, isolated setting of the old hospital, his comparison seemed particularly appropriate.

Dr. Sachs held an X-ray of Dennis Roy to the light and pointed to the white spots in the colon—the most recent paint he has eaten.

The white lines in his leg bones are lead deposited over months of nibbling.

The medication she injects, she said, "bonds itself to the lead and is excreted through the kidneys, taking the lead with it."

A new patient arrived, a chubby 2-year-old blond girl also sent by the Montrose center because of the high lead content in her blood. Through Dr. Sachs' questioning of her nervous young mother, the tell-tale symptoms were revealed:

"Yes, said the mother, she sleeps a lot. She 'walks funny.' She is irritable and cranky, and she vomits almost every day.

"Have you ever seen her eat paint?" asks Dr. Sachs.

"Well, she chews on the window sill, and there's plaster falling down from the bathroom and the kitchen and sometimes I've caught her with it in her mouth. . . ."

For several weeks, the mother will bring her little girl to the hospital for daily injections to force the lead from her body.

And how will the mother make certain the child never again eats the poisonous plaster and paint?

That, according to physicians, is the point at which the city's fine treatment program collapses.

POISONED KIDS RETURN TO PERIL

(By Lois Wille)

June, 1967: Patricia Ann Ligon, 2, collapsed from a kitchen chair in a seizure, her brain swollen with lead from the plaster chips she had swallowed.

August, 1970: Now 5, Patricia no longer eats the lead-soaked plaster, but the chips still fall from the walls of her East Garfield Park home, endangering her little sister.

Patricia's eyes are crossed and her vision is very weak, probably from lead-induced damage to her optic nerve.

March, 1968: Daryl Dukes, 18 months old, lapsed into a coma as his mother fed him supper. Doctors at Michael Reese Hospital said he was suffering from "acute lead intoxication."

August, 1970: The plaster still crumbles from gaping holes in the bedroom walls, the bathroom and front hall of his family's Englewood flat. As old holes are patched, new ones appear.

July, 1968: Michael Maynard, 2, died of lead poisoning after nibbling paint and plaster in his Uptown home.

August, 1970: City inspector Jerry Sullivan reports the building's walls are peeling, and there is sewage in the basement and an abandoned refrigerator on the rear porch.

He called the building "too dangerous for habitation." After futile attempts to get the owner to Housing Court, Judge Raymond E. Trafelet ordered it vacated.

The next step is demolition, the 19-flat

building at 1128 W. Sunnyside will be leveled and that's how the city's housing shortage grows.

These three cases are typical of the frustrations facing pediatricians who treat lead poisoning, the brain-crippling disease that strikes about 10 Chicago children every week. It can result in mental retardation and behavior disorders.

The victims are usually under 4 and live in a "lead belt" (areas of decaying housing with broken, peeling walls painted before 1940, when lead-based paint was common.)

At Cook County Hospital, where 35 lead-poisoned children have been treated so far this year, chief social worker Helen Jaffee says the little patients play a deadly "game of musical chairs."

"We try to get the family into better housing," she says, "but housing is so scarce that often they move into another bad building And another family with small children moves into their old building."

Lead-poison victims have pica, the medical term for an abnormal appetite. "So it is extremely difficult for parents to keep them from eating more lead, if they go back to the same bad housing," says Dr. Ira Roenthal, chief of pediatrics at County.

Several weeks ago he wrote to Health Comr. Murray C. Brown, urging that city officials insure safe housing for poisoned children.

Dr. Brown, appointed last fall is faced with the massive job of bringing the backward city Health Department into the modern medical age. He is concentrating on developing community clinics and immunizing children, but recognizes the lead problem.

"Some of my own physicians treating these cases get very frustrated and agitated," he said.

"It's true—there's no point in running a detection and treatment program unless we have a complete closed circuit that includes fixing up the housing."

At present, the circuit is wide open.

An investigation by The Daily News of 20 lead poison cases selected at random, some dating back to 1967, revealed that adequate repairs were made in only one case.

One building was demolished after Housing Court judges tried for 18 months to force repairs. Two have been ordered vacated and are likely to be demolished, both of them buildings in which children died of lead poisoning.

One of these buildings has been in court for three years and the other for two years.

The remaining 16 still have peeling paint and plaster, according to reports from the city building inspectors. Most are either in court, scheduled to appear before Building Department compliance boards or waiting to get to court, now jammed with a backlog of 9,500 cases.

The records for the most part show the diligence of Building Comr. Joseph Fitzgerald's staff of inspectors.

In 11 of the 20 cases, inspectors reported the peeling paint and plaster long before the child was stricken.

In the others, inspectors checked within days after the illness was discovered and reported the violations.

At that point, the machinery breaks down. Some cases were taken to court immediately, and then languished month after month with continuances.

These are typical reasons for the delays: The building changed owners. The owner changed attorneys. The owner was on vacation. His attorney was on vacation. The owner made a few repairs and promised more, soon.

Often, the owner couldn't be found. One landlord, jailed earlier for contempt of court when he missed a number of hearings, is missing again. A city attorney has asked for a contempt citation against another chronic absentee, a woman also wanted for passing phony checks.

In a few cases the inspectors did seem to exaggerate the extent of the landlord's repairs. After 11 court hearings, the three-flat building, at 3354 W. Fulton where Patricia Ligon was poisoned was dismissed on June 13, 1969. The inspector reported that on June 12 "all plaster work was completed."

Twelve days after the dismissal, an inspector returned and reported peeling walls and ceilings in the building.

One point revealed by court records seems particularly significant: In only one of the 20 cases was the physician who treated the poisoned child asked to testify.

In most of the 20, there is nothing in the records to show a child was poisoned in the building. It is likely the judges and the overworked city attorneys who prosecute as many as 70 housing cases a day may not know the poisoning occurred.

Franklin I. Kral, supervising judge of Housing Court, concludes that "the city hasn't been pushing" lead-poison cases.

"It is rarely mentioned in court as evidence," he said.

PLASTER, PAINT—AND PATRICIA: A POISON

WARNING FALLS

(By Lois Wille)

The city's warning system to save little Patricia Lawson from lead poisoning failed—so the only safe haven for her, right now, is a hospital.

The pale tow-headed 5-year-old spends her days in the sunny playroom at Children's Memorial Hospital, riding a tricycle in circles and bouncing on a hobby horse.

In a small flat at 2732 N. Racine, her mother pushes putty into cracks in the ceilings and walls, preparing for Patricia's homecoming.

"This place isn't too bad," says Mrs. DeLores Lawson. "The place we had before, where Patricia got poisoned, was awful."

"An electrician put in new wires and never filled in the walls. The plaster fell all around. The junk and garbage was never picked up."

That was at 2143 W. Division. And city housing authorities knew how bad it was.

On Feb. 18 a city inspector reported that the building had "loose walls and ceilings," plus accumulated refuse and garbage and defective stairs.

A hearing was set for July 1.

Late in June, four months after the inspector's warning, the little girl was rushed to the hospital with high fever and convulsions and a stomach full of poisonous plaster and paint chips. She also had worms from eating dirt and garbage—another common affliction of children with pica, the medical term for an abnormal appetite.

"I had always heard that what children eat couldn't hurt them," says Mrs. Lawson, a slender, red-haired woman with a soft Kentucky voice.

"I had a baby-sitter watch her while I worked, and I guess the baby-sitter didn't know, either."

Frightened about her daughter's future—lead poisoning can cause brain damage—Mrs. Lawson has quit her job and receives public aid. Her husband, unemployed, went back to Kentucky.

HOW SYSTEM OPERATES

Officially, it couldn't have happened. According to procedures described by city authorities, Patricia's building should have been fixed long before she got sick.

When a building inspector finds loose paint and plaster in old housing, he takes samples that are sent to health department laboratories in the Civic Center. (If the paint dates back to 1940 or earlier, it is likely to have a lead base.)

Within a day, according to health department officials, the test results are "hand carried" to the chief sanitation officer, who forwards them to the building department.

If the samples show more than 1-per cent

lead content, the building commissioner is empowered to order immediate repairs. This ordinance was approved by the City Council on Oct. 9, 1968.

The inspector also determines if small children live in the building, according to James Jung, deputy building commissioner.

"And if they do, we send the names to the health department so they can test them for lead poisoning," he says.

If the owner doesn't voluntarily fix the walls soon after the violation is reported, Jung says, "we take him to court."

The machinery sounds fast and efficient. But in the case of Patricia Lawson and others checked by *The Daily News*, it didn't work.

Mrs. Lawson says no one asked her to have Patricia tested, or told her of the danger in the peeling walls.

And, although the building had not been repaired by the July 1 hearing, suit still has not been filed against the owners.

In 8 of 10 recent lead poisoning cases selected at random for investigation, the peeling paint and broken plaster had been reported by building inspectors months before the children were stricken.

One was reported repeatedly over a three-year period, and two over two-year periods.

But none of the eight mothers was warned of the danger, and none of the apartments repaired.

DOCTORS COMPLAIN

Pediatricians who treat lead-poisoned children at Cook County Hospital and private hospitals have additional complaints:

After they report a lead poison case to the health department, they are not given the results of the paint and plaster tests. But they say the results are essential to their treatment procedures.

They are not told if and when the violations are corrected, or what happens to the building in Housing Court.

"When I called the building department to check on one case that worried me, I was told it was none of my business," said one pediatrician.

Even health department officials don't get this information.

Dr. Herbert Slutsky, who directs the city's lead poison control program, said he gets "some feedback" from the building department on owners' compliance, "but not in all cases."

"I think that the majority we send over, because of the legal atmosphere in court, do not get immediate compliance," Slutsky said. That is probably correct. *The Daily News* studied 20 lead poison cases dating back to 1967, selected at random, and found that only 1 of the 20 buildings had been adequately repaired.

The prevalence of lead-poisoned walls throughout the city is well documented in the files of James A. Meany, chief sanitary officer of the health department. But he says he can do little about it.

He is the man who gets results of the paint and plaster tests and forwards them to the building department about once a week.

He showed his most recent list: 74 buildings tested over an 11-day period—and 26 with more than 1-per cent lead in paint or plaster.

A number of the samples registered as high as 20-to-30 per cent lead—deadly for a small child.

IT'S A BUILDING PROBLEM

What happens after he forwards the list to the building department?

"That's the last I hear," Meany says. "They are the code enforcement officers in these cases."

Some health department staff members have complained that they are rebuffed when

they attempt to find out what happens to the poisonous buildings. But Meany says he never asks.

"They're the enforcement agency," he says. "I have my problems and they have theirs. It's a building problem, not a health problem."

Dr. Frederick Burg, pediatrician at children's memorial hospital, surveyed lead poison problems in three years with the U.S. Public Health Service and has high praise for the city's efforts at finding and treating the sick children.

"But from that point on," he says, "we're in a bind. This is a form of environmental pollution that right now, here, is hurting people."

"The problem is: How to change this dangerous environment? We can't control it. We have to change it."

HOW CHICAGO CAN END LEAD-POISON PERIL (By Lois Wille)

For \$1,263, New York public health officials say they can prevent a child from eating poisonous paint chips which may cripple his brain.

The money buys plasterboard to cover crumbling walls, new paint and four men working five days each: Enough to repair one lead-poisoned flat.

"We've been able to really do something to get the housing fixed since we started this a few months ago," says Dr. Vincent Guinee, director of the city's Bureau of Lead Poisoning Control.

"Fixing the housing is the only way to stop lead poisoning."

Chicago pediatricians, frustrated because the poisoned children they treat usually go back to the same home with the same rotting walls, have urged city officials to adopt a similar plan.

Unless the poisonous paint and plaster are safely covered, they say, a child with pica—an abnormal appetite—is likely to eat more lead.

"It is virtually impossible to keep children from getting it," says Dr. Agnes Lattimer, chief of ambulatory pediatrics at Michael Reese Hospital.

"The lead chips are so rampant in some apartments that mothers tie their babies to chairs while they cook and iron. I know one who tied her child to her back while she did the chores—and still he got more lead."

Sen. Edward M. Kennedy (D-Mass.), sponsor of a bill to give federal money to cities for programs to eliminate lead poison hazards, told a Senate committee last month of the threat to repeat poisoning.

"After treatment, the young survivors have at least one chance in four of suffering brain damage," he said.

"When they get back home from hospital treatment, many children resume their paint-eating habits. If they come down with lead poisoning again, the risk of permanent brain damage increases to virtually 100 per cent."

"Too many of these tiny victims simply become vegetables."

Chicago already has the first half of the program Kennedy has suggested. The city Health Department tests 600 to 1,000 children a week in the city's "lead belts," areas of old, dilapidated housing.

If the blood test shows a high lead count, the child is sent to the city's lead clinic at Municipal Contagious Disease Hospital for injections to draw the lead from his body.

Last year about 800 children were treated for lead poisoning at the clinic and other hospitals.

But Chicago has not started to work on the other half of the problem: Repairing the poisonous walls.

Peeling walls and lead-base interior paint are illegal in Chicago, so eventually the case

gets to Housing Court—where it languishes in the backlog of 9,500 other cases.

Progress is painfully slow. *The Daily News* checked the outcome of 20 lead poisoning cases dating back to 1967, and found that adequate repairs had been made in only one case.

"What we need is an economical approach for immediate relief," says Franklin I. Kral, supervising judge of Housing Court.

New York officials believe they have such an approach.

Started last January, it works like this: After a case of lead poisoning is discovered, the New York Health Department tests samples of the wall paint and plaster for lead, as Chicago does.

If the tests are positive, the Health Department orders the landlords to begin removing the lead source—or covering it adequately—within five days.

On the fifth day, a city inspector visits the apartment.

If the landlord has not complied, a city emergency repair crew does the work and the Health Department bills the landlord.

If the landlord does comply, he gets a real estate tax rebate. About half the owners are complying within the five-day period, considered a remarkably good record for housing code offenders.

"If the landlord doesn't reimburse us, we take him to court," says Dr. Guinee. "That may mean a long hassle, but at least the child is safe and the housing repaired while the hassling goes on."

Dr. Guinee expects New York will find about 2,500 lead poison cases this year, and will have to appropriate about \$3,157,000 for repairs.

Last year Chicago found 506 cases, which would have cost \$639,978 to repair—money that probably could have come from Model Cities funds.

A number of bills before Congress would give federal aid to cities with this type of antilead repair program.

Rep. Roman C. Pucinski (D-Chicago) and Rep. Abner J. Mikva (D-Chicago) are among the sponsors of bills in the House that would appropriate \$13 million a year to help cities "eliminate the causes of lead-based paint poisoning."

Another of their bills would withhold federal money for public housing and urban renewal unless the cities have an "effective plan for eliminating the causes" of lead poisoning.

Sen. Kennedy's bill is similar. Sen. Richard S. Schweiker (R-Pa.) wants to get tough with the owners. His bill empowers the federal Department of Housing and Urban Development to levy a \$1,000 fine on a landlord who doesn't repair poisoned walls.

All these bills are resting in committees, some for more than a year—a pace that annoys Sen. Kennedy.

"There is a critical need for immediate attention to this problem," he says, "and I hope that the Senate Committee (on Labor and Public Welfare) will schedule hearings on lead paint poisoning before the summer is out."

Committees of the American Academy of Pediatrics and the U.S. Public Health Service also are deeply concerned about the lack of action to prevent a disease that causes mental retardation and serious learning problems among children of the slums.

A pamphlet being prepared by the U.S. Public Health Service warns that repainting the poisoned walls won't remove the danger. Plaster soaked with old layers of lead-base paint will continue to crumble, forcing the new paint to peel and exposing the deadly surface.

Instead, the pamphlet suggests covering the old plaster and paint with gypsum board (about 5 cents a square foot), fiberglass wall covering (10 cents), ¼-inch plywood (10

cents) or 1/4-inch hardboard (6 cents). The wood can be nailed directly to wall studs.

But, to prevent new lead poison cases, a much more widespread renewal program is needed. That would be expensive, but Sen. Kennedy notes that "the cost of lead poisoning already is high in terms of wasted human resources." Dr. Lattimer, who has formed a Chicago Committee Against Lead Poisoning, adds:

"How can we put a price tag on a child's mind?"

OVERPOPULATION

Mr. PERCY. Mr. President, my main purpose in asking for time this morning was to deal with the problem of overpopulation.

When I list the domestic problems which disturb my constituents most, the list invariably includes crime, pollution, poor housing, and high taxes. None of these problems is caused by any one factor alone; and yet one factor aggravates each. That factor is overpopulation.

So that we can understand why environmentalists are shouting, "There are too many people," let us look at a few statistics: Not until 1917, after three full centuries of growth, did the population in this country reach 100 million. Only 50 years later, in 1967, the United States had accumulated 200 million people; that is, we had doubled our population in one-sixth of the time it had previously taken to produce 100 million people. And now, we are told that if we continue to reproduce at the present annual growth rate of 1.1 percent, our population will rise to somewhere between 260 and 320 million by the year 2000—30 years from now.

Yet in terms of the capacity of our social institutions to serve the present population, and of our environment to support 200 million people, this country is already overpopulated.

Our universities are bursting under the pressure of trying to accommodate the post-World War II babies. Students on many campuses feel their identity has become synonymous with the numbers on their IBM registration cards—not to be folded, stapled, or mutilated so the machines which process their 20,000 fellow students will not break down.

Our medical schools are so crammed and inadequate they are turning away highly qualified candidates. Meanwhile, the need for doctors, nurses, and hospitals grows ever more acute.

Our crime rate is mounting, as is evidence that overcrowding fosters violence. When packed too closely together, people become tense, uneasy, aggressive—and, ironically, lonely. These characteristics magnify themselves in an unstable person. And no matter how hard-working and dedicated, police forces cannot provide adequate citizen protection in densely populated areas which not only breed crime, but make it easier for the criminal to escape as well.

Ten years from now we will need an additional 26 million housing units if we are to achieve our goal of providing decent, adequate homes for every citizen. Yet already we are falling short of this goal at an annual rate of 200,000 units or more.

As we increase in population, so, too, do the demands on our natural resources. We depend upon natural resources not only for our high standard of living, but for our very survival. Without water, tin, zinc, coal, and oil, we could not have jet airplanes, air-conditioners, private automobiles, central heating, electric can-openers, and paper towels. Some of these resources are scheduled to run out within the next two generations. Technology will help us stretch and replace certain resources: It will not create raw materials. If the United States, with a population of 200 million, consumes resources 35 to 50 times as fast as the people of less developed lands, how much and how fast will 300 million people consume resources?

Several weeks ago, residents of Tokyo were shown on television purchasing oxygen, so bad had the air over Tokyo become. At about the same time in this country, old people and those with respiratory ailments were warned to stay inside—so polluted had the air over our National Capitol and New York City become. The costs estimated for cleaning up the air over Chicago and Peoria are, respectively, \$801,300,000 and \$25,000,000 over the next 5 years.

The figure of 200 million people takes on added significance when one considers that 50 years ago the average American generated about 3 pounds of trash per day. The figure is now 6 pounds, and in 1980 will rise to an estimated 8 pounds. How do we dispose of this waste without further polluting our rivers? Ninety percent of the Calumet River in Illinois is polluted today; 80 percent of the Illinois River; and 70 percent of Lake Michigan.

As our numbers grow, we seem to need more and more laws. There are more and more regulations governing when we can make noise, whether we can fly private planes, when we can burn leaves, and where we can drive cars. Thirty years ago who would have dreamed it necessary to post "Polluted water—No swimming allowed" signs next to such a large number of our lakes and rivers?

The fact that we now have to worry about the necessities of life comments sadly on our esthetic values and our appreciation for the wonders of nature. Is it not until we face an acute power or housing shortage that we begin to worry about forest depletion and water pollution caused by too many people? Do we place no value at all on what Rachel Carson termed "the sense of wonder"? What about those things which give life meaning: The little robin who lets us know spring has come; the brilliantly colored leaves which signal the end of summer? Must we pave over the entire country until every last leaf has gone? Bulldoze every tree? Kill our fish with mercury and DDT? Surely we care about maintaining a few secluded spots, which provide some escape from the strains of urban living.

Several weeks ago the Census Bureau released its latest projections on population growth, indicating that our birth rate has dropped. It may conceivably take 40 instead of 30 years for our population to increase by another hundred million. This is somewhat heartening

news, but it provides no basis for complacency. The population crisis is here. The longer we wait to reduce our rate of population growth, the greater will be the need for more drastic means of solving population-related problems in the future.

We can eliminate the possibility of drastic solutions if every American couple decides to have no more than two children; to do no more than reproduce itself.

I was quite encouraged when my young daughter, who is 17 years of age and studying ecology, said:

Daddy, you love a family with a large number of children. But I have decided that when I get married, I am going to limit my family to two children, and I am going to adopt any more children after that.

I was rather proud that this young girl had made that decision.

The distinguished Senator from Oregon has introduced, and I am today cosponsoring, legislation which would encourage Americans to have smaller families. It would limit to two the number of personal income tax exemptions allowable for children in one family. The bill, S. 3632, as now drawn would take effect on January 1, 1973. It would not affect children born prior to that date, multiple births, or adopted children.

I want to also add that it would not affect the increased tax exemption that has been voted by Congress. They would continue to receive a \$750 exemption. The bill that I introduced in the Senate last December calls for an increase in the personal tax exemption from \$600 to \$750 because one cannot raise a child on \$600 any more.

In effect, what this bill says is that couples may continue to have five, 10, or 15 children if they so desire, but such proliferation will no longer be encouraged and subsidized by the tax code. Though it is widely misunderstood, the bill takes away no personal freedom; it merely removes tax bonuses for the extra children beyond two. It removes them because those extra children "tax" our resources and social institutions more than society as a whole can afford.

Since the third and fourth children of one family are essentially depriving the first and second children of another family of open spaces, government services, fresh air and water, it seems only fair that the first family should not be rewarded for having them.

I cosponsor this legislation for the sole purpose of injecting a new idea into the arena of public and congressional debate in our search for appropriate answers. I would offer amendments to the bill as now drawn myself. I do not know if the lack of deductibility of an additional child would actually act as a negative incentive to parents. But the concept deserves thought and study.

I commend my colleague, the Senator from Oregon (Mr. Packwood) for his initiative and, I might say, for his considerable courage and pioneering in this area. He has proven himself already to be one of the most valuable, creative, and innovative Members of this body. I was proud, indeed, that he was selected by the President and the Senate to serve as

a member of the Commission on Population and America's Future under the chairmanship of John D. Rockefeller III. Already his contributions and thinking in that connection have been great, indeed.

We all realize, of course, that at best, providing economic incentives for smaller families is not enough. Many large families are primarily the result of inadequate education in family planning. Therefore, we must act to help prevent the birth of unwanted children, who constitute a major part of our population problem. This is an area in which I do not have the slightest uncertainty or hesitancy. Through birth control education we have already brought down the population explosion occurring among women served by our Cook County Hospital in Chicago by 10 percent in just 1 year.

Dr. Charles Westoff of Princeton University, who directed the 1965 National Fertility Study, has learned from his research that between 1960 and 1965, about one million unwanted children were born each year—445,000 to the poor and 540,000 to the nonpoor. In light of our overpopulation problems, as well as the special hardships inflicted upon unwanted children, it seems imperative that we do something about the births of those children whose parents do not wish, or cannot afford, to support them.

In his message to Congress on population growth, President Nixon remarked:

No American woman should be denied access to family planning assistance because of her economic condition.

There are presently about 5 million women who cannot now afford, or who do not have access to, family planning services. On July 14, the Senate moved toward achieving the President's goal when it passed legislation to expand and improve family planning services. I was proud to have cosponsored this bill, S. 2108, which authorizes \$991.25 million over the next 5 years for family planning and birth control research activities. An important feature of the bill is that it provides these services on a voluntary basis only. The Government should, I believe, respect the individual or moral values held by its citizens. S. 2108, if passed by the House and signed by the President, will not infringe upon these values. It is urgent that the House act, and act now.

Most of us over 30 can look back with pleasure upon specific memories of our childhood: Running through the wet grass on a warm summer evening; splashing away in a pond; climbing an apple tree—and eating its fruit. Will our grandchildren be able to experience moments such as these?

I believe we have a responsibility in this body to take into account that our children and grandchildren have a right to the same kind of heritage we have had, and an even improved one if it is possible to create it.

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

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the

Senator's time be extended 5 additional minutes.

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

Mr. PACKWOOD. Mr. President, let me take this opportunity to welcome the Senator from Illinois to the frying pan on this subject. I can assure him that is what he is getting into, if not the fire.

We will be coming to this legislation in this country at some time. There is no doubt about it, at least if one talks to the youth of our country and studies the problem of population growth. The great movement is toward the legislation which I have introduced and which the Senator from Illinois has cosponsored.

The Senator from Illinois made a pointed comment about life as he remembered it. Most of us can recall in our childhood finding a wooded glen where the noise of chainsaws could be avoided. Most of us can remember places of tranquility. This will be just a memory and not an actuality unless we do something about population growth in this country.

The Senator did not point out that when the income tax laws in this country were first passed there were no child dependency deductions. They were added later. Ironically, one of the principal reasons they were added was to encourage population expansion in this country because at that time we were an underpopulated country and we still had great frontiers in the West that needed people.

All the Senator from Illinois is asking and all that I am asking now is that we reverse what was the traditional reason for the passage of laws allowing child dependency deductions, and limit them to two, so that we might encourage smaller families and a slowing down of the growth of this country because, surely, if we do not we are going to realize one day that this is a finite planet and even the United States is a finite country.

I hate to think what might be the compulsory laws that might be passed 50 years or 100 years from now if we do not have the foresight on a voluntary basis—and that is what this is—to attempt to restrain and limit ourselves in terms of human reproduction now.

I am delighted to welcome as an ally the distinguished Senator from Illinois. This is the first time we have joined together and I hope that over the years it will not be the last time, because I regard him as one of the outstanding leaders, not only in the Senate but also in the country. With the Senator's cosponsorship of the bill, it is possible it will not be long before other Senators join and finally Congress adopts this legislation.

Mr. PERCY. Mr. President, I thank my distinguished colleague. Misery does love company. I know this is a highly controversial matter, but the misery we are going to have in this country and all over the world if we do not do something about this problem is the point of the argument. I think the creativity, courage, and sound thinking of the Senator from Oregon in this field is going to focus public attention on this problem.

There are controversies within our religious organizations, such as within

the Catholic Church, and I know this measure will not find high favor with it, just as our family planning measures have not found favor. But the fact that there is dialog going on and discussion within groups to adjust to what must be done is encouraging.

This is the greatest deliberative body in the entire world. It is right and proper that we deliberate this question which so vitally affects the future of mankind and the environment in which we live and work. I thank the Senator from Oregon for his comments.

Mr. President, I yield the floor and I thank the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) for permitting us to proceed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized at this time under the previous order for not to exceed 15 minutes.

S. 4424—INTRODUCTION OF VETERANS DRUG ABUSE REHABILITATION ACT OF 1970

Mr. SCHWEIKER. Mr. President, I introduce today the Veterans Drug Abuse Rehabilitation Act of 1970, to authorize use of Veterans' Administration medical facilities for treatment of veterans who have been discharged from active duty under conditions other than honorable for reason of drug abuse.

This bill will put into law the recommendation of the Department of Defense Task Group on Drug Abuse Policy by amending the section of the United States Code dealing with the duties and responsibilities of the Veterans' Administration, and I ask that the bill be appropriately referred.

The ACTING PRESIDENT pro tempore (Mr. ALLEN). The bill will be received and appropriately referred.

The bill (S. 4424) to amend chapter 17 of title 38, United States Code, to authorize the treatment of certain veterans suffering from drug addiction or drug dependency, introduced by Mr. SCHWEIKER, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

Mr. SCHWEIKER. Mr. President, we have all become gradually aware that in addition to the grave drug abuse problem within our society today, there is also a serious drug abuse problem within the military. A number of Senators have made significant contributions to our understanding of this problem. To the great credit of the administration, Secretary of Defense Melvin Laird has for some time also been aware of this serious problem, and has taken significant steps to deal with it. In April of this year, he created a special Task Group on Drug Abuse Policy to examine the entire drug and drug abuse problem, and to recommend appropriate revisions in DOD policy on drug abuse.

On July 24, 1970, this task group made an impressive, forthright report, containing many recommendations. I commend this report to any Senator interested in this problem.

The task group refers to many of the outstanding programs which have begun within the Department of Defense in the areas of drug treatment, rehabilitation services, and amnesty programs to encourage servicemen using drugs to seek medical treatment.

However, the report also indicates a serious weakness in our system that the bill I am introducing is designed to eliminate.

Veterans benefits are not granted to servicemen discharged under dishonorable conditions, or to servicemen receiving undesirable and bad conduct discharges as a result of offenses involving moral turpitude or willful and persistent misconduct. Since a drug user is considered by the military to have rendered himself unfit for further service, his discharge falls under one of these categories, and he is barred from using veterans facilities for drug abuse treatment and rehabilitation.

My bill will change this policy by adding a new section to the United States Code, providing that the Veterans Administrator "within the limits of Veterans Administration facilities, may furnish hospital care and medical services for the treatment of drug addiction or drug dependency to eligible veterans who request such care or services."

To insure that a full rehabilitation program can be carried out, the bill authorizes the Administrator to first, require the veteran seeking treatment to agree in writing to a minimum period of time he will be required to undergo treatment, second, set any "terms and conditions for effective treatment to insure a thorough and effective rehabilitation program, and third, refuse further treatment of any veteran who violates the terms of any agreements and conditions under which the treatment began.

I want to emphasize that this is a voluntary program for the individual veteran. We are not forcing drug abusers onto veterans facilities. We are, however, opening the resources of our veterans program to those individuals who seek help in eliminating drugs, and the need for drugs, from their lives.

The task group considered a proposal to modify the general discharge regulations by allowing drug abusers to receive a general discharge for unsuitability which does not bar veterans benefits. However, the report concluded that:

The Discharge System now in effect in the Armed Forces represents a fair and proper method of categorizing service. Rather than lower the standards and criteria within the military for discharge, a better solution would be to amend existing law, to permit treatment of drug abusers discharged under less than honorable conditions.

My bill carries out this recommendation.

Drug abuse is not limited to civilian or military environments. It is a serious problem in both, and in fact, crosses back and forth into both. Vice Adm. William P. Mack, chairman of the DOD task group, told me that about 15 percent of men entering the service today are prior drug users. He also said that

the combination of combat pressures and the availability of drugs in Vietnam is one situation that leads to use of drugs by servicemen who were not prior drug users. It is clear that both civilian and military authorities must utilize their full resources to deal with this serious problem, and provide necessary rehabilitation facilities.

The military cannot, under these conditions, simply ignore the problem of the serviceman who is unfit for military duty because of drug abuse. The military has a responsibility to share efforts to help its men. That is why, when the vast resources of the Veterans' Administration are already available to provide medical and rehabilitative attention to these unfortunate veterans, we must not let statutory technicalities in the law deprive them of necessary medical treatment.

Just as military emphasis on amnesty programs rather than ironclad disciplinary action can help control the spreading of drug abuse, so can use of veterans rehabilitation facilities be helpful in removing servicemen from dependency on drugs.

My amendment makes only a small change in the law governing veterans hospitals. However, it can have an enormous effect on the lives of men who have served and fought for their country. I urge the support of all my colleagues, and speedy action on this bill.

I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

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

S. 4424

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 "Veterans Drug Abuse Rehabilitation Act of 1970".

Sec. 2. Subchapter II of Chapter 17 of Title 38, United States Code, is amended by adding at the end thereof a new section as follows: "620A. Hospital and medical care for veterans suffering from drug addiction or drug dependency.

"(a) As used in this section the term 'eligible veteran' means any person who served on active duty for a period of more than 90 days and who was discharged therefrom under conditions other than honorable for reasons of drug abuse.

"(b) Notwithstanding any other provision of this Title, the Administrator, within the limits of Veterans' Administration facilities, may furnish hospital care and medical services for the treatment of drug addiction or drug dependency to eligible veterans who request such care or services.

"(c) If the Administrator determines it necessary to the effective treatment of any eligible veteran applying for treatment under the provisions of this section, he may require, as a condition to providing such treatment, that such veteran agree in writing to make himself available for such treatment for such minimum period of time and on such terms and conditions as the Administrator may prescribe. The Administrator may refuse further treatment under this section to any veteran who violates the terms of any agreement entered into with the Administrator under this section.

Sec. 3. The table of sections at the beginning of Chapter 17 of Title 38, United States Code, is amended by inserting

"620A. Hospital and medical care for veterans suffering from drug addiction or drug dependency."

Immediately after

"620. Transfers for nursing home care."

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

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 assistant legislative clerk proceeded to call the roll.

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

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

OPERATION ALERT?

Mr. PROXMIRE. Mr. President, recently I received a letter from John M. Fisher, who is president of the American Security Council. The letter was addressed to "Honorable W. PROXMIRE, 4327 Sen Ofc B1, Washington, D.C.," and asked me to serve on the Operation Alert Board of the American Security Council. In the course of the letter, it said that what the American Security Council would particularly like to do would be to defeat certain U.S. Senators, and those Senators were listed as GOODELL, HART, KENNEDY, PROXMIRE, TYDINGS, and WILLIAMS of New Jersey.

I was, of course, rather nonplused at being invited to serve on a board—and, incidentally, also asked to contribute \$1,000 or so—to help in the defeat of these Senators, including myself. It was a rather astonishing invitation, and it seemed to me the best course I could follow would be to accept the invitation of the American Security Council to serve on their Operation Alert Board, because they certainly need some alertness.

The fact is that their index on which they assess Senators is about as wrong as it could possibly be. The National Security Index is based on 10 rollcalls out of the 600 or so we have had in the 91st Congress. I am convinced that if Senators have voted against the position of the American Security Council on each of these rollcalls, it would have represented a far better contribution to the strength of our country than if they had voted the way the American Security Council would have had them vote.

It just happened that two of these 10 rollcalls were on my own amendments. The two amendments involved the C-5A transport plane and the Subversive Activities Control Board.

They picked the Subversive Activities Control Board vote as a crucial vote—one of the 10 most important votes in determining whether or not a Senator really

believed in establishing this Nation's security.

The fact is that a vote to support my amendment was simply a vote to save more than \$400,000 of the taxpayers' money which was utterly wasted on a do-nothing Board with cushy \$36,000 a year jobs for friends of the country's top politicians.

Mr. President, the other proposal, on the C-5A transport, was also very misguided. That amendment was offered in September of 1969, and would have provided for a reduction of some \$500 million in the amount for the C-5A's. It would have cut back the number of C-5A's from 120 to 58. That amendment was defeated by the Senate, but within 3 weeks after the amendment was offered, the Defense Department went two-thirds of the way along with those of us who proposed the amendment, because the Defense Department announced that instead of procuring 120 C-5A's, they would procure only 81 C-5A's.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. PROXIMIRE. I ask unanimous consent to proceed for 2 additional minutes.

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

Mr. PROXIMIRE. So I am convinced that on both of these amendments, the Nation would be better served and the taxpayer would certainly have been better served by Senators who supported the amendments, rather than voting with the American Security Council.

Mr. President, let me just briefly touch on the other amendments.

The other eight amendments generally delineate the difference between those who believe that we should not waste our military funds on deployment of weapons that have not been tested—ABM—or are unnecessary—the AMSA or B-1 bomber—or should restrain our military activity—by congressional action in the Far East.

The opposition, incidentally, by the American Security Council to the McGovern-Hatfield amendment as one of the key national security votes puts it in opposition to the solid majority of the American people on the basis of a Gallup poll reported just last Sunday, September 27, 1970. That survey reported support for the amendment from the American people in every single category Dr. Gallup could find: men, women, grade school, high school, college educated, East, Midwest, Far West, South. Consistent and universal support was found for setting a December 31, 1971, date and getting out of Indochina by then.

Mr. President, I wish to say, finally, that I do agree with the last sentence in the letter which I received from the American Security Council, that "working together we can make America Number one again and pass on to our children a secure America." But we cannot do this if we fritter away our resources on wasteful procurement as we did in the C-5A scandal, or on do-nothing boards like the Subversive Activities Control Board, or in military adventures in the

Far East that do not involve America's vital interests.

Mr. President, I ask unanimous consent to have the entire letter from Mr. Fisher, and also my letter to him printed at this point in the RECORD.

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

FIRST LETTER

NOMINATED BY THE COOPERATING INSTITUTE FOR AMERICAN STRATEGY

HONORABLE W PROXIMIRE (sic)

4327 Sen Ofc B1

Washington, D.C. 20510

DEAR FELLOW AMERICAN: We urgently need your help in Washington right now and invite you, Honorable W Proxmire, to serve on our Operation Alert Board during the elections.

The 1970 elections may be the most important ever held in the United States. The results will, in a very real sense, decide the outcome of the Communist drive for world domination.

Why? Because the United States is now Number 2 in strategic military power. Already the Soviet Union has gained a 6 to 1 superiority in missile megatonnage, and, unless we try harder, the Soviets will soon be able to have their way regardless of our wishes.

Secretary of Defense Laird said on April 20, 1970, "... from 1965 to 1970, the Soviet Union has virtually quadrupled the total megatonnage in its strategic offensive force. In that same period the United States reduced its metaonage by more than 40%."

Yet, in the face of this clear threat, a coalition of Republican and Democratic Senators and Congressmen have organized to force reductions in our defense budget and to abandon Vietnam.

If these Senators and Congressmen are re-elected, they will have a clear mandate to reduce our military strength further!

Is that what Americans want? To find out we conducted a nationwide poll on vital national security issues—115,599 people participated! We found that the overwhelming majority do want the security of military superiority.

We then prepared a National Security Index which compares the voting record of each Member of Congress with the poll... and the result shows there are 18 Senators who have a National Security Index of zero! Among the zero-rating Senators are these six running for re-election: Goodell, Hart, Kennedy, Proxmire, Tydings and Williams (N.J.).

In several elections, the voter has a clear choice. For example, for California Senator, it is Murphy with an Index of "100" against Tunney with "0". In New York State both Goodell (R) and Ottinger (D), who score "0", are opposed by Buckley, the security-minded Conservative candidate.

There is still time for you to take positive action—now, before election day. This may be the last election where you, as a U.S. voter, can influence the outcome of the conflict between the U.S.S.R. and the U.S.—so please lend a hand!

Here is what you can do to make the massive Operation Alert voter education program a success:

Sign and return the enclosed card to let President Nixon know that you will not be silent—that you will vote for security-minded candidates and back him in an emergency effort to make America Number 1 again. We'll deliver it to the White House.

Order copies of the enclosed Operation Alert folder for your friends, relatives and other social and business associates.

Join the Operation Alert Board—any contribution will make you a Board member,

\$25 or more will give you the American Security Council's newsletter and copies of studies as they are published.

To alert all Americans, we plan 200 full page newspaper ads, prime time TV spots, distributing millions of Operation Alert folders through cooperating organizations, and other major public information efforts. This will cost at least \$238,000 beyond our present budget.

We need immediate help and must turn to you for financial support. And others I am writing today, will determine by your contribution how effective Operation Alert will be.

What is a strategically secure America worth to you? \$1,000, \$200, \$25, \$10? You can't put a price tag on security. But you can help by sending as much as you can afford. Working together we can make America Number 1 again, and pass on to our children a secure Nation.

Sincerely,

(s) JOHN M. FISHER, President.

P.S. If there were ever a time to stand up and be counted, this is it! Will you try harder?

SECOND LETTER

DEAR MR. FISHER: I have just received your letter of September 25th addressed to the Honorable W. Proxmire at my address and asking for a contribution of a \$1000 or so to help defeat certain United States Senators up for re-election including one named Proxmire, and asking me to serve on your "Operation Alert Board." I'm happy to accept your invitation to serve on your Operation Alert Board because as you can see from this letter you sure need help in the alertness department.

It just happens, Mr. Fisher, that the Honorable W. Proxmire of 4327 Senate Office Building and Senator Proxmire and I are all the same person.

And I must say that if I believed even half of what you claim in your letter I would be happy to contribute at least \$1000 to defeat that fascist Proxmire.

But how can I believe you?

You developed what you call a National Security Index for the United States Senate on the basis of ten roll calls. Now it just happens that two of those ten roll calls are my own amendments.

And I can assure you, Mr. Fisher, that with respect to those two Proxmire amendments and the other eight votes we would have a stronger and more secure country militarily as well as economically and socially, if you had rated them precisely opposite than the way you did.

Let us take the two Proxmire amendments which your organization has selected as indicative of what we need to make a more secure America.

The first one you select was the amendment I offered on September 9, 1969 with respect to the C-5A transport plane. Your roll call analysis calls a vote against the amendment a vote for the national security.

My amendment would simply have cut the Pentagon's proposal to buy 120 C-5A planes to 58, and called for a study by the Comptroller General—the Congress' spending watchdog—before we went farther.

It just happens that the Pentagon itself had second thoughts on my amendment just three weeks after we acted on it on the Senate floor. The Pentagon unilaterally cut the number of C-5A's back to 81. This represented more than two thirds of the cut I had proposed.

Furthermore the Air Force's own invention of the need for the plane as reflected the Whitaker report showed that only 40 of these planes were needed to meet the principal purpose for their construction—the carrying of outsize military cargo of an armored division by air-lift. Airlift capacity for other

purposes is in heavy surplus and is likely to be for many years.

My amendment was of course based on the facts that my subcommittee had pressured out of the Air Force in Congressional hearings that the plane was running a fantastic \$2 billion above its originally estimated cost.

So the amendment would not in any sense have reduced our national security. It would have maintained that security and saved more than a half a billion dollars for the American taxpayer in the process.

Now consider the second Proxmire amendment you selected as a key national security vote in the Senate. This was my proposal to cut off funds for the Subversive Activities Control Board.

You call a vote against this amendment and for continuing funding the Subversive Activities Control Board a vote for national security.

But my amendment would have deleted funds for an agency that has been in existence for twenty years and has been charged with the responsibility for registering and identifying communists.

And how many communists has it registered in that twenty year period—exactly none. This is the Board that pays each of its five commissioners \$36,000 a year for doing nothing. It is the board to which President Johnson appointed the 28-year-old husband of one of his private secretaries, a man with no qualifications, but yet perfectly qualified because the job has no functions.

If this Board has contributed one jot to the Security of this country I challenge you to name what it was. In debating this committee's existence many times on the floor of the Senate I have yet to hear a single achievement cited for it by any defender.

A vote to support my amendment was simply a vote to save more than \$400,000 of the taxpayers' money which was utterly wasted on a do-nothing Board with cushy \$36,000 a year jobs for friends of the country's top politicians.

Frankly I am amazed, Mr. Fisher, that with more than five hundred roll call votes in the two years of the 91st Congress your committee couldn't do any better than that one as key vote on national security.

With respect to your other national security votes they generally simply delineate the difference between those who believe that we should not waste our military funds on deployment of weapons that have not been tested (ABM), or are unnecessary (the AMSA or B-1 Bomber), or should restrain our military activity—by Congressional action in the Far East.

Incidentally your opposition to the McGovern-Hatfield Amendment as one of your key national security votes puts you in opposition to the solid majority of the American people on the basis of a Gallup Poll reported just last Sunday, September 27, 1970. That survey reported support for the amendment from the American people in every single category Dr. Gallup could find: men, women, grade school, high school, college educated, east, mid-west, far west, south. Consistent and universal support was found for setting a December 31, 1971 date and getting out of Indo-China by then.

I agree with your last sentence that "working together we can make America Number one again and pass on to our children a secure America." But we cannot do this if we fritter away our resources on wasteful procurement as we did in the C-5A scandal, or on do-nothing Boards like the Subversive Activities Control Board, or in military adventures in the Far East that do not involve America's vital interests.

Sincerely,

WILLIAM PROXMIER,
U.S. Senator.

STATE INCOME TAXATION OF INTERSTATE CARRIER EMPLOYEES

Mr. BYRD of West Virginia. Mr. President, in behalf of the Senator from Nevada (Mr. CANNON), I ask unanimous consent to have printed in the RECORD a statement prepared by Mr. CANNON relative to the State income taxation of interstate carrier employees.

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

STATEMENT BY SENATOR HOWARD CANNON

I take this opportunity to applaud the action of the Senate Committee on Commerce in approving far reaching legislation which will alleviate to a large extent an unfair burden on interstate carriers as well as their employees. The action by the Committee is long overdue, but I believe that the result was perhaps worth waiting for.

The bill originally considered by the Senate and the House was directed at the problems created by state income tax withholding and reporting laws. Employers and employees of interstate carriers are constantly bedeviled by confusion and uncertainty created by multiple taxing jurisdictions with widely varying taxing withholding or income reporting practices. Some employees of airlines, for example, bear the brunt of unfair practices by certain states to the end that in many instances more than one state is withholding on the basis of the employee's entire income. This action deprives several employees of a substantial portion of their income throughout the year. In addition to airline employees; truckers, railroad employees and water carrier operators experience hardship as a result of these withholding practices.

During the Committee's consideration of the legislation it became apparent that if the Senate were to do an effective job in addressing the problem of state income taxation as a burden on carriers and employees that it should go beyond the withholding or reporting aspect. While the original bills stated that only the state of residence could withhold or require reporting, these bills in no way touched upon the tax liability of the employees. So while a state might not withhold an employee's wages, he might still find himself at the end of a year with a substantial tax liability for which he was unprepared. Indeed, he might be in worse shape than before the bill was enacted. With this in mind, the Senate Committee on Commerce decided that withholding, reporting, as well as taxation must be considered. Accordingly, the bill reported does three things: (1) limits power to tax income of interstate carrier employees to the employee's state of residence and/or any state in which he earns more than 50% of his income; (2) limits power to withhold for tax purposes from income of interstate carrier employees to either the state of residence or the state in which he earned more than 50% of his income; and (3) limits the power to require the filing of information returns to the State of residence and the state by which withholding may be required. The Committee proposes to enjoy the unusual position of being supported by all management and labor groups which have indicated an interest in the problem. The states would, of course, prefer no Federal action but the Multistate Tax Commission has indicated that if Federal action in this area is inevitable, the language of the reported bill is acceptable.

In conclusion I just want to say that I am delighted the Committee has taken this action and I urge that the Senate act to approve the measure as soon as possible.

TRIBUTE TO SENATOR YARBOROUGH ON SENATE ADOPTION OF COMMUNICABLE DISEASE CONFERENCE

Mr. MANSFIELD. Mr. President, the Senate is greatly indebted to the able chairman of the Senate Labor and Public Welfare Committee, the distinguished Senator from Texas (Mr. YARBOROUGH) for the excellent work he and his committee did on the communicable diseases measure. That proposal was cleared for the President yesterday with the Senate's adoption of the conference report.

All of us are keenly aware of the importance of this measure to the overall high standards of health which we seek for everyone in this Nation. No one has worked as capably and as diligently as Senator YARBOROUGH on behalf of the people to insure these high standards. We appreciate the excellent job performed by Senator YARBOROUGH, as chairman of the vitally important Labor and Public Welfare Committee. His great expertise has again been applied to promote the general welfare of all Americans.

If Senator YARBOROUGH had been able to be in attendance yesterday for the unanimous vote on this conference report, he, of course, would have been one of its most outspoken advocates. Had he been here, he would have voted in the affirmative. I ask unanimous consent that the permanent CONGRESSIONAL RECORD reflect his position accordingly.

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 assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON DISBURSEMENTS MADE AGAINST DEFENSE CONTINGENCIES ACCOUNT

A letter from the Deputy Secretary of Defense, reporting, pursuant to law, that disbursements made against the Defense contingencies account during fiscal year 1970 were valued at \$2,272,899; to the Committee on Appropriations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a confidential report on a purchase commitment made to an international organization prior to availability of funds (with an accompanying report); to the Committee on Government Operations.

ADMISSION INTO THE UNITED STATES OF CERTAIN DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department

of Justice, transmitting, pursuant to law, copies of orders entered granting admission into the United States of certain defector aliens (with accompanying papers); to the Committee on the Judiciary.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens, together with a statement of the facts and pertinent provisions of law pertaining to each alien, and the reasons for ordering such suspension (with accompanying papers); to the Committee on the Judiciary.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting temporary admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

S. J. Res. 222. Joint resolution granting the consent of Congress to the States of New Jersey and New York for certain amendments to the Waterfront Commission Compact and for entering into the Airport Commission Compact, and for other purposes (Rept. No. 91-1262); referred to the Committee on the Judiciary.

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, without amendment:

H. R. 18776. An act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes (Rept. No. 91-1263).

S. 4432—ORIGINAL BILL REPORTED, BUDGET AND ACCOUNTING IMPROVEMENT ACT OF 1970—REPORT OF A COMMITTEE (S. REPT. NO. 91-1264)

Mr. RIBICOFF, from the Committee on Government Operations, reported an original bill (S. 4432) to revise and restate certain functions and duties of the Comptroller General of the United States; to change the name of the General Accounting Office to "Office of the Comptroller General of the United States," and for other purposes, and submitted a report thereon, which bill was placed on the calendar and the report was ordered to be printed.

PRINTING OF REPORT ON EDGARTOWN HARBOR, MARTHA'S VINEYARD, MASS. (S. DOC. NO. 91-108)

Mr. BYRD of West Virginia, Mr. President, on behalf of my colleague, the senior Senator from West Virginia (Mr. RANDOLPH), I present a letter from the Secretary of the Army, transmitting a favorable report dated May 15, 1970, from the Chief of Engineers, Department of the Army, together with accompanying papers and illustration, on Edgartown Harbor, Martha's Vineyard, Mass.,

requested by a resolution of the Committee on Public Works, U.S. Senate.

I ask unanimous consent that the report be printed as a Senate document with illustrations, and referred to the Committee on Public Works.

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

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

William M. Rountree, of Florida, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary to Brazil;

Horace G. Torbert, Jr., of the District of Columbia, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary to Bulgaria;

Turner B. Shelton, of California, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary to Nicaragua; and

Luis A. Ferre, of Puerto Rico, and Charles W. Robinson, of California, to be members of the Board of Directors of the Inter-American Social Development Institute.

BILLS AND A JOINT RESOLUTION INTRODUCED OR REPORTED

Bills and joint resolutions were introduced or reported, read the first time and, by unanimous consent, the second time, and referred or placed on the calendar as follows:

By Mr. SCHWEIKER:
S. 4424. A bill to amend chapter 17 of title 38, United States Code, to authorize the treatment of certain veterans suffering from drug addiction or drug dependency; to the Committee on Labor and Public Welfare.

(The remarks of Mr. SCHWEIKER when he introduced the bill appear earlier in the RECORD under the appropriate heading.)

S. 4425. A bill for the relief of Alberto Mattioli; to the Committee on the Judiciary.

By Mr. McCLELLAN:
S. 4426. A bill to amend the act of June 1, 1948, to increase the jurisdiction and policing power of General Services Administration special policemen, to increase the penalties for violations of rules and regulations promulgated thereunder by the General Services Administration for the protection of public buildings, and to prohibit certain conduct in or near offices of the Government; to the Committee on Government Operations.

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

By Mr. NELSON:
S. 4427. A bill to declare that certain federally owned land is held by the United States in trust for the Lac Corte Orellies Band of Lake Superior Chippewa Indians of Wisconsin; to the Committee on Interior and Insular Affairs.

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

By Mr. GOLDWATER (for Mr. MURPHY and himself):

S. 4428. A bill to amend chapter 73 of title 10, United States Code, to establish a Sur-

vivor Benefit Plan; to the Committee on Armed Services.

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

By Mr. ALLOTT (for Mr. MURPHY):
S. 4429. A bill to provide for the control and prevention of further pollution by oil discharges from Federal lands off the coast of California, and to provide for the improvement in the State of the art with respect to oil production from submerged lands; to the Committee on Interior and Insular Affairs.

By Mr. MCGOVERN:
S. 4430. A bill to facilitate and encourage cooperation between the United States and certain defense contractors engaged in the furnishing of defense material to the United States, in providing for an orderly conversion from defense to civilian production, and to assure, through such cooperation, that the United States and such defense contractors will be able to meet the challenge arising out of the economic conversion and diversification required by reason of the changing defense needs of the United States, to provide for such an orderly conversion in an effort to minimize, to the extent possible, the hardships and other disruptive factors likely to be encountered by defense workers and their families and by communities dependent upon defense industry as a result thereof; to the Committee on Commerce, and if reported by that Committee to be referred to the Committee on Government Operations, by unanimous consent order.

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

By Mr. BYRD of West Virginia (for Mr. MAGNUSON):
S. 4431. A bill to amend the Fish and Wildlife Coordinating Act to provide additional protection to marine and wildlife ecology by requiring the designation of certain water and submerged land areas where the depositing of certain waste materials is prohibited, to require the establishment of standards with respect to such deposits in all other areas, and for other purposes; to the Committee on Commerce.

(The remarks of Mr. BYRD of West Virginia when he introduced the bill which appear below in the RECORD under the appropriate heading.)

By Mr. RIBICOFF:
S. 4432. A bill to revise and restate certain functions and duties of the Comptroller General of the United States; to change the name of the General Accounting Office to "Office of the Comptroller General of the United States," and for other purposes; placed on the calendar.

(See reference to the bill when reported by Mr. RIBICOFF, which appears under the heading "Reports of Committees.")

By Mr. FANNIN (for himself, Mr. ALLEN, Mr. ALLOT, Mr. BAKER, Mr. BELLMON, Mr. COOK, Mr. COOPER, Mr. CURTIS, Mr. DOLE, Mr. EASTLAND, Mr. ERVIN, Mr. GOLDWATER, Mr. GURNEY, Mr. HANSEN, Mr. HATFIELD, Mr. HOLLINGS, Mr. HOLLAND, Mr. HRUSKA, Mr. JORDAN of Idaho, Mr. MILLER, Mr. MURPHY, Mr. PEARSON, Mr. SAXHE, Mr. STENNIS, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, Mr. WILLIAMS of Delaware, and Mr. YOUNG of North Dakota):

S. J. Res. 240. Joint resolution proposing an amendment to the Constitution of the United States requiring the submission of balanced Federal funds budgets by the President and action by the Congress to provide revenues to offset Federal funds; to the Committee on the Judiciary.

(The remarks of Mr. FANNIN when he introduced the joint resolution appear later in the RECORD under the appropriate heading.)

S. 4426—INTRODUCTION OF A BILL RELATING TO PROTECTION OF PUBLIC BUILDINGS

Mr. McCLELLAN. Mr. President, at the request of the Administrator of General Services, I introduce for appropriate reference a bill to amend the act of June 1, 1948, to increase the jurisdiction and policing authority of special policemen appointed by the Administrator of General Services, to increase the penalties for violations of rules and regulations promulgated thereunder by the General Services Administration for the protection of public buildings, and to prohibit certain conduct in or near offices of the Government.

The basic purpose of this bill is to strengthen the authority of the Administrator of General Services in carrying out his assigned duty relative to the care and protection of property of the United States, and to give additional protection to Government employees in the performance of their duties.

Under existing law, the jurisdiction and policing power of GSA special policemen is limited to Federal property over which the United States has acquired exclusive or concurrent criminal jurisdiction. This limitation, according to the Administrator of General Services, severely restricts the authority of such policemen in property located in areas over which the United States has only proprietorial jurisdiction and over leased space. In addition, although the Administrator is authorized to promulgate rules and regulations and to fix the penalty for violations thereof, that authority is limited to a maximum fine of \$50 or imprisonment for not more than 30 days, or both. Furthermore, there is presently no general criminal statute covering disruptive conduct in or near Government offices.

This bill would, first, enlarge the jurisdiction and policing powers of General Services Administration special policemen to cover all property owned or occupied by the U.S. Government which is under the charge and control of the General Services Administration, without regard to whether the United States has acquired exclusive or concurrent criminal jurisdiction over such property; second, increase the penalty for violations of rules and regulations promulgated by the Administrator to a maximum fine of \$500, or imprisonment for not more than 6 months, or both; and third, provide specific language detailing the prohibited acts, to include loud, threatening, and abusive language, disorderly or disruptive conduct within or near U.S. Government offices under the control of the General Services Administration, impeding the orderly conduct of Government business in such offices and engaging in acts of physical violence therein, including assault or threat of infliction of death or bodily harm to individuals, or destruction of real or personal property; and provide the same criminal penalties for such conduct as are provided for violations of the General Services Administration's rules and regulations. This latter provision is similar to that enacted in the 90th Con-

gress for the protection of the U.S. Capitol buildings and grounds.

Mr. President, I ask unanimous consent that the correspondence from the General Services Administration transmitting the proposed legislation be printed in the RECORD following the conclusion of my remarks, along with the text of the proposed bill.

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

The bill (S. 4426) to amend the act of June 1, 1948 to increase the jurisdiction and policing power of General Services Administration special policemen, to increase the penalties for violations of rules and regulations promulgated thereunder by the General Services Administration for the protection of public buildings, and to prohibit certain conduct in or near offices of the Government introduced by Mr. McCLELLAN, was received, read twice by its title, referred to the Committee on Government Operations, and ordered to be printed in the RECORD, as follows:

S. 4426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318) is amended to read as follows:

"That the Administrator of General Services or officials of the General Services Administration duly authorized by him may appoint uniformed guards of said Administration as special policemen without additional compensation for duty in connection with the policing of public buildings and other areas owned or occupied by the United States and under the charge and control of the General Services Administration. Such special policemen shall have the same powers as sheriffs and constables upon such property to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affairs or unlawful assemblies, and to enforce any rules and regulations made and promulgated by the Administrator or such duly authorized officials of the General Services Administration for the property under their charge and control. The jurisdiction and policing powers of such special policemen shall not extend to the service of civil process."

SEC. 2. Section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c) is amended to read as follows:

"Sec. 4. Whoever violates any rule or regulation promulgated pursuant to section 2 of this Act shall be fined not more than \$500, or imprisoned not more than 6 months, or both."

SEC. 3. The Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318) is amended by adding at the end thereof the following new section:

"Sec. 6. (a) Whoever knowingly and willfully—

"(1) utters loud, threatening or abusive language, or engages in disorderly or disruptive conduct, within or near any office of the United States Government situated upon premises under the charge and control of the General Services Administration with intent to impede, disrupt, or disturb the orderly conduct of Government business within that office;

"(2) obstructs or impedes ingress or egress to or from any such office; or

"(3) engages in any act of physical violence within such office or upon such premises.

shall be fined not more than \$500, or imprisoned not more than six months, or both.

"(b) Nothing contained in this section shall forbid any act of any officer or employee of the United States which is performed in the lawful discharge of his official duties.

"(c) As used in this section, the term 'act of physical violence' means any act involving (1) an assault or any other infliction or threat of infliction of death or bodily harm upon any individual, or (2) damage to or destruction of any real property or personal property."

The correspondence presented by Mr. McCLELLAN is as follows:

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., August 5, 1970.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith, for referral to the appropriate committee, a draft of legislation "To amend section 4 of the Act of June 1, 1948, to increase the penalty provisions for the violation of rules or regulations promulgated under authority of said Act, and to make restrictions on disruptive occurrences in and near premises upon which offices of the United States Government are located and to fix penalties for breach."

The purpose of the bill is to strengthen the authority of the Administrator of General Services in his assigned duty of the care and protection of the property of the United States, and will have the further effect of giving additional protection to Government employees in the performance of their duties.

Under the Act of June 1, 1948, the Federal Works Administrator was authorized to appoint special policemen for duty upon Federal property and to make all needful rules and regulations for the government of the Federal property under the charge and control of the Federal Works Agency, and to fix the penalty for the violation of any such rules or regulations.

By the Federal Property and Administrative Services Act of 1949, all functions of the Federal Works Agency, together with all functions of the Federal Works Administrator, were transferred to the Administrator of General Services.

The first proposed change increases the maximum penalty for the violation of the published rules and regulations from a maximum of \$50 or imprisonment for not more than 30 days, or both, to a maximum of \$500 or imprisonment for not more than six months, or both. The "than" is included to correct an apparent inadvertent error in the bill which was originally passed in 1947. The present penalty and punishment is so minor as to classify the most aggravated or most gross infraction as a petty offense. Such a classification has the further limiting effect upon the degree of enforcement which can be legally exerted by the authorized General Service Administration special policemen. The proposed increased penalty is not absolute but is merely a maximum and allows the Court a latitude of sentence commensurate with the circumstances of the offense. Increased penalty provisions are necessary to act as a deterrent to the breach of the rules and regulations, yet would be such a reasonable punishment as to make the enforcement of the rules and regulations more effective. This same reasoning is applicable to the degree of punishment and penalty included in the new section 6, which is proposed to be added.

Section 6 proposed to be added is designed to control the situation that has developed in many Government offices where the actions and presence of individuals in varying

numbers in or about the premises interrupted and impedes the normal governmental functions.

GSA recommends prompt and favorable consideration of this draft bill.

The enactment of the bill would not require the expenditure of additional Federal funds.

The Office of Management and Budget has advised that there is no objection to the submission of this legislative proposal to the Congress and that its enactment would be consistent with the Administration's objectives.

Sincerely,

ROD KREEGER,
Assistant Administrator.

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., August 4, 1970.

HON. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On August 5, I transmitted to the President of the Senate a draft of legislation "To amend section 4 of the Act of June 1, 1948, to increase the penalty provisions for the violation of rules or regulations promulgated under authority of said Act, and to make restrictions on disruptive occurrences in and near premises upon which offices of the United States Government are located and to fix penalties for breach." On August 10, this draft legislation was referred to the Committee on Government Operations.

The purpose of the legislation is to strengthen the authority of the Administrator of General Services in his assigned duty of the care and protection of the property of the United States. Further, it will have the effect of giving additional protection to Government employees in the performance of their duties. The authority contained in this draft legislation is sorely needed in view of the increasing number of demonstrations, bombings, and bomb threats involving buildings owned or leased by the Federal Government.

I would sincerely appreciate it if you would introduce this draft legislation and take such additional steps as are required to permit its early consideration by the Senate.

Sincerely,

ROD KREEGER,
Assistant Administrator.

UNITED STATES OF AMERICA,
GENERAL SERVICES ADMINISTRATION,
Washington, D.C., September 18, 1970.

HON. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On August 5, I transmitted to the President of the Senate a draft of legislation "To amend section 4 of the Act of June 1, 1948, to increase the penalty provisions for the violation of rules or regulations promulgated under authority of said Act, and to make restrictions on disruptive occurrences in and near premises upon which offices of the United States Government are located and to fix penalties for breach." On August 10, this draft legislation was referred to the Committee on Government Operations.

Subsequent conversations with your Committee staff, and a review of the draft legislation submitted, have convinced me that further amendment of the Act of June 1, 1948, is essential if the General Services Administration is to carry out adequately its functions regarding the protection of Government property under its charge and control.

The jurisdiction and policing powers of GSA special policemen, appointed pursuant to section 1 of the Act of June 1, 1948 (40 U.S.C. 818), is currently limited by that section to "Federal property over which the United States has acquired exclusive or con-

current criminal jurisdiction." This limitation severely restricts the authority of such special policemen in areas over which the United States has only proprietary jurisdiction and over leased space. Such a limitation is, in our opinion, unnecessary and results in a confusion of the authority granted such special policemen by section 1. I therefore recommend that section 1 of the Act of June 1, 1948, as amended, be further amended (1) by deleting the words "under the jurisdiction" appearing in the first sentence, and inserting in lieu thereof the words "owned or occupied by the United States and under the charge and control"; (2) by deleting the word "Federal" in the second sentence and by changing the word "jurisdiction" in this sentence to "charge and control"; and (3) by placing a period after the word "process" in the proviso and striking the remainder of the section.

A similar change in existing legislation, applicable to the authority of the United States Park Police, was enacted by the Congress this year as section 4 of Public Law 91-383.

Sincerely,

ROD KREEGER,
Assistant Administrator.

S. 4427—INTRODUCTION OF A BILL RELATING TO LANDS FOR CERTAIN INDIANS

Mr. NELSON. Mr. President, I introduce for appropriate reference, a bill to declare that 5 acres of federally-owned land be held in trust for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians in Wisconsin and request that the measure be printed in the RECORD at the end of these remarks.

This property, which was originally owned by the Indians then changed hands several times, would strengthen local economic and employment opportunities for the Indians by aiding them in attracting industry to the reservation.

The measure was recommended by the U.S. Department of the Interior.

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

The bill (S. 4427) to declare that certain federally-owned land is held by the United States in trust for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, introduced by Mr. NELSON, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 4427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to valid existing rights-of-way, all rights, title and interest of the United States in and to the W ½ NW ¼ NW ¼ NW ¼ section 21, T. 40 N., R. 8 W., 4th Principal Meridian, Sawyer County, Wisconsin, containing five acres, more or less, including improvements thereon, are hereby declared to be held by the United States in trust for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin.

Sec. 2. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1059), the extent to which the value of the beneficial interest conveyed by this Act should or should not be set off against any claim against the

United States determined by the Commission.

S. 4428—INTRODUCTION OF A BILL RELATING TO ESTABLISHMENT OF A SURVIVOR BENEFIT PLAN

Mr. GOLDWATER. Mr. President, on June 23, the senior Senator from California (Mr. MURPHY) introduced a bill, S. 4015, to provide for an equitable and adequate survivor annuity program for career members of the uniformed services. I was pleased to join with 22 other Senators as a cosponsor of that important measure.

Today, Senator MURPHY has asked me to introduce, on his behalf, a new revised approach to the present lack of an adequate annuity for military widows. Again, I am happy to join as a cosponsor of widow's equity legislation. The bill I now send to the desk is the most comprehensive approach to this serious problem to date.

We are introducing a new version of our proposal in order to take account of the comprehensive recommendations which have now been published by the Special Subcommittee on Survivor Benefits of the House Committee on Armed Services. The House subcommittee has just completed exhaustive studies of the problems that confront the military man, alone, among all Federal employees, in attempting to provide security for his family, and this bill thereby reflects the result of the most current, informed thinking available in this field.

Mr. President, I urge Senators to support this equitable measure.

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

The bill (S. 4428) to amend chapter 73 of title 10, United States Code, to establish a survivor benefit plan, introduced by Mr. GOLDWATER (for Mr. MURPHY and himself), was received, read twice by its title, and referred to the Committee on Armed Services.

S. 4430—INTRODUCTION OF THE NATIONAL ECONOMIC CONVERSION ACT

Mr. MCGOVERN. Mr. President, I introduce a bill entitled the National Economic Conversion Act. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. SCHWEIKER). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD, as requested by the Senator from South Dakota.

The bill (S. 4430) to facilitate and encourage cooperation between the United States and certain defense contractors engaged in the furnishing of defense material to the United States, in providing for an orderly conversion from defense to civilian production, and to assure, through such cooperation, that the United States and such defense contractors will be able to meet the challenge arising out of the economic conversion and diversification required by reason of the changing defense needs of the United States, to provide for such an orderly

conversion in an effort to minimize, to the extent possible, the hardships and other disruptive factors likely to be encountered by defense workers and their families and by communities dependent upon defense industry as a result thereof, introduced by Mr. McGOVERN, was received, read twice by its title, and referred to the Committee on Commerce.

Mr. McGOVERN, Mr. President, I offer this proposal with the assertion that we are long overdue in moving to avoid the grave dislocations which now confront the industries, workers, and communities which have grown dependent upon military orders for their economic well-being.

In his inaugural address on January 20, 1969, President Nixon promised that—

We shall plan now for the day when our wealth can be transferred from the destruction of war abroad to the urgent needs of our people at home.

Now some of that wealth is being released, but we find that if there has been planning for the transition it has been woefully inadequate.

The consequences are lost opportunities, wasted resources, idle workers, sinking communities, and—on top of it all—the probable disappearance of the peace dividend we have waited so long to reap.

THE NATURE OF THE PROBLEM

The concerns to which this proposal is addressed are not new in our society. At least three times in this country—World Wars I and II and Korea—has been shifted from war to peacetime production. Each time there have been painful adjustments.

We have good reason to expect, however, that for some areas of the country the depression this time will be more severe, and the recovery more difficult, than all of our previous postwar experiences.

One major complicating factor is the sophistication of today's methods of waging war. Murray Weidenbaum, now Assistant Secretary of the Treasury, estimated in 1963 that at least 80 percent of the military equipment in use at the beginning of World War I consisted of standard goods produced by normal peacetime production lines. The special purpose portion was up to almost 50 percent in 1941 and had climbed to 90 percent in 1963. Military suppliers are that much less capable today of simply shifting markets when they see declining defense demands. They must accomplish the much more complicated task of shifting products and production lines.

The nature of civilian markets has also changed. During World War II, for example, we imposed tight rationing on consumer goods needed for the war effort—tires, gasoline, foodstuffs, and other items. This stored demand was released when hostilities ended, providing a sudden increase in aggregate demand and giving converting industries vast opportunities for peacetime production. By contrast, output has been available throughout the Vietnam war to meet virtually every consumer need. New markets now must be created.

Another critical difference lies in the planning of war industries themselves. The problem after World War II and, to

some extent, after Korea, was one of reconversion rather than conversion. The war was abnormal—a disruption of business as usual. Contractors welcomed the opportunity to return to familiar civilian markets. Today the situation is reversed, and the free civilian marketplace is a mystery for businesses that have produced almost exclusively for the military for nearly 30 years.

These characteristics of today's outlook describe the complexity of the conversion problem. We must also be concerned about its size, about the total impact of the military cutbacks we should expect within the next several years. It is likely to be fueled by pressures from no less than five directions, each amplifying the other.

First, the winding down of the Vietnam war will eliminate hundreds of thousands of jobs, both civilian and military, within the Government establishment. Meanwhile it will have a similar effect in the private sector with the decline in orders for products consumed by the war—ammunition, aircraft, uniforms, weapons, and a long list of others.

Second, we have hopeful signs that both the United States and the Soviet Union have recognized the futility of the deadly arms competition which has depleted our resources since the end of World War II. It seems to be almost a foregone conclusion that the strategic arms limitation talks will produce an agreement to limit nuclear forces. If they do not it will be an historic diplomatic failure. When they do, the arms industry will be confronted with another shrunken market.

Third, regardless of the outcome of SALT, both the Congress and the executive branch have in recent years begun to apply much more rigorous scrutiny to all military projects and programs. Contractors can expect greater demands for efficiency, and the armed services should plan on meeting more healthy skepticism when they request elaborate new weapons systems. All of this will add up to a less lucrative arms industry.

Fourth, aerospace industries are already finding that the space program no longer stands ready to pick up the slack in defense work. Instead, defense cutbacks are coinciding with declining space demands. While there are pressures to embark quickly on another major venture, I suspect that we will, upon completion of the Apollo program, concentrate on consolidating the enormous knowledge accumulated during the moon missions. The resulting layoffs have already begun.

Fifth, and finally, the economic environment for all of these changes is one of governmental policies aimed at slowing growth across the board. We still have not checked the persistent inflation borne by the war, and the Nixon administration is still trying. We thus cannot even pursue steps to bolster the aggregate demand, in the hopes that such imperfect tools might provide at least some help to beleaguered communities. On the contrary, rising unemployment is official Government policy.

Because of these pressures I submit that it is a grave mistake to assume that the economic costs of peace will be nationally inconsequential. We are, I believe, in danger of swinging to the opposite extreme of the economic distortion the war has brought.

If all public and private manpower employed as a consequence of Vietnam is released, a total of nearly 2.4 million workers will enter the job market. They will be accompanied by workers displaced by cutbacks unrelated to Vietnam—the space program, Pentagon efficiency moves, and others. And we must also account for the multiplier effect—the loss of local nondefense business when the local defense plant shuts down. It could easily double the total job decline.

The preliminary cutbacks announced on February 2 were expected to reduce military and industrial employment by 1.3 million in 1969 and 1970, due at least in part to the \$5.3 billion congressional reduction in the fiscal 1970 military budget.

The Nixon administration in June reportedly asked the Secretary of Defense to cut military spending by another \$7 billion. Meanwhile the space program has been pruned by almost \$500 million.

We are on the downward slope and it is getting steeper. From this general area alone, the job loss could easily run more than 5 million, in an economy where over 5 percent of the work force already cannot find jobs.

But if the national prospect is disturbing, we should be even more alarmed about the outlook for the communities and regions which will bear the greatest share of the burden—some 5,200 towns and cities where military projects are concentrated. The impact will, after all, be spread unevenly, striking the hardest in the areas which are most heavily dependent upon military orders.

Statistics from the Department of Defense and Labor show that 11 States—Alaska, Hawaii, the District of Columbia, Virginia, Maryland, Utah, Georgia, Colorado, California, Connecticut, and Arizona—have more than 9 percent of their work force employed in jobs generated by defense and space spending. But the grim future is most apparent at the community level. All 50 States and the District of Columbia have some defense work and we can all expect reductions seriously affecting one or more communities. In California, for example, five major metropolitan areas—Los Angeles and Long Beach; Santa Clara County; Anaheim, Santa Ana, and Garden Grove; San Diego County; and San Francisco-Oakland—accounted for 92.7 percent of all of that State's defense-aerospace jobs. In New York it is Long Island, where 35 percent of total factory employment is dependent on defense contracts. In Connecticut, which has led the Nation in per capita defense contracts since the Civil War, it is Bridgeport-Stratford. Defense contracts there doubled between 1964 and 1968.

Without a major effort to create alternative sources of growth, these communities and hundreds more must see peace as a mixed blessing. It will mean economic depression, declining business

opportunities, a deteriorating tax base, and a big share of the work force unemployed.

CONVERSION OPPORTUNITIES

What I have said thus far is more than a prognosis for the future; in a sense it is a description of the past—part of the reason why we have accumulated weaponry far beyond any rational need, while neglecting so many perplexing domestic problems. Economic dependence is the core of the political power of the so-called military-industrial complex.

A primary benefit of sound and successful conversion planning, therefore, will be to free national decisionmakers from the pressures of military pork-barrel. It will allow both Congress and the executive branch to base force levels on sound assessments of military needs. The absence of such planning to date, on the other hand, is a central reason why many observers in both Government and private industry are predicting that there will be no "peace dividend" when the Vietnam war ends. Unless alternatives for war industry are found, we may find ourselves 1 or 2 years from now casting routine votes for more outlandish military devices than anything we can even conceive today, done with the usual proclamations about "national security," but with an even keener sense of the potential for economic collapse among our constituencies.

Preparations for economic conversion, then, are one means of assuring that we will really establish new national priorities, that the public funds so thoroughly occupied by past, present, and potential wars can at last be applied to housing, schools, pollution, hunger, and other needs at home.

But more than money is involved. We must also plan to make maximum beneficial use of the technology, the skills, and the capital goods to be freed, both to avoid their waste and to hasten their application to more hopeful concerns.

On this aspect of the issue I fear that the administration has adopted a sadly fatalistic attitude.

In his economic address last June the President suggested that—

We must deal with the problems of a nation in transition from a wartime economy to a peacetime economy . . . The cuts in defense spending mean a shift of job opportunities away from defense production to the kind of production that meets social needs. This will require adjustment for many employees and businesses.

This statement implies, and the record suggests, a belief that government's role is limited to simply pulling money out of defense and, perhaps, applying it elsewhere, with some small measure of help to impacted people and areas. By and large, workers must continue to seek out the job opportunities in production that meets social needs. They must hope that if and when the jobs do come they have at least some relationship to existing skills, and that they do not require a move clear across the country. Defense industries are encouraged to write off and close down their surplus productive capacity, and the communities involved are left almost entirely on their own in a quest for new business.

Our society should not tolerate such incredible waste. We should instead be searching out every possible means to employ the manpower and facilities where they exist. Through the cooperation of government, industry, labor and other concerned groups, I am convinced that we can find new products, new services and new markets that will avoid serious dislocation for many, if not most, of existing defense enterprises. In the process resources that might otherwise be idled can be quickly transferred to productive peacetime uses.

THE FEDERAL RESPONSIBILITY

Today's huge Defense Establishment is a creature of government. It is a tool of governmental policies. Government called it into being.

I believe, therefore, that government has a special obligation to assist the transition when parts of the establishment become surplus to our needs.

That principle is recognized in a number of existing programs bearing on the conversion problem. With White House coordination, the Pentagon, the Labor and Commerce Departments and the Veterans' Administration are now seeking to train and find work for laid-off workers and returning veterans. Loans are available to distressed communities. Some attempts are being made to find alternative uses for closing military bases.

But one element is almost entirely missing, and I think it is the most critical need. We have yet to find the means of motivating the defense industry to seek its own alternatives. Clearly no one else can make such plans. Without the active involvement of industry there can be no conversion of industrial resources to peacetime use.

Beyond this, the need for Government retaining and relocation programs for workers, and for community assistance, arises precisely because industry is not directly concerned. The programs we have now seek to soften a blow which could be prevented to a large extent if the arms contractors were developing plants and workers as well.

A little less than 2 years ago Mr. Bernard Nossiter of the Washington Post, after extensive surveys in the arms industry, wrote that—

The shrewd and skillful men who direct large, sophisticated defense firms look forward to a post-Vietnam world filled with military and space business. . . . For them the war's end means no uncomfortable conversion to alien civilian markets. Quite the contrary, and with no discernible exception, they expect handsome increases in the complex planes and missiles, rich in electronics, that are at the heart of their business.

Last week Senator RUBINOFF's Executive Reorganization Subcommittee released a study which updates that discouraging conclusion. The Senator's summary statement notes—

In general, the responses indicated that private industry is not interested in initiating any major attempts at meeting critical public needs. Most industries have no plans or projects designed to apply their resources to civilian problems. Furthermore, they indicated an unwillingness to initiate such actions without a firm commitment from

the government that their efforts will quickly reap the financial rewards to which they are accustomed. Otherwise, they appear eager to pursue greater defense contracts or stick to proven commercial products within the private sector.

This is an exact statement of the problems which my bill seeks to remedy.

THE NATIONAL ECONOMIC CONVERSION ACT

The bill I have introduced today builds upon proposals I have offered in past sessions. The original was introduced in 1963, and it was offered again, with some revisions, in March of last year, as S. 1285. Its essence is to obligate defense and space contractors to undertake conversion planning as a condition of doing business with the Government.

I want to make special note of the fact that in drafting the current version I have drawn heavily upon the excellent suggestions made by United Auto Workers President Walter Reuther in testimony before the Senate Committee on Labor and Public Welfare last December 1st. Much of this language should quite properly be considered as part of his great legacy to American public policy.

The basic provision of the bill requires that 12½ percent of each contractor's profits from defense and space work shall be set aside as a conversion reserve, to be held in trust by the National Economic Conversion Commission. The funds would be used for two purposes: to finance the implementation of conversion plans developed by the contractor, and to pay benefits to workers who might suffer hardship during the transfer to civilian production.

The first incentive to the contractor, therefore, would be that his own profits are involved. If he failed to develop and implement an effective conversion plan, it is possible that his entire reserve might be used up in the payment of employee benefits.

But the bill includes a highly significant carrot along with the stick. It provides that after the contractor has converted to civilian production, he may reclaim all of the funds remaining in his reserve, with interest, and that the funds will be returned free of tax. Thus, if he planned his conversion well enough so that no benefits, or only a small amount, were required to be paid to his workers, he could get back the equivalent of nearly twice as much as he put into the reserve—his own deposit, plus the amount which would normally have been charged to him as taxes.

This feature of the proposal is similar to the Swedish Investment Reserve Plan, which is used to influence the timing of business investment. Under that system, a firm is allowed to place part of its profits into a reserve fund upon which no taxes are charged. If the funds are then withdrawn and invested when desired by the Government, again no taxes are charged. This bill requires the deposit of profits—but it also holds them for prudent business purposes to the benefit of the contractor.

During the transition process a contractor could borrow all of his imponderable profits to finance civilian production operations in his existing labor market area. He would, therefore, be

encouraged to use the same facilities and the same workers to the greatest extent possible, thereby preserving the strength of the local economy. Interest paid on such loans would, of course, be returned to him along with his remaining reserves when they are reclaimed. The probable reduction in employee benefits paid out would also encourage the contractor to continue in the same location.

The benefits to workers who are displaced, downgraded or assigned to shortened workweeks would be based on preserving their purchasing power at the same level as when they were fully employed. In addition to protecting workers, this provision would help avert serious disruptions in the local economy. The benefits would run for not more than 2 years, and would be conditioned upon the worker's willingness to accept suitable employment. Administration of the benefit plan would be by contract with State agencies administering unemployment compensation laws, in the same fashion as the existing unemployment compensation program for Federal employees.

Similar provisions would apply to nonprofit defense contractors, including academic institutions. In their case, however, the funding would come entirely from Federal appropriations, and the amount not used for payment of employee benefits and implementation of the conversion plans would revert to the Treasury.

Overall administration of the program would be entrusted to a National Economic Conversion Commission, made up of members of the Cabinet, the Administrator of NASA, the Chairman of the Atomic Energy Commission, the Director of the Arms Control and Disarmament Agency, the Chairman of the Council of Economic Advisers, and three representatives each from business and labor. It would be chaired by the Secretary of Commerce, and could invite additional public members to serve. The executive secretary would be appointed by the President.

The Commission would be charged with evaluating and approving the conversion proposals submitted by companies in compliance with the terms of defense and space contracts. In cases where satisfactory plans were not filed, the appropriate defense agency would be directed to withhold up to 15 percent of any payments then due to the contractor until he complied with the requirements of the conversion act.

In addition, the Commission has broad authority to assist in conversion planning, including the definition of appropriate policies and programs to be carried out by the Federal Government, consultation with the States and assistance in the financing of State-level conversion studies, and the collection and dissemination to defense contractors of information that might be useful in formulating conversion plans.

Mr. President, I hope this proposal will receive serious attention during the remaining weeks of this Congress. It is a constructive alternative to the congressional complaints about local defense

cutbacks which are philosophically inconsistent in many cases and nearly always ineffective in any case.

Let us move forthrightly to welcome peace, to minimize its problems, and to grasp its great opportunities.

The bill (S. 4430) is as follows:

S. 4430

A bill to facilitate and encourage cooperation between the United States and certain defense contractors engaged in the furnishing of defense material to the United States, in providing for an orderly conversion from defense to civilian production, and to assure, through such cooperation, that the United States and such defense contractors will be able to meet the challenge arising out of the economic conversion and diversification required by reason of the changing defense needs of the United States, to provide for such an orderly conversion in an effort to minimize, to the extent possible, the hardships and other disruptive factors likely to be encountered by defense workers and their families and by communities dependent upon defense industry as a result thereof

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Economic Conversion Act."

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares that the United States has during the past two decades made heavy economic, scientific, and technical commitments for defense; that careful preparation and study are necessary if wise decisions on future allocations of such resources are to be possible; that the economic ability of the Nation and of management, labor and capital to adjust to changing security needs is consistent with the general welfare of the United States; and that the economic conversion and diversification required by changing defense needs presents a great challenge and a significant opportunity to the American people.

(b) It is the purpose of this Act to provide means through which the United States can determine the public policies which will promote an economic conversion which can (1) assure an orderly transition from defense to civilian production with a minimum of dislocation to families and communities and (2) encourage conversion of technologies and managerial and worker skills developed in defense production to the service of high-priority civilian purposes.

DEFINITIONS

SEC. 3. As used in this Act the term—

(1) "defense agency" means the Department of Defense, the Atomic Energy Commission, or the National Aeronautics and Space Administration.

(2) "defense contractor" means any person having not less than fifty workers engaged in the furnishing of defense material pursuant to the terms of a defense contract, or a subcontract entered into for the performance of any such contract or part thereof; except that the term "defense contractor" shall not include any person whose total number of workers so engaged in the furnishing of such material is less than 5 percent of his total work force within a defense facility.

(3) "non-profit contractor" means any nonprofit organization having not less than fifty workers engaged in the furnishing of defense material pursuant to the terms of a defense contract, or a subcontract entered into for the performance of any such contract or part thereof; except that the term "non-profit contractor" shall not include any nonprofit organization whose total number

of workers so engaged in the furnishing of such material is less than 5 percent of his total work force within a defense facility.

(4) "defense contract" means any contract entered into between a person or nonprofit organization and a defense agency to furnish defense material to such agency.

(5) "defense material" means any item of weaponry, munitions, equipment, supplies or services intended for use in the establishment, maintenance, training, or operation of any element of the armed forces of the United States or of any other country or in the conduct of the United States Space Program.

(6) "defense facility" means any plant or other establishment (or part thereof) engaged in the production, repair, modification, maintenance, storage, or handling of defense material.

(7) "person" means any corporation, firm, partnership, association, individual, or other entity, but shall not include a nonprofit organization.

(8) "nonprofit organization" means any corporation, firm, partnership, association, or other entity not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(9) "short workweek" means any workweek of less than 40 hours, or in the event a defense facility has a regular workweek payable at straight-time wage rates other than 40 hours, any workweek less than such regular workweek.

(10) "downgraded" or "downgrading" means any action taken by a defense contractor or nonprofit contractor with respect to a worker which results in such worker receiving a lower rate of pay, or lesser fringe benefits, or both.

(11) "displaced" or "displacement" means with respect to any worker of a defense facility or defense agency the separation, on a permanent or temporary basis, of such worker from his employment with such facility or agency.

(12) "State agency" means the agency of a State which administers its unemployment compensation law, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

(13) "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(14) "Fund" means the Defense Facility Conversion Reserve Trust Fund established by section 302(a) of this Act.

(15) "Non-Profit Fund" means the fund established by section 302(c) of this Act.

TITLE I—ESTABLISHMENT OF THE COMMISSION

SEC. 101. (a) There is hereby established, in the Executive Office of the President, the National Economic Conversion Commission (hereafter referred to as the "Commission"), which shall be composed of—

- (1) The Secretary of Defense;
- (2) The Secretary of Agriculture;
- (3) The Secretary of the Interior;
- (4) The Secretary of Commerce, who shall be Chairman of the Commission (referred to hereinafter as the "Chairman");
- (5) The Secretary of Labor;
- (6) The Secretary of Health, Education, and Welfare;
- (7) The Secretary of Housing and Urban Development;
- (8) The Secretary of Transportation;
- (9) The Chairman of the Atomic Energy Commission;
- (10) The Administrator of the National Aeronautics and Space Administration;
- (11) The Director of the United States Arms Control and Disarmament Agency;
- (12) The Chairman of the Council of Economic Advisers;
- (13) Three persons, appointed by the

Chairman of the Commission, who are representative of labor; and

(14) Three persons, appointed by the Chairman of the Commission, who are representative of management.

(b) The Secretary of Commerce shall preside over meetings of the Commission; except that in his unavoidable absence he may designate a member of the Commission to preside in his place.

(c) The Commission may invite additional individuals to serve as members of the Commission, either on a temporary or permanent basis, except that the membership of the Commission shall not exceed twenty-three members at any time.

(d) (1) The Commission is authorized to appoint a staff in accordance with paragraph (2) of this subsection, and to establish one or more task forces to assist the Commission in carrying out its duties under this Act. The staff shall be headed by an Executive Secretary who shall be appointed by the President of the United States (after consultation with the Commission) and who shall be compensated at the rate provided for grade 18 of the General Schedule. The members of such staff and task forces shall include, among others, marketing specialists, production engineers, plant layout men, and manpower training experts. It shall be the duty of the staff and any task force established by the Commission, at the request of the Commission, to assist defense contractors and non-profit contractors with the development of conversion plans submitted by them pursuant to this Act, to review and evaluate such plans, to provide assistance in connection with their execution, and to carry out such other duties as the Commission may prescribe.

(2) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable in accordance with the applicable provisions of title 5, United States Code. The Commission may also procure temporary and intermittent services to the same extent as authorized for the departments by section 3109 of title 5, United States Code.

(3) The Commission shall take all reasonable steps to encourage, and give preference in assigning its staff and task forces to assist, defense contractors and non-profit contractors to convert their defense facilities to production useful for the attainment of national priority goals, such as housing and urban rehabilitation, educational and health facilities and equipment, and elimination of environmental pollution.

(4) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this Act, and each department, bureau, agency, board, commission, office, independent establishment, or instrumentality, is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission upon request made by the Chairman.

(5) Members of the Commission who are officers or employees of the Federal Government shall receive no additional compensation by virtue of membership on the Commission. Other members of the Commission shall receive compensation at the rate of not to exceed \$100 per diem when engaged in the performance of duties of the Commission. Each member of the Commission shall be reimbursed, as authorized by law (5 U.S.C. 73b-2), for travel and subsistence and other necessary expenses incurred by him in carrying out the duties of the Commission.

DUTIES OF THE COMMISSION

SEC. 102. It shall be the duty of the Commission to—

(1) define appropriate policies and programs to be carried out by departments and agencies of the Federal Government for economic conversion capability, which shall include with respect to various degrees of economic conversion schedules of civilian public and private investment and education and retraining for occupational conversion, and to report to the President and the Congress on such policies and programs within one year of the date of enactment of this Act;

(2) convene a National Conference on Industrial Conversion and Growth, within one year after the date of enactment of this Act, to consider the problems arising from appropriate planning and programming by all sectors of a conversion to a civilian economy, and to encourage action to facilitate the Nation's economic conversion capability;

(3) consult with the Governors of the States and the Commissioner of the District of Columbia to encourage appropriate studies and conferences at the State, local, and regional level, in support of a coordinated effort to improve the Nation's economic conversion capability, and make available to the Governors of the States and the Commissioner of the District of Columbia such funds, appropriated pursuant to title VI of this Act, as shall constitute not more than 50 per centum of the total costs associated with the preparation of such studies or the holding of such conferences;

(4) collect and disseminate to defense contractors and nonprofit contractors engaged in the furnishing of defense material to any defense agency information (other than information concerning proprietary trade secrets) useful to such contractors in preparation for conversion of their productive facilities to other uses consistent with policies and programs developed in accordance with the provisions of this Act;

(5) consult with trade and industry associations, labor unions, and professional societies, to encourage and enlist their support for a coordinated effort to improve the Nation's economic conversion capability;

(6) perform the duties imposed upon the Commission by this Act, and promulgate such regulations as may be necessary to carry out the provisions of this Act; and

(7) make such recommendations to the President and to the Congress as will further the purposes of this Act.

ADDITIONAL DUTIES OF THE COMMISSION AND STAFF

SEC. 103. (a) It shall be the duty of the Commission to review any conversion plan submitted to the Commission pursuant to section 201 of this Act with a view to (1) determining whether such plan conforms to the requirements of title II; (2) assessing the feasibility of such plan; (3) ascertaining whether the defense contractor or non-profit contractor submitting such plan has made a reasonable effort to coordinate his plan with subcontractors and other firms in the same labor market area; and (4) determining whether such plan is generally consistent with plans submitted by other defense contractors and nonprofit contractors within such labor market area pursuant to title II of this Act. In reviewing any such plan, the Commission shall consult with the union representing the employees of the defense contractor or nonprofit contractor submitting such plan, and with representatives of the appropriate State and local governments.

(b) (1) Following the review of conversion plan of a defense contractor or nonprofit contractor under this section, the Commission shall notify such contractor, in writing, of the results of its review of his plan, including any weaknesses or deficiencies therein. The notice shall further contain, where appropriate, a statement directing his attention to opportunities which he may have overlooked to convert his defense facilities

to civilian production useful for the attainment of national priority goals.

(2) If, on the basis of such review, the Commission determines that a conversion plan submitted by a defense contractor does not meet the requirements of title II of this Act, the Commission shall notify the appropriate defense agency of that fact, and such agency shall, upon receipt of that notification, withhold not to exceed 15 per centum of any payment owed to such contractor on account of any defense contract entered into on or after the date of the enactment of this Act between such contractor and agency until the agency has been further notified by the Commission that such plan has been modified by the contractor so as to bring it into conformity with the provisions of such title. If, on the basis of such review, the Commission determines that a conversion plan submitted by a non-profit contractor does not meet such requirements, the Commission is authorized to withhold any further payments to such contractor from the Non-Profit Fund until the Commission has determined that such plan has been modified by the contractor so as to bring it into conformity with such requirements.

(c) The Commission shall, from time to time, publish, and make available to the public, a written report concerning its activities under this section. Such report shall contain information and other data sufficient to inform interested persons and nonprofit organizations as to production opportunities likely to result from the execution of conversion plans reviewed by it pursuant to this section, and the dangers of possible overproduction or underproduction of certain goods and services which might result from the execution of such plans.

TITLE II—ECONOMIC CONVERSION PLANS

SEC. 201. (a) No defense agency shall enter into any defense contract with any person or nonprofit organization involving the furnishing of defense material to such agency unless the contract contains a provision under which the defense contractor or non-profit contractor is required, subject to the provisions of section 202 of this Act, to file with the Commission, and thereafter keep current, a plan (referred to in this Act as a "conversion plan") setting forth how he intends to convert his defense facility into a facility capable of providing employment for his workers engaged in the furnishing of defense material to a defense agency when such workers are no longer required for that purpose because the need for such material no longer exists or is substantially reduced.

(b) Each conversion plan filed pursuant to subsection (a) shall contain such information and other data as the Commission may prescribe, including the following:

(1) The type of product or service to be produced or provided.

(2) A statement setting forth the basis for such contractor's belief that a market for the proposed product or service is available, including details of any marketing studies or surveys made.

(3) A description of efforts undertaken and preparations made by the contractors to market the proposed product or service, including contacts established with market outlets and potential customers.

(4) A list of the machinery and equipment used, at the time of the filing of such plan, by such contractor in connection with the furnishing of defense materials which may be directly converted to the proposed civilian production; a list of machinery and equipment so used at such time that would require modification for that purpose; a list of additional machinery and equipment which would have to be procured by any such contractor for that purpose; a description of the nature and extent of plant layout changes which would be required for such

proposed civilian production; and a detailed description of the nature and amount of manpower retraining that would be necessary for conversion to such production.

(5) The estimated costs, at current prices, of the physical conversion and manpower retraining referred to in paragraph (4) of this subsection.

(6) An estimate of the time period required from the initiation of the conversion process to its completion, and of employment levels during each month of such period.

(7) In the case of prime defense contractors or prime nonprofit contractors, a detailed description of contracts and arrangements made with subcontractors to facilitate the maximum possible degree of coordination of their respective conversion plans.

(8) In the case of prime defense contractors and nonprofit contractors, and their subcontractors, a detailed description of contacts and arrangements made by them with other firms in the same labor market area designed to facilitate maintenance of employment levels in that area.

(9) A statement as to how the foregoing elements in the conversion plan would be affected, and to what extent they would have to be modified, in the event defense production is gradually reduced rather than totally eliminated at a single point in time.

(c) (1) Moneys deposited in the special reserve account of the Fund and earmarked to the credit of a defense contractor in accordance with section 302(a) (1) of this Act shall be available for use by such contractor in meeting expenses incurred by him in developing and carrying out his conversion plan submitted pursuant to section 201 of this Act.

(2) Moneys appropriated to the Non-Profit Fund pursuant to section 302 (c) of this Act shall be available for use, in accordance with this Act, by any nonprofit contractor in meeting expenses incurred by him in developing and carrying out his conversion plan under this Act.

Sec. 202. (a) In any case in which a defense contractor or a nonprofit contractor determines that his defense facility cannot be converted to civilian production he shall notify the Commission, in writing, of that fact. Such notification shall be set forth on the basis on which that determination was made, together with such other information and data as the Commission may require. If the Commission determines that such defense facility cannot be so converted, it may authorize such contractor to file with the Commission, in lieu of the conversion plan required under section 201, copies of one or more contracts, approved by the Commission, entered into between such defense contractor or nonprofit contractor and any other person or nonprofit organization under which such person or nonprofit organization agrees to undertake to attempt to provide employment, including such retraining as may be necessary, for employees displaced from such defense facility. No such contract filed by a defense contractor under this section shall be approved by the Commission unless it contains a provision under which the monies in the special reserve account in the Fund earmarked to the credit of such contractor in accordance with the provisions of section 302(a) (1) of this Act shall be available for payment of employee conversion benefits under title V of this Act and of all costs incurred by such person or nonprofit organization arising out of the absorption (including retraining) by such person or organization of such displaced workers.

(b) In any case involving any such contract entered into between a nonprofit contractor and any person or nonprofit organization under which such person or organization agrees to undertake to attempt to provide employment, including such retraining as may be necessary, for employees of

such contractor so displaced, moneys appropriated to the Non-Profit Fund pursuant to section 302(c) of this Act shall be available for payment or reimbursement of all costs incurred by such person or nonprofit organization arising out of the absorption (including retraining) by such person or organization of such displaced workers.

Sec. 203. (a) In any case in which a defense contractor fails to execute the conversion plan (or any part thereof) submitted by him in accordance with section 201 of this Act with respect to his defense facility, the Commission is authorized to take over, convert, and operate such facility, or take over and arrange, by contract or otherwise, for the conversion and operation by another person of such facility, in accordance with the conversion plan submitted by such defense contractor or a conversion plan recommended by the Commission or, with its approval, by the Commission's staff and task forces. The Commission shall pay to the defense contractor whose facility is taken over pursuant to this section a reasonable rent out of any moneys in the special reserve account in the Fund earmarked to the credit of the defense contractor in accordance with the provisions of section 302(a) (1) of this Act. Employee conversion benefits under title V of this Act, and all costs arising out of the development and execution of any such conversion plan in accordance with this section by the Commission or such person, shall be paid out of moneys in such account so earmarked.

Sec. 204. (a) With respect to any amounts authorized to be paid under this title out of moneys in the special reserve account of the Fund, the Commission shall, from time to time, certify to the Secretary of the Treasury (1) the name of the defense contractor or other person entitled to receive such payment, (2) the amount thereof, and (3) the name of the defense contractor whose earmarked moneys in such account is to be charged in connection with such payment. With respect to any amounts authorized to be paid to the Commission pursuant to section 203 of this title out of moneys in the special reserve account of the Fund, the Commission shall, from time to time, certify to the Secretary of the Treasury (1) the amount thereof, and (2) the name of the defense contractor whose earmarked moneys in such account is to be charged in connection with such payment. The Secretary to the Treasury shall make such payments from the special reserve account of the Fund to such contractor, person, or Commission in accordance with such certification.

(b) With respect to any amounts authorized to be paid under this title out of the Non-Profit Fund, the Commission shall, from time to time, certify to the Secretary of the Treasury (1) the name of the nonprofit contractor or other person or nonprofit organization entitled to receive such payment, and (2) the amount thereof. The Secretary of the Treasury shall make such payments, from the Non-Profit Fund, to such nonprofit contractor, person, or organization in accordance with such certification.

Sec. 205. (a) Each defense agency shall file with the Commission, and keep current on not less than an annual basis, a conversion plan with respect to each of its facilities in the United States (including agreements or arrangements entered into by such agency contemplating the operation of such facility by another Federal agency or private organization) setting forth how that agency intends to convert such facility into a facility capable of providing employment for its workers when such workers are no longer needed for defense purposes. Such plan shall be filed at such time and contain such information as the Commission may prescribe.

(b) In any case in which a defense agency determines that any of its facilities cannot be converted to a nondefense use, such

agency shall, with respect to any such facility, file with the Commission, on an annual basis, plans (including details of arrangements made with other Federal agencies) designed to facilitate the employment of workers of such facility displaced because they were no longer needed by such facility for defense purposes.

(c) In addition to the other requirements of this section, the Department of Defense shall report to the Commission, on an annual basis, with respect to action taken by such Department, including training for civilian employment, to facilitate the absorption into the civilian economy of individuals released from the armed forces of the United States.

Sec. 206. The Commission shall by such means as it determines appropriate, inform Federal and State governmental and private manpower training agencies with respect to the training and retraining needs which the Commission estimates may result on account of the execution of conversion plans pursuant to this Act.

Sec. 207. On and after the date of the enactment of this Act, each defense contract entered into between a defense agency and a defense contractor or nonprofit contractor shall contain a provision under which such contractor is required to notify the appropriate State employment service of all vacant jobs to be filled by new hires (as distinguished from vacant jobs to be filled by promotion, transfer or recall of laid off workers) by such contractor.

TITLE III—ECONOMIC CONVERSION RESERVES

Sec. 301. No defense agency shall enter into any defense contract with any person involving the furnishing of defense materials to such agency unless the contract contains a provision under which the defense contractor is required to pay to the Commission an amount equal to 12½ per centum of all profits (determined prior to any exclusions for Federal or State taxes) resulting from such contract. Profits payable to the Commission pursuant to this section shall be computed in such manner, and paid at such time, as the Commission, after consultation with the Comptroller General, shall by regulation prescribe. In no case, however, shall payments required to be made to a defense contractor pursuant to this section be considered as a cost item in the negotiating or bidding of any defense contract, or in determining profit for purposes of this section or any provision of law relating to the renegotiation of defense contracts.

Sec. 302. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Defense Facility Conversion Reserve Trust Fund" (referred to in this Act as the "Fund"). The Fund shall consist of two parts, one of which shall be known as the "special reserve account" and the other as the "general pool reserve account". Amounts paid by a defense contractor to the Commission pursuant to section 301 of this Act shall be deposited in the Fund as follows:

(1) 90 per centum of such amounts shall be deposited in the special reserve account and earmarked to the credit of the defense contractor making such payments; and

(2) 10 per centum of such amounts shall be deposited in the general pool reserve account.

(b) There is authorized to be appropriated to the general pool reserve account in the Fund such amounts as may be necessary to enable the Secretary of the Treasury to make the payments and other disbursements authorized by sections 403 and 504 of this Act.

(c) There is hereby established in the Treasury of the United States a fund to be known as the "Non-Profit Fund." There is authorized to be appropriated to the Non-Profit Fund such amounts as may be necessary to enable the Secretary of the Treasury

to make loans pursuant to section 402, and payments authorized to be made in accordance with sections 201 (c) (2) and 202 (b) of this Act.

Sec. 303. (a) It shall be the duty of the Secretary of the Treasury to invest such portion of the monies in the Fund as is not, in the judgment of the Secretary, required to meet current withdrawal requirements. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired: (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(b) Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(c) Any interest earned by reason of the investment pursuant to this section of any moneys of a defense character in the Fund shall be deposited in the account from which the moneys so invested were acquired and shall be available for disbursement in accordance with this Act.

Sec. 304. (a) (1) Upon written application of any defense contractor, the Commission is authorized, if such contractor has not engaged in the furnishing of defense material to a defense agency during any period of twenty-four consecutive calendar months following the date of the enactment of this Act, to provide for the return of all unexpended moneys (including interest credited thereon) of such contractor remaining to his credit in the special reserve account as of the date of such application, if all of his obligations under this Act have been satisfied.

(2) Upon written application of any defense contractor, the Commission is authorized, if the number of his workers engaged in the furnishing of defense material to a defense agency during the twenty-four calendar month period immediately preceding such application was continuously more than 20 per centum below the peak annual average number of his workers engaged in the furnishing of such materials during the period commencing on the date of the enactment of this Act and ending on the date immediately preceding the date of such application, to provide for the return to such contractor of a portion of his unexpended moneys (including interest credited thereon) remaining to his credit in the special reserve account of the fund as of the date of such application. Such portion to be so returned to such contractor shall be an amount equal to the excess of his unexpended moneys (including in-

terest credited thereon) so remaining to his credit in such account as of the date of such application over the same percentage of his total deposits therein (including interest credited thereon) as his average defense employment during such two-year period preceding his application is of his aforementioned peak annual average defense employment. No more than one such application under this paragraph shall be approved with respect to any one defense contractor within any twelve calendar month period.

(b) (1) Upon written application of any defense contractor, the Commission is authorized, if such contractor has not engaged in the furnishing of defense material to a defense agency during any period of twenty-four consecutive calendar months following the date of the enactment of this Act, to provide for the return to such contractor of a portion of the moneys (including interest credited thereon) in the general pool reserve account. Such portion to be so returned to such contractor shall be an amount equal to the percentage of such moneys (including interest credited thereon) so remaining in such account as of the date of such application, equal to the percentage which his total deposits therein (including interest credited thereon) formed of all moneys paid into or credited to the general pool reserve account.

(2) Upon written application of any defense contractor, the Commission is authorized, if the number of his workers engaged in the furnishing of defense material to a defense agency during the twenty-four calendar month period immediately preceding such application was continuously more than 20 per centum below the peak annual average number of his workers engaged in the furnishing of such material during the period commencing on the date of the enactment of this Act and ending on the date immediately preceding the date of such application, to provide for the return to such contractor of a portion of the moneys (including interest credited thereon) remaining in the general pool reserve account. Such portion to be so returned to such contractor shall be an amount equal to a percentage of his total deposits (including interest credited thereon) in such general pool reserve account equal to the percentage reduction in his defense employment, adjusted by the ratio of the total amount (including interest) remaining in such general pool reserve account at the date of such application to the total of all deposits (including interest credited thereon) made by defense contractors to such account pursuant to this Act.

(3) Notwithstanding any other provision of this subsection, no moneys shall be returned to any such defense contractor pursuant to this subsection if the total amount expended from such fund in order to meet his obligations and other expenses under this Act equals or exceeds the total amount of his deposits to the fund (including interest credited thereon).

(4) All amounts returned to a defense contractor pursuant to this section shall be exempt from the Federal income tax laws.

TITLE IV—DEFENSE CONTRACTOR BENEFITS

Sec. 401. (a) Any defense contractor requiring funds to carry on, expand, or initiate a civilian business or other civilian activity in the same labor market as his defense operations may be authorized by the Commission to borrow from funds in the special reserve account and earmarked to his credit in accordance with section 302 (a) (1) of this Act, at a rate of interest equivalent to the current prevailing rate on long term Treasury bonds.

(b) No loan shall be made pursuant to subsection (a) of this section unless the defense contractor requesting such loan has—

(1) obtained or arranged to obtain, from a reputable private lending agency, a loan, equal to at least 10 per centum of the amount requested pursuant to subsection (a), for use for the same purpose as that for which a loan is requested under such subsection, and such lending agency has agreed to share proportionately in any losses which might be incurred on the combined loans; and

(2) included in his conversion plan submitted pursuant to section 201 of this Act provisions for employing workers, displaced from any defense facility operated by such defense contractor, in such civilian business or activity to the extent that employment opportunities are available for such workers under a seniority or other arrangement which is fair to workers in both such operations.

(c) Interest owing on such loan referred to in subsection (a) shall be paid by the defense contractor to the Commission for deposit by it in the special reserve account of the Fund. Such interest payments shall be earmarked to the credit of such contractor in accordance with section 302 (a) (1) of this Act and shall be available for disbursement in accordance with the provisions of this Act.

Sec. 402. (a) Any nonprofit contractor requiring funds to carry on, expand, or initiate a civilian business or other civilian activity in the same labor market as his defense operations may be authorized by the Commission to borrow from moneys in the Non-Profit Fund at a rate of interest equivalent to the current prevailing rate on long-term Treasury bonds.

(b) No loan shall be made pursuant to subsection (a) of this section unless the nonprofit contractor requesting such loan has—

(1) obtained or arranged to obtain, from a reputable private lending agency, a loan, equal to at least 10 per centum of the amount requested pursuant to subsection (a), for use for the same purpose as that for which a loan is requested under such subsection, and such lending agency has agreed to share proportionately in any losses which might be incurred on the combined loans; and

(2) included in his conversion plan submitted pursuant to section 201 of this Act provisions for employing workers, displaced from any defense facility operated by such nonprofit contractor, in such civilian business or activity to the extent that employment opportunities are available for such workers under a seniority or other arrangement which is fair to workers in both such operations.

(c) Interest owing on such loans referred to in subsection (a) of this section shall be paid by the nonprofit contractor to the Commission for deposit by it in the Non-Profit Fund and shall be available for disbursement in accordance with the provisions of this Act.

Sec. 403. In any case in which a defense contractor, after meeting costs of conversion benefits for his workers in accordance with title V of this Act, is unable to meet the costs involved in carrying out his conversion plan submitted pursuant to section 201 of this Act out of his earmarked funds in the special reserves account of the fund, the Commission is authorized to direct the Secretary of the Treasury to guarantee up to 90 per centum of any loan obtained by such contractor from a reputable private lending agency for that purpose and to pay, out of moneys appropriated pursuant to section 302 (b) of this Act, three-fourths of the interest charges on such loan in excess of 5 per centum per annum; except that the guarantee and interest subsidy shall be available only for a loan not in excess of an amount that the Commission determines might reasonably be required to provide employment

for the number of such contractor's workers to be transferred, by reason of their displacement, from defense to civilian production in accordance with such conversion plan.

TITLE V—EMPLOYEE CONVERSION BENEFITS

SEC. 501. (a) Any defense contract entered into between a defense contractor or a nonprofit contractor and a defense agency shall contain a provision under which such contractor is required to report to the Secretary of Labor, or, in the case of a State which has entered into a contract with the Commission pursuant to section 503 of this Act, with the appropriate State agency, all displacements, short workweeks, or downgradings affecting workers employed by such contractor in a defense facility in connection with the furnishing of defense materials to a defense agency pursuant to such contract, and to specify, with respect to each affected worker, whether or not his displacement, short workweek, or downgrading was attributable, in whole or in part, to a reduction of the volume of defense work in such facility. Any worker listed in any such report as having been affected by a reduction in the volume of defense work conducted by such facility, including any worker found upon appeal in accordance with subsection (b) of this section to have been so affected, shall be certified by the Secretary of Labor or State agency, as the case may be, as a worker eligible for conversion benefits in accordance with section 502 of this Act.

(b) Any worker (or union representing such worker) of a defense contractor or nonprofit contractor aggrieved by any matter contained in a report filed by such contractor pursuant to subsection (a) of this section (or by any matter relating to his certification, or failure to be so certified, or his eligibility for such conversion benefits, or the kind or amount thereof), shall be entitled to appeal such matter to the Secretary of Labor, or, if such worker is in a State which has entered into a contract with the Commission pursuant to section 503 of this Act, to the appropriate State agency.

SEC. 502. (a) Any worker certified pursuant to section 501 of this Act as eligible for conversion benefits by reason of his displacement from a defense facility shall be entitled, for the two-year period following his displacement, to whichever of the following benefits are applicable:

(1) Compensation, on a weekly basis, in an amount which, when added to any benefits which such worker receives or is entitled to receive for such weekly period under any Federal or State unemployment compensation program (or any plan of his employer providing for such benefits) by reason of his displacement, and any earnings during such weekly period from other employment, equals the amount of such worker's regular weekly wages (for a 40-hour workweek or, in the event a defense facility has a regular workweek payable at straight-time wage rates other than 40 hours, for such regular workweek) prior to his displacement.

(2) If such worker is otherwise employed during any such displacement period, compensation, in addition to that provided for in paragraph (1), in an amount equal to the difference between the costs incurred by him in connection with his meals, transportation, and other matters on account of such employment, and the costs which he would have incurred for such meals, transportation, and other matters on account of his prior employment if he had not been displaced.

(3) Vested pension credit under any applicable pension plan maintained by the defense facility from which he was displaced, for the period of his employment with such facility, and the two-year period following his displacement; except that pension credit during such two-year period shall be reduced

to the extent of vested pension credit earned with another employer during such two-year period.

(4) Maintenance of any hospital, surgical, medical, disability, life (and other survivor) insurance coverage which such individual (including members of his family) had by reason of his employment by such defense facility prior to such displacement; except that if such worker so displaced is otherwise employed during such two-year period, such worker shall be entitled to receive benefits under this paragraph to the extent necessary to provide such worker with the same aforementioned protection as he (including members of his family) would have had if he had not been displaced.

(5) Retraining for civilian work in the defense contractor's or nonprofit contractor's defense facility providing pay and status as comparable as possible to the employment from which he was displaced.

(6) Subject to the provisions of section 504(b) of this Act, retraining approved by the Secretary of Labor, or, in the case of a worker in a State which has entered into a contract with the Commission pursuant to section 503 of this Act, by the State agency, and reimbursement for all reasonable relocation expenses incurred by such worker in moving himself and his family to another location in order to take advantage of an employment opportunity to which he is referred, or which is determined to be suitable, by the Secretary of Labor, or, in the case of a worker in a State which has entered into a contract with the Commission pursuant to section 503 of this Act, by the State agency.

(b) Any worker certified pursuant to section 501 of this Act as eligible for conversion benefits by reason of his having been placed on a short workweek by a defense facility shall be entitled, during the two-year period following such certification, to compensation, on a weekly basis, in an amount which, when added to any earnings from his defense facility or other employment, during such weekly period, equals the amount of such worker's regular weekly wages (for a 40-hour workweek or, in the event a defense facility has a regular workweek payable at straight-time wage rates other than 40 hours, for such regular workweek) prior to his having been placed on a short workweek.

(c) Any worker certified pursuant to section 501 of this Act as eligible for conversion benefits by reason of his employment with a defense facility being downgraded shall be entitled, during the two-year period following such certification, to compensation, on a weekly basis, in an amount which, when added to any other earnings, during such weekly period, from his employment, equals the amount of such worker's regular weekly wages (for a 40-hour workweek, or in the event a defense facility has a regular workweek payable at straight-time wage rates other than 40 hours, for such regular workweek) prior to such downgrading.

SEC. 503. (a) The Commission is authorized, on behalf of the United States, to enter into an agreement with a State, or with any agency administering the unemployment compensation law of any State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954, which shall include the provisions described in paragraphs (1) and (2) of this subsection:

(1) Such State agency will, as agent of the Commission, make certifications and other determinations required in section 501 of this Act, make such payments and provide such benefits as are authorized by section 502 of this Act, on the basis provided for in this Act, and will otherwise cooperate with the Commission and other State agencies in carrying out the provisions of sections 207, 501, and 502 of this Act; and

(2) Such State agency shall be reim-

bursed for all benefits paid pursuant to such agreement, and all administrative costs incurred in carrying out such agreement.

(b) (1) There shall be paid to each State agency which has an agreement under this section, either in advance or by way of reimbursement, as may be determined by the Commission, such sum as the Commission estimates the agency will be entitled to receive under such agreement for each calendar month, reduced or increased, as the case may be, by any sum by which the Commission finds that its estimates for any prior calendar month were greater or less than amounts which should have been paid to the agency. Such estimates may be made upon the basis of such statistical, sampling, or other method as may be agreed upon by the Commission and the State agency.

(2) The Commission shall from time to time certify to the Secretary of the Treasury for payment to each State agency which has an agreement under this section sums payable to such agency under paragraph (1) of this subsection. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the agency, in accordance with such certification, from the Fund or the Non-Profit Fund in such manner as is authorized by section 504 of this Act.

(3) All money paid a State agency under any such agreement shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in such agreement, to the Treasury. Moneys paid from the fund and so returned shall be redeposited in the fund to the credit of the appropriate defense contractor. Moneys paid from the Non-Profit Fund and so returned shall be redeposited in such Non-Profit Fund.

(c) In any case involving a worker entitled to benefits under section 502 who is in a State with respect to which there is no agreement pursuant to this section, the Secretary of Labor shall, under regulations prescribed by him, administer such benefits on behalf of such worker. The Secretary of Labor, in administering such benefits, shall, from time to time, certify to the Secretary of the Treasury for payment to such worker the amounts of such benefits to which he is entitled, and the Secretary of the Treasury shall make payments to such worker, in accordance with such certification, from the Fund or the Non-Profit Fund in such manner as is authorized by section 504 of this Act.

SEC. 504. (a) (1) All conversion benefits payable or provided to a worker of a defense contractor in accordance with this title shall be chargeable against monies of such contractor deposited in the special reserve account of the fund and earmarked to his credit in accordance with section 302(a) (1) of this Act. In any case in which such monies so earmarked are insufficient to pay or provide such benefits, monies in the general pool reserve account of the fund shall be available to the extent of such insufficiency for that purpose. To the extent that such monies in the general pool reserve account are insufficient to pay or provide such benefits, monies appropriated to the general pool reserve account pursuant to section 302(b) of this Act shall be available for that purpose.

(2) All conversion benefits payable or provided to a worker of a nonprofit contractor in accordance with this title shall be paid from monies available in the Non-Profit Fund.

(b) Notwithstanding the provisions of subsection (a) (1) of this section, conversion benefits payable or to be provided to any worker of a defense contractor pursuant to section 502(a) (6) of this Act shall not be charged against any monies of such contractor in the special reserve account of the fund as provided for in subsection (a) (7),

unless the Commission has first determined that the worker is unlikely to be reemployed by such contractor within a period of one year following his displacement, and that retraining or relocation, or both, is required to enable such worker to obtain employment comparable in pay and status to that from which he was displaced. In the event no such determination is made, such benefits authorized under section 502(a)(6) of this Act shall be payable or provided from moneys in the general pool reserve account of the fund.

Sec. 605. In no case shall any displaced worker be eligible for benefits under section 502(a) of this Act unless such worker agrees (1) to maintain, on a current basis, during the period of his displacement, an active registration with the Secretary of Labor or an appropriate State employment agency, as the case may be, and (2) to accept any employment, determined by the Secretary of Labor or agency, as the case may be, to be suitable, to which he is referred by the Secretary of Labor or such agency. No such benefits shall be paid under this Act to any worker who fails to maintain such registration or to accept such employment.

Sec. 606. In no case shall any conversion benefits paid pursuant to this Act be taken into consideration in determining eligibility for unemployment compensation under any Federal or State unemployment compensation law or in determining the amount of entitlement thereunder.

TITLE VI—APPROPRIATIONS

Sec. 601. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. BYRD of West Virginia subsequently said: Mr. President, I ask unanimous consent that the bill introduced by the Senator from South Dakota (Mr. McGOVERN) be referred to the Committee on Commerce and if and when reported by that committee, it be referred to the Committee on Government Operations.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

S. 4431—INTRODUCTION OF A BILL TO AMEND THE FISH AND WILDLIFE COORDINATION ACT

Mr. BYRD of West Virginia. Mr. President, the able Senator from Washington (Mr. MAGNUSON) wishes to introduce a bill to amend the Fish and Wildlife Coordination Act to provide additional protection to marine and wildlife ecology by requiring the designation of certain water and submerged land areas where the depositing of certain waste materials is prohibited, to require the establishment of standards with respect to such deposits in all other areas, and for other purposes.

He wishes his statement to appear in the RECORD and he wishes the bill to be printed in full in the RECORD.

I therefore ask unanimous consent that I may be permitted to have printed in the RECORD the statement by Mr. MAGNUSON and that I be permitted to introduce the bill in his behalf and that the bill be printed in full in the RECORD.

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

The bill (S. 4431) to amend the Fish

and Wildlife Coordination Act to provide additional protection to marine and wildlife ecology by requiring the designation of certain water and submerged land areas where the depositing of certain waste materials is prohibited, to require the establishment of standards with respect to such deposits in all other areas, and for other purposes, introduced by the Senator from West Virginia (Mr. BYRD), for the Senator from Washington (Mr. MAGNUSON), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 4431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) is amended by inserting immediately following section 5A thereof the following new sections:

"Sec. 5B. (a) The Secretary of the Interior, acting through the United States Fish and Wildlife Service, shall designate those portions of the navigable waters of the United States and those portions of the waters above the Outer Continental Shelf as defined in the Outer Continental Shelf Lands Act, and those portions of the submerged lands beneath the navigable waters of the United States and beneath the waters above the Outer Continental Shelf into and onto which he determines sewage, sludge, spoil, landfill, heated effluents, or any other waste or substance (solid, liquid, or gas) cannot be safely discharged.

"(b) In making such designation the Secretary of the Interior shall—

"(1) consider the overall effect on the marine and wildlife ecological balance which discharging of such materials has had or will have in the area,

"(2) consider all effects of such discharges which he may find to be dangerous to the mating, spawning, and other necessary life processes of species of fish, shellfish, and all other forms of marine animal and plant life,

"(3) consider all other ecological and environmental factors, including, but not limited to, the ecological effect of discharging heated effluents into the area, and

"(4) consult with the appropriate Federal, State, and local agencies and officials, and with public or private organizations, institutions, agencies, and individuals with expertise in the sciences of ecology, marine biology, oceanography, and other related disciplines in the physical and biological sciences.

"(c) No designation shall be made by the Secretary of the Interior under authority of subsection (a) of this section during the one-year period beginning on the date of enactment of this section. During such one-year period the Secretary of the Interior, in cooperation with the Secretary of the Army acting through the Chief of Engineers, shall make a full and complete investigation and study of potential water and submerged land areas for designation and shall identify those areas most suitable for such designation.

"(d) Upon the designation of areas under subsection (a) of this section, all licenses, permits, or authorizations which have been issued by any officer or employee of the United States under authority of any other provision of law shall be terminated and of no effect to the extent they authorize any activity prohibited by subsection (e) of this section. Thereafter no license, permit, or authority shall be issued by any officer or employee of the United States which would authorize any activity prohibited by subsection (e) of this section.

"(e) Whoever discharges, spills, leaks, pours, emits, empties, dumps, or in any other way introduces, any sewage, sludge, spoil,

landfill, heated effluents or any other waste or substance (solid, liquid, or gas) into or upon any of the waters designated under subsection (a) of this section shall be fined not more than \$10,000 for each offense.

"(f) The Secretary of the department in which the Coast Guard is operating, acting through the Coast Guard, shall enforce this section.

"Sec. 5C. (a) Within one hundred and eighty days after the designation of areas under subsection (a) of section 5B of this Act, the Secretary of the Interior shall establish standards which, after notice, shall be applicable to the discharge of any sewage, sludge, spoil, landfill, heated effluents, or any other waste or substance (solid, liquid, or gas) within any area not designated under subsection (a) of section 5B of this Act. Such standards shall be for the purpose of insuring that no damage to, or loss of, any marine life or wildlife or other resources necessary for the ecological balance of the area or pollution of the navigable waters of the United States will result from any such activity. Such standards shall require, in part, that any person before depositing or discharging such materials into the navigable and coastal waters of the United States must present sufficient evidence that discharging such materials in the location in which they are to be deposited will not endanger the natural environment and ecology of these waters. Such standards shall further include the following:

"(1) No sewage or industrial waste shall be discharged (directly or indirectly) into any area subject to standards issued under subsection (a) of this section after January 1, 1972, unless such sewage or industrial waste has received primary treatment in accordance with standards and regulations established by the Secretary of the Interior.

"(2) No sewage or industrial waste shall be discharged (directly or indirectly) into any area subject to standards issued under subsection (a) of this section after January 1, 1974, unless such sewage or industrial waste has received primary and secondary treatment in accordance with standards and regulations established by the Secretary of the Interior.

"(3) No sewage or industrial waste shall be discharged (directly or indirectly) into any area subject to standards issued under subsection (a) of this section after January 1, 1976, unless such sewage or industrial waste has received primary, secondary, and tertiary treatment in accordance with standards and regulations established by the Secretary of the Interior.

In addition, such person, prior to such discharging, must meet such additional requirements as the Secretary of the Interior may deem necessary for the orderly regulation of such activity. Such standards shall be applicable to all of the departments, agencies, and instrumentalities of the United States Government. Except as otherwise provided in this section, in the case of an area containing any submerged lands within the jurisdiction of the States, such standards shall be applicable to the States and their agencies, including any person having any license, permit, or other authorization from such State or agency for any such activity with respect to any of such submerged lands.

"(b) Every department, agency, and instrumentality of the Federal Government and of the States, and every person applying for a license, permit, or other authorization from the United States or from any State to discharge or otherwise dispose of any material in any area subject to standards issued under subsection (a) of this section shall establish and maintain such records, make such reports, and provide such information as the Secretary of the Interior may reasonably require to assist him in establishing standards under this section and

in determining whether such department, agency, instrumentality, or person has acted or is acting in compliance with this section. Upon request, the Secretary of the Interior shall, at reasonable times, have access to examine and copy such records. All information reported to, or otherwise obtained by, the Secretary of the Interior, or his representative, pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out the provisions of this section. Officers or employees duly designated by the Secretary of the Interior, upon presenting appropriate credentials to the department, agency, instrumentality or person in charge, are authorized to enter at reasonable times, for the purpose of inspecting any plant, establishment or other property of such department, agency, instrumentality, or person to determine whether such department, agency, instrumentality, or person has acted or is acting in compliance with this section.

"(c) The Secretary of the Interior is authorized to issue new standards and to amend existing standards from time to time as he determines necessary. Such new or amended standards, after notice, shall be considered as initial standards issued under subsection (a) of this section for the purpose of their application to the States under this section.

"(d) If a State, within one year of the date that a Federal standard is established under subsection (a) of this section, establishes its own standard with respect to the activity covered by such Federal standard which the Secretary of the Interior determines, after public hearing, is equal to or more stringent than such Federal standard, and if the Secretary of the Interior determines that there are adequate State enforcement procedures for such State standard, then such State standard shall apply to such activity within the State's jurisdiction, and the Federal standard shall not apply. If the Secretary of the Interior determines that such State standard is not as stringent as the Federal standard, then the Federal standard shall apply to such activity in such State.

"(e) Whenever a State's standard is applicable within the jurisdiction of that State it shall continue to be applicable until the Secretary of the Interior, after public hearing, determines either that it is not as stringent as the comparable Federal standard or that there is not adequate State enforcement of such standard. He shall review all of the standards of each State for this purpose at least once during each calendar year.

"(f) Upon the issuance of standards under subsection (a) of this section applicable to any area, all licenses, permits, or authorizations which have been issued by any officer or employee of the United States under authority of any other provision of law with respect to discharges in an area shall be terminated and of no effect to the extent they authorize any activity prohibited by subsection (g) of this section.

"(g) Whoever discharges any waste or substance in violation of the standards established under subsection (a) of this section shall be subject to a civil penalty of not more than \$10,000 for each violation. In the case of a continuing violation, each day of violation shall be considered a separate offense for the purposes of this subsection. The Secretary of the Interior may assess and may mitigate, remit, or compromise any such penalty. In taking any penalty action for violation of a standard, the gravity of the violation, and the demonstrated good faith of

the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the Secretary of the Interior.

"(h) The Secretary of the Interior shall enforce subsection (g) of this section.

"(i) The district courts of the United States shall have jurisdiction to restrain violations of this section and of section 5B of this Act. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpoena upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof."

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

STATEMENT OF SENATOR MAGNUSON

Mr. President, the Senate last week passed a landmark air pollution measure calling for bold steps to combat what has become a crisis of national proportions. With regard to the equally important crisis of water pollution, however, we, as a body, have done little this year of significance. Rarely a day goes by during which we are not reminded in the press of the problems of the nation's waters—of mercury pollution, of waste heat discharges, of untreated sewage, and of pesticide runoff, to name a few. In light of these problems our inactivity in this area is truly inexcusable, and the Administration's criticisms of us in this regard are certainly justified.

On the other hand, the Administration, I would argue, is also largely to blame for these problems. It has failed to enforce one of the most powerful water pollution laws on the books, the old Refuse Act of 1899, and has been reluctant to request the appropriations that would be needed for adequate enforcement. Initially it slept at the switch while mercury pollution devastated many of the nation's water resources. And, while moving aggressively on the mercury pollution problem in the last several months, it has failed to take similar action with regard to pollution by other toxic metals or even to recommend procedures by which such action could be taken.

Thus we are all to blame and we will all continue to be blameworthy until major changes in the situation are forthcoming. In an effort to promote what I hope will be the kind of changes needed, I am today introducing amendments to the Fish and Wildlife Coordination Act, a piece of legislation which moved through the Senate Commerce Committee and the Congress years before water pollution was a widely recognized problem. I am grateful for the substance of this proposal to the distinguished Congressmen from Florida and Michigan respectively, Mr. Rogers and Mr. Dingell, who have introduced similar legislation in the House.

The bill I introduce today also borrows several concepts from the air pollution bill which the able Senator from Maine, Mr. Muskie, guided through the Senate last week. One parallel between them is the recognition that in areas of such vital national importance it is essential that the federal government assume leadership. Just as the Muskie bill would prescribe national air quality standards, designed to serve as floors for supplementary state action, my bill would provide for federally-set effluent standards from

which states could deviate by only setting more stringent standards.

It seems clear to me that we no longer rely upon the states to provide primary leadership in this area. For some time now state standards and enforcement procedures have revealed themselves to be unequal to the task of controlling water pollution problems. At this time all 50 states have on the books permitting procedures which are designed to ensure compliance with applicable water quality standards. Yet we have seen numerous examples of inadequate standards, of industries without permits, of industries which ignore permits, and of permits which ignore standards—all of these deficiencies working to the disadvantage of the citizen who desires merely to fish, to swim, and to drink without fear. In some waters the situation is so grave that it is clear that no substance can any longer be safely discharged. My bill would direct the Department of the Interior to designate such waters and to provide for the imposition of penalties on those who continue to discharge into them.

My bill would parallel the new air pollution bill in another important respect, namely in its requirement that Congress become involved in the standard-setting process. Traditionally pollution legislation has farmed out standard setting to administrative agencies subject to legislative oversight. It seems clear, however, that some decisions which are essentially of a standard-setting nature are so basic to the future of our nation that it is essential that Congress address them directly. It is the conclusion of the Muskie bill that decisions regarding auto emissions are within that category. It is the theory of my bill that decisions governing waste-treatment facilities must also be included.

Thus my bill would require primary treatment for all sewage and industrial waste by January of 1972, secondary treatment by 1974, and tertiary treatment by 1976. While I would argue that Congress is in fact competent to set standards of this sort, I feel much less secure in suggesting that the standards I propose today are the ones that ought to be set. I have been somewhat arbitrary in choosing the dates referred to, but it is my hope that through the committee hearing process we will be able to arrive at better-considered determinations in this sphere.

ADDITIONAL COSPONSORS OF BILLS

S. 3927

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

S. 4404

At the request of the Senator from Colorado (Mr. DOMINICK), on behalf of the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. SMITH) 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.

PROPOSED AMENDMENT OF THE CONSTITUTION RELATIVE TO EQUAL RIGHTS FOR MEN AND WOMEN—AMENDMENT

AMENDMENT NO. 1008

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.

SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENT

AMENDMENT NO. 1009

Mr. THURMOND. Mr. President, I send to the desk a copy of the Mills bill as reported to the House by the Ways and Means Committee, which is designated H.R. 18970, entitled a bill to amend tariff and quota laws of the United States, and for other purposes.

I ask unanimous consent that the bill be printed and referred to the Committee on Finance as an amendment intended to be proposed by me to the Social Security bill, H.R. 17550.

The PRESIDING OFFICER. The amendment will be received and printed, and will be referred to the Committee on Finance.

LEGISLATIVE REORGANIZATION ACT OF 1970—AMENDMENTS

AMENDMENT NO. 1010

Mr. RIBICOFF submitted amendments, 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 were ordered to lie on the table and to be printed.

AMENDMENTS NOS. 1011 THROUGH 1016

Mr. METCALF submitted six amendments, intended to be proposed by him, to House bill 17654, supra, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 1017

Mr. METCALF (for Mr. JORDAN of North Carolina) submitted an amendment, intended to be proposed by Mr. JORDAN of North Carolina, to House bill 17654, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1018

Mr. McCLELLAN submitted amendments, intended to be proposed by him, to House bill 17654, supra, which was ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 1002 TO H.R. 17755

At the request of the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Maine (Mr. MUSKIE), and the Senator from New York (Mr. GOODELL) were

added as cosponsors of Amendment No. 1002 to H.R. 17755, which would strike all funds for SST development from the Department of Transportation appropriations bill for fiscal year 1971.

ADDITIONAL STATEMENTS OF SENATORS

TRIBUTE TO CHAIRMEN, MEMBERS, AND STAFFS OF SENATE AND HOUSE COMMITTEES ON ARMED SERVICES

Mrs. SMITH of Maine. Mr. President, in connection with the passage of the 1971 Defense Procurement Authorization bill, I wish to commend the Chairman of the Senate Armed Services Committee and the Chairman of the House Armed Services Committee. Last year the Chairman of the Senate committee presided as chairman of the conference on the bill and did an excellent job. This year the Chairman of the House committee presided as chairman of the conference and did an excellent job. When these two distinguished legislators from the South work together—the distinguished junior Senator from Mississippi (JOHN C. STENNIS) and the distinguished Representative from Charleston, S.C. (L. MENDEL RIVERS), constructive results are quickly attained.

The conference this year was a harmonious give-and-take compromise operation in which differences between the House and Senate on this legislation were constructively, positively, and amicably resolved, item by item. There are provisions of the final version of the bill with which I do not agree. But, as a Senator conferee, I was representing the will and desire of the Senate rather than my own personal wishes.

This, I think, was the spirit of the conference this year. It was 3 days of hard and intensive work that followed months of work by the Senate committee and the House committee on this legislation.

For the work of the chairman, members, and committee staff of the Senate committee all this year I have nothing but the highest praise. The American people are, indeed, fortunate to have such dedicated and capable public servants in them. I wish to also extend my commendation to the chairman, Members, and staff members of the House committee for their superior service.

It is a great honor and privilege to be associated with all of them.

REDUCTION OF U.S. FORCES IN EUROPE

Mr. PEARSON. Mr. President, President Nixon's trip to Europe serves to remind us of the special bonds which unite the countries of the Atlantic community. This sense of community rests on the commonality of historical experience and cultural achievement, and more recently strengthened by the challenges and adversity in the post World War II period. Indeed, it is during these past 2½ decades that the Atlantic family has become united in an active sense after centuries of factionalism.

The catalytic agent for this renewed sense of unity has been the common threat of imperialistic communism. In response to this threat the community created the North Atlantic Treaty Organization. NATO has served not only as a vehicle of defense but also as a vehicle for increasing cooperation at all levels throughout the Atlantic community.

Without question NATO has been enormously significant and enormously successful. But while recognizing these tremendous accomplishments we should not allow this or the special bonds of friendship with the Western European nations to become barriers to change in our relations with NATO.

Mr. President, all responsible persons within the Atlantic community believe that NATO must be maintained. However, many believe that certain changes are needed. For my own part, I became convinced several years ago that one of the needed changes was a significant reduction in the United States conventional military commitment to NATO. I am all the more convinced today that we should withdraw a substantial number of our forces from Europe.

At the present, we have approximately 310,000 American troops assigned to NATO, 210,000 of this number are stationed in Germany. This is the equivalent of about 5 divisions. In addition to the military personnel, there are approximately 14,000 civilian employees and over 230,000 dependents, for a total of between 550,000 and 560,000 Americans in Europe who are in some way or another connected with our NATO commitment. Although there has been some reduction from the peak level associated with the Berlin crisis in 1962, our troop commitment has remained relatively stable for the past 2 decades.

To better understand why we can and should reduce the number of troops assigned to NATO it is useful to review the functions of NATO's conventional force in general and America's contribution to that force in particular and to discuss how those functions have changed over a period of time.

First, Originally, a strong conventional NATO force was needed as a concrete deterrent to a direct Soviet assault on Western Europe. During the late 1940's and early 1950's there was a very distinct possibility that the Soviets would unleash the vast and powerful Red Army on Western Europe. Today, the possibility of a major Soviet assault remains, but all agree that the probability of such action is slight.

Second, Thus, the principal function of the NATO conventional force today is that it provides a symmetry of power by which piecemeal aggression may be successfully resisted. That is, a conventional NATO force has to be of a size and of a flexibility sufficient to maintain a credible deterrent against possible localized probing actions by the Soviets. Without a credible conventional force NATO would be compelled to rely entirely on the American nuclear power as a deterrent to even small scale actions of aggression by the Soviets. A strong NATO conventional force assures the Atlantic commu-

nity that in an East-West confrontation it will have a choice between holocaust or humiliation.

Third. At the political level, the existence of a strong NATO conventional force is necessary to prevent political aggression by the Soviets. From a militarily strong NATO the countries of Western Europe derive a sense of common security which they can draw upon in resisting attempts at political blackmail. The Soviets may not want to militarily conquer Europe either as a whole or in bits but they would certainly like to make a Finland out of it. A strong conventional force gives the NATO countries the will to resist such political pressure.

Mr. President, I do not question the need for a strong NATO conventional force, but there are those of us who do question the necessity of the United States maintaining the equivalent of a five-division contingent within the NATO structure. What is at question here is not the NATO conventional force as such, but our contribution to it.

At the time of the initial American commitment to NATO the possibility of a direct Soviet assault was very real. Moreover, the economies of Western Europe were weak and unstable. Recently ravished by World War II, Western Europe needed direct and significant military assistance.

Over the years, and in no small part due to our economic aid programs, this situation has changed dramatically. By the end of the 1950's Western Europe had fully recovered and during the 1960's it has moved dramatically ahead to new high points in economic strength and prosperity. With a gross national product of over \$600 billion and producing one quarter of the world's total industrial output, Western Europe is a great economic power.

But as Western Europe has regained its economic strength, it, unfortunately, has not increased its military contribution to NATO. None of the countries of Western Europe spend as high a percentage of their GNP as does the United States. The European members of NATO and Canada spend about 4 percent of their GNP on defense. The United States on the other hand, has defense expenditures representing about 9 percent of our GNP.

Mr. President, every NATO country would like to spend less on defense, but no one can seriously argue anymore that the West European nations are not economically capable of supporting a larger defense establishment if the need exists. Make no mistake about it, the West Europeans can afford to replace American conventional forces with their own if the NATO high command concluded that security needs necessitated such action.

It is appropriate to emphasize here that regardless of the number of U.S. conventional forces we will always maintain a credible nuclear defense of Western Europe because it is clearly in our interest to do so. And it is the American nuclear umbrella over Western Europe which is the principal deterrent to overt Soviet aggression.

Thus, in the final analysis, the value of an American conventional contingent within NATO is more political than military. An American presence is a clearly visible symbol of our identification with the Atlantic community and our commitment to assist in the defense of Western Europe.

However, Mr. President, I severely question the argument that we need to maintain over 300,000 troops in Western Europe to assure West Europeans of the credibility of our commitment to assist in their defense. Now this was not the case during the formative years of NATO. Given the long isolationist history of the United States, Western Europeans could not help but be doubtful of the credibility of our commitment. This large conventional American force in Europe was desirable and necessary, not only because the Soviet military threat was great and the Western European economies were weak, but, also, because our credibility had not yet been fully tested and proved.

But time and deeds have erased this skepticism, or, at least, should have. If the credibility of our pledge to resist the spread of communism in Europe is still not established, there is little hope it ever will be.

Closely linked to the argument that the present commitment is needed to assure the Western Europeans of our credibility to assist in their defense, is the argument, advanced by a number of officials of the present and past administrations, that the present force level somehow acts as a special glue binding NATO together. They argue that a reduction in our forces of anything beyond a token 10,000 or 15,000 troops would start an unraveling process which would ultimately destroy NATO. Many of those who advance this argument also claim that any reduction in the United States troop commitment would prompt the Western Europeans to reduce their own force levels.

Mr. President, I simply reject the notion that the political bonds of NATO are so weak that they will be broken by the withdrawal of a substantial number of American troops. If, indeed, NATO is so fragile then it is, then, inherently too weak and too ineffective to be of any great value, even if our present force level were to be doubled.

As to the argument that a reduction of the American force level would be followed by reductions in the Western European contingent, I would say that if this be the case, then it only serves to demonstrate the need for an American withdrawal. For this would seem to indicate that they have such low regard for NATO and so little concern about any threat from the Soviet Union that the whole NATO concept needs to be reevaluated.

I would mention one other political function of the American contingent. In the early years following the end of World War II there was a great deal of uneasiness and concern about the role of West Germany. This was certainly understandable. Thus, a major and dominant American presence was necessary to

help ease the way for the emergence of the West German Federal Republic as a strong and acceptable partner in the Atlantic community. But today, most of the difficulties and uncertainties associated with West Germany's role in Europe have either been removed or substantially reduced and the maintenance of the American troop commitment at its present level is no longer needed for this purpose.

But, Mr. President, simply challenging the arguments for maintaining the status quo is not enough. It is incumbent upon those who urge a substantial withdrawal of our forces to identify positive, productive reasons why this should be done. I would cite two economic reasons and two political reasons.

First. Our military deployment in Europe results in a balance-of-payments drain of approximately \$1.5 billion a year. The impact of this enormous balance-of-payments deficit is partially reduced by offset agreements that we have with the NATO countries. For example, these agreements have provided for the purchase of American military equipment. However, as the West Europeans have begun to produce more of their own weapons these purchases have declined.

The offset agreement with West Germany is of particular importance because the balance-of-payments deficit attributable to our forces there runs almost \$1 billion a year. Under the current agreement, West Germany is to provide a total offset of \$1.5 billion for fiscal years 1970 and 1971—\$750 million annually. Thus the agreement covers only 75 to 80 percent of the deficit. But even this is deceiving, for \$250 million of this is in the form of purchases of U.S. Treasury certificates. These are, in effect, loans which must be paid back, and with interest. Thus we are, in effect, borrowing to pay current bills. This is essentially, then, a financial sleight-of-hand operation.

Our overall balance-of-payments problem is a serious one. And our military deployment in Europe is a major source of the deficit.

Second. The budget cost of the American NATO contingent is approximately \$14 billion annually. Now returning troops to this country would not result in a net budget savings unless those forces, or their equivalent, were demobilized. I am not prepared to argue that all troops returned from Europe should be demobilized. But certainly it is the case that a significant reduction in our NATO commitment would make it at least possible to reduce the total size of our military forces and it is, of course, in the reduction of personnel that we can achieve the greatest savings in the defense budget.

Third. A reduction in our NATO troop commitment would, it seems to me, be a logical step in implementing the Nixon doctrine of lowering our profile abroad and putting greater emphasis on helping others to help themselves. It is, indeed, ironic that while many of the Western European countries argue that the Americans should reduce their presence in

Asia, they are asking us to maintain a high profile in Western Europe.

Fourth, I would suggest that a reduction of the American force level would serve to strengthen NATO politically rather than weaken it. There is a real danger that the American presence has become too paternalistic. This is good neither for Western Europe nor for the United States. It is absolutely essential that we continue to participate actively in NATO but we should no longer continue to so dominate. A partial withdrawal could well serve to energize the Europeans to solidify their political bonds.

Mr. President, all things considered, I would suggest that a force of somewhere in the neighborhood of one half the present contingent—and ultimately possibly as low as 50,000—is not only adequate, but much more appropriate to the conditions of the 1970's. Given the fact that we will continue to maintain our nuclear umbrella over Europe, which after all, is the ultimate deterrent to Soviet aggression, a conventional force of this size would one, represent a fair and equitable American share of the cost of defending Western Europe against Soviet pressures and two, would be sufficient to insure the credibility of our pledge for a full and unqualified defense of Western Europe. We are no more likely to sacrifice the lives of, say, 50,000 military personnel than we are to sacrifice the lives of 500,000.

Precisely which units should be withdrawn would, of course, be left to negotiation between American defense officials and their NATO counterparts. However, it would appear that the most significant reductions could be achieved with the conventional ground forces now concentrated in the central region. Moreover, if the need exists, ground forces are the most easily replaced by the Western Europeans. In regards to our air and naval contingents assigned to NATO, it may well be that very little, if any, reductions would be desirable or justified.

It also needs to be stressed that all who argue for a troop reduction also recognize that we need to maintain a flexibility in our overall defense posture so that we can beef up our commitment to NATO whenever necessary. For example, given present conditions in the Middle East, it may well be desirable for us to strengthen our commitment to the Mediterranean section of the NATO command.

Indeed, this need for flexibility can be cited as one of the reasons for reducing our commitment in those areas where it is not wholly justified. Thus it is likely, Mr. President, that if the burdens of our commitment in the central region were not so great we would be in a better position today to deal with the circumstances in the Mediterranean region.

Mr. President, most of those who argue against a reduction of United States forces in Europe concede when pressed, that such a withdrawal is inevitable at some future date. However, they argue the time is not yet right. But this becomes a delaying tactic simply without

end. The time never seems to be right. And thus, today, we still maintain virtually the same force level that was established at the close of the Korean War, when the Soviet threat to Western Europe seemed particularly great.

Recently, however, there have been some slightly encouraging signs. The Nixon administration, while defending the status quo, has let it be known that the status of our commitment beyond July first of 1971 is not certain. Particularly because of this, and also because European officials apparently have come to finally recognize the growing congressional concern, the NATO ministers are presently conducting a fresh review of alliance defense needs, with particular emphasis on finding ways in which Western Europe can carry a greater share of the burden. Hopefully, they will come forward with genuinely productive recommendations. There is a likelihood, however, that they will come up with half-way measures which really would not solve the problem, but will have the effect of further encouraging delay in the withdrawal of U.S. forces. We will have a much clearer notion of the intentions of the Western Europeans when the NATO ministers meet this December.

It is also to be noted, that the NATO council has officially offered to enter into negotiations with the Warsaw Pact for a mutual reduction of military forces on both sides of the Iron Curtain. Departing from past behavior, the Warsaw Pact has indirectly indicated an interest in negotiations. There is no solid evidence yet, however, that the Warsaw Pact is really serious about this. But, if the members of the pact do prove to be seriously interested in negotiation, then a further delay of the beginning of an American troop reduction might possibly be justified. However, I want to emphasize here that I do not accept the argument, maintained by some, that the initiation of an American troop withdrawal would destroy the chances of a negotiated mutual reduction. This argument would hold only if all NATO countries proceeded simultaneously to reduce their force levels as American troops were withdrawn. But this seems most unlikely.

Also, given the current status of Sino-Soviet tensions, and the status of the Russian economy, it can be argued that a reduction in American force levels would prompt a similar reduction in Soviet troop concentrations in Eastern Europe.

The argument that there should be no withdrawal until negotiated mutual reductions are achieved has been used and abused for a decade. Given the fact that the United States is a part of, and not the whole of NATO, this argument has never been all that persuasive. And it has worn increasingly thin over the years.

In any case, Mr. President, the continuation of the status quo very much longer is simply not tolerable in my judgment. Changing realities in Europe and changing priorities here at home require that the beginning of a phased withdrawal of a substantial portion of our NATO contingent be initiated at the earliest practical date.

THE TRADE BILL AND QUOTA PROTECTION

Mr. SCOTT. Mr. President, the House Democratic leadership has apparently made a decision to postpone action on the pending trade bill until after the November elections. Unwilling and afraid to stand up for the American workers whose industries have taken a vicious beating, the House decision can only be viewed as one that will cost them dearly in the coming elections. There seems to be a feeling on the other side of the Hill that the pressure for this vital legislation will diminish after November 3. I want to put them on notice, however, that the pressure is on right now for this bill, and they should consider it immediately.

Specifically, the bill would limit the import of shoes and textiles next year to their average annual volume in the 1967-69 period. After 1971, these quotas would increase or decrease in proportion to domestic consumption. However, such quotas would be waived for any country agreeing to voluntary limitations on its exports to the United States.

The bill also makes it easier for other industries facing import competition to obtain quota protection. This would be accomplished by broadening the escape clause, which permits quotas, tariff increases, and other relief measures.

I support these provisions but believe we ought to go further to include other industries that have been hurt by imports. Steel, for example, is literally pouring into this country under a voluntary system which is far from adequate. I am a sponsor of legislation to provide specific quotas for steel, and will seek to add such protection if the Senate considers the bill this session. Specialty steel is experiencing similar difficulty and should receive similar consideration.

Going further, why should we then exclude electronic products, all types of glass, and mushrooms? Have these industries not suffered from the rising levels of imports? And what about metal slide fasteners, mink, and fabric for ties? Has not Pennsylvania's economy been hurt by import problems here? I make these points only to signify that no one industry deserves special treatment here. All have been injured and all are entitled to some relief. The present trade bill offers relief, but does not necessarily provide it. We need a stronger bill. I intend to work for one.

Several Senators have informed me of their intentions to offer the trade bill as an amendment to either the social security or welfare reform measures. Although I would prefer to have full scale hearings held by the Finance Committee, time is short and I will support any move to bring the trade bill directly to the floor of the Senate. At that time, I will work closely with other Senators, who feel as I do, that we have got to put a stop to this exporting of U.S. jobs. I find it difficult to understand how Congress cannot support its own domestic industries when, for example, a foreign legislature directs its negotiators to resist any move by our Government to limit their export to us. It is about time we stood

up for our industries. Immediate House passage of the trade bill would be a good first step. For my part, I will urge the Senate to consider the bill at the earliest possible moment. I urge Senators to support this effort.

LAWRENCEVILLE SUMMER INTERN PROGRAM A SUCCESS

Mr. PROXMIRE. Mr. President, this year, for the second year in a row, I was pleased to have a Lawrenceville summer school intern working for me in a volunteer capacity. For 2 weeks this young man, Mitch Garrett, together with two young ladies who also participated in the program, combined hard work with a series of impressive interviews with prominent Washington figures—learning and doing at the same time.

This is the type of program that is most beneficial to all concerned. It helps Members of Congress who are fortunate enough to have summer interns to get their difficult job done. And it helps the interns themselves by giving them insights into our Federal Government that it would be mighty hard to pick up in any other way.

I was particularly impressed by the caliber of the interviews these Lawrenceville interns had with figures both within and outside Government.

I ask unanimous consent that a list of these sessions be printed in the RECORD.

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

LIST OF SESSIONS

August 8—Reception for members of Congress and Staff.

August 11—Briefing, Department of Defense.

August 12—Lecture, Georgetown University, member, Center for Responsive Law.

August 13—Briefing, Federal Trade Commission.

August 13—Seminar, Franklin Nofziger, Deputy Assistant to the President for Legislative Affairs.

August 18—Seminar, Marvin Zim, reporter, Time, Inc., Washington Bureau; Hugh Sidey, Bureau Chief, Washington Bureau, Time-Life, Inc.

August 19—Seminar, Clark Clifford, former Special Assistant to President Truman, former Secretary of Defense.

August 20—Tour and Briefing, Department of State.

August 20—Critique of Washington Intern Program and Dinner.

COMMUNIST PERFDY APPARENT IN POW SITUATION

Mr. SCHWEIKER. Mr. President, never in modern annals has the perfidy of those who guide the destinies of Communist nations become more apparent than in the treatment given American prisoners of war held in North Vietnam.

The North Vietnamese are signatories of the Geneva accords on prisoners of war. These accords guarantee basic protections for prisoners. Among them are proper shelter, proper feeding, adequate medical care, notification of the governments involved, and a legitimate channel of communications between the prisoners and their families.

The North Vietnamese have never honored these commitments. They have

adopted the peculiar rationale that they, the North Vietnamese, are not really involved in the fighting in South Vietnam and, therefore, have no prisoners of war. This cynical semanticism is duly accepted by many of the other Communist powers in the world as entirely proper.

However, world opinion has been growing solidly in support of the United States and our position that at least minimal care must be afforded these men. The world is not blinded by the Communist reasoning.

We must continue our efforts to bolster world support for these unfortunate Americans and their brave families here at home.

CATHOLIC CLERGYMEN OPPOSE VIETNAM WAR

Mr. McGOVERN. Mr. President, on September 24, I had the honor of meeting with a group of distinguished leaders of the Catholic Church on the occasion of the public announcement of a "Statement of Commitment" signed by more than 3,000 priests in opposition to the war in Vietnam.

This was a particularly moving occasion for me, because it came on the seventh anniversary of my first statement on the floor of the Senate in opposition to our deepening military involvement in Vietnam.

This occasion marked the first time that a major group of Catholic leaders have spoken out on the moral cost of the war.

Mr. President, I ask unanimous consent that the following items in connection with today's announcement be printed at this point in the RECORD:

First. A letter to clergymen—the invitation to Catholic priests to sign the statement of commitment.

Second. The statement of commitment together with some responses to the appeal and four articles on the morality of the war by Catholic leaders.

Third. Statement by Senator McGOVERN on September 24, 1970.

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

A LETTER TO CLERGYMEN

We are sending the enclosed statement of commitment to every Catholic clergyman in the United States. We feel that the time is now to express our position on one of the chief moral problems of the country, our involvement in the Vietnam war.

In addition to objecting to the indiscriminate killing of civilians, we deplore the devastation and death that have been inflicted on the people of Vietnam, it bears no proportion to the benefits we hope to insure as a result of the war. We fear, moreover, that the damage we are bringing about abroad is paralleled by the disunity and destructive tensions that have developed at home as a result of our involvement.

We appeal to you, our brothers in Christ, to read the enclosed statement of commitment and if you agree with it, to sign it and use the enclosed envelope before July 15. "Divine Providence urgently demands of us that we shake off the age-old slavery of war." (Constitution on the Church in the Modern World)

In July we will call a press conference announcing the number of Catholic clergymen who have signed the commitment. If

you desire the names of the clergy in your state, for a local press conference, notify us in your return.

In order to defray the expense of \$8,000.00 or more for this opportunity to express our belief we ask you to send us a donation if at all possible, \$5.00 or more ought to cover the cost.

Rev. William F. Nerin, Coordinator; Rev. Frank J. Bonnke, Rev. Henry Browne, Rev. Charles Curran, S.T.D., Msgr. Charles O. Rice, Rev. Robert F. Drinan S.J., and Rev. Eugene J. Boyle, Chairman of Comm. on Social Justice, Archdiocese of San Francisco.

Rev. John Sheerin C.S.P., Chairman; Msgr. John J. Egan, Rev. Richard P. McBrien S.T.D., Rev. Patrick J. O'Malley, Rev. Shawn Sheehan, Rev. Gerard S. Sloyan S.J., and Rev. Patrick McDermott P.J., Asst. Director of Division of World Justice and Peace.

THE STATEMENT OF COMMITMENT

Signed by more than 2,800 Catholic clergymen—"We hold that the American participation in the war in Vietnam is wrong, unjustified, and unjustifiable. Fidelity to conscience and love of country demand that we, as leaders in the Catholic community, publicly deplore the American policy in Vietnam. As moral leaders we will continue to teach this in our communities."

A CATHOLIC BISHOP SPEAKS ABOUT THE WAR IN INDOCHINA

On June 25, 1970, Victor J. Reed, Bishop of the Diocese of Oklahoma City and Tulsa, addressed a letter to the people of God in his diocese:

"I write to you because of inaccurate reporting of the facts by our newspapers. . . . Briefly, I have come to believe for several years that our involvement in the Indochina War is a great mistake. When we became involved, I was satisfied to accept as better judgement the decision of our government, but not now. I do not ignore the fact that our original commitment there was humanitarian and judged to be preventive of greater evil. Neither do I fail to recognize that atheistic communism is our enemy."

"I am not a pacifist, principally because I never considered myself that perfect. I believe that resort to war can be just under certain recognized ethical conditions. So far as I know, I have never been accused of cowardice. I love my country and would give my life in its defense. . . ."

"Contrary to the idea that disagreement with our involvement in Indochina is unpatriotic and a let-down to our boys there, I believe that augmented public disagreement will aid our President and his government in their declared effort to bring our men home."

"True Christianity must always struggle for a world of increased justice and peace for all peoples. . . ."

The bishop spoke briefly about larger issues, the causes of war and the dangerous mentality which tempts men to choose war over other means for settling differences:

"Because of the world danger of unlimited atomic conflict, the kind of limited war the major powers are forced to fight today is bound to last a long time—as long, in fact, as men and 'permitted' weapons last, because to attack the real sources of power is either practically impossible or 'out of bounds'. I believe that, unless we can change the traditional and generally held idea that a government can obtain its desires through armed conflict, instead of through diplomacy, economic and social assistance to have-not peoples, there can be no peace in the world. The knowledge of what richer peoples possess and enjoy, made real today by modern communication and transportation, makes this quite understandable."

"To obtain a greater measure of world justice and peace, our beloved country and other well-off nations must be willing to spend generously in order to help the poverty-stricken peoples to help themselves. Up to this time, we and our world peers have been willing to spend big on war only. Such is the tragic state of common world opinion."

In the letter, the bishop communicated to his people that he, as an individual citizen, had joined 48 priests of his diocese to sign a protest regarding the involvement of the United States in the Indochina War. Using his own personal funds and not those of the diocese, he helped underwrite a mass mailing to priests throughout the country so that other priests could express opposition to the war in a tangible way.

CLERGYMEN RESPOND TO THE APPEAL

A letter bearing the names of 14 prominent Catholic priests went out to clergymen throughout the nation asking them to sign a Statement of Commitment and to return this signed Statement to the coordinators. The Statement was unqualified and unambiguous.

The statement of commitment

We hold that the American participation in the war in Vietnam is wrong, unjustified, and unjustifiable. Fidelity to conscience and love of country demand that we, as leaders in the Catholic community, publicly deplore the American policy in Vietnam. As moral leaders we will continue to teach this in our communities.

(Signed)

Many responded positively to the appeal, and expressed their opposition to the war. Not all signed the Statement because they felt that they were not well enough informed about the war to make a univocal judgment. Or, they felt that the Statement itself should have contained reasons why the signatories oppose the war.

What is significant in this action is the fact that a substantial number of Catholic priests, over 2800, including 2 bishops, signed this Statement without qualification. Among the signers were: Bishop Victor J. Reed, of Oklahoma City, Oklahoma; Bishop Charles Buswell, of Pueblo, Colorado; Msgr. John Tracy Ellis, church historian at the University of San Francisco; Fr. Robert Drinan, S.J., dean of the law school at Boston College; Fr. Charles Curran, professor of moral theology at Catholic University of America; Fr. Henry Browne of New York City; Fr. Frank Bonkile, president of the National Federation of Priests' Councils; Fr. Patrick McDermott, S.J., assistant director of the Division of World Justice and Peace of the United States Catholic Conference; Fr. John A. O'Brien of Notre Dame University; Fr. John McKenzie, scripture authority, Chicago Illinois; Fr. Thomas Stransky, head of the Paulist Fathers; Fr. Richard McSorley, S.J., professor of theology at Georgetown University.

Fr. John Reedy, C.S.C., summed up the thoughts of many in a July 12 editorial in *A.D. 1970*, a national Catholic weekly:

"All the Roman Catholic priests of the country are being asked to express a moral judgment on the continuation of our military activity in Vietnam. While the opinions being sought are personal, they will be presented publicly as a cumulative judgment of men who have been given specialized training in the formulation of ethical judgments."

"On most of the early protest statements, I was very hesitant to offer my signature—partially because I was suspicious of facile judgments, partially because I doubted that many people would care whether I signed or not."

"However, I shall offer my signature to this statement . . . and because much of my pastoral activity has expressed itself in the

work of religious journalism, I'll use this column to express my judgment.

"At this time, because I can't see that there is any reasonable doubt about the moral question, I must identify myself with the group of priests who state:

"We hold that the American participation in the war in Vietnam is wrong, unjustified, and unjustifiable. Fidelity to conscience and love of country demand that we, as leaders in the Catholic community, publicly deplore the American policy in Vietnam. As moral leaders we will continue to teach this in our communities."

"I don't accept or endorse much of the protest rhetoric which insists on judging the consciences of the leaders. Nor am I interested in attributing malicious motives to our national effort of recent years.

"But whatever were our motives in the past, whatever considerations influenced the consciences of our leaders, the basic moral issue today seems unmistakable. Any kind of a continuation of this war has become morally indefensible. It simply offers no promise of producing a value proportionate to the continuing devastation of life, land, moral sensitivity.

"At this writing, I have no estimate whatever of the number of Roman Catholic priests who will sign that declaration of conscience. A few years ago, it would have been a small proportion of the 40,000 total. Today, I just don't know.

"I do know that I have to be among them."

WHY THE WAR IS WRONG

(By Fr. Richard McSorley, S.J.)

INTRODUCTION

Christians belong to a Church that for its first three centuries followed a pacifist tradition. Many early Christians believed that their baptism forbade them from killing in wars. Many suffered death at the hands of the Roman Empire for this reason.

The Christian tradition of limited acceptance of war began with Augustine, who first formulated the "just war" theory in the fourth century. The theory tries to reconcile Jesus' doctrine of love with the abomination of war by placing rigid, limiting conditions on warfare. The divine commandment "Thou shalt not kill," the example of Jesus' life and death, his teaching that the way to peace and salvation is the way of suffering accepted—not suffering inflicted—all of the components of the Christian message seemed to oppose war.

Augustine argued that war, waged under certain rigid conditions, would not be a violation of the Gospel teachings, but rather be an exception to them.

Briefly, the Augustinian argumentation is that war is permissible only when the certain conditions are all fulfilled, namely:

- (1) War must be declared only as a last resort, after all peaceful efforts have failed;
- (2) The purpose or intention must be just, e.g., a nation defending itself;
- (3) Immunity of non-combatants must be maintained, i.e., no direct killing of the innocent;

(4) The principle of proportionality must be applied, i.e., the good hoped for should be proportionately greater than the evil allowed.

From a moral point of view these conditions form a unity; all of the conditions must be fulfilled during the entire war. Any substantial defect in any one of them means the war is not an "exception" to the Gospel but a violation of the Gospel's essential message of peace.

LAST RESORT

During the years 1947-54, the United States aided France's efforts, economically and militarily, to re-establish its colonial power in Vietnam. After the Geneva conference (1954),

the United States government did not call upon the Geneva guarantor-power to assume its proper role in resolving the difficulty that arose with regard to the agreements. In fact, U.S. policy constituted a repudiation of that agreement. We did not sign the agreement or recognize the international authority it established. Nor did we refer to the United Nations an issue which so obviously threatened the peace of the world. In failing to do this, we violated our obligations under the United Nations Charter, Chapter 6, Art. 33 and 37, which require every other peaceful means of settlement and a submission of disputes to the Security Council before recourse to military action.

On January 31, 1966, long after we had become militarily involved, President Johnson announced that the United States would place the Vietnam war before the Security Council of the United Nations. Ten days later, Ambassador Goldberg said that the United States had no intention of pressing for action on its own Security Council resolution.

Our long delay in bringing the matter to the Security Council put us in flagrant violation of the United Nations Charter and makes it very clear that we did not enter this undeclared war as a last resort.

OUR PURPOSE

In 1965, President Johnson said, "We are there first because a friendly nation asked us for help against communist aggression." At other times, our public officials have said we were in Vietnam to honor our treaty commitments, to check Chinese communist expansion, to provide for our own security, to protect our own troops and, finally, to preserve our honor in the face of defeat. The United States has never lost a major military engagement, and, we are told, she must not do so in the present conflict. The history of our actions, however, casts doubt on our real intentions.

From 1947-54, we were aiding French efforts to re-colonialize Vietnam. We were not trying to help a small nation gain its independence. What legal basis did we have for dispatching over a half-million troops to Vietnam? The circumstances are dubious at best. In October 1969, Senator Fulbright noted while reading a report on the war submitted by General Westmoreland that there was no documentation to show that we had been invited into Vietnam by a friendly government. Since many of our political leaders claimed that we were there by invitation, Senator Fulbright asked the State Department for more information. The reply indicated that no such document ever existed. Talks had gone on between the governments and this was assumed to be equivalent to an invitation.

Even if we had been formally invited to war by Premier Diem, it might well be asked if this was not a self-invitation since we had helped Diem obtain his position. It might also be asked how many of the Vietnamese people Diem represented. What seems to be nearer to the truth is that we barged into a civil war where Vietnamese were fighting Vietnamese. In our efforts to halt Chinese expansionism, we have contributed to the destruction of Vietnam itself. Do we have to destroy a land and its people in order to save it? Our express purposes for being in Vietnam conflict with the history of our actions. This is why many Americans are confused about why we are in Vietnam.

NONCOMBATANT IMMUNITY

Are we allowing the deliberate killing of the innocent? Vietnam is a guerrilla war. It is the nature of such a war that the guerrilla moves among the people as a fish in the water. As we try to destroy the guerrillas, we have targeted our firepower on the peasantry of Vietnam, using massive quantities of napalm and anti-personnel bombs. We

have bulldozed entire villages, uprooted whole sections of the people, sprayed entire areas with defoliant poisons. We have created more terror among the people of Vietnam, south and north, than the selective terror which we allege is inflicted by the Vietcong. Three million Vietnamese, one out of every eight, is a refugee in his own land.

It has been seductively easy to escalate our firepower till we have dropped more tonnage on Vietnam than we dropped on the entire European theatre during World War II. It is not at all clear that these weapons have been aimed with precision and care only at enemy soldiers. Reports from Vietnam would indicate otherwise.

A study by the Senate Committee on Refugees estimated that civilian casualties alone run about 125,000 per year, and that the bulk of the casualties are due to United States firepower. Can this number of civilian casualties be reconciled with our obligation to protect the lives of the innocent?

PROPORTIONALITY

When a nation begins to inflict punishment on another nation, if that punishment is out of proportion to the good that might be hoped for, the nation inflicting the punishment becomes guilty of immorality on the principle that its action is doing more harm than good.

This argument means that a proportion is to be kept between the good desired and the evil allowed; good and evil must be weighed. With the application of this principle to Vietnam, we find this result: 50,000 American soldiers dead, twice that number hospitalized, thousands of others imprisoned or exiled because they could not in conscience support this war; 93,000 South Vietnamese dead, twice that number hospitalized; over a half-million North Vietnamese and members of the Liberation Front dead. Civilian casualties are over 125,000 per year. Three million Vietnamese are refugees. Two million acres in Vietnam have been defoliated, one fourth of all the usable land. We have spent over \$120 billion on the war while at home we have seen the poor become more frustrated, more angry at the hopelessness of their conditions. We have seen the nation divided, black against white and old against young. Abroad we see our old friends turn from us. We wage war almost alone; only a few client states are forced by their dependence to support us.

What is the good we hope for from this war? Officially we hope for a negotiated settlement with the participation of a government that is not able to win the allegiance of its people, and is successor to many military dictatorships. If we agree to the negotiations, we will agree to what we refused to do in 1954 and could have accepted on many occasions since then.

Clearly, when one weighs the good we hope for against the evil we have allowed, there is no proportion.

CONCLUSION

When the principles of the just war are applied to Vietnam, we find that the Vietnam war does not fulfill the conditions. If it failed to fulfill even one of these conditions, we would, according to this theory, have to judge it immoral. We believe that the Vietnam war essentially violates at least three of these conditions, perhaps all of them. This is why we hold that it is "wrong, unjustified, and unjustifiable."

THE WAR IN VIETNAM IS IMMORAL

(By the Editors of U.S. Catholic)

The war in Vietnam mocks Christmas this year as no war perhaps has ever before. Our celebration of the birth of the Prince of Peace cannot shut out the sounds of the bitter, dirty struggle that is tearing our country apart. So acidulous, in fact, has this controversy among Americans become that

to take a stand, to judge, is willy nilly to take sides. But so ugly, in fact, has the Vietnam crisis become that to avoid judgment for fear of taking sides is to shrink from responsibility.

The war, in its totality is surely a can of worms and to make a political judgment, for example, without impinging on military judgment is difficult, perhaps impossible. In the same way, it is hard to isolate the social, economic and moral aspects of Vietnam. But responsible citizens must run the risk of criticism for a partisanship they do not intend or else stand accused of silence in the face of serious wrong.

The Vietnam question is at heart a moral question. The Detroit priest who spoke from his pulpit in opposition to the war was accused by some of "speaking politics," and not knowing the full text of his remarks, he may indeed have been "speaking politics." But at least some of his arguments against the war were moral arguments and moral arguments are the prerogative of moral man. Each of us must speak out against what he believes is wrong.

It is our contention that the war in Vietnam is wrong, is unjust, is immoral. We in no way impugn the sincerity or good will of those who believe that the war is just and moral, even righteous. But for reasons we will try to set out here, we believe that the present course of the United States in Vietnam cannot be justified.

We believe in the first place that some of the means we are using in Vietnam are hard or impossible to justify. Among these are the use of napalm, an inflammable jelly that cruelly injures and permanently scars the unfortunate people it falls on and is a substance that cannot be used with precision but only indiscriminately, afflicting both combatants and non-combatants alike in a no-front war; defoliation, the stripping away of all growth that could possibly shelter enemy troops, a tactic that must necessarily take innocent lives and destroy homes of non-combatants; the arbitrary uprooting of people and relocation of them for a number of reasons but all in violation of their bodily integrity and without any real regard for the effect that such relocation has upon the families concerned.

The morality of aerial bombing is a more complex and subtle question. Some theologians were willing to defend the World War II bombing of civilian populations in Dresden and Hiroshima but at least as many find such bombing immoral. Some who find such bombing not necessarily immoral in itself are willing to condemn such bombing today arguing that a great-power exchange of such bombing raids would inevitably escalate to a nuclear holocaust and the probable destruction of civilization.

There is no great-power exchange of bombing raids in Vietnam, of course. The North Vietnamese are supplied by Soviet Russia and China but there is, fortunately for us, not yet a reciprocity of Russian bombers in response to ours. It is true, too, that our bombing, in the north at least, is theoretically precision bombing seeking only targets of military value. But Vietnam is a small country and military targets are not always easy to separate from non-military even if precision bombing were 100% accurate, something no air force could achieve.

Beyond these unjust or questionable means are three terrible consequences of the war that might alone make it unjustifiable.

The first of these consequences is the brutalizing effect of the war on the combatants directly and indirectly on those at home. Both world wars and Korea were hard, brutal wars with heavy loss of life. But fortunately for the combatants in these wars, much of the fighting was remote and impersonal. In Vietnam, "hand-to-hand" combat and person-to-person killing is the rule rather than

the exception. The ever-present danger seems to justify almost any counter measure and the practice of "shooting into the undergrowth until the leaves stop moving" seems only common sense. Further, the inability to distinguish combatant from non-combatant Vietnamese leads most inevitably to inhuman torture to separate the men from the boys.

At home, we slip from one rationalization into another. If precision bombing doesn't seem to be bringing Hanoi to its knees, let's bomb them back into the Stone Age. If Vietnamese civilians fail to heed our warnings to flee their homes and move into the concentration camps we have thoughtfully provided, it's not our fault if some of them get killed when our B-52's, out of sight in the sky, begin their saturation bombing to clear an area.

A second consequence of our Vietnamese involvement is the growing polarization of the American people, a separation symbolized by the hawk and the dove. Increasingly, Americans are leaving the neutral middle ground and opting for one of the opposing positions. And as this polarization grows, bitterness and hostility between the groups grows, too. Leaders who had been able to cooperate find themselves unable even to associate with one another and the community suffers.

Perhaps the most tragic of the war's consequences is the deadly drain of our national resources, not only our material resources, the billions of dollars, a separation needed to feed the hungry, clothe the naked and shelter those in need of shelter, but our mental resources as well. Beginning with President Johnson and extending through governmental leaders to the universities and into industry, the physical and social sciences and communications, the preoccupation with Vietnam is sapping our national strength in the face of problems that may be greater than any our civilization has faced.

If the consequences of our Vietnamese involvement are terrible and many of the means we employ there unjust, toward what ends is our part of the war directed?

Here, for the first time, we mention the enormous and most important cost of the war, the loss of lives, the men who will go through life handicapped and the grief and awful strain that their families must undergo. We do not argue that this cost cannot possibly be justified. While we sympathize with the pacifist argument, we do not espouse it here. But only a clear and evident good can justify the terrible cost of such a war.

It is difficult to pinpoint the arguments in favor of our participation in Vietnam. Hardly a month passes without President Johnson or Secretary Rusk presenting a new argument in its favor. For awhile we were told that we must press forward the Vietnamese war because we must honor "a promise" made to the Vietnamese people. This argument is feeble in the first place because no one knows who speaks for the Vietnamese people. The promise, if it can be called that, was made to the Diem government and our government subsequently agreed, tacitly or otherwise, to the overthrow of the Diem government because we felt that Diem had no real support among the people of his unfortunate country. A number of governments have since succeeded that of Diem and despite the recent elections, it is impossible to say if the present Thieu-Ky regime represents the aspirations of the Vietnamese.

Beyond the question of representative government is the fact that many commentators believe that the Vietnamese are terribly sick of the war and would if they had a free choice elect to end it.

To this we add that no "promise" is indiscriminately binding. A man may not jeopardize the welfare of his family, for example, to honor a promise made to his father to quit

his job in order to operate the latter's failing business.

It is also argued that the United States would "lose face" if it failed to persevere in Vietnam. This argument is really a romantic hangover from the days when wars were thought to be thrilling and glamorous. Soviet Russia under Stalin backed off in Iran, and under Khrushchev withdrew under fire from Cuba, and there is surely no indication that Russia has lost anything by this behavior.

It is obvious, to the contrary, that American prestige throughout the world has all but drained away because of Vietnam and that the United States has long since surpassed Russia as the most hated country.

More recently Secretary Rusk has warned in inflammatory prose that would have warmed the heart of the late William Randolph Hearst of the billion Chinese who will, he said, confront us if we do not "win" in Vietnam. Secretary Rusk has denied that his remarks implied a renewal of the discredited "yellow peril" school of diplomacy but without that threat this argument cuts no ice at all.

While we spend our resources in lives, material and billions of dollars, Red China is untouched. For a relatively tiny cost, the Chinese Communists can watch with delight as the United States beats its head against the Vietnamese wall.

The argument most often heard in defense of the war is that it is intended to penalize aggression. This argument is sometimes presented jingoistically as when President Johnson told American troops that they must "bring the coonskin back and nail it to the wall." Mercifully it is also presented responsibly, contending that we must make the Communists realize that aggression does not pay or they will overrun all of Asia. Aside from the fact mentioned previously that cost, as between the United States and China, is almost all on our side, this argument is terribly vulnerable.

For example, do those who argue this way maintain that the United States must wage a major war every time China chooses to support up insurgent groups in nations such as Korea, Burma, Thailand or Malaysia? Do they really believe that even as rich and powerful a nation as the United States could continue to engage in multiple "Vietnam's" while China sits back and says "Let's you and him fight?"

On the other hand, by what right does any nation say as we are presently (domestically at least) "I would rather fight my enemies in your back yard than in mine"? A mindless imperialism that is willing to lay waste to another country to safeguard its own can hardly be justified.

The attempt by Secretary Rusk and others to equate the aggression of Ho Chi Minh (or of Mao Tse-tung for that matter) with the aggression of Hitler is another jingoism, one that would be laughable were it not so serious. At the time of Munich the Axis powers were militarily superior to the whole free world, were in imminent danger of overrunning the democracies of Europe and a clear and present threat to the national integrity of the United States. No realistic person can believe that the United States or the free world is today so endangered. And as a matter of fact, the Vietnamese war is the principal obstacle to the thawing of relations between the United States and Russia. The latter, a bitter, natural enemy of the Red Chinese, has moved increasingly toward the West in recent years and only a stubborn, doctrinaire insistence on fighting the Vietnamese war precludes relations, based on mutual self-interest, that might bring world peace closer than it has been in centuries.

The overarching fallibility of the "we must penalize aggression" argument is its dependence on the naive belief that wars today can be "won," that ultimately they settle anything. Pope Paul was assailed as naive when

he pleaded at the UN for "no more war, never again" but he was in fact the wisest of men in saying this. For modern wars settle nothing. To the contrary, they sow the seeds of future wars.

Secretary Rusk has argued that we must persevere in Vietnam or be prepared to fight other wars in Asia. But as Walter Lippmann has pointed out we have in fact fought three wars in Asia in this generation! World War II in which we completely destroyed the power of the Japanese Empire only made possible the rise of Red China and necessitated the Korean War. Our terrible sacrifices in Korea did nothing to prevent the present holocaust but rather contributed to it.

Even if we obliged General Lemay and "bombed North Vietnam back into the Stone Age," Red China would be untouched. And even if we obliged the madmen who would have us destroy Red China with nuclear weapons, it is utter folly to believe that the remainder of the world would see things as we do and that aggression would no longer threaten us. The more terrible the war we sow, the more bitter the harvest we will reap.

We reject as utterly specious the argument that it is unpatriotic to oppose the war policy of our government. We surely do not accept the moral irresponsibility of "my country, right or wrong" and while we do not for a minute equate the policies of our government with those of Nazi Germany, we do find a similar responsibility among the people of Hitler's Germany and among the American people today. Just as it was then the responsibility of the Germans to speak out against the immoral policies of the Nazis, it is, we believe, the responsibility of Americans who see the Vietnam war as immoral to speak out.

We reject as beneath contempt the argument that to oppose the war is to betray the Americans who are fighting there. Far from betraying them, we want to defend them, to save them from fighting a barbarous, fruitless war that is morally wrong.

What is the alternative to the war, then, for the United States?

A number of alternatives seem to us to be practical but judging these requires political, diplomatic and military experience that we do not claim. A number of these may be worth pursuing: a recalling of the Geneva Conference, total commitment of the problem to the UN, direct, open-minded negotiation with Russia, the principal supplier to North Vietnam but a nation almost as anxious to end the war as is the United States.

But it is not for us to debate these proposals here. We know that the American people believe overwhelmingly that they are not being told the whole truth about Vietnam, and for that reason there is widespread belief that none of the alternatives are really being tried. More than this, many believe that our government, for reasons of its own, continues to insist on preconditions that prevent a solution to the war.

We believe that the war in Vietnam must be ended before it does irreparable harm to our nation. We believe that it is immoral and that the American people, imploring the grace and mercy of Almighty God, must insist that it be concluded without delay.

Vietnam and the Just War

(By Gordon C. Zahn)

Let me begin by confessing that my personal opposition to the American military operations in North and South Vietnam derives from a broader commitment to religious pacifism. I regard the acts being performed by our government and its forces as a direct violation of the letter and the spirit of the Christian revelation. To the extent that they are conducted "in my name," so to speak, without affording me or the others who share my convictions some effective and still legal way to dissociate myself from this immorality, my rights as a citizen to live according to

my religious beliefs are also being violated. And if some have already been forced into illegal protest, this should neither surprise nor offend those who have witnessed these protests. Instead, the offenders deserve honor and respect for keeping alive the American traditions of dissent and even disobedience to unjust or immoral acts on the part of men holding political power and authority. However much one may disapprove of the specific means chosen, whether it be burning their draft cards or burning themselves, this must not be permitted to prejudice or obscure the point the protesters are trying to make.

But I do not propose here to praise those who have raised their voices in opposition to the American policies in Vietnam. Instead, this essay seeks to pose the question of why others (certain "others" in the particular) have not joined in this opposition. It is, of course, predictable that religious pacifists would take a stand against the war, just as it is predictable that their opposite numbers, the dedicated anti-Communist crusaders, would be open and fervent in its support. What is less predictable (except, perhaps, to a few cynics like myself) is the course of action followed thus far by the "moral realists" in between, the men who hold, on the one hand, that war cannot be excluded from the range of Christian options but who also insist, on the other, that only the so-called "just defensive war" can be reconciled with Christian values and behavior.

Many of us have waited, but in vain, for those most respected theologians and their supporting journalists to apply their talents to the crucial question of whether or not the present conflict does actually meet the test of the well-known conditions of the just war set forth in the standard moral guidance handbooks. One would think that the war in Vietnam offers a handy opportunity to demonstrate the continued validity of these teachings. After all, if (as some of these writers have come to the length to declare) it is possible to justify even some types of nuclear war, a relatively limited conventional war should not be too serious a challenge for them.

Indeed, the current hostilities do more than offer an opportunity to test the applicability of the old traditions to war as we know it today; in a very real sense they present an obligation for those who have insisted that these teachings are still relevant to nations and wars in a modern world to do so. Readers of this journal may already be aware that I have argued elsewhere and often that these conditions are no longer relevant and that Christians must finally reject the whole structure of the "just war" morality as a potential source of serious moral scandal. Now, some prominent Catholic spokesmen at the Vatican Council—including Cardinal Alfrink, Patriarch Maximos, and even so conservative a moralist as Cardinal Ottaviani—seem to be taking a somewhat similar position. This is a worthy and other reason for the more traditional thinkers to realize that the time has now arrived, as the crude phrase has it, to "put up or shut up."

I have observed, of course, in recent conferences I have attended, that many of these moralists have taken an openly pro-Administration stand. This, I suppose, might be taken by some as the answer I am demanding here. Yet one must not be too quick to accept this as *prima facie* evidence that the test has been made and that all the conditions of the just war have been fulfilled. It is at least equally possible that the long and consistent pattern of history is being repeated, for it has always been the case that those who are most devoted to the development and dissemination of just war theories in the abstract have usually been lamentably reticent about applying their fine theories to actual wars in progress. German theologians of all Christian persuasions would probably agree today that Adolf Hitler's wars

of aggression were certainly not the "just wars" set forth in Scholastic theology. Unfortunately, none of them seem to have bothered to turn to their elaborately formulated rules and principles at the time when one national boundary after another was being crossed by invading Nazi armies.

The point I am making here was given its sharpest illustration in a little pamphlet prepared by one of those same German theologians in 1940 and intended for the instruction of the ordinary Catholic called to service in those armies. His answer to their question, "What is there to do?" was simple and direct:

"Now there is no point in raising the question of the just war and introducing all sorts of 'ifs,' 'ands,' or 'buts.' A scientific judgment concerning the causes and origins of the war is absolutely impossible today because the prerequisites for such a judgment are not available to us. This must wait until a later time when the documents of both sides are available. Now the individual has but one course open to him: to do his best with faith in the cause of his Volk."

That is why, when I see American theologians, Catholic and Protestant, loyally supporting the nation's cause in Vietnam, I am not satisfied with what appears to be the obvious conclusion to be drawn. I strongly suspect that they, too, have decided that now is simply not "the time" to raise the question of whether this war is just or not; they, too, are merely going ahead with faith in the good character and intentions of our national leaders. Later, perhaps, when it is all over, we may get a few scholarly articles or books on the subject. But only perhaps. Twenty-five years have passed without the German theologians producing the answers those young Catholics of the Nazi era were promised.

I must proceed with some caution here. I am told that writings of mine were criticized at a recent conference in America by a distinguished scholar who declared that I will not be "satisfied" until I convince people that America is just as bad as Hitler's Germany. Strictly speaking, of course, this is sheer nonsense, but there are some in which his charge does contain more than a kernel of truth. No one could hold seriously that even the atrocities of, let us say, Hiroshima or Nagasaki matched in scope or intent the atrocities committed by the Hitler regime—just as one could not say that a man guilty of a single murder in a moment of weakness or despair is "as bad" as another who can boast of a long series of killings for the sheer pleasure of killing. Once this has been granted, however, one must also insist that each separate act of calculated murder is in itself equally bad, that the essential evil is not changed substantially by considerations of the number of victims or gradations of malicious intent. Thus it can be held that every nation which involves itself in an unjust war is "as bad" as every other nation so involved, regardless of how much we may choose to distinguish between differing degrees of injustice once the awful threshold has been crossed.

The point of all this is that I believe that threshold has been crossed in Vietnam because the American war effort violates or ignores at least four of the conditions of the just war. To say this does not mean, of course, that I consider the war "just" for the other side. But since we should be concerned first with our own moral stance, I will limit myself to the American operations. The war is unjust, I submit, because it has not been declared or initiated by legitimate authority. It was not undertaken as a last resort after all other avenues to a just solution had been tried without success. It has employed weapons and strategies which have not discriminated between combatant and non-combatant (and which have exceeded all proper limits even as far as the actual

combatants are concerned). Finally, it has violated the principle of proportionality which requires that the evil committed be no greater than the good achieved. The failure to meet even one of the conditions of a just war is enough to render a given war unjust; the failure to meet four of them ought not to be passed over in silence, patriotic, prudential, or otherwise.

The first objection is not based, as one might at first assume, on the doubtful legitimacy of the succession of South Vietnamese governments created and sustained by American power, though this could be viewed as a separate objection deserving serious consideration. The real violation lies rather in the fact that there has been no formal declaration of war (something taken for granted under Scholastic tradition) coupled with the fact that the Executive, by waging such an undeclared war, is acting in open contravention of established constitutional processes. To revert to the guilt/punishment framework traditionally employed to establish the validity of "just war" conceptualization, this means that the "execution" of the adversaries in Vietnam has been undertaken by Mr. Johnson and his Administration without "sentence" being passed (the declaration of war) in conformity with "due process" (the formal approval of Congress required by the Constitution).

Let no one impatiently protest that this is an exercise in sterile legalism; after all, this is really what the whole "just war theology" involves. It was introduced into Christianity as a laboriously constructed device intended to free the believer from the strictures of an earlier, more pacifist tradition which relied mainly upon a literal interpretation of the Fifth Commandment and forbade the bearing of arms and the killing of one's fellow man. As such it necessarily took shape as a carefully and rigidly defined "exception" and, though later generations have elaborated the definitions, it remains just that: a legalistic formula covering an "exception" to the general proscription against killing. It should follow that whenever these rules are violated by a given war—or once the nature of war itself has developed so that the rules can no longer apply—the "exception" no longer holds and Christians must again revert to the Commandment and its general proscription. To hold otherwise, to suggest that when the rules no longer fit they can be modified or rewritten to serve the new conditions, would be to introduce a degree of relativism into morality which would make a mockery of Christ's teachings and example. Sadly enough, there are some who seem ready to do just that, who would propose a kind of "situation ethics" which could serve as an elastic ruler that can be stretched to "justify" any and all wars a nation might choose to wage.

The second objection, however, is more concerned with the substance than with the form of our national involvement. The principle has always been recognized that war, to be regarded as just, must be a last resort and every alternative approach to a just solution must have been tried and must have failed before military action can begin. No one could seriously argue that this condition has been met with respect to the war in Vietnam. Our government did not call upon the Geneva guarantor powers to assume their proper role in resolving the difficulties that had arisen with respect to the Geneva Agreements of 1954; in fact, our entire policy constituted a repudiation of that agreement (to which we refused our assent from the very beginning) and the international authority it established. Nor did we refer to the United Nations an issue which so obviously threatened the peace of the entire world; here, too, we made it quite clear that U.N. interference would not be welcomed or tolerated. True, once we found ourselves bogged down in a losing battle, some gestures were

made to the U.N. as a possible intermediary, but this cannot mask the fact that these and other alternatives were not considered at the outset. To make matters worse, we have now learned that "peace feelers" were advanced by Hanoi at least twice and were repulsed (in one case, ignored altogether) by the American government at the very time it decided to escalate the war in scope and intensity. The patent hypocrisy of our self-righteous complaints that the adversary is now refusing our invitation to come to the peace table merely aggravates the original failure on our part to seek some peaceful solution under international auspices before resorting to open military operations in what thereby became an unjust war.

Once hostilities were in progress in violation of these first two conditions, we proceeded to permit the use of means (whether by our own forces or by those of the South Vietnamese allies we equip and direct) that are an affront to human decency and will remain a source of lasting shame to our nation. The accidental bombing of a "friendly" village has given tragic evidence of the kind of casualties produced by our blankets of napalm and "lazy-dog" bombings. The attacks upon the territory of North Vietnam are aggressive acts of war which disregard the long-standing distinction in international law between "belligerent" and "non-belligerent." We should be familiar enough with this distinction, having used it in the past to protest German actions against our vessels which were aiding Hitler's adversaries in much the same way that North Vietnam is aiding the insurgent forces of the NLF. Or are we now prepared to say that Hitler would have been "justified" in bombing Detroit factories or port installations at New York to disturb the contributions we were making as "the Arsenal of Democracy" in the years preceding our entry into World War II? Even our use of gas, harmless though it may be, did constitute a violation of the Geneva Convention against the use of any form of gas in warfare. The fact that we did not sign these conventions is no excuse. They have become a recognized part of the corpus of international law, and we are morally bound to observe them.

My fourth, though not necessarily final, objection centers upon the question of proportionality. It is difficult to even conceive of any real proportion between the certainty of the injury and destruction our forces are working in Vietnam and the hypothetical (at best, possible) evil results that might follow the increase of Communist influence we foresee in the event that the two Vietnams are reunited under Hanoi's jurisdiction. The latter must remain a debatable set of evils, an outcome by no means certain as men like Hans Morgenthau, Walter Lippmann, and others have pointed out. On the other hand, the evils we are already committing or permitting are all too real and grimly demonstrable in the daily news dispatches from Vietnam covering the fighting now in progress.

If one prefers to shift the focus a bit to introduce the much revered "principle of the double effect," the case against the war is no less strong. The principle, again as traditionally understood and applied, requires first that the good that is intended (presumably that of halting the possible spread of Communist influence) must be at least as certain and as great as the evil permitted (the war and its dreadful effects upon the population and land of the warring country). Secondly, this good effect is not to be contingent upon or produced by the evil effect. It should require no great elaboration to show that the Vietnam war lacks justification on both of these counts.

It is important to note, too, that with the possible exception of the objection in terms of proportionality, the case I have presented

here is not open to criticism on the grounds of a lack of information. The facts are simply not open to challenge: the war has not been declared in accordance with constitutional provisions; there was no recourse to existing international agencies prior to our military involvement; and subsequent interventions by such agencies have been ignored or rejected by our government; and the methods employed have not discriminated between the combatant and non-combatant, between the innocent and the guilty.

In short, the burden of proof should lie with those who accept the "just war/unjust war" distinction and who hold that it is possible for the Christian to accept and support the continuing hostilities. Since, as I have made clear, my rejection of the war is based on other grounds, my interest is largely that of the curious onlooker. But it goes much deeper than that too. For one who has been critical, as I have been, of the failure of Christians in other countries to recognize the injustice of their nations' wars and to dissociate themselves from these injustices, it cannot be a matter of indifference to see the Christians of his own nation duplicating that tragic failure. If, as I have argued here, the American involvement in Vietnam violates or ignores the required conditions for the just war, the logical conclusion would seem to be that each of us has an obligation to refuse his direct support, and even more, to do what he can to persuade his government leaders to bring a speedy end to our nation's unjust and immoral military operations.

THE MORAL EFFECTS OF THE WAR ON THE LIFE OF OUR COUNTRY
(By John C. Bennett)

The recent revelation of the massacres at Song Mai makes vivid the nature of this war as no other single event has done but it differs only in degree from many less publicized episodes involving the killing of non-combatants and the torture of prisoners either by our own people or by proxy by the South Vietnamese. One of the most significant developments in the discussion of Song Mai was the tendency of journalists to raise the question as to the difference between killing helpless people, including children, on the ground at short range when they are seen and the killing of them from the air, at longer range, when they may not be seen in so-called "fire-free" zones. I realize that the psychological difference is very great but how great is the moral difference when it is well known that there will often be many of the same helpless victims?

The most obvious effects of this war on the life of our country are that it has bitterly divided our people and that it has so diverted our attention and so used our national resources that we make no progress in solving national problems that cry to heaven for solution. The decay of our cities continues and tens of millions of our people remain victims of a culture of poverty and many of these of an oppressive racism. At home we seem to be a "pitiful helpless giant" while we try to prove to the world that we are not one by compulsive aggressiveness. I shall emphasize here three quite specific effects of the war and I choose these because they are not discussed as often as the two that I have just mentioned.

The first is that our government has set an example of massive and brutal violence to the nation. I know no way of estimating the extent to which the violence on the streets and other forms of violence that have been so much noted is the result of the government's official violence but the only question is the degree to which private violence is the result of the official violence. In this war pictures of violence are brought into our homes, sometimes pictures of such American or South Vietnamese atrocities as the

torture of prisoners. Undoubtedly there is a countereffect in that people in large numbers are outraged by what they see. Who knows how much violence will be brought back to this country by those who have been trained in it in Vietnam? The effect of the war in increasing violence at home needs to be combined with some less tangible results: all degrees of callousness and brutalization among people who will never become involved in overt violence of any kind. The collection of ears of Viet Cong by Americans is a symbol of the effect of the war upon people who would often be otherwise normal. This is connected with a habit of seeing people who are different from ourselves in color, size and culture as "gooks," as something less than human: The reports of the attitudes of a majority of Americans (65% in a survey reported in Time) was discouraging because they seemed to shrug their shoulders rather than express moral shock. I know that much of this was a self-protective reaction stemming from a desire not to become emotionally involved and I do not believe that most Americans will be radically changed in character. There may well be growth in insensitivity to the inflicting of suffering balanced by the moral revulsion that I have mentioned. Sometimes the two may be combined and a small and much publicized minority, in their hatred of the war, may use violence to bring down the system responsible for it.

As background it may be helpful to raise the question as to the point at which the war itself becomes a matter of morality. When do we move beyond the judgment that it is a mistake of "plant proportions" to the judgment that it is an immoral war? In what I say I am not passing judgment or the personal motives of the various leaders who have initiated or escalated our involvement in Vietnam. However, good intentions based upon illusions can create an objective situation of moral horror and one that leads innumerable individuals into callous or brutal conduct and undermines the moral fiber of a nation and its institutions.

I do not see how we can draw an absolute line between an intellectual mistake and moral failure because when the nation and its leaders persist in the mistake for years, after its consequences for people in this country and in Vietnam are fully revealed, and when it becomes patent that this persistence in destructive error is a concession to the pride of a nation that has never been defeated, it is time to see even the mistake in a context that calls for moral judgments.

The traditional thinking about the difference between a just and an unjust war in the churches has always placed great emphasis on two considerations and I believe that both of these are relevant to the discussion of this war. The first is really a common-sense view of the degree to which the injury done to societies by the war is out of proportion to the good that can be achieved. One criterion of the just war, which may seem on the surface to suggest a rather craven caution, is that there should be a reasonable chance of success. But seen in the light of the principle of proportionality, this means that a nation should not sacrifice its sons or slaughter the people on the other side or ravage their country when the purpose for doing this cannot be realized. It seems to me that no amount of fire power from the air or from the land can create a nation in South Vietnam and establish a government around which that nation can rally.

The other emphasis in the discussion of the difference between a just and an unjust war has to do with the conduct of the war by means of policies and acts which are normally wrong in themselves, and here we should have in mind especially the treatment of civilians or helpless persons such as prisoners.

As we look at the record of what has happened in Vietnam, there are these two levels of immorality. One is the cumulative destruction of persons and communities and even nature itself by acts of war which might in individual cases be regarded as inevitable if there is to be a war at all. The body count, the destruction of towns and villages, the uprooting of people from their homes, turning them into refugees by the millions, the ecological damage which is now being seen to have long term effects on the land—these over a period of six years add up to a terrible accumulation of disproportionate evil. This is an evil for both sides but it has a new dimension when we see how the most powerful nation in the world has kept inflicting it on the helpless people of Vietnam and now the people of Laos and Cambodia must be added. The United States seems to be a captive of the momentum of its own destructive power.

When we move from this cumulative evil to particular acts which in any circumstances are immoral in themselves it is even clearer what the fighting of the war has done.

The second effect of the war upon the life of America is that more than any other single factor it has destroyed the confidence of a large part of our youth in the best institutions of our nation. This effect has been greatly enhanced by the contempt for youth who are critical, expressed by the President and the Vice President. I realize that the widespread alienation of young people has many causes and that some of these are deeply rooted in the culture and even without the war they would have produced some degree of revolt. The war, however, has been responsible for the intensity of emotion that unites so many hundreds of thousands of American youth in their alienation from what they think of as the "system." The feelings of moral outrage against the war on the part of the generation that is expected to do the fighting is by no means a fringe phenomenon but among students it extends from the left to the center. The recent editor of the Yale Daily News, Lanny Davis, said recently that "the war changed the whole atmosphere of the campus. It seemed an immoral enterprise." Former Vice President Truman of Columbia University at the time of the troubles there in 1968 said that there was a question whether university communities could survive if the war had to continue on. (Cox Commission Report, p. 10.) Moral rejection of the war has led to disillusionment about the institutions that have made it possible. The whole political process is now deeply distrusted because no matter who is elected and no matter how much a presidential candidate may be committed to ending the war, the war continues and processes of escalation continue. This disillusionment has had powerful confirmation because of the extension of the war into Cambodia.

The third effect of the war that is closely related to the second is that so many thousands of our young men have been forced to face an intolerable dilemma in their own lives. Should they allow themselves to be drafted and be sent to fight in a war which they regard as gravely immoral or should they run the risk of going to prison for a period of two to five years or should they choose exile in Canada or in some other country. Again this is not a fringe phenomenon. In April 1969 two hundred and fifty-three campus leaders, student body presidents or editors, declared that they would not "participate in a war which we consider immoral and unjust." They were on record as choosing either prison or exile. This is an incredible development among those who can be expected to be leaders in the mainstream of American life in the future. There are tens of thousands of exiles in Canada. What does it mean for America to have so many political prisoners or exiles? It has been all

too common in many times and places for a nation to punish its finest and most conscientious citizens as well as its thieves and murderers. But we have always hoped that this would never be a common experience in our country. It will greatly increase the alienation of youth and it will undermine respect for our institutions. It would help to re-establish confidence in the best of our traditions and ways of life if amnesty were to be declared for all who have been so affected by the war.

It may be a summary of all that I have emphasized as the effects of the war on our own national life to say that the tragedy of Indo-China is also the tragedy of America.

STATEMENT BY SENATOR GEORGE MCGOVERN AT PRESS CONFERENCE WITH LEADING CATHOLIC CLERGYMEN, SEPTEMBER 24, 1970

The action by so many leading members of the Catholic clergy in taking a forthright stand on the war is heartening. They understand that the waste of human life in the war and the divisions in our country which result from that war present our Nation with a moral crisis. I am honored that they have come to consult with me today about their plans.

On this day seven years ago, I warned on the floor of the Senate about our Vietnam policy. I said then: "This is scarcely a policy of 'victory.' It is not even a policy of 'stalemate.' It is a policy of moral debacle and political defeat." I added in those remarks: "The trap we have fallen into there will haunt us in every corner of this revolutionary world if we do not properly appraise its lessons."

The activities of this distinguished group of Americans represents the best in constructive action against continued American involvement in the Vietnam war. They join with the millions of Americans who supported the McGovern-Hartfield Amendment to End the War and who continue to favor an early end to American military involvement in Indochina.

Community action, messages to the White House and to members of Congress, and the nomination of candidates opposed to the war are appropriate means of citizen protest. I deeply regret that those who have followed these courses have not been heeded by the Administration. They are, according to available polls, the majority of Americans.

Violent and disruptive protest betrays the honest and diligent efforts of responsible citizens and of public officials who have struggled for months and years to bring about a change in American policy in Indochina. And those who could corrupt the democratic process by hindering free expression of opinion, by preaching and performing violent acts, and by wantonly waving the Viet Cong flag can have no effect on American policy; they harm the cause they profess to champion.

On October 4, thanks to the efforts of thousands of Catholic priests, many Americans will take part in a reasoned and responsible criticism of our Indochina policy. On that day, in Catholic churches across the country, priests will preach their convictions on the war.

On October 3, pro-war groups headlined by Rev. Carl McIntire and Marshall Ky will seek to rally a larger war effort in Asia. We have Mr. McIntire's pledge that Marshall Ky will "out-Agnew Agnew."

I personally view this Ky-McIntire call for a bigger and bloodier war as an incredible blunder. Nevertheless, I hope and pray that any Americans planning to demonstrate in Washington against the pro-war speakers will take the time to reflect on the consequences of their actions and will organize them in a manner to avoid needless conflict. In that way, the October 3-4 weekend can mark a renewed commitment to ending the war.

Meanwhile, I salute these courageous priests who love their Nation enough to call

us to a higher standard—a standard of peace and an end to a senseless war.

THE PENN CENTRAL METROLINER

Mr. ALLOTT. Mr. President, in the early summer of 1968, I made the statement that the Federal Government's participation in Metroliner demonstrations might well be delayed for 2 years. I was wrong but only by way of underestimation.

The demonstration contract has finally been concluded 2 years and 3 months after I made my comments in 1968 and fully 3 years after the project was originally scheduled to begin, the fall of 1967.

Throughout this entire period of time, I was concerned about warnings regarding the alleged negative attitude of the Penn Central Railroad regarding passenger service. There was no question in my mind that such an attitude would prevent the Penn Central from putting its best efforts into the demonstration.

Of course, since I made my original statements, the management of that railroad has been changed as a result of the bankruptcy action of several months ago. At the time of the bankruptcy proceedings, the Federal court appointed trustees. The trustees in turn elected a new president, Mr. William H. Moore, who had been with the Southern Railway System as executive vice president.

I was hopeful that Mr. Moore would signal a change in thinking on the part of the Penn Central. I was hopeful that he would inject some positive ideas into the operation of that railroad. Therefore, I was not only shocked and disappointed but extremely dismayed to read Mr. Moore's comments on the Metroliner in an article by the Washington Star reporter, Stephen M. Aug, in the Wednesday, September 30, 1970, edition of the Star.

Moore is quoted as saying:

I do not think there is any profitable future for the Metroliner.

He is further quoted as saying that "We are not making any money on the Metroliner," at this time.

Ironically, Moore made these comments within hours after the Department of Transportation and the Penn Central announced jointly the formal beginning of the 2-year demonstration program which has been so long delayed. What a beginning.

The purpose of the demonstration is to determine whether the high speed Metroliner can lure passengers back to rail travel in the New York-Washington corridor.

The kind of statements attributed to Mr. Moore hardly inspire confidence that the Penn Central will try to make the demonstration work. I was disappointed, as I said, because while I might have expected such a statement from the previous Penn Central management, I was led to believe that things would be different under Mr. Moore.

I find his comments extremely interesting for a number of reasons.

First, there have been widely circulated reports, never denied by the Penn Central, that Penn Central wanted to exclude the Metroliners and possibly other New

York-Washington service from the Railpax program, if this bill becomes law. The reports indicated that the Penn Central did not want the Metroliners included in the Railpax Corp., because these trains were bringing in cash to the rail treasury.

Second, the Department of Transportation has maintained that it needed the 2-year Metroliner demonstration, despite the fact that the Metroliner has been operated voluntarily by the railroad for a year and a half, because the railroads did not compute cost data on the Metroliner.

Department of Transportation officials have told me that while they believed that the Metroliners were profitable, they were not sure, because the railroad maintained no separate data on the Metroliners during the past year and a half.

The Department of Transportation said that if the railroad did not know the financial status of the Metroliners, the Government certainly did not know, so the demonstration was necessary.

I thought the argument was logical. Now, however, apparently Mr. Moore has some cost data on the Metroliners that enabled him to make the very positive statement that its trains were not making money at this time. If he has such data, he should come forth with it immediately since the Federal Government has already contributed money to the project and, in my judgment, is entitled to it.

If indeed he does not have such data as the Department of Transportation maintains, then obviously his statement about the Metroliners is without basis in fact.

Third, Mr. Moore's statement contradicts the petition of the Penn Central trustees before the court in their bankruptcy proceedings on September 11, 1970, just 3 weeks ago.

The petition states the following:

The debtor has already made expenditures of approximately \$50 million under the aforesaid agreement. These expenditures were primarily for the upgrading of track and the acquisition of new cars. Upon commencement of the test period, no major additional expenditures will be required of the debtor and such commencement will permit the payment of \$4.6 million to the trustees by the Government followed by additional monthly payments totalling at least \$2.5 million. The trustees are of the opinion, and therefore allege, that implementation of the aforesaid agreement of April 15, 1968, as amended, would be in the best interests of the debtors' estate and of ultimate reorganization.

The court affirms that the trustees were authorized to execute the agreement. Now, in a bankruptcy proceeding, for the Penn Central to say that execution of the demonstration would be in the best interests of the debtors' estate and the ultimate reorganization, if these trains are indeed losing money, would be sheer folly.

If these trains are losing cash, then continued operation cannot possibly be in the best interests of a bankrupt railroad.

It is one thing for a financially healthy corporation to maintain that the continued operation of a non-profitable train would be in its best interest. Such an operation might be charged to advertis-

ing, public relations, or good will. But a railroad in bankruptcy may not consider such factors. The Metroliners either are or are not financially profitable for the railroad.

The demonstration does not change the situation because, in effect, most of the money given to the railroad is a loan to be repaid.

If Mr. Moore's attitude is in any way typical of the continued posture of the Penn Central, then the Department of Transportation ought to take a long, hard look at the contract it has just signed. What could the Government possibly gain by running trains on a railroad that really does not want to run them?

Mr. Moore says that the trains have been operating at only 62 percent occupancy. The figures I have received from the Department of Transportation indicate a considerably higher rate of occupancy than 62 percent. One or the other figure must be incorrect.

Mr. President, I hope that my reading on the attitude of the Penn Central is incorrect. This is one of those cases where I would like to be wrong. However, unfortunately my record of predictions on the Metroliner has been frighteningly accurate. Virtually every problem I foresaw with this project, beginning nearly 4 years ago, has materialized.

I would hate to see the fate of our needed passenger service in the United States resting with the success, or lack of it, of the Metroliner. I said in 1967 that if the Metroliner experiment failed, other passenger trains in this country were doomed automatically. Obviously, if passenger service cannot be successful in the densely populated New York-Washington corridor, it cannot be successful anywhere.

At this point, Mr. President, I question whether Mr. Moore is correct in his statement. If so, then I contend that somebody, somewhere—either the Congress or the Department of Transportation, has been misled when told that no specific data was available on profitability, or lack of it, relative to the Metroliner. If Mr. Moore cannot back up his statement, then I question whether the Penn Central, under his administration, is the proper operational agency.

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

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

[From the Washington Evening Star, September 30, 1970]

PENNSY HEAD DOUBTS PROFIT IN METROLINER
(By Stephen M. Aug)

ALBANY, N.Y.—The new president of the bankrupt Penn Central Transportation Co. sees no future for intercity rail passenger service as a profitable operation—and he includes the 110 mile-an-hour Metroliner. William H. Moore, Penn Central president, said at a news conference, "We're not making money on the Metroliner," and "I don't think there's any profitable future for the Metroliner."

Moore held the news conference after inspecting Penn Central facilities between Springfield, Mass., and Albany yesterday. His comments came within hours after the Department of Transportation and Penn Cen-

tral announced jointly the formal start of a two-year government-sponsored project to determine whether efficient, clean, fast, trains—the Metroliners—can lure passengers back to the railroads in the densely populated corridor between New York and Washington.

The Pennsy has been operating the Metroliners since January 1969 on its own as a means of recouping some of its \$58 million investment in the sophisticated high-speed equipment.

Mechanical and electrical problems plus differences between the company and DOT have delayed until now the official start of the two-year demonstration, which was to have begun in 1967.

ABOUT 62 PERCENT OF CAPACITY

Moore said also that the Metroliners are operating on time about 90 percent of their trips—but that occupancy is only about 62 percent of capacity. "The volume of business on the Metroliners in the past three months has started going down for the first time since they were inaugurated," he said.

Despite his pessimism that the Metroliners could never show a profit, Moore said, "At the same time, we're going to do everything" to make the project a success.

Moore said later that the Metroliners ought to be successful. "It's certainly the type trip that should be conducive to rail travel, and an area where it can be competitive with the airlines. But the Penn Central Railroad will not be able to operate the Metroliners on a profitable basis without help."

The Penn Central is operating 7 Metroliner round trips a day weekdays between Washington and New York. The original contract with DOT had called for at least 9 and possibly 11. Because of mechanical and electrical problems, however, the Metroliner cars are undergoing repairs about 40 percent of the time.

MONEY NEEDS CITED

On other matters, Moore reiterated Penn Central's urgent need for cash, saying, "Before the year is over, we will have to have some money." But he declined to say how much it would take to keep the railroad running. He added, "We are still losing money," but, "We are improving."

Penn Central had been losing about \$1 million a day operating the railroad.

Moore, 55, came to Penn Central nearly a month ago from the Southern Railway System, where he was executive vice president. During the news conference, he listed two reasons why he believes Southern is profitable and Penn Central is not:

1. Southern serves an area "growing rapidly industrially."

2. Southern has always tried to have enough freight cars to move cargo. This has cut down on rental payments Southern would normally have to make to other railroads for using their cars, and it has given shippers service which competitors have been unable to match.

ART HOPPE PUTS THE SST IN PROPER PERSPECTIVE

Mr. PROXMIER. Mr. President, Art Hoppe has done it again. Writing in the San Francisco Chronicle of September 20, 1970, Hoppe compares the American effort to build an SST with our effort to build a better GCS than the Russians.

GCS, for the uninitiated, stands for giant crockery smasher. And it seems that the Russians already have one. Worse still, the British and the French are pooling their efforts to corner the free world market in crockery smashers.

It is clear that we cannot allow other countries to get the better of us. For years, this Nation has been No. 1 in

crockery smashing. Not only must we get into the race, but we will build a bigger and better crockery smasher—a second generation GCS—that will outsmash everything in sight.

What happens? Needless to say, U.S. technology succeeds in constructing a GCS prototype for the Government, at a cost to Uncle Sam of \$1.2 billion. It is indeed the best GCS in the world—so effective, in fact, that it cannot be used. After much deliberation, the President decides to throw the American GCS into the sea, and other nations quickly follow suit. But the important thing is that America's leadership in crockery smashing has been firmly reestablished.

Mr. President, Arthur Hoppe's allegory about the SST is extremely timely. I ask unanimous consent that the article be printed in the RECORD.

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

THE CROCKERY CRISIS

(By Art Hoppe)

The news that the Russians were developing a Giant Crockery Smasher (GCS) caught Washington completely by surprise.

A worried President immediately called an emergency session of the National Security Council.

"It's worse than we thought at first, Mr. President," Henry Kissinger reported gravely. "The Russian GCS is 90 per cent complete. When installed in the Kremlin, its supersonic beam will create a 50-mile-wide swath of smashed crockery, broken windows and jangled nerves stretching from Moscow to the Urals."

"Worse yet, sir," said Mr. Kissinger. "Even when operating at subsonic levels, the noise from the Russian GCS will drive strong men up the walls. Moreover, its emissions into the upper atmosphere will raise temperatures 13 per cent, thereby melting the polar ice caps and sending huge tides to destroy the coastal cities of the world."

"We must stem the rising tides of Communism!" muttered the President grimly.

"Let me make one thing perfectly clear, gentlemen," said the President with determination. "We must at all costs maintain America's world leadership in crockery smashing."

When the issue was put to Congress on this patriotic basis, a bill to appropriate \$63.2 million for initial designs passed without a dissenting vote.

With America already several years behind the Russians, French and British, there was obviously no point in attempting to build the first GCS. Thus the designers concentrated on creating the biggest, noisiest and most powerful GCS the world had ever seen.

Its specifications called for a supersonic beam that would smash dentures in a 100-mile swath from Bangor to Chula Vista in only 43 minutes; a noise level twice that of the Jefferson Airplane; and atmospheric emissions guaranteed to bring on a new Ice Age.

Congress, flags waving, quickly appropriated another \$1.2 billion for a prototype. After years of failures and set-backs, the first American GCS was unveiled on the grounds of the Washington Monument.

"This shows, my friends," said the President happily, "what we Americans can accomplish when we are faced, in my opinion, with a great challenge. As I push this button on this historic occasion, let me say that . . ."

Unfortunately, when the President pushed the button starting the GCS, the rest of his historic remarks could not, of course, be heard. But there was no question the GCS worked. And the spectators, from their

glass-eyed looks, were clearly deeply impressed.

At this point, a litle boy at the edge of the throng cupped his hands to his mother's ear and shouted: "Who needs it?" She frowned and asked the man next to her. The question fanned out through the crowd and eventually spread across the Nation.

After much deliberation, the President announced to thunderous applause that now America had proved its leadership in crockery smashing, he was throwing the GCS into the sea. The French, the British and the Russians, after much discussion, followed suit.

Relative peace and quiet returned to the earth.

It was then, unfortunately, that word reached Washington the Russians were developing a Giant Garbage Maker (GGM) that would treble overnight the Soviet garbage output and * * *.

AIR, WATER, AND LAND POLLUTION

Mr. BYRD of Virginia. Mr. President, the preservation and enhancement of our environment are major national goals. The air, water, and land have been so long neglected and have become so polluted that some say our very existence on this earth is being threatened.

The growing concern for our environment in all segments of our society indicates that we are faced with a very serious problem. Everyone recognizes this seriousness, but there is a danger that America may not dedicate itself to the continued hard work which is necessary.

I sincerely hope that our concern for the environment does not prove to be just a fad. If we are to win the war on pollution, there must be a continuing commitment to conserve the resources on which we depend.

Each bill enacted has been a step toward a more livable environment. The Air Quality Act of 1967, the Clean Air Act of 1970, the Federal Water Pollution Control Act Amendments of 1966, the amendments to the Federal Water Pollution Control Act of 1969, and the establishment of an Office of Environmental Quality in the Executive Office of the President, are major pieces of legislation designed to improve our environment. I voted in favor of all these measures.

But we must search for new approaches to old and neglected problems.

The Environmental Protection Agency, proposed by President Nixon, can be a step toward more efficient administration of environmental programs.

A similar proposal advanced by Senator MUSKIE also provides a workable approach to this administrative problem.

I am also impressed with the list of pending environmental legislation before the Congress, and I hope that each of these problems will be given careful consideration.

A few of these proposals include the International Biological Program, the Technology Assessment Act of 1970, the Water Bank Act, the Joint Committee on Environment and Technology, and the Federal Lands for Recreation Act.

In addition, I cosponsored a bill to stimulate the development, production, and distribution in interstate commerce of low-emission motor vehicles, which has passed the Senate. I also cosponsored an amendment that will insure that en-

vironment considerations — including noise problems — will be incorporated into hearings on airport expansion. This also was approved.

In the scientific and technological fields, more and continued research is necessary to devise and test new methods for combating pollution.

For example, many solid waste disposal facilities are obsolete. New methods are needed to handle the increased volume of solid waste, and to do so in a way that will not adversely affect the quality of our air and water.

Congress has come to recognize the necessity for more research and development. This year, for example, the House and Senate passed the Resource Recovery Act of 1970, which stresses studies of resource recovery, demonstration projects, and local planning grants. Such research-oriented legislation is vital and commendable. It is important that science and the Government move together in the battle against pollution.

Yet, despite the gravity of our environmental problems, we cannot afford to approach these problems in isolation.

The Nation needs cleaner water and air; but at the same time, it needs economic development to provide job opportunities for the young men and women graduating from our high schools and colleges.

A proper balance between industrial development and pollution control is necessary in order for our Nation to provide a prosperous and healthy life for its citizens.

For example, automobile exhaust emissions are a major source of air pollution. But an economic tragedy could result if the Congress were to legislate an immediate ban on the use or production of the internal combustion engine.

The Clean Air Act of 1970, recently passed by the House and Senate, provides a workable compromise to achieve reductions in automobile exhaust emissions, by allowing adequate time to meet required standards. Science, business, and the Government must work and move forward together toward workable, acceptable, and timely solutions.

We can no longer ignore the problems of our environment. We must move ahead in the effort to protect our air, water, and land. Our actions must not be taken in panic, but we cannot afford to stand still.

THE 1925 GENEVA PROTOCOL FOR PROHIBITION OF GAS AND BACTERIOLOGICAL METHODS OF WARFARE

Mr. FULBRIGHT. Mr. President, on August 19, 1970, President Nixon transmitted the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of Warfare to the Senate for its advice and consent. Since that time the committee has received numerous inquiries regarding its plans for hearings on the protocol. The committee would like to proceed with these hearings as soon as possible. Indeed, last November when the President

first announced his intention to resubmit the protocol, I was hopeful that the Senate might complete action on the protocol during the current session of Congress.

Ten months have elapsed since the President's announcement during which time there has been considerable discussion, primarily within the executive branch, regarding the interpretation of the protocol with respect to tear gas and herbicides. Within the same period the Committee on Disarmament of the United Nations also engaged in an intensive debate on the meaning of the protocol. The work of the committee led ultimately to the adoption of a resolution by the United Nations General Assembly endorsing an interpretation that tear gas and herbicides are prohibited by the protocol.

In light of these considerations the Committee on Foreign Relations feels an obligation to conduct its own careful inquiry into current U.S. policies with regard to chemical and biological warfare including the military, moral, legal, and scientific implications of the use of tear gas and herbicides in warfare. In this connection the committee will wish to hear the views of the numerous private groups and individuals who have already expressed a desire to testify on the protocol.

It is my understanding that some Members of the Senate are contemplating the introduction of understandings to the protocol which, if adopted by the Senate, could affect the meaning of U.S. ratification. If such proposals are introduced they should also be given careful consideration by the committee.

In order to accomplish these tasks before making recommendations to the Senate regarding its advice and consent to the protocol the committee hopes to begin public hearings on the protocol during the current session of Congress. I have written to the Secretaries of State and Defense asking them to fix dates convenient to them to testify on behalf of the protocol. At the same time I am inviting other interested parties to submit their views on the protocol so that the committee staff may have an opportunity to study them before hearings are held.

The Geneva protocol was originally an American initiative. It is regrettable that 45 years have elapsed without our having ratified this important undertaking. During the intervening years the provisions of the protocol have generally been observed by most nations of the world including the United States.

Unfortunately, our conduct of the Vietnam war has led to decisions on the part of the U.S. Government which have raised serious questions with regard to the future of the protocol. While I personally regret the necessity to examine them, these questions should be resolved before the protocol is brought to the floor of the Senate. We cannot ignore the fact that the U.S. interpretation of the protocol will be a critical factor in determining whether the protocol will continue to constitute an effective deterrent to the horrors of chemical and biological warfare or whether, by virtue of our own actions, it will be undercut.

ADDRESS BY JOHN H. BUNZEL,
PRESIDENT, SAN JOSE STATE
COLLEGE

Mr. MCGOVERN. Mr. President, on September 14, John H. Bunzel, the new president of San Jose State College, in California, addressed some thoughtful remarks to the faculty of that institution. His comments constitute a realistic appraisal of the challenges to academic leaders as the new year opens on American campuses.

Dr. Bunzel has had a distinguished academic career, much of it in the institutions in California. He has been a practical professor and moderated his own television program and has been active in politics.

In his remarks, Dr. Bunzel says:

A democratic society requires all of its institutions, including the university, to be responsive to the needs of the people. But the pressures of democracy which are welcome in the political arena must be distinguished from those which operate in the university.

Dr. Bunzel goes on to refute forcefully some of the myths which have grown up around the need for the university to remain "relevant." He adds:

Colleges are one place where the free pursuit of truth is a primary obligation. None of us has a right to abandon it.

This statement represents one carefully considered answer to the extremists of the left and right who would destroy our Nation's academic institutions. I commend Dr. Bunzel for his remarks and ask unanimous consent that the text of his remarks be printed in the RECORD.

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

ADDRESS TO THE FACULTY BY PRESIDENT JOHN H. BUNZEL, SAN JOSE STATE COLLEGE, SEPTEMBER 14, 1970

We begin this academic year at a most unhappy time in California higher education. There is no reason to pretend otherwise. Our list of grievances is long and real. The faculty has been denied a cost of living salary increase, which is only a small part of the harassment it is suffering. We have seen cuts in sabbaticals and other leaves, the withdrawal of funding for the enrichment of our graduate programs, a continuing disregard for the need to obtain a reduction in an excessive teaching load, a diminishing interest in the future of scholarly research, to mention but a few. The general tone on our campuses is tense, worried, dispirited, frustrated. Stated simply, our colleges and universities have been dealt a severe blow by the state legislature, and all of us are going to pay a terrible price for this kind of punitive economy. Many of our representatives in Sacramento have not yet learned the meaning of H. G. Wells' warning that "human history becomes more and more a race between education and catastrophe."

I make one pledge to you now. I shall take advantage of every opportunity afforded me to remind the Chancellor's office, the Board of Trustees, the Governor, the members of the Legislature, and the people of this State that our goal is a free community of scholars, teachers and students, that we do not look upon academic freedom as a minor conceit, and that we will resist unwarranted political interference from outside the campus as strongly as we will oppose those who would use power, pressure and muscle from within.

If I stand before you not overwhelmed with optimism—underwhelmed is perhaps the better word—I nonetheless believe there is reason to be hopeful. The basis for this belief stems from what I have already seen in the four short weeks I have been here: a deep sense of loyalty and attachment to this institution, a tradition of academic excellence, and a remarkable richness of talent and human resources.

This tradition spans more than a century, yet has always been marked by change. Responsive to needs of the state and community, the college has evolved from a normal school to a multi-purpose institution with a wide range of professional programs in the liberal arts while retaining its teacher education and vocational area strengths. This evolutionary process continues as we move into new areas of curricular concern.

I am pleased to be associated with the institution of higher education which has established the first graduate department in the nation which confers a Master of Arts degree in Mexican American Studies. I expect that the department will contribute important leadership in the continuing search to find better methods to link our educational efforts to community educational needs. The Committee on Mexican American Affairs has helped in planning for a Master's program in Social Work with a Chicano emphasis. I know that the Department of Black Studies is well on its way to becoming one of the most highly respected degree programs in the country.

We should recognize that these efforts are but a beginning. But they deserve our support not only to help assure their academic success but because the time is late in providing for the educational needs and opportunities of minorities in our country. If we are successful in our response to the revolution of rising expectations, then perhaps we will be able to thwart those who thrive on the expectation of rising revolutions.

It would be a hazardous undertaking to predict what lies ahead this year on our college campuses. It would also be foolish. I am therefore heeding the advice of a certain Episcopal Bishop in Virginia who was asked by a parishioner whether a non-Episcopalian could enter the Kingdom of heaven. "Frankly," he said, "the idea had never occurred to me; but if he is a gentleman, he will not make the attempt."

Having just arrived, I am aware that there are many people in this audience who are better informed than I am about the complex problems which lie at the level of Schools and Departments. There will be other occasions to talk about them. We will meet on other grounds, and I look forward to it.

Today I would like to share with you what is more a statement of personal credo. I thought I might begin by bringing to your attention three of the many questions which, in being interviewed by different committees during the weeks I was under consideration for this position, regularly vented the most urgent concerns. It also gives me a chance to collect some of my thoughts on matters in which we have a common interest.

1. One frequent question was stated with an unusual economy of words: "What are your ideas about academic authority and responsibility?" On more than one occasion there was an additional request: "Please be specific about the role of the faculty."

I am not one who believes that freedom is automatically increased as a consequence of eroding or shattered authority. What emerges is not more freedom, but power. What kinds of power, who will use it, and for what purposes are serious and disturbing questions. During the long spasm at San Francisco State two years ago the student militants kept shouting, "Power to the People!" I remember how depressed I got when

I thought of the people who really have the power.

I am very much the product and proponent of a faculty academic tradition and therefore sensitive to faculty attitudes and values. I have been a persistent advocate of institutional protection against the intrusion of outside forces. But I also believe that the decreasing esteem for higher education in California and elsewhere is traceable in part to adverse public judgment about administrators and faculty—in short, about how we have governed, or mis-governed, ourselves. It seems an inescapable conclusion that faculties have not always shown themselves capable of formulating and enforcing the standards of professional ethics and performance. I am beset by a grave apprehension that if we default in our own responsibilities, rising outside pressures, including Boards of Trustees, will take over that job—and presumably will do it in less enlightened fashion than faculties would prefer.

There has been much confusion about the role and limits of academic administration. Too often administrators are dealt with in an irresponsible way by opportunistic critics who oppose them in the interest of "majority rule" or "equality." Many decisions, certainly most of those having to do with scholarship, teaching and research, do not lend themselves to the plebiscitary process. In times of crisis there is a paramount need for rapid and expert administrative judgment.

After years of struggle to achieve some degree of autonomy and power, faculties are right in jealously guarding their prerogatives. Further, a collaborative and cooperative role for faculty and administrators is the only sensible alternative to an increasingly fragmented institution subject to enlarging external and internal pressures. My concern is that faculties do not seek to take on executive, legislative, and judicial roles to the detriment of the sound executive of legitimate executive leadership.

None of us can afford to be entrapped by cliché-ridden biases against authority itself. The clamor of extremists for instant solutions to impossible demands must not be allowed to exhaust and destroy the responsible leadership of a college community by creating rampant mistrust and intercollegiate denunciation. It is my own conviction that a division of labor is appropriate to the conduct of academic affairs as long as principles of accountability can be exercised to guarantee the responsiveness of the administration to basic faculty priorities and values.

2. I was asked many times about my attitude towards the police. Within the last month I received a telephone call from a member of this faculty urging me to announce that under no circumstances would I call the police onto this campus. "Tell them," he said, "you will not dance to the Governor's tune of repression." I reject that advice, but I would not want this to be taken as an argument that we encourage governmental authority to intrude into the affairs of the college.

One of the difficult questions facing our universities today is how they can defend themselves against the tactics of violence. Officials who must deal with this problem face a real dilemma: If they take the attitude of benevolent sufferance, they know the violent elements on campus will run rampant; if they call in the police, they know they run the risk of radicalizing the student body and swelling the ranks of the student militants. There are some indifferent faculty and students who are willing to let the militants have their way, either because they want to get on with their work or because they feel the issues at stake are not of concern to them. I am not in sympathy with that position. It occurs to me that to refuse to take whatever action is necessary would mislead the

militants into believing that violence succeeds.

I do not like to see the police on a college campus. It is not their natural habitat. But I must tell you that I have no ideological reservations about calling them if they are needed to make secure our belief that ideas are our most potent weapons.

There have been (and presumably will continue to be) instances of police excesses. This should not obscure the fact, however, that the police are not the criminal elements in our midst who have tried to justify the use of the campus as a sanctuary for vandals and terrorists. Police presence on a campus is almost invariably "reactive," occasioned by acts of force against individuals or property, threats of coercion or intimidation, or actual outbreaks of physical violence.

It is time to reaffirm some basic truths about police power in a democracy. It is not designed to enforce a particular solution to a problem, but rather to help preserve the basic rules of law without which any solution is impossible. If the police are called, it will not be to settle intellectual, educational or other issues, but to preserve the college so that the processes by which decisions are arrived at in an academic community can be made to work.

Once and for all, let it be established that violence, terrorism, and illegal activities on the campus will not be condoned and will be met with appropriate measures of self-defense. If force is temporarily necessary to protect our needs for order and freedom, we must assert that this use of force, far from being used as an instrument of repression, exists solely in order to insure our survival.

We need also to say, to ourselves and to the public: in the fate of one institution lies that of each of us.

3. I come now to the question which transcends all others in importance. In its most succinct form it comes to this: "Higher education in this country is in serious trouble. There are mounting signs of student unrest spilling over into mindless behavior. The public is increasingly impatient and angry. The political atmosphere is highly combustible. What, then, is the future of the University?"

It is appropriate, I think, to begin an answer by putting before you in broad outline two different views about what a university should be.

(a) The first is of a politicized university whose role is to perform as an institution of social activism to bring about change in national policies. Its primary concern is with political action and social reform. It is committed to using its total resources as a university for what it deems to be worthy political goals—to stop the war, to oppose racism and injustice, and so on. Repelled by the surrounding culture, it rejects its fundamental character and seeks to transform it, or, if need be, destroy it. Its stance is political because it believes that the time has come for the university to become a base for decisive action for those of high moral purpose who reject our corrupt society.

Internally, the "new university" wants to become an egalitarian political institution. All distinctions of rank and status would be removed. Teachers and students would be "mutual learners." There are differences over details. For some, degrees and grades would disappear. For others, questions of course content, the granting of faculty tenure and promotion, and other academic matters would be decided in open assemblies of students and faculty on a one-man, one-vote basis.

(b) There is another view of what a university should be. Its primary focus is its major concern—the life of the mind. Among the special values it represents none is more paramount than the right to free intellectual inquiry in the pursuit of truth and knowledge. It is not to be mistaken as an

institution solely concerned with social activism, and it will resist those who want it to become exclusively an instrument of political action or revolution. Its tasks are more varied because it is many things. It is a place for people who want to teach and learn, where people can do research and speculate about the past and look into the future, where ideas are sometimes explored and exchanged for their own sake, and where current fashions of social reform can be criticized.

It is not a political democracy. Its essential role is to discover and transmit knowledge and develop powers of criticism and judgment, not to represent the people or to govern. The relationship between students and faculty is not completely or inherently equal. The faculty has the major responsibility to maintain control over academic matters.

These are sketches, admittedly incomplete, of two different models of a university. Neither of them comes in pure form. The differences between them, however, are profound and serious. The question before us, and, in my judgment, the critical question before every faculty in the country, is easily stated: Which university do we choose for ourselves?

I must speak for myself. I worry about politicizing the life of a university. If it is said that the university is already a political instrument of the establishment, it must be repelled that the way to diminish this harmful situation is to refuse to contribute to it by more actions of the same sort.

No college or university can be completely non-political. There is a political dimension to all human institutions and to most human problems. But it does not follow that all basic problems are essentially political, and we must reject out of hand any notion that the issues within the university must be settled by power. It is simply not the case that power is the root of all our problems and must be the solution to them. If the university should become the plum for those who are struggling for power, it will be dead in a very short time.

A democratic society requires all of its institutions, including the university, to be responsive to the needs of the people. But the pressures of democracy which are welcome in the political arena must be distinguished from those which operate in the university. In civil society people join pressure groups, support political parties, and vote to indicate their demands and preferences. These are not the methods of the university. Further, a university cannot simply "reply" to people's demands as a city Mayor might in a hastily called press conference. It has its own special manner of response. The university is not merely another pressure point in the political community.

The university must always welcome pressures. It needs to know them and must demonstrate a willingness to have them registered. But it cannot permit its response to those pressures to violate the integrity of its principal function. In the university community important decisions are regularly made through established consultative procedures and by responsible authorities, not by a show of hands. We need to remind the public and ourselves that while the university is part of the civil order, it is not co-terminous with it.

It is easy to anticipate at least one argument that will be made in dissent from this view. It has many variations, but its central theme is this: "In your university the 'real needs' of students will not be met. They want a curriculum which will see to it that 'a human being can become more human and more himself.' In your university education will not be relevant."

I would wish that "relevant" could be struck from the English language. The prospect, however, is not good. The alternative, then, is to set our thinking straight on what

education is all about. I submit the following items:

(a) The classroom should not be a place where we simply discuss the student's inner life or what he may feel are his immediate needs. This is not to suggest that emotional responses to experience are unimportant. It is simply to say that group therapy or encounter sessions are not a substitute for rigorous and rational thought. Education must be something more than a "happening."

(b) The criteria of relevance is often a thinly disguised contemptuous attack on virtually any study of the past. Yet the truth is that none of us has any existence or reality without a past. One function of the university is to help discover what is new. But another is to preserve and reclaim the old for each new generation. These dual tasks create continuous tension between the demands of continuity and the demands of change.

(c) The university cannot be immediately relevant like the morning newspaper. That would be its ruination. Let the news media take care of the headlines and the fast-breaking story. A college education should be relevant in providing the perspective necessary to sort out what is trivial or momentarily useful. It should provide the grounding by which grievances and needs can be scrutinized and understood. Our concern as educators should be to make the pursuit of knowledge as objective as possible so that we come to see relevance not simply in personal terms but as part of the larger world in which we live. It is in this sense that relevance should show us our common humanity.

(d) The university cannot permit questions of scholarship or aesthetic taste to be resolved by popular vote. I have heard it said that if students in English voted to remove Shakespeare from the curriculum because he is no longer relevant, the faculty should go along. There are a lot of things wrong with that sentiment. Putting Shakespeare to a vote indicates confusion not only about democracy but the ballot box. Asking students to vote on something they have not thought very long or heard about is to put ignorance on a par with knowledge and the inexperience of youthful judgment against the experience of professional and cultivated taste. Furthermore, the principle, once legitimized, will not stop with Shakespeare. In Mississippi the plebiscite will damn Walt Whitman and Carl Sandburg; in Orange County it will damn John Stuart Mill and Bertrand Russell.

The smug conventionalism about this position is the most obvious thing about it. What may not be quite so obvious, when it is advocated by a university scholar, some one (in this instance) who presumably is a professional student of literature, is its special character: it is a way of betraying knowledge for ideology, the universal for the particular, the relatively timeless for the merely fashionable. In short, assertions about the "irrelevance" of Shakespeare, Beethoven or whomsoever might well be seen as a sectarian blow against part of the idea of the university itself.

I believe in the university which feels it has an obligation, not just a right, to protect the fragile understandings upon which it rests and depends. In the eloquent words of Professor Robert Rosenzweig: "... the university as the place of openness, of person, of persuasion, of the sharpened mind, and the free imagination. I believe the continued strength of the university to be more important to the future of man than ROTC, low-income housing, student power, faculty power, trustees responsibility, or any particular issue or set of issues that confronts us now."

I believe in the university which also recognizes how closely our freedoms resemble

our obligations. The idea of academic freedom is a delicate and complex notion. Because of university violence it is now endangered. Because it is in danger many other things are endangered than just the university.

Academic freedom is not simply a college right. It is also a social right from which every one benefits. No one is entitled to be cavalier about it.

Academic freedom is the right to free intellectual inquiry in the pursuit of truth, and all of us have a responsibility to preserve it, not just because it is good for us, but because it is the process of inquiry itself that is essential to the maintenance of democracy. It is the method by which a society looks critically at its own values. No free society can afford to do without it.

Colleges are one place where the free pursuit of truth is a primary obligation. None of us has a right to abandon it. We who believe in academic freedom will defend it against attacks by the extremists of the far left and the far right. We will be tolerant and long-suffering in its defense, but we will not give it away. We do not have that right.

It is a time of decision. I think we can—and must—choose. I have described the university to which I am deeply committed and for which I have the most tender regard. In the final analysis what will count is the choice we are prepared to make. The unpardonable crime will be to make no choice at all. Should that happen, someone else will make it for us.

Here, at the end, but also at a beginning, you will understand perhaps why the opening lines of Charles Dickens, "A Tale of Two Cities" have come back to me: "It was the best of times, it was the worst of times, it was the age of wisdoms, it was the age of foolishness. . . . It was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair."

The trouble with the defense of the university is the same as with defending freedom: it takes up so many of one's mornings.

I thank you for permitting me to spend this one with you.

TRAGEDIES IN THE WAR IN VIETNAM

Mr. MILLER. Mr. President, I have personally received and also been shown many letters from men serving our country in the tragic and difficult war in South Vietnam. One which was recently brought to my attention was written by a young officer, 1st Lt. Donald F. Wood, a member of the Iowa National Guard, to the officers of the 69th Brigade, Iowa National Guard. Shortly after this was written, Lieutenant Wood was killed in action.

His letter expresses the dedication and commitment to duty, honor, country which characterize the conduct of the vast majority of those who have served and are serving in that far-off, troubled land.

I believe this letter merits the attention of Senators and all others who read the CONGRESSIONAL RECORD. I ask unanimous consent that it be printed in the RECORD.

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

To The Officers of the 69th Brigade:

Well, a lot of time has passed and I have had a lot of missions. I have done myself to the end at times. I have made a lot of people dislike me, but I have always done my job and always been devoted to my com-

mander and who ever he is, I always shall be. I have had the honor of working for some very important people who I have used as my example of the type of officer I want to be. My Battalion Commander and My Brigade Commander. I have no ill feelings for those of superior rank who scorned me and my men. I feel I was right and for the best of the Brigade I had to do what I did. I have felt important to this Brigade. I feel part of this Brigade belongs to me. She is a beautiful sight to one who really works for her, you grow to love and live for her. She stands tall in any military environment. I feel proud that I was part of it. We helped to prove something—National Guard can be tops with our type of leaders and men, it was done. Times as UMMT Chief I have turned in reports that were razor sharp. I have been cut down severely for keeping the Commander informed honestly—no punches pulled, calling it the way it was—every report was evaluated impartially and fair. I have nothing but respect for every man that disagreed with me. I have been wrong but I hope I have been man enough to admit it. One thing I have learned from all of my leaders is make a decision and stick to it until you're proven wrong. Drive on hard. I have learned to face every situation squarely and grab it by the stack and swivel and stay in there until it is solved regardless of the circumstances.

I feel I have accomplished a lot working my way up to Assistant Brigade S4. With the guidance of an outstanding S4 (CPT Barber) I learned a lot of things. I only wish I could have stayed there to become proficient and more effective. To he who reads this—you may laugh, maybe it is what you call flag waving—you damn right it is flag waving, and I am proud of it. I was only a pebble in a rock slide, but as time grows short and I look over the 69th Brigade area I feel I did my best and in my little world I felt I was a big boulder in that rock slide—this is important to a man. This is the way I have tried to make my men feel—this has proven to be effective—every man's job is one of the most important, regardless of rank.

With the guidance I have received in the 69th Bde I feel confident I can handle any situation and try any position that is available—never backing down from responsibility. I feel that any officer should take the time to listen to his subordinates, they have many ideas which have helped me, along with just listening to my commanders talk.

Well, I am down to four hours now—I will be in Vietnam before long—I am leaving the 69th, but I am going where I belong, this is where our men have gone, now it's my turn—I only hope and pray when I lead my men into combat I can have the confidence in my leaders backing me up as the leaders in the 69th have. With the confidence I have gained here I know I will get the maximum amount possible of my men back to their mothers and wives. Thank you, Sir, it was an honor, I hope to serve under you again someday. And to all new Lieutenants the opportunity is here—make maximum use of it and you will feel what I do about this Brigade. You can walk away and say, I did my best.

1st Lt. DONALD F. WOOD,
69th Infantry Brigade.

RATIFICATION OF GENOCIDE CONVENTION FOLLOWS IN OUR TRADITION

Mr. PROXMIER. Mr. President, for 20 years, we have kept the world waiting for our ratification of the Genocide Convention. It is time that we assume our rightful place as leaders in the struggle for human rights for all people. Ratifying the Genocide Convention will make our intentions clear to all men.

There can be no mistaking the fact that our inaction on this important human rights convention has resulted in diplomatic embarrassment and misunderstanding. The inaction has also been exploited by our adversaries.

Our history emphasizes our basic belief in the dignity of man. The U.S. Constitution guarantees basic human rights of men. Yet, we have not ratified the Genocide Convention.

No longer should we delay in taking action on this convention. Ratification would follow in the great tradition of this country and would reaffirm our belief and support of basic human rights. I urge the Senate to ratify the 1948 Genocide Convention of the U.N. as soon as possible.

ADDRESS BY SENATOR THURMOND TO VETERANS OF FOREIGN WARS NATIONAL CONVENTION

Mr. TOWER. Mr. President, the Veterans of Foreign Wars of the United States recently held its 71st annual national convention in Miami Beach, Fla., from August 14 to 21, 1970. This organization of over 1,600,000 overseas veterans was honored to have as one of its guests the distinguished Senator from South Carolina, STROM THURMOND.

Because he is a long-time senior member of the Armed Services Committee, Senator THURMOND's speech on the necessity to maintain our strength throughout the world in the face of the many threats now facing this Nation was indeed a most timely and significant message.

So that all Senators will have the opportunity to read and study this most important speech on a subject of great interest to all Americans, I ask unanimous consent that the complete text of Senator THURMOND's speech to the Veterans of Foreign Wars national convention banquet be printed in the RECORD.

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

ADDRESS BY SENATOR STROM THURMOND

Ladies and gentlemen: Every so often a Nation stands on the brink of a decisive period in history. There are only a few such periods given to a Nation, and each time its destiny depends upon the proper response of its people.

America stood at such a moment in 1776. Our forefathers had both a vision of freedom, and the will to make it a reality.

Today America stands at such a moment again. We are entering a period which is unlike any experience we have had in history. It is new, it is strange, and it is hard to comprehend. We do not know exactly what to expect, but we do know that there will be great demands on our people. In these times of crisis it is comforting to know that there are a few groups of strong, level-headed patriots who will rise willingly to the challenge.

The Veterans of Foreign Wars is such a group. I can think of no body of men that love their country more than those who fought its battles overseas. None have made a greater investment in the future than you who fought in the past.

Before we examine our present period of decision and the possible demands on us, let us look to some of the responses of past generations of Americans to the challenge of their time. Perhaps we will find in these

backward glances a key to what we need today.

In 1789 we had a remarkable moment when the Constitution was completed and proposed for ratification. Our forefathers again had a vision of political freedom, a vision in which force of arms would not be necessary to impose the government upon the people. It was to be a government freely accepted.

But in 1860 when men shuddered at the impending drama in which the hopes of our Founding Fathers would be obscured by a clash between brothers, the great Constitutional issues were settled not by reason, logic, and precedent, but by superior force of arms.

In 1917 the United States entered a great World War in which the future of Europe was at stake. We were unprepared, but we rallied, and we used our superior force of arms in order to bring about the reorganization of Europe. But while our leaders dabbled with impractical plans for the League of Nations, we allowed the very practical Bolshevik leaders to consolidate their power in Russia, and to impose their will upon the remnants of the Russian Empire, even though we had troops in Siberia.

In 1941 we entered a war in the Pacific and the Atlantic. We were fighting against an alliance of totalitarian governments which sought to impose their warped vision on the world. Our men in uniform fought bravely. Those who have fought for America in foreign lands are more responsible for the survival of freedom today than any other single group. We owe our liberty to those who made the sacrifices in meeting the enemy on foreign soil—sacrifices which for too many included the ultimate. I was among those who went ashore on D-Day, and I can say that I have never known a group of more dedicated, patriotic, loyal Americans, selflessly devoted to the American cause, than those who have worn the uniform of their country.

1941 was a great moment in our history, and 1945 brought victory. But it was a victory made hollow by politicians who had needlessly aligned our nation with a ruthless totalitarian government. We went to war against tyranny, but we allowed the Communist tyrant to march at our shoulder. We were fighting for freedom, but we granted the Soviet Union a full partnership, sustained her, and strengthened her. At war's end, we looked the other way while the Soviets imposed Communist control upon half of Europe. We had the power to affect the organization of the world to support freedom, but we lost our will before the job was done.

In 1945 we were the most powerful nation on earth. But so far were we from any thoughts of aggression that we demobilized our armies and left our equipment to rot on the beaches of the Pacific. We were the only country that had atomic weapons, and then nuclear weapons. We had the power to back up our moral force. We could have used the threat of our power to open up the Soviet captive republics, and to guarantee that every nation on earth had the opportunity to choose its own destiny. But that moment passed. We used our power neither for evil nor for good. Then the Soviets acquired atomic weapons, and ultimately more advanced nuclear weapons.

With the introduction of strategic nuclear weapons, a whole new element was added to strategic thinking. With nuclear weapons in the hands of an aggressive, totalitarian dictatorship, the possibility of a nuclear confrontation overshadowed the international arena. The Soviets respected our nuclear might, but they found us vulnerable to limited probes. And they continued to probe wherever they could, through the use of subversion, guerrilla warfare and conventional warfare.

The lesson we learn from history is that it is not enough to have truth and justice on our side. We must always be prepared with strength to back up your position. When we are not prepared, we invite aggression. Unpreparedness is provocative; preparedness is the guarantee of peace. Since World War II, the only times we have successfully stopped Communist aggression is when we unashamedly declared ourselves for freedom, and displayed the force to back it up.

The Communists backed down in Greece and Turkey in 1947.

The Communists backed down in the Berlin blockade of 1948.

The Communists were stymied by the formation of NATO in 1949.

The Communists quit in Korea in 1953 when President Eisenhower clearly said that we would not restrict our targets.

The Communists left Taiwan alone when we moved in the Seventh Fleet in 1954.

The Communists quit shelling Quemoy in 1958 when we made it clear that the offshore islands were within our defense perimeter.

The Communists gave up threatening Lebanon in 1958 when we swiftly sent in our troops—even though not a shot was fired.

The Communists backed down again in Berlin in 1958.

The Communists backed down from nuclear confrontation in Cuba in 1962.

The Communists melted away when we attacked their sanctuaries in Cambodia. Only our voutary withdrawal has made possible their return.

When we were firm, our cause flourished. When we hesitated—I have only to mention Lebanon, the Berlin Wall, Laos, the Bay of Pigs, the Pueblo and, of course, the long-drawn out tortuous course in Vietnam—our cause has suffered.

Now the year is 1970. We are at the threshold of another decisive period in our history. Like the other periods to which I have referred, this era is a time when the future configuration of world politics is at stake.

Let us face some simple facts. For the first time in the last half of this Century, we face an enemy whose military strength is nearly equal to ours. In 1968, we could not make that statement. In the early part of 1969 we could not make that statement. But some time toward the end of 1969, the Soviets came abreast of us in the number of strategic weapon delivery vehicles; and, now, in 1970, Pentagon authorities admit that the Soviets have more strategic missiles than we do.

This fact alone lessens our ability to be a force for world peace. It affects not only our military capability, but it also undercut our persuasive power with our allies, and casts doubt upon the estimate of our abilities which the uncommitted nations are making. We are handicapped in standing up for freedom when there is doubt that we can back up our promises.

I do not think that it is any coincidence that the Soviets have moved into a dominant position in the Middle East at the same time that they have achieved parity in strategic weapons systems. For the first time in history the Soviets have put their most sophisticated military equipment and put Soviet military advisers in combat situations outside the territory of the Soviet and satellite Communist nations.

I do not think it is any coincidence that the Soviets have signed a so-called "non-aggression" pact with West Germany at the same time that they have achieved parity. For this is a pact which practically ratifies the Communist occupation of East Germany. This pact settles for the foreseeable future the artificial boundaries imposed by Communists in Eastern Europe. It casts a cloud over future Western rights in Berlin, and paves the way for the future dissolution of NATO, unless appropriate guarantees are written into the body of the agreement.

All this comes about not from the firing of nuclear weapons, but from the possession of an equal capability in nuclear weapons. The leveling off of the strategic balance will have untold consequences unless the United States responds correctly. The most important consequence is that the Soviets are already beginning to surpass us and may do so if they choose.

Let us take a look at what the next five years could bring in the military balance. I say could bring, because I am making no predictions. I will merely give you conservative estimates of what is within the reach of the Soviet Union by 1975. Recent experiences on the Armed Services Committee have made me painfully aware of disturbing developments.

The Soviet Armed Forces are chiefly divided into five services as opposed to our three. Like us, they have the Army, Navy, and Air Force—but they have separate services under separate commands for their strategic nuclear rockets and for their anti-air defenses, including ABM.

In addition, the Soviets have a Tactical Air Force, and a Naval Air Force each of considerable size under the air and naval commanders, respectively. They have also developed an orbital bombing system, possibly using elements of the giant SS-9 rocket, and they have a broader mix of megatonnages and capabilities than we do in their rockets. This gives them a flexibility in planning, which we lack.

We must remember that the Soviets have accomplished this feat with a far greater effort than the United States is putting forth. The Soviet Gross National Product is only half that of the United States. The Soviet economy is more bureaucratic and far less open to creative development than that of the U.S. The needs of the Soviet people have been deliberately sacrificed to pay for this long-range aggressive plan. With so much already sacrificed, it seems a futile illusion to believe that the Soviets will turn away from achieving military superiority when it is almost within their grasp. The Soviets have demonstrated that they have the will to win. Whether they can win depends upon our response.

What is the situation? The situation is this: While the enemies, including the Red Chinese, do not have the equipment, the production base, nor the means of delivery to make them a real threat in strategic nuclear weapons. The one threat, the only meaningful threat at present, comes from the Soviet Union.

I do not expect a nuclear confrontation with the Soviet Union. But the Soviets will use their great power to push for every advantage possible. With the knowledge that they speak as equals, and perhaps as superiors, they will demand more and more concessions and ratification of their past conquests. They will lure us to the conference table to discuss peace on a formal level while they unleash subversion in every corner of the globe.

We must never forget that the Soviets constantly work on two levels. With the diplomatic apparatus of the Soviet government they speak to our government about the terms of peace. But basically they consider a free government to be illegitimate, and they work through subversion to undermine that government and to destroy the morale of its people. If you think that is too harsh a criticism to level at the Soviet Union, I invite you to look at what happened to Hungary and Czechoslovakia.

Let's not kid ourselves. We know that the main conduits of the so-called "Peace Movement" in this country reach directly into the inner councils of Hanod.

We know that Hanod gives information about our prisoners of war, suffering in North Vietnamese prison camps, only to those groups that are in close collaboration with the Communists.

We know that Communists will not deal with free governments, but only with those peacekeeping groups which they consider to be the leaders of the vanguard of socialism.

We know that the hippies and the peace-niks, and even the starchy-eyed idealists, are merely unwitting window dressing for a hard-boiled subversive movement aimed at destroying our Nation.

Ladies and Gentlemen, the threat facing this country cannot be divided. It is both external and internal—a total threat. The Soviets are aiming for technological superiority in their arms build-up outside our shores, but they are taking no chances. They know that the easiest way to attack our defenses is to build up a climate of opinion in which we no longer have the will to use our weapons.

It does us no good to have power, and be paralyzed when it comes time to use it.

The United States ought not to go to war unless it has to. But if we do go to war, it should be an all-out fight to win.

We cannot ask for the sacrifice of American lives unless we are willing to take every military step possible to protect the lives of those who are doing the fighting. Not one American life is expendable.

We should not fight a war, and leave a stalemate behind.

We should not fight a war, and leave a coalition government to deliver territory stained with American blood into the hands of the enemy.

We should not fight a war and lose 40,000 troops, and then simply withdraw; the sacrifice of all those American lives demands nothing less than an honorable peace.

Unfortunately, there is a movement in Congress which would tie down our ability to defend ourselves. It is attempting to cut back every defense program, to restrict the freedom of action of our Commander-in-Chief, and to unilaterally disarm this country by killing the most important new developments in armament design.

This movement is supported by those who ignore the changed military balance between the Soviet Union and the United States. This movement is supported by those who talk about changing our national priorities. They say that we have to spend more money on domestic programs, and that we can't afford what the Commander-in-Chief says is necessary to defend this country.

To talk about changing priorities at this moment is like the shipwrecked man in a lifeboat who can't decide whether to shine his shoes or to start rowing.

Instead of worrying about more pork-barrel programs, we should be concerned about our preparedness for survival. When we already are supporting able-bodied people who won't work, we should be studying how to cut down on such expenses, not planning more ways to have a guaranteed annual something-for-nothing.

Shouldn't we be worrying more about government programs that promote militancy and revolution than about programs that break up schools and neighborhoods?

Shouldn't we be equally as worried about the pollution that comes from the Supreme Court-approved pornography as about the industrial pollution we all abhor?

Shouldn't we be as concerned with the so-called "drug culture", which sets a style of life for many of our youngsters, as about the drugs themselves?

Shouldn't we be looking after our fine young people to educate them about the hard-core militants seeking the destruction of all the values of our Christian civilization?

We are told by some who have impressive degrees and questionable education that those youths most prominently featured in the news media have high ideals; but are those ideals so high when they advocate treason and the hauling up of the Viet Cong flag? My answer is an emphatic "No!"

Now I am not attacking the majority of our youth. I speak on college campuses frequently, and I feel that most of the students are sincere in their quest for knowledge. Yet we must make our young men and women realize that there is a movement afoot to undercut the foundations of stability in our country.

Many of the universities have been taken over by hard-core revolutionaries who know full well what they are doing. They are inciting inexperienced students to violent acts which will compromise their future as decent citizens. They are introducing drugs to destroy them physically and to make them outlaws who will be forever distrustful of the police. They urge the students to make hatred a way of life, so that they will never become broadly educated in the fullest sense.

Our newspapers and other media told you about the violence at Kent State University. But did they tell you that Kent State University had been singled out months in advance as a center for promoting revolution? Did they tell you that the investigating committees of Congress had already taken extensive testimony about subversion at Kent State weeks before the riot occurred? Did they tell you that the campus was visited by the convicted criminal, Jerry Rubin, who urged the students at Kent State to kill their parents?

Clausewitz, the greatest writer on classical military strategy, said that war is an extension of politics, and this is war—war against America!

When I think of America, I think of a country that is proud to be strong, and proud to be right.

When I think of America, I think of a country that is not afraid to back up its stand for freedom, with the authority that comes from power in reserve.

When I think of America, I think of a people who are willing to make the sacrifices to be upright and true.

Ladies and gentlemen, we have to get our goals back in order again. We've got to have the fortitude and courage to stand fast for the principles of our forefathers that established this nation.

We are in a battle to preserve America. This is a battle which pertains to our own minds and hearts. The decade of the 70's is a decade in which we are no longer unchallenged as the strongest power in the world, and we are sorely divided internally.

We must work together to keep America strong. We must have not only the military strength, but the moral strength. We must be willing to fight for our principles, bearing witness to our youth and our fellow citizens.

Our forefathers fought gallantly to win freedom. You have battled valiantly to preserve it. We must not forget that freedom can be lost through apathy. Preserving freedom is more difficult than winning it!

As I look into your faces tonight, I am frequently reminded that your service to your country sets you apart as patriotic and dedicated Americans. Now that the very existence of our form of government is at stake, I challenge you to come forward once more and give support to our country as you have never done before. If you do, future generations will rise up and call you blessed!

THE CHALLENGE OF CORRECTIONS—ARTICLE BY SENATOR CHARLES MCC. MATHIAS

MR. COOK. Mr. President, the distinguished Senator from Maryland (Mr. MATHIAS) has recently written for the University of Maryland Law Forum an article entitled "The Challenge of Corrections." Senator MATHIAS is uniquely able to speak with knowledge of this subject, as he is a lawyer of distinction and

a member of the Senate Judiciary Subcommittee on National Penitentiaries upon which we both serve.

If I were asked to name the most effective and intelligent Members of the Senate, "MAC" MATHIAS would be among them. This article is just another in a long series of accomplishments by the Senator from Maryland. 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:

THE CHALLENGE OF CORRECTIONS

(By Senator CHARLES MATHIAS)

(EDITOR'S NOTE.—As a Republican Senator from a predominantly Democratic state, Mr. Mathias has achieved political success despite the odds. A product of the Frederick County Public Schools, Mr. Mathias went on to graduate from Haverford College, Yale University, and the University of Maryland. Senator Mathias has served as an assistant attorney general of Maryland and city attorney of Frederick. In 1958, he was elected to the Maryland House of Delegates from Frederick County. Two years later, he was elected to the U.S. House of Representatives where he remained for four terms. In 1968, Maryland voters elected "Mac" Mathias to the Senate, giving him a 96,000 vote plurality over the incumbent in a three-way race. In the Senate, he serves on the Judiciary, District of Columbia, and Government Operations Committees. He is also a member of the Judiciary Subcommittees on juvenile delinquency and national penitentiaries.)

Each night in the Manhattan House of Detention for Men (The Tombs), dozens of prisoners sleep three to a cell, with one man on the cement floor. The cells, designed for one man, measure six feet by seven feet, nine inches. A comparison of this 35½ square feet per man with 396 square feet allotted the Bronx Zoo's male spotted hyena must give us pause. Not only are we treating human beings worse than animals, but the hyena will never be released into society. The safety of the public will never depend on the Bronx Zoo's ability to rehabilitate its charge and prepare him for a useful, law-abiding life in the community. Virtually all of the men in The Tombs will, on the other hand, eventually be freed to resume life on the outside. Their experience in jail will be a primary determinant of their behavior upon release.

CRIME AND DOMESTIC TRANQUILITY

Less than a year ago, the Commission on the Causes and Prevention of Violence reported as a major conclusion that—

"The time is upon us for a reordering of national priorities and for a greater investment of resources in the fulfillment of two basic purposes of our Constitution—to 'establish justice' and to 'insure domestic tranquility.'"

Crime and fear of crime have been major components in the erosion of domestic tranquility perceived by the Commission.

The Uniform Crime Reports released last month by the Federal Bureau of Investigation disclose that nine serious reported crimes occurred each minute of 1969. A violent crime—murder, forcible rape, robbery, or assault to kill—occurred every 48 seconds. In Baltimore alone, 61,355 instances of the seven "index offenses" were reported to the police in 1969. Nationally, the crime rate has risen 120 percent from 1960 to 1969, while population has increased only 13 percent.

But statistics are less convincing than experience. Hardly any citizen has escaped the direct effects of some criminal act. Particularly in our large metropolitan areas, crime and fear of crime poison the atmosphere as surely as any chemical pollutant.

A society which can send a man to the moon and back in safety should be able to

do as well for a trip to the corner grocery. The inability to accomplish the latter task has prompted agonizing reappraisal of our system of criminal justice. Foremost in this reappraisal should be the corrections process in America.

ANCIENT CORRECTION FACILITIES

On any given day, about one and one-half million Americans are being handled by our correctional system. About one-third of those are in institutions; the remainder, under supervision in the community.

Institutionalized offenders exist, for the most part, under appalling conditions. As James V. Bennett, distinguished former Director of the Federal Bureau of Prisons, recently remarked of our state and local institutions, "[a]ll but a handful are archaic, grim, and devoid of all but token facilities for training and rehabilitating their inmates." A federal district court has recently gone so far as to declare that confinement in one state's penitentiary system in certain respects violates the eighth amendment proscription against cruel and unusual punishment.

Many jails and prisons are of ancient vintage. The federal prison at Leavenworth, Kansas, was built in 1895; the Atlanta Institution, only seven years later. Other compounds, such as McNeil Island, Washington, and The Ohio State Penitentiary at Columbus, date back to the Civil War. Buildings designed only with warehousing in mind stifle intentions of even the most dedicated correctional authorities. A choice between a cell and a mess hall for a group counseling session is no choice at all.

It has been estimated that 95 per cent of the billion dollars spent annually on corrections is devoted solely to custody or dead storage. Under such circumstances, rehabilitation becomes an accidental byproduct rather than a carefully-sought end result. Oscar Wilde phrased it well in his poignant "Ballad of Reading Gaol":

I know not whether Laws be right,
Or whether Laws be wrong;
All that we know who be in goal
Is that the wall is strong;
And that each day is like a year,
A year whose days are long.

The vilest deeds like poison-weeds
Bloom well in prison-air;
It is only what is good in Man
That wastes and withers there:
Pale Anguish keeps the heavy gate
And the Warder is Despair.

The picture is no brighter for the million persons who have been released on parole or probation to the community. Since we devote but 20 per cent of the corrections budget to the 67 per cent under supervision in the community, it is hardly surprising that probation officers face insuperable obstacles. Caseloads of 100 or more, three times the recommended maximum, are commonplace. The process of reintegrating an offender into the community is critical. To attempt such a task when one's workload limits officer-offender contact to one 15-minute interview per month is to display remarkable optimism and dedication.

For many years, the million and a half Americans under correction could attract public attention only by participating in a riot or a jail break. That pattern is changing. We have begun to recognize that a massive commitment to improving our correctional system will be required to interrupt the revolving-door of our criminal justice system. For about 60 per cent of the individuals who are convicted, and committed, a stay in prison is nothing more than a way station on the road to further serious crime. Far from rehabilitating, the present system all too frequently embitters individuals and trains them further in the criminal professions,

The extraordinarily high percentage of inmates who are eventually released into society—and the sobering percentage of those who ultimately return to prison—force us to reassess our view of rehabilitation. It may be time to view rehabilitation as a right demanded for the protection of society rather than as a privilege granted an individual violator. We get what we pay for: the question is not one of "coddling criminals." It is one of intelligent return on our invested resources.

SAFE STREETS ACT

In 1967, the President's Commission on Law Enforcement and Administration of Justice issued an historic report on each aspect of our system of criminal justice. It pointed out in meticulous detail the shortcomings of our correction "system," which is really a fortuitous collection of a federal system, 50 state systems, and several thousand local systems.

In 1968, in response to the kinds of needs highlighted by the Commission, the Congress passed the Omnibus Crime Control and Safe Streets Act of 1968. That measure was an unprecedented commitment of federal resources to aid state and local governments in combating crime. As a member of the House Judiciary Committee, where the omnibus bill began its legislative journey, I was privileged to participate in its formulation.

The Act created the federal Law Enforcement Assistance Administration (LEAA) and charged it with assisting state and local governments in the control of crime and administration of justice. Under its provisions, each of the 50 states has adopted a comprehensive law enforcement plan. Considerable federal sums have been granted for implementation of those plans. Funds have been made available for further professional training of law enforcement officers. A National Institute of Law Enforcement and Criminal Justice has been established to develop new and improved techniques and instruments of law enforcement, to disseminate information about law enforcement science and technology, and to operate a criminal justice information and statistical center.

Experience under the 1968 Act, as well as other projects and studies, has demonstrated several promising avenues for reducing criminal recidivism.

COMMUNITY-BASED CORRECTIONS

The pioneer work of John Augustus in 1841 first demonstrated the value of community treatment—parole and probation. Such alternatives to confinement had the obvious advantage of confronting an individual's problems in the environment where almost all offenders must eventually succeed or fail. By 1961, the community-based corrections had become far more sophisticated than simple parole or probation. In that year, the Bureau of Prisons established its first comprehensive Community Treatment Center (CTC) to assist young offenders in reintegration into the community. Four years later, Congress extended such authority to include centers for adults as well.

Today the Bureau operates CTCs in eight metropolitan areas: Atlanta, Chicago, Detroit, Houston, Kansas City, Los Angeles, New York, and Oakland. They provide a place of residence and intensive supervision and counseling for individuals who are soon to be released from custody. Trained caseworkers, correctional counselors, employment specialists and other staff members provide guidance and employment assistance during the difficult transition period between incarceration and release. Psychological and psychiatric services are available and each offender has daily contact with appropriate correctional professionals.

During the past year some 1200 federal offenders were assigned to Centers prior to release. Others were placed in similar facilities

operated by state and local governments and private organizations. The Bureau of Prisons is presently conducting an exhaustive study of 3,000 persons who were released through Centers during the period 1962-1968. Preliminary studies have indicated the superiority of such graduated release to direct release from prison.

The report of President Nixon's Task Force on Prisoner Rehabilitation, released last April, accurately summarized the value of community-based treatment:

"[W]hat is wrong with most offenders is that for any number of good or bad reasons they are unable or unwilling to respect the standards of the community, to adhere to its customs, to fulfill their obligations to it, or use to advantage the opportunities it provides. Hence 'correction' or 'rehabilitation' or 'reintegration'—use what polysyllable you will—is at bottom a process intended to give offenders the ability and the desire to be good citizens. The difficulty of pursuing this objective in the authoritarian, monotonous, and above all, artificial environment of a jail or prison is obvious; it is not available in submarines. The way to learn how to solve the problems of community living is to tackle them where they exist."

The task force therefore concluded that "any offender who can safely be diverted from incarceration—or in some cases even adjudication—should be."

The question of whether we should make broad utilization of community-based treatment has, of course, already been decided. With two-thirds of our offenders on parole or probation, we must bend our efforts toward providing the intensive supervision and guidance so desperately needed to rehabilitate offenders and protect society. This is particularly so with offenders who have a history of narcotics addiction.

We must insure that sufficient numbers of adequately-trained professionals are available to staff community centers. We must expand the roles of probation and parole officials to include active intervention with community institutions—such as schools, employers, health facilities and public agencies—on behalf of offenders. We must distinguish among the different types of offenders in determining type and intensity of treatment. We should examine the experiences of Holland and the Scandinavian countries, where "after-care" societies of concerned volunteer laymen have existed for centuries. We should consider demonstration projects to test the effectiveness of using former offenders as counselors to probationers and parolees.

In sum, community-based treatment holds considerable promise. Properly administered, it can be both less costly and more effective for many offenders. But we must provide it with resources sufficient to insure that released offenders reenter the community not only in body but also in spirit.

JURISDICTIONAL FRAGMENTATION

Our correctional system, like our overall system of criminal justice, suffers from jurisdictional fragmentation. Many towns and rural counties are too small to provide any significant programs for criminal offenders. Even our less populous states are pressed to provide any kind of specialized treatment. Conversely, many major state and city systems are so crowded that sheer custody is difficult, let alone rehabilitation.

Some states are much more generous than others in their support of corrections. Financial disparities are combined with policy differences: for example, some states are much more restrictive than others in granting probation and parole. Misdemeanants in one jurisdiction may sit idly by while their counterparts in the next county perform useful work.

The one correctional institution that directly affects more human lives than any other is generally the most inadequate. Our

county and city jails are even worse than our prisons. As the President's task force stated— "A jail can be anything from a two-cell hovel in a small rural county to a concrete and glass skyscraper in a big city. Whether it is one or the other of those or, more likely, something in between, more often than not the living conditions within it are squalid, whether because of obsolescence or overcrowding or just plain indifferent house-keeping by the staff. And the vocational, counseling, educational, psychological and even medical services and programs it offers its inmates range from skimpy to nonexistent."

The jail population consists mainly, of course, of minor offenders. But the anomalous result of our neglect of jails is harsher custody and less stress on rehabilitation for those who are most deserving of and susceptible to it. The President's Crime Commission found that only 3 per cent of the total staff of our 3,500 local jails performed rehabilitative duties (and some of those were part time).

The constitutional, financial, and political problems involved in ameliorating these circumstances cannot be gainsaid. One way to overcome these side effects of fragmentation is to establish regional jails for misdemeanants. In this way, several states could combine resources to institute programs and construct facilities that each could not otherwise justify or afford.

The regional approach has been suggested for other categories of offenders for whom programs now tend to be inadequate—women offenders, juvenile offenders, and narcotics addicts. The President has especially requested the Attorney General to explore the feasibility of such regional centers and I support those efforts wholeheartedly.

JOB TRAINING AND EMPLOYMENT

The President's Crime Commission analyzed personal characteristics of offenders and came to this conclusion:

"Offenders themselves differ strikingly. Some seem irrevocably committed to criminal careers; others subscribe to quite conventional values; still others, probably the majority, are aimless and uncommitted to goals of any kind."

The Commission did establish, however, one common denominator of many offenders: unstable work records and lack of adequate vocational skills. It may, in fact, be fair to infer that many offenders first turned to crime because they lacked either the opportunity or ability to earn a legal living.

It thus seems axiomatic that society give careful attention to the work experiences of institutionalized offenders. Vocational training while incarcerated and assurance of a decent job upon release should be high-priority correctional goals.

Too often, however, inmates are idle or perform menial chores unrelated to securing employment in the outside world. And even where meaningful vocational programs are available, as in much of the federal system, participation is minimal. A typical inmate, under-educated and under-trained, may not be able to grasp the importance of long-term rewards such as increased employability upon release.

Seeking employment after release is often a humiliating experience. For example, the very entities charged with rehabilitating have harsh requirements for employing former offenders. Most states have policies, unwritten or statutory, which totally bar former offenders. The federal government requires the employing agency to go through an elaborate process of justifying to the Civil Service Commission its desire to hire any former offender.

If government is to successfully urge private enterprise to adopt enlightened hiring policies for former offenders, it must surely demonstrate its willingness to do likewise. The President's task force has recommended that (1) the Civil Service Commission devise

a plan to stimulate federal employment of former offenders and (2) the National Institute of Law Enforcement and Criminal Justice frame guidelines on hiring former offenders for state and local government use. This is certainly the direction in which we must move.

The task force made a further suggestion worthy of the most careful consideration: creation of a national agency to stimulate adoption of programs for employment and training of criminal offenders.

We must give persons convicted of crime, particularly minor offenders and youngsters, the desire and the means to pursue careers that are not criminal.

BROADER CHANGES NECESSARY

Strengthening community-based corrections, adopting regional approaches where appropriate, and providing effective job training and employment for offenders will help slow the revolving door which leads from crime to prison to release to further crime.

In the last analysis, however, success or failure in corrections may depend on the success or failure of the American experiment. We must continue to work to make America's benefits available to all Americans. As President Nixon's Task Force said of its own proposals for community treatment, offender employment, regional centers, and the like:

"They must be viewed as tactical maneuvers that can lead to no more than small and short-term victories unless they are executed as part of a grand strategy of social reform, with particular emphasis on reducing poverty and racial discrimination."

FUTURE PROSPECTS

There are encouraging signs that the legal profession and public at large are recognizing the critical role of corrections in stemming the tide of crime. Chief Justice Warren E. Burger has played a major role in bringing the problem into the public and professional eye. The American Bar Association has formed a Commission on Correctional Facilities and Services to inventory existing corrections resources and make recommendations for improvement. And more importantly, the Commission's charter includes responsibility to "enlist the active support of state and local bar associations, corrections organizations, labor, industry and commercial groups, and citizen organizations in coordinated campaigns" for correction reform. These enlightened efforts are to be lauded.

It has been said that the best measure of a society's quality is the way it treats those who are incarcerated. Dostoevsky wrote that "It is with the unfortunate, above all, that humane conduct is necessary." And Mr. Chief Justice Burger has poignantly reminded us that—

"When a sheriff or a marshal takes a man from a courthouse in a prison van and transports him to confinement for two or three or ten years, this is our act. We have tolled the bell for him. And whether we like it or not, we have made him our collective responsibility. We are free to do something about him; he is not."

Conviction without correction is neither wise nor humane. If we fail in that, we fail in our human responsibility to him as well as in our practical responsibility to ourselves.

In 1870, the American Prison Association declared that "reformation, not vindictive suffering, should be the purpose of penal treatment." A century later, as we reflect on correctional problems, past and future, I think it appropriate that we rededicate ourselves to that visionary declaration.

AMERICAN PRISONERS OF NORTH VIETNAM

Mr. ALLEN. Mr. President, I am increasingly concerned at the political machinations by the North Vietnamese

at the expense of American prisoners of war being held by them.

The Communists have recently held out a twig of hope that they would be willing to negotiate release of the POW's, but they pin such negotiations on prior conditions. They speak of agreements, but how can we trust them when they refuse to abide by the Geneva Convention on prisoners of war, which Hanoi agreed to in 1957? The U.S. Government has asked that Americans held in POW camps be given humane treatment in accordance with the Geneva Convention, and the wives and families of these men have beseeched Hanoi for compassion. But Hanoi continues to deny even an exchange of messages between husband and wife, between father and children, between son and parents.

Mr. President, the cause of the prisoners of war must remain as top priority for the U.S. Government. We must continue to do everything possible to ease the life of those men held by the enemy, and we must do everything possible to bring them home.

In their syndicated column "Inside Washington," nationally known writers Robert Allen and John Goldsmith recently addressed themselves to the problems of the prisoners of war. This column was published in newspapers throughout the United States.

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

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

WHAT ABOUT VIETNAM POW'S?

WASHINGTON.—President Nixon and his top advisers must soon come to grips with the question of what happens to Americans held as prisoners of war, as the Vietnamization program goes forward.

The question is now being asked privately by POW families. By its nature, however, it is a question which cannot be muted for an indefinite period and will ultimately require a full and forthright answer.

The issue is simple enough: President Nixon, in Vietnamizing the war in Southeast Asia, is gradually drawing down U.S. combat forces. What are the hopes for more than 1,500 Americans now prisoners or "missing" if the war winds down without a negotiated settlement?

The administration provided a simple answer last spring in POW hearings before a House Foreign Affairs subcommittee. On that occasion Rep. Clement J. Zablocki, D-Wis., commented that the Vietnamization program offered a bleak prospect for POWs and their families.

F. Warren Nutter, assistant secretary of defense for international security affairs, replied that President Nixon and Defense Secretary Melvin R. Laird have repeatedly stated that "These men will not be abandoned."

Some U.S. prisoners have already been held by the Viet Cong and North Vietnamese for several years. What is wanted now, by some POW families, is a rationale and elaboration of the administration's pledge.

If the talks continue to be fruitless in Paris (where the POW issue has now been forcefully raised) and troop withdrawals continue, does there come a time when Vietnamization halts pending a settlement of the prisoner issue?

POW DAY

The POW families continue to escalate their drive to dramatize the plight of the prisoners.

Currently, the National League of Families of American Prisoners and Missing in South-

east Asia is focusing on Nov. 11. The idea is to make Veterans Day something of a war prisoners' day in public ceremonies this year.

Under the leadership of Mrs. Sybil Stockdale, wife of a captured Navy captain, the league has also been spearheading the campaign for a joint session of the House and Senate on the prisoner-of-war issue. Most of the House and Senate leadership have approved the idea of such a session.

The league has been trying to have such a joint session scheduled in early October to coincide with its first national convention which has been scheduled here in Washington. The convention itself is calculated to attract extensive media coverage.

With assistance from H. Ross Perot, the Texas multi-millionaire, the POW families arranged months ago to highlight the prisoner issue for the tourists who troop to Washington each summer. An exhibit was strategically located on the ground floor of the Capitol Building.

Thousands of tourists file each day past a spotlighted simulated prison cell and a bamboo POW "cage" similar to those which, according to the handful of returned prisoners, are used to confine Americans in Southeast Asia.

UNANSWERED PROBLEM

The campaign for support by the POW families has probably been more effective than is generally realized. That is particularly true with respect to congressional sentiment.

The pages of the Congressional Record bear testimony to the fact that "hawks" and "doves" alike think something must be done to secure better treatment—and, eventually, release—for the American POWs. Many of the speeches delivered in the House and Senate are short and attract no attention on a day-to-day basis. The cumulative effect is considerable, however.

In one such recent speech—less than 200 words—Sen. Howard Baker, R-Tenn., flayed the Communist regime in North Vietnam for refusing to abide by the requirements of the Geneva convention.

"It must remain a matter of top priority with the government of the United States to ease the lot of these men and to continue every possible avenue of negotiation for their safe return to their waiting families," said Baker.

He called the plight of the POWs "one of the great unanswered problems of the year." That is certainly how it is shaping up for President Nixon who will come under increasing pressure to explain how release of the prisoners can be obtained from the intransigent North Vietnamese as U.S. forces in Vietnam and Southeast Asia become progressively weaker.

POLICY STATEMENT AND RESOLUTIONS OF AIR FORCE ASSOCIATION

Mr. THURMOND. Mr. President, the Air Force Association recently issued a policy statement and resolutions which deserve the attention of the Congress and the Nation.

This group has constantly been at the forefront in military affairs which affect the Air Force and the Nation's defense posture in general.

The policy statement of the Association for 1970 is of particular importance in that it comes down hard on the point that the United States is gradually abandoning its strategic nuclear superiority to the Soviet Union.

Mr. President, as I have often stated here on the Senate floor, I am deeply concerned that the United States is al-

lowing our military strength to deteriorate to an unacceptable degree.

Some of us in the Congress are fighting this trend, but I do not believe the danger of declining U.S. military strength can be dealt with successfully until the American people have the facts. Once we accomplish that goal, it is my view they will demand of their elected representatives in the Congress a reversal of this dangerous and deadly trend.

The Air Force Association is to be commended for their efforts to bring the issues to the attention of the Congress and the American people. I ask unanimous consent that the policy statement of the Association and the resolutions adopted at their September 21, 1970, meeting be printed in the RECORD.

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

AFA STATEMENT OF POLICY—1970

The fruits of a quarter century of American sacrifice in the name of peace and freedom hang in precarious balance.

Five years ago, the United States held a wide margin of strategic nuclear superiority over the Soviet Union. Today, the USSR has surpassed the United States both in number of strategic missiles and in missile-deliverable megatonnage, has preceded the U.S. in deployment of an antiballistic missile defense system, has challenged American supremacy on the high seas, and has vastly improved the quality and global mobility of its general-purpose force. The Soviet investment in military research and development has overtaken our own declining research and development budgets, and shows no sign of leveling off, much less of decreasing.

Once the U.S. nuclear deterrent was regarded by both ally and adversary as the guarantor of the security of Western Europe and other areas of the Free World. Now, the umbrella of extended strategic deterrence that has protected ourselves, our friends, and our allies, is being quietly folded with little public notice or concern. Even the capacity to respond to a direct attack on the United States itself is losing its credibility. The danger of the United States becoming a second-class power is both clear and present.

This unprecedented shift in the balance of military power is a hard fact, not a guess or an uncertain extrapolation. Satellite observations, electronic intelligence, and other techniques verify beyond doubt the alarming growth of Soviet strategic striking power. Evidence is mounting that achievement of a first-strike capability is their ultimate goal.

As US nuclear strength, once clearly superior, steadily approaches insufficiency, an emboldened USSR tightens its grip on the Warsaw Pact nations, moves in force into the Mediterranean, assumes an increasingly dominant position in the Middle East, and expands its influence in North and East Africa, the Persian Gulf, the Indian Ocean area, and in Asia.

All this provides clear evidence that Soviet leaders are pursuing with new vigor their historic quest for world domination.

The aggressive expansionism of the USSR stands in strong contrast to trends in our own nation, trends supported by vocal and often influential individuals and groups. Increasingly, their refusal to recognize the existence of a genuine threat is evoking public concern over the security of the United States and the Free World. The need to solve America's internal problems is offered as a reason for withdrawing from world leadership and the responsibilities that go with it. Such a retreat from reality can only lead us, as it has in the past, to the ultimate disaster of global war.

The members of the Air Force Association fully recognize the urgency of improving the quality of life in our own country. With that there can be no argument, nor can there be argument over the magnitude of the task. This evidence is constantly before our eyes, easier to see and understand than is the external threat.

But at best, a better life for all Americans cannot be attained on an island of freedom in an expanding sea of despotism. At worst, we face total engulfment by refusing to recognize the explosive growth, and the purpose, of the military power presently arrayed against us.

The Air Force Association urges our national leadership to disclose—fully, frankly, and publicly—the deteriorating defense posture of the United States as it relates to the expanding power of the Soviet Union. The American people's need-to-know must be the paramount consideration.

We believe that Americans must be authoritatively informed of the facts and given a clear statement of national strategy and objectives so that they will sacrifice as actually needed to maintain a world environment of security, freedom, and peace.

AIR FORCE ASSOCIATION—1970

POLICY RESOLUTION NO. 1: PRISONERS OF WAR AND MISSING IN ACTION

Whereas, Department of Defense reports state that more than 1,500 American servicemen are either Missing in Action or Prisoners of War in Southeast Asia; and

Whereas, the government of North Vietnam is deliberately and cynically exploiting, for purposes of propaganda and political pressure, the tragedy and anguish of these men and their families by refusing to comply with the requirements for prisoner-of-war treatment prescribed by the Geneva Convention to which they are a signatory; and

Whereas, repeated efforts by the U.S. government and appeals on the part of wives, children, parents, and relatives of those unfortunate victims of Communist violence have proven ineffective;

Now, therefore, be it resolved that the Air Force Association, together with other organizations, continue to support, in the name of humanity and decency, the efforts of the United States government at the Paris Peace Talks, within the United Nations, and bilaterally with governments of other nations, to demand full adherence by the government of North Vietnam to the provisions of the Geneva Convention covering treatment of Prisoners of War.

POLICY RESOLUTION NO. 2: AIR FORCE DEFENSE OF MINUTEMAN

Whereas, deterrence of global conflict must be accorded the highest priority in national affairs; and

Whereas, protection of our strategic forces is essential to this deterrent posture; and

Whereas, the Air Force Association is on record in support of the President's decision to proceed with the development and deployment of an antiballistic missile program to protect our strategic forces; and

Whereas, the Air Force Association has recognized the need for a review of the ABM program based on "changes in the threat as reflected in intelligence reports"; and

Whereas, our strategic posture is a Triad of the land-based Minuteman ICBM, land-based bombers and submarine-launched ballistic missiles; and

Whereas, a survivable and secure Minuteman missile, equipped with advanced methods for multiple warhead delivery, is fundamental in maintaining sufficiency of the Triad; and

Whereas, protection of the Minuteman missile, under the President's ABM program, requires reinforcement to cope with "changes in the threat"; and

Whereas, a collocated and integrated Hard-Point defense system has been recognized as the most effective means for such reinforcement;

Now, therefore, be it resolved that the Air Force Association calls upon the Administration and the Congress to authorize Air Force development and deployment of a Minuteman Hard Point defense system as a key element in the President's antiballistic missile program.

POLICY RESOLUTION NO. 3: B-1

Whereas, under current planning the manned bomber force through the late 1970s will consist of only B-52 and FB-111 aircraft; and

Whereas, the FB-111 will not be capable of meeting all strategic requirements; and

Whereas, the B-52s remaining in the late 1970s will be from sixteen to eighteen years old, technically obsolete, and expensive to maintain; and

Whereas, the Air Force Association has consistently urged the development and procurement of an advanced manned strategic aircraft to ensure that the United States maintains a balanced strategic capability in the years ahead; and

Whereas, the Congress has appropriated funds for engineering development of the B-1 and the Air Force has awarded engineering development contracts for the airframe, systems, and engines of the B-1;

Now, therefore, be it resolved that the Air Force Association urges the Administration and the Congress to support production and deployment of the B-1 bomber at the earliest possible date in order that our defense posture not be degraded or put at risk by total reliance on unmanned strategic weapons systems.

POLICY RESOLUTION NO. 4: ADVANCED FIGHTER AIRCRAFT (F-15)

Whereas, the history of military conflicts has confirmed that superiority in the air is essential to winning on the ground; and

Whereas, the Soviet Union has already displayed new fighter aircraft estimated to have maximum speeds of about 2,000 mph; and

Whereas, to gain and maintain air superiority we are relying largely on aircraft which are tailored to interdiction and close support roles; and

Whereas, these aircraft were designed from ten to fifteen years ago; and

Whereas, Air Force officials have proposed the development and production of an advanced fighter, the F-15, for the air-superiority role as a program of the highest priority; and

Whereas, in early 1970 the Air Force awarded contracts for systems acquisition and engine development of the F-15;

Now, therefore, be it resolved that the Air Force Association urges the Administration and the Congress to continue to support the development and production of the F-15 advanced air-superiority fighter aircraft, with the goal of having such aircraft operational in the Air Force inventory early in the 1970s.

POLICY RESOLUTION NO. 5: CLOSE AIR SUPPORT AIRCRAFT

Whereas, the history of warfare during the past thirty years has demonstrated consistently that close air support is essential to the effectiveness of ground force operations; and

Whereas, many of the aircraft now used in this role are obsolete and difficult to support and maintain; and

Whereas, the Secretary and Chief of Staff of the Air Force have stated an urgent requirement for an aircraft specifically designed to provide effective close air support for highly mobile ground forces in the 1970s; and

Whereas, the Air Force has proposed the development of the A-X, a simple and relatively inexpensive aircraft specifically designed for close air support;

Now, therefore, be it resolved that the Air Force Association urges the Administration and the Congress to support the development and production of the A-X close air support aircraft without delay with the goal of achieving operational status in the mid-1970s.

POLICY RESOLUTION NO. 6: AEROSPACE DEFENSE

Whereas, the Soviet Union maintains a stabilized force of long-range bombers; and

Whereas, the number of flights by these bombers into the North American airspace, including recent flights to Cuba, has increased; and

Whereas, the aerospace defense forces of the United States are rapidly falling behind in capability to meet a continually growing requirement; and

Whereas, these urgent requirements include an advanced manned interceptor, airborne warning and control system, over-the-horizon forward and backscatter radars, advanced sensors, space-borne surveillance systems, boost and midcourse destruct antiballistic missile systems, plus a terminal homing interceptor and a direct interceptor system;

Now, therefore, be it resolved that the Air Force Association urges the Administration and the Congress to provide programs and funds adequate to meet the aerospace defense needs of this nation.

POLICY RESOLUTION NO. 7: IMPROVEMENT OF BALLISTIC MISSILE POSTURE

Whereas, land-launched strategic missiles are a major element of the U.S. strategic deterrent force; and

Whereas, the need for continued improvement of our strategic missile capability has been reflected in the development, testing, and deployment of advanced versions of the Minuteman missile, the major element of the U.S. land-launched missile force; and

Whereas, further improvement in strategic missile systems undoubtedly will be required to meet an evolving threat; and

Whereas, either improvement of existing missiles or the possible future development of a follow-on to the Minuteman III missile can be achieved most rapidly if developmental work on advanced subsystems technology is completed;

Now, therefore, be it resolved that the Air Force Association urges the Administration and the Congress to support expanded programs for development of ballistic missile subsystems technology applicable to refinement of existing missiles or that may be needed in the development of new missiles to meet a future threat.

POLICY RESOLUTION NO. 8: AMERICAN SPACE ACTIVITIES

Whereas, the continuity of American space activities and the advancement of American space science is of vital importance to the United States; and

Whereas, this continuity of effort depends on the retention of highly skilled scientific specialists, especially trained technical personnel, and specifically space-oriented production facilities; and

Whereas, recent curtailment of national space funding has had a deleterious effect on American space programs;

Now, therefore, be it resolved that the Air Force Association urges the Administration and the Congress to reevaluate fiscal actions affecting American space activities so as to provide adequate funding for a continuity of development and progress in the national space effort.

POLICY RESOLUTION NO. 9: SUPERSONIC TRANSPORT

Whereas, the Soviet TU-144 supersonic transport has already met its Mach 2 design objective, and the British-French Concorde is progressing with its flight-test program; and

Whereas, the German Federal Republic

plans to add its enormous economic and technological resources to a trilateral program to develop an improved, follow-on version of the Concorde; and

Whereas, airlines traditionally have leaned toward single-source fleet procurement with the likely result that the absence of an American supersonic transport will substantially impair future sales of US-manufactured subsonic jet transports; and

Whereas, the long-time American preeminence in the world commercial aviation market and aeronautical technology stands in danger of being forfeited unless the United States proceeds with its often-delayed SST development program; and

Whereas, the benefits from such a program to the United States are estimated to include a worldwide sales potential of \$20 billion by 1990, as well as direct and indirect advantages to the national security of this country; and

Whereas, all departments of the federal Government, without exception, have now fully endorsed the US SST program as vital to the national interest of the United States; and

Whereas, the United States trunk airlines have unanimously affirmed their need for a US SST and testified that the cancellation of the program would seriously compromise the meaningful development of US aeronautical technology;

Now, therefore, be it resolved that the Air Force Association urges the Congress to support, without further delay, a full-scale American SST prototype construction program leading to an actual production aircraft to retain this nation's aeronautical lead in the decades to come.

POLICY RESOLUTION NO. 10: SUPPORT OF THE ROTC PROGRAM

Whereas, the primary source of new officers for the active duty establishment continues to be the Reserve Officer Training Corps programs on the campuses of the nation; and

Whereas, the profession of arms is one of the oldest and most honored professions, and is an established and academically accepted curriculum in hundreds of colleges and universities in support of the defense of our nation; and

Whereas, ROTC programs are essential to the defense posture of our nation; and

Whereas, ROTC has become a prime target of disaffected students and faculty in a growing number of colleges and universities; and

Whereas, several colleges and universities have taken steps either to downgrade ROTC or to eliminate it altogether; and

Whereas, the best interests of our government and the people of the United States are served by support of ROTC programs in our colleges and universities; and

Whereas, the Air Force Association, through its affiliation with the Arnold Air Society, has consistently supported and endorsed the Air Force ROTC program;

Now, therefore, be it resolved that the Air Force Association strongly reaffirms its support of the ROTC program in general, and supports the current efforts of the Department of Defense and the Department of the Air Force leading to improved academic relationships with the colleges and universities where ROTC units are located.

POLICY RESOLUTION NO. 11: INCREASED SUPPORT FOR GUARD AND RESERVE FORCES

Whereas, under law and by tradition the National Guard and Reserve Forces exist to augment and supplement the active military forces of the United States; and

Whereas, past failures to so utilize the Guard and Reserve have resulted in undue dependence on the Selective Service System to fulfill the military manpower requirement; and

Whereas, the Secretary of Defense, in a Memorandum dated August 21, 1970, recognizes the Guard and Reserve as the "initial

and primary source for augmentation of the Active Forces in any future emergency requiring a rapid and substantial expansion of the Active Forces?'

Now, therefore, be it resolved that the Air Force Association commend the Secretary of Defense for his recognition of the vital contribution the Guard and Reserve can make to the Active Forces and, further, for directing the provision of the resources required to man and equip the Guard and Reserve at a level consonant with their increased responsibilities, and

Be it further resolved that the Air Force Association pledge its support in this effort.

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 assistant 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.

FEDERAL-AID HIGHWAY ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and, in accordance with the order of yesterday, that the Senate proceed to the consideration of Calendar No. 1272, S. 4418, the Federal-Aid Highway Act.

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

The ASSISTANT LEGISLATIVE CLERK. Calendar 1272, 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 ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia?

The Chair hears none, and 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 assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. 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.

PRIVILEGE OF THE FLOOR

Mr. RANDOLPH. Mr. President, I ask unanimous consent that during the con-

sideration of this bill, additional staff members of the Committee on Public Works be given the privilege of the floor.

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

Mr. RANDOLPH. Mr. President, today, the Senate considers S. 4418, the Federal Aid Highway Act of 1970. This bill was reported to the Senate as a clean bill, in lieu of others, S. 4260 and S. 4055, that were considered in the committee. The report of a clean bill with cosponsors, had that been possible under the Senate rules, would have shown the cosponsorship of all the members of the Committee on Public Works, Senators COOPER, YOUNG of Ohio, MUSKIE, JORDAN of North Carolina, BAYH, MONTYOYA, SPONG, EAGLETON, GRAVEL, BOGGS, BAKER, DOLE, GURNEY, and PACKWOOD in the reporting of this legislation for the consideration of the Members in this Chamber. The Senator from Utah (Mr. Moss) has requested I ask unanimous consent that his name be added as a cosponsor of the bill.

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

Mr. RANDOLPH. Mr. President, also I would want to give opportunity now, and during debate, for other Senators, if they so desire, to associate themselves with the purposes of this legislation by cosponsorship.

The Subcommittee on Roads, Mr. President, conducted 18 days of hearings on the measure that is before us today. These hearings were comprehensive and they were thorough, and covered a period of 5 months. We brought together witnesses from a broad spectrum of concern, interest, expertise, and knowledge, these persons represented Government, not only the Federal Government but State governments, and those representing organizations and, in some instances, so that we might have the feel of people generally, citizens who spoke for themselves, and presumably they addressed themselves to the interests of the public at large.

We heard testimony from 107 witnesses and we had filed with the subcommittee an additional 175 statements. Our witnesses, and I was grateful for this interest expressed by Senators, included 16 Members of the Senate. There were three Members of the House of Representatives. There were two State Governors. There were two territorial Governors, and there were mayors from two major cities.

We had representatives of industry, professions, trades, governmental and citizen organizations who helped us in the consideration of this legislation. In fact, even after the hearings had been formally concluded, we gave opportunity, as I believe we should when certain departures are made from the first bill presented, cause people to wish clarification. I want the record made very clear on this point, that I believe the dialog of democracy is well served when we continue as committees of the Senate to provide the opportunity for those persons who have an interest in the subject matter which later is to come before this Chamber, to have the opportunity of counseling not only other members of the subcommittee or the committee but

also with the staff of the Committee on Public Works.

I think, from time to time, there has been criticism or implied criticism that when we have concluded the formal hearings, we close the door.

We have not done that in the Committee on Public Works, and it is not our purpose to do that.

Hearing all opinions, sharing with people their concerns, is the responsibility of a committee and the staff of a committee.

What we have done in the preparation of this legislation, as we develop the transportation of our country, we have done in the Committee on Public Works in reference to amendments to water pollution laws, to air pollution laws, and to solid waste disposal laws.

I use this time perhaps to press a point that I believe we often need to press; namely, it is understandable that in a committee we have executive sessions where members have the opportunity to finalize measures which are brought before us.

During that process, which may run several days, weeks, or months, I believe, that it is in the interest of the dialog of democracy and the workings of the legislative system that we provide those persons who want to talk with us and counsel with us the opportunity to do so.

Mr. President, this legislation, S. 4418, is a response to the new and the larger concept of highways as an increasingly important factor in shaping not only our transportation system but our national life.

The highway systems of our country, of varying sizes and types and extent, are the principal means of transportation millions of people on a continuing basis.

The movement of products from the factory, the movement of agricultural products from the farms, the commerce of the United States—people and products—all move over these roads.

The men and women who toil in the cities, often living in the country or the suburban areas, move to their jobs over roads.

The children in the mountains of West Virginia who come down out of the hills and the hollows move by bus which picks them up and then takes them to the school where they study.

The uses for our highway transportation system in this country are multiplying, and each Member of the Senate will have a specific case or specific cases for the value of roads, of highways, of transportation in the State he serves.

The Federal Aid Highway Act of 1970 is a continuation of Federal aid highway legislation. However, I would like to think of it not just as a continuation, Mr. President, but as a refinement of legislation that has been enacted into law during prior years. It recognizes—and I think quite properly so—the contemporary problems that are increasingly associated with highways.

The approaches that we are making in this legislation embody a sense of new thinking, of new ideas, and of purpose that has perhaps not been to emphasized to such a degree in measures that have been enacted in the past.

Mr. President, I want to underscore these words. I think it is absolutely necessary that we begin now to lay the groundwork for Federal aid highway programs in the years ahead, after we have completed the Interstate Highway System, which is now being constructed in the United States.

Mr. President, the Interstate System, the largest public works project which has ever been undertaken, is not expected to be finished until approximately 1977, possibly in 1978.

The pending bill attempts to avoid a prolonged period for completion of that system by establishing a deadline beyond which Federal participation in Interstate construction at the present level will not be available. The committee received substantial testimony indicating that some highly controversial and expensive sections of interstate highways in our urban areas will not be built, thus reducing the cost and shortening the possible completion time for the entire system.

Members of the Committee on Public Works believe that the universal influence of highways requires that responsibility for their planning and construction be as broadly based as possible. The pending bill implements that conviction by giving to the Governors, to the mayors, and to the local authorities a greater voice in highway decisions, just as we gave a greater voice to people generally in the Federal Aid Highway Act of 1968 by the hearing process through which roads were programed for subsequent construction.

Mr. President, at this time I ask unanimous consent that the name of the Senator from Alabama (Mr. ALLEN) be listed as a cosponsor of the pending bill. The PRESIDING OFFICER (Mr. EAGLETON). Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, as I stated at the beginning of my remarks, it is our hope that Senators not now listed as cosponsors request that they be so listed. We now have two Senators who have expressed their desire to cosponsor this legislation.

The influence of highways certainly extends to their effect on the environmental, the social, and the economic lives of all communities and all people of this country. The adverse impacts resulting from highway construction are dealt with in this legislation because we believe that that is our responsibility to the Congress and to the American people. We seek to assure that these impacts be minimized, overcome, and avoided.

Mr. President, there are innovative features in S. 4418. There are provisions to finance the highway beautification and safety programs from the highway trust fund.

This is a matter that the chairman felt was very important. That concern was felt equally by the very able ranking minority member of the Senate Committee on Public Works, the Senator from Kentucky (Mr. COOPER).

We are gratified that the committee followed the action of the subcommittee in the consideration of this matter and brought within the framework of the

pending bill for the first time the financing of highway safety and beautification from the trust fund.

The committee believes that utilizing the resources of the trust fund will help both of these programs to have effective implementation.

What else does S. 4418 wish to accomplish? We extend authorization for the Interstate System through 1976, although it is believed that the system will not be completed before 1977 or 1978.

We maintain the funding at the present level of \$4 billion a year.

This extension was approved with the full understanding that the Interstate System cannot be completed by 1976.

Senators will recall that when the Interstate System was brought into being, it was in the anticipation of the Congress that the system—41,000 miles, which has been since supplemented by an additional 1,500 miles—be completed by 1972.

There is no criticism implied because that target date cannot be accomplished. We have had increased costs of the manpower with which the roads are constructed. Machinery which is used has increased in cost. There have been increased costs for rights-of-way, for the necessary land acquisition. As with every public works project or with every private works program, it is necessary to extend the target date to a date beyond that originally set forth.

I think it is important also for Members of the Senate to know that by Presidential order we have had four cutbacks of the interstate highway program. The Senate has felt this is wrong; I feel it is wrong. I feel that the funds from the trust fund cannot be withheld, and so-called cushions established, because these cutbacks, rather than lessening the costs of our highways, will ultimately increase them. The Senate has seen fit to set forth its sense of disapproval of this action, an action which has been taken by both Democratic and Republican Presidents. These cutbacks, as I have indicated, have taken place over the past 4 years.

I think it is also interesting to note that originally we thought of the cost of this program as being much less than that which will now be necessary to bring it to completion. I recall so very well, as do my colleagues, that the original cost figure was \$27 billion. It will cost more than \$70 billion to do this job before we have completed the work. Just as it costs more and more for a Senator to operate his household, educate his children, and do all the necessary tasks that come to him in the rearing of a family, and as it is so in the case of persons who conduct businesses, who operate and manage plants, these prices escalate. I have no criticism. I think it is an understandable increase which has been necessary.

We know how important it was to have the trust fund, I say to the Senator from Kentucky (Mr. COOPER), because we have talked about this over and over again, as have members of the subcommittee and the committee. We would have had no splendid system of roads in this country had we not created the trust fund. Roads of all types, an in-

ferior, hodgepodge, hit-and-miss system of roads would have crisscrossed America. This would not have served the purpose of the people of any State or any section of this country.

Mr. President, I have stated that there are varying dates when we think the Interstate Highway System can be completed. It is about 71 percent completed at the present time. Of course, much mileage is under construction and much mileage is in design stage. The information necessary for fixing a firm completion date, however, is not available as we talk about this measure today. Additional data will be provided to the Congress in 1973, and we should be able at that time to set the final completion date.

The bill also recommends authorizations, not only for the Interstate System, but for the ABC, or primary and secondary, roads program. The ABC authorizations will be at the present level of \$1.05 billion for fiscal years 1972 and 1973, and authorizations for what we call Federal domain roads.

Another of the major provisions of S. 4418 is that creating the urban highway system, a new category of Federal-aid highways. The majority of the American people now reside in urban areas. I listened very carefully, as did some of my colleagues on the floor at the time, to the discussion of the population problem. The most recent census indicates that as the population continues to increase the people continue to live in urban and suburban areas. That is the reason that this innovative feature of the bill creates the urban program in the system of Federal-aid highways.

It is necessary to create an urban highway system in addition to what we have done in the past. In so doing I think we are responsive to the particular traffic problems and the requirements of those areas of concentrated population.

The urban highway system would be established in metropolitan areas of 50,000 persons or more, to better serve the internal flow of traffic within these areas.

To facilitate the completion of the Interstate System, S. 4418, proposes a 1973 deadline for States to decide on the construction or deletion of controversial segments of the system. This is something that needs attention.

Congress is aware—and we are going to have to be much more aware—of the inadequate and the unsafe condition of many of the highway bridges in this country. Frankly, there is an inability on the part of the States to embark on extensive replacement programs of these antiquated bridges. There are approximately 24,000 bridges that we can lump together in the category of inadequate, unsafe bridges. We can see, therefore, the seriousness of the problem. Therefore, in this legislation we have provided \$150 million a year for a program of bridge replacement that is to last over a period of 3 years. We are not going to construct new bridges, but are going to replace unsafe and inadequate bridges, those which were not constructed for the present flows of traffic.

We have also felt that we should come

to grips with a related concern in our highway program. This is a particular concern of the cities, the metropolitan areas, the congested sections of our country. We have in the bill a provision that would give to the States authorization to provide housing for people. People certainly are the concern of this committee just as cement and mortar are a concern of the committee. We recognize our obligation to people because with every mile of road we lay, we lay a mile of road for people, to cement communities, to strengthen the fabric of our country. So when people are displaced by road construction, it creates a problem.

There are particular problems concerned with transportation, which were brought before the committee and the subcommittee, having to do with American Samoa. I hope I may be pardoned, when I think of American Samoa, for telling this story. Robert Louis Stevenson was a man of frail health, and upon the advice of physicians he went to live in those islands. It was believed that the temperature, the surroundings, the very air he would breathe, the quietude of that section could, if not restore his health, extend the years he would be privileged to be on this good earth. He lived there. He worked with people. And when the hour had come for him to stop his work, thought was given by the people to whom he had been a friend as to what kind of a memorial they could leave to Robert Louis Stevenson.

I think they decided on the right type of memorial. They constructed a highway in his memory. They called it the Road of the Loving Heart.

You know, Mr. President, there are people in this country, for reasons I am sure they believe pertinent and accurate, who think in terms of stopping the construction of highways. I think they do themselves a disservice. I think they do a disservice to this country as a whole when they believe that we must stop the road construction program of the United States—a program, I repeat, which serves people, which serves the movement of products to market, which serves our economy, and a good economy, which has resulted from the road programs of the United States.

We have the same problems in the territory of Guam and in the Virgin Islands as in American Samoa.

So we felt that we should create a reasonable and, we hope, a well-balanced territorial highway program.

Mr. President, the bill also authorizes the designation, under certain conditions, of primary highways as part of the Interstate System. A member of our subcommittee, the Senator from New Mexico (Mr. MONTOYA), especially knowledgeable in this field, may address remarks to this subject later in the debate.

To improve the supply of trained men in the highway construction industry, the Secretary of Transportation is authorized in S. 4418 to develop, to continue, and to administer equal employment opportunity programs.

At this point, I emphasize that charges have been made that in the construction industry and in the State highway commission, there has been resistance to

programs that would give equal opportunity for employment in our highway program.

I think the charges are inaccurate. I do know that there has been concern, and understandably so. How can such a program be fitted into the type of construction involved in highways, where you gear up for a job to be done, and you work to complete it?

These are matters which have caused understandable concern, as there has been an attempt to widen and to strengthen equal employment opportunities within this program.

We have had a problem in this country which has been with us for a long time—the problem of our toll roads and the improvement of these facilities. There are toll roads in 15 States, with a total mileage of 1,153 miles, which have been designated a part of the Interstate System.

When the toll roads become a part of the Interstate System, they must be brought to interstate standards, as we can understand. So, in this legislation, we have done something that we believe is necessary. We considered it very carefully. We would authorize the use of Federal highway funds to improve those toll roads that I have mentioned in the 15 States when there is agreement to remove the toll as soon as existing indebtedness is retired.

Now I come to Washington, D.C., the National Capital city. The able Senator from Kentucky (Mr. COOPER) will discuss this problem in detail. I shall only review it lightly in this opening statement.

There are problems and controversies surrounding the construction of the interstate highways in the Washington, D.C., area. I think, if there is any subject that is well known to Members of the Senate as involving problems in the District of Columbia, it is this subject and its ramifications.

The committee hopes these problems can be resolved, and interstate construction can be completed in this growth area. In S. 4418 we include a section repealing that part of the Federal Aid Highway Act of 1968 which directed that specific segments in the District of Columbia be constructed.

We do not do that with States, and we in the past, and now with this provision continue to believe that highways in the District of Columbia should be considered as highways in States in matters of this type, and there should not be a mandate by Congress that a road go here or there. As Senator COOPER well knows, we did not wish to do that in the Federal Aid Highway Act of 1968 in the Senate. That was in the House bill. But in the conferences, which extended over a long period of time, had we not yielded on this point—I did not want to yield, and the Senator from Kentucky did not want to yield—we would have had no Federal Aid Highway Act of 1968. We would not have brought into being the features which give people a greater opportunity, in the terms of road construction. We would not have given to people the aid that we gave them as to relocation assistance when there was construction of a road and they had to be moved.

Within the District of Columbia, in the selection of routes and the determination of projects to be constructed, perhaps this will help to resolve the situation.

We would seek to revise the law dealing with this subject by repealing a part of the 1968 act.

Mr. President, we have also given additional thought to the problems of outdoor advertising, and of junkyards. We think that there could be more effective controls, and therefore in this bill we attempt to implement, those controls.

Our bill is based on extensive information, as I indicated at the outset, and we have directed attention to these highway programs during the past 12 months. The measure, Mr. President, attempts to cope with the highway construction program of the present. It looks to the future, when the Interstate System will be completed and we can focus our attention fully on the accumulated needs of this country.

I ask that Senators give very careful consideration to this bill. I ask that because I can say that never has there been a highway bill, that I have been concerned with, to which I have given more careful consideration. It was so when I was a member of the Roads Committee before the reorganization of Congress, as a Member of the House of Representatives, and it has been so as I have worked within the subcommittee and full committee on bringing this bill to the Senate today.

I know that the bill will have the thoughtful consideration, as it should, of the Members of the Senate, and I trust that the bill can be approved generally in the way we have brought it to the floor. I do not, of course, mean that amendments should not be considered and discussion should not take place. But I want Senators to know that in bringing this measure, S. 4418, before the Senate, we have something on which there has been detailed and extensive consideration.

It is my hope, and the hope of Senator COOPER, the ranking minority member of this committee, and all the members of the Subcommittee on Roads and the Committee on Public Works, that this measure be passed in the Senate.

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

Mr. RANDOLPH, I yield.

Mr. PROXMIER, I have some questions with respect to this bill that I should like to ask the manager of the bill. But, first, I commend the Senator from West Virginia (Mr. RANDOLPH) on doing an excellent job in many respects with reference to this bill.

I understand that there is a potential saving of \$4 billion, for example, if controversial segments of the Interstate Highway System are eliminated. That is part of the action taken by this committee and reflected in the bill. Is that correct?

Mr. RANDOLPH, Yes; the Senator from Wisconsin is correct. The \$4 billion would be the saving.

Mr. PROXMIER, It is also my understanding that there is an effort in this bill to meet the serious problem of air pollution, which is raised so well in the minority statement by the Senator from Maine (Mr. MUSKIE).

On page 16 of the bill, lines 18 through 24, are some of the principal provisions in this respect. I will read them:

The Secretary, after consultation with the Secretary of Health, Education, and Welfare, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for the implementation of any ambient air quality standard for air quality control region designated pursuant to the Clean Air Act, as amended.

What this provision seems to require is that, as these highways are proposed, there will be an analysis by the Secretary of Transportation, in consultation with HEW, to determine whether or not the construction of these highways would be consistent with the air quality standards.

What concerns me is that, as I understand it, we already have a very serious air pollution problem in our big cities. For example, as I understand it, in Chicago the analysis of the air indicates that the carbon monoxide during an average 8-hour period is about 45 parts per million and that any air quality standard would be between eight and 10 parts per million. This would suggest that any additional freeways constructed to serve Chicago would aggravate that problem. This would be true not only with respect to Chicago but also, I would think, with respect to virtually every city in the country—Los Angeles, New York, Philadelphia, Pittsburgh—almost all our cities.

So I wonder whether this is going to become an effective part of the act, whether the air-pollution problem is really going to be met here, whether the committee has any findings, any opinion on the part of the Secretary of Transportation or other experts, as to how strict a standard or effective a standard could be promulgated.

Mr. RANDOLPH. I am grateful that the Senator stresses this problem, because it is a problem not only in connection with this bill but one which we also face constantly in our committee in reference to air pollution legislation, to which, as the Senator knows, we have given very careful consideration through the subcommittee headed by Senator MUSKIE. Senator MUSKIE's thoughts in reference to this matter were incorporated in the pending measure.

There is some reason to believe that, at least at times, the construction of a freeway, rather than compound the problem, would relieve the problem. This is a matter which is not in controversy but on which there are varying viewpoints. There is a realization of the subcommittee and the committee that we cannot think in terms, as I said several times in my remarks, of the road-construction program without taking into account all these factors; and the point that the Senator is raising is a very important consideration.

I want to assure the Senator, as I am sure Senator MUSKIE would assure him if he were in the Chamber, that, insofar as possible, we are attempting to work not with the Federal Highway Administrator, not with the Department of Transportation, but with the agencies and departments of Government in the cooperative effort to lessen the air pollution which is, let us say, in degree an

indirect result—and I spoke of it as the impact—which is not good, which often comes from congested areas, the urban areas, the metropolitan sections of our country.

Mr. PROXMIRE. I appreciate the Senator's answer very much.

What concerns me is that if we already have air pollution which is four to five times higher than a standard which is likely to be developed, it would seem to me to be difficult to justify additional freeways going in to serve the city. The Senator says that air pollution may be relieved by building freeways. I suppose if they are around the city, that could be true, perhaps. It results in faster moving traffic, and I understand that some elements of carbon monoxide are diminished as cars move faster, but nitrogen and lead are increased. But, as highways continue to be constructed, we are likely to have an aggravating problem unless in some way we can get at the air pollution problem not only by restraining the number of automobiles but also by some kind of positive contribution, perhaps made out of the highway trust fund, to help finance the diminution of air pollution which is caused so overwhelmingly by automobiles.

We did pass a good, tough, strong bill unanimously in the Senate a week ago, requiring the automobile industry to reduce pollution by 90 percent in the next 5 years, and I think that is going to be very helpful. But I think it would be shortsighted if at the same time we authorized a program that is going to cost billions of dollars that could counteract that, to some extent at least, by increasing the number of cars that would use our cities, that would move into our cities, that would surround our cities, which would tend to increase air pollution.

Mr. RANDOLPH. There is much validity in what the Senator says. I believe he would agree, however, that there is a certain measure of local traffic control which has to be fitted into any problem. This cannot be done from a point far away. The city itself, the governing body there, the cooperation of all units and semi-official citizen groups, must come together and think in terms of the uses to which such roads are put.

In the bill, we are giving special attention to the problem of our cities. This is done, I say to my colleague from Wisconsin, for the first time, really. Thus, we are conscious of what the Senator is saying, and saying most appropriately and helpfully.

Mr. PROXMIRE. I want to commend the Senator from West Virginia on the provision with respect to the District of Columbia. Inasmuch as I am chairman of the Subcommittee on the District of Columbia, I am interested, of course, in the District of Columbia—all of us are, as Senators—and I understand that the bill would restore to the residents of the Washington, D.C., metropolitan area the same prerogatives with respect to highway construction enjoyed by residents in other localities. There is needed improvement here and a fine contribution has been made to that need in this respect by the Senator from West Virginia.

Mr. RANDOLPH. I thank the Senator from Wisconsin. We know of his interest and his attention through the appropriate

processes to matters of interest to the District of Columbia. It is a continuing interest. We are zealous in on it as never before, as regards the problems of the National Capital.

Mr. PROXMIRE. The Subcommittee on Economy and Government, of which I am chairman, held hearings recently on the Nation's transportation problems, and issued a report. Our committee came to some conclusions on the highway program. In that connection, I have two brief recommendations of our subcommittee I should like to read and ask the Senator's reaction on.

First, We recommend that the executive branch provide Congress with more comprehensive analysis of the social costs and benefits of the Federal transportation program.

We did this because we felt that inasmuch as we have a trust fund, there has been a tendency to ignore the serious consequences of devoting the tremendous amount of resources, billions of dollars a year, to a highway program without knowing its social and economic consequences. We should evaluate those consequences in terms of the needs and resources in other areas.

We also recommended that Congress improve its capability for evaluating such information. Since existing authorizations for interstate highways extend to fiscal 1974, Congress would be well advised to defer consideration, to postpone action on further authorizations until more adequate analysis of social costs and benefits of further interstate highway expenditures could be made available.

We are concerned with the effect on housing, and of moving people required to be moved because of the highway system. We are also concerned with the effect that this could have on further deterioration of the cities. As we know, the cities have deteriorated badly since the Interstate Highway System has been developed. We are concerned with allocation, as I say, of billions of dollars to highway building, when housing and many other urgent needs of society are being neglected.

Mr. RANDOLPH. I know the Senator would not want to say that we are neglecting matters of housing and reallocation. We are coming to grips with those problems in this legislation. I do not say that we are doing enough. However, I do say that we are approaching the problems without timidity because we realize the problems and the needs.

I think the language we have used on page 15 of the bill, for example, stresses this where it states:

Not later than two years after the publication of such guidelines, the Secretary shall not approve any plans and specifications for any such proposed project unless such plans and specifications are accompanied by a comprehensive analysis identifying the associated economic, social, environmental, and other adverse impacts of such proposed project and the plans and specifications include adequate measures for avoiding, minimizing or otherwise overcoming such adverse impacts in compliance with such guidelines.

We explored the questions of transportation finance, not just for highways, but in depth. The able Senator from Wisconsin is helpful in this discussion. We thought in terms of the bus transit pro-

posal. This would have provided immediate relief. We have supported mass transit programs. We need something more than comprehensive planning or just a shifting of funds. There are many, many new highway needs that have to be met as we go along. The Secretary of Transportation is requested—and this is in the bill—to study the relationship of mass transit to highways. This would give us a truer picture of needs of roads and other forms of transportation. In other words, strike a balance between highways and mass transit.

It is very helpful, what the Senator is bringing to our attention.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I am going to propound a unanimous-consent request which has been cleared with the principal parties, I believe.

I ask unanimous consent that debate on any amendment, motion, or appeal, with the exception of a motion to lay on the table, and with the further exception of an amendment, possibly in the nature of a substitute, which may be offered by the Senator from Washington (Mr. MAGNUSON), be limited to 30 minutes, the time to be equally divided between the mover of the amendment and the manager of the bill, the Senator from West Virginia (Mr. RANDOLPH); there being one further exception, I believe, that exception being amendment No. 1095, to be offered by the Senator from Kentucky (Mr. COOPER), in which case the time be limited to 40 minutes, with the time to be equally divided between the mover of the amendment and the manager of the bill; to be ordered further, that time on passage of the bill be limited to 1 hour, with the time to be equally divided and controlled between the ranking minority member, the Senator from Kentucky (Mr. COOPER), and the manager of the bill; and provided further, that those Senators, or either of them, may allot from such time on passage of the bill additional time to any Senator during consideration of any amendment.

Mr. RANDOLPH. Reserving the right to object—and I shall not object—it has been my privilege to discuss this proposed limitation of time for amendments and for discussion of the measure. I ask my colleague from Kentucky if this arrangement is agreeable to him.

Mr. COOPER. Yes, I have discussed it with the Senator from West Virginia (Mr. BYRD) and I have told him that it would be agreeable to me, if it would be agreeable to the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. I thank the Senator from Kentucky.

The ACTING PRESIDENT pro tempore (Mr. METCALF). Is there objection to the request of the Senator from West Virginia (Mr. BYRD)? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I wish to thank the able manager of the bill, the ranking minority member, the minority leader, and the Senator from New Mexico (Mr. MONTOYA) for their cooperation.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. RANDOLPH. Mr. President, I am

now giving opportunity for the Senator from Wisconsin (Mr. PROXMIER) to question me on the bill.

Mr. PROXMIER. I will make these further questions as brief as I can. I believe that the answer the Senator from West Virginia has given me is most helpful but what concerns me is that what is provided in the bill is prospective, before we will go ahead and authorize the sums and will authorize the programs to continue. But we will be asked in the future that some kind of guidelines, some analysis with respect to the social and economic impact, and so forth, be made available. But what I was concerned about is that we already have a program, going through 1974. I was hopeful that we would be able to get an analysis before we had votes on the pending bill. I am not going to vote against the bill or try to hold it up.

But I think that if we are going to move ahead and provide more billions of dollars for highway construction, we ought to know what we are doing, what effect it will have on housing, what effect it will have on our cities, and what effect it will have in many other areas, knowledge that we do not have at this time.

The ACTING PRESIDENT pro tempore. The Chair is in doubt of where the time is coming from. Is the time coming from the bill?

Mr. RANDOLPH. Mr. President, I ask unanimous consent that 5 minutes be taken from the time on the bill.

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

Mr. RANDOLPH. Mr. President, we believe that analysis will be completed under the terms of the bill, I would say to my helpful friend, the Senator from Wisconsin, before 1974. That is our belief. I am certain that would be true.

Mr. PROXMIER. Mr. President, I would hope that this analysis would provide for the kind of benefit-cost analysis that is reducible as much as possible to figures so that we can determine whether we should go ahead or whether costs will exceed benefits and we should not proceed. We have nothing of that kind now.

This kind of analysis is not engaged in by the Transportation Department. I would hope they would give us that kind of analysis. We would then know when we go ahead with this kind of program in the future what we are doing. We could invest the public money with knowledge not blindly.

Mr. RANDOLPH. Mr. President, the chairman would seek to impress those who do have the analysis within their control that they should do their best.

Mr. PROXMIER. Mr. President, finally, our committee recommended that transportation expenditures should be subjected to all the usual procedures of budgetary review. Congress should take such legislative action as is required to provide for the orderly but expeditious phasing out of the highway trust fund and the return to the financing of transportation expenditures out of general revenues.

This was disputed by some members of the committee. It was not the unanimous recommendation of the committee. Maybe there is some way in which

we can do this without ending the highway trust fund, but we need some way in which we can balance our priorities and determine whether we should go ahead with this program.

Maybe it is a better investment than health or housing or education. Maybe it is not. Our decision is based on an analysis through which we can compare the wisdom of going ahead with the highway program or not going ahead with it. Should these funds stay with the taxpayer, should they be expended for some other purpose or should we go ahead with the highways?

I wonder if the Senator could suggest some way in which we could do that.

Mr. RANDOLPH. Mr. President, I wish I could be definitive. I suggest there is this total need. There is a need for a commitment to many facets of our society and the well-being of our people. I share with the Senator the need for a reordering of our priorities.

I have been thinking in terms, as I know he has been, of what will happen if defense plants shut down and there are hundreds and thousands of persons unemployed. There should be available on the shelf those projects that could be moved quickly to construction and fruition.

Oftentimes that should take the form of health facilities, hospitals, and a wide range of programs of construction. There might be reason also to construct many forms of transportation other than highways. However, it would be my feeling that we had better be prepared in this country for something that could happen more quickly than we think and cause tremendous unemployment.

In the public works program, and not just the highway program, we have of course dozens of programs, as the Senator knows.

I appreciate the scrutiny with which the Senator examines these programs. I think we should evaluate what we are doing in the highway program.

Mr. PROXMIER. Mr. President, the Senator could not speak at a more appropriate time. The fact is that 45 minutes ago the Bureau of Labor Statistics released the information that 5.5 percent of our people are out of work. That is the largest number of people who have been out of work since 1964.

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

Mr. RANDOLPH. Mr. President, I yield myself an additional 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator is recognized for an additional 2 minutes.

Mr. PROXMIER. Mr. President, this is a time when we should be concerned with how we are going to put these people to work. I do not make any suggestion here that we should stop the highway program. That would be counterproductive in view of the unemployment in our economy. However, we ought to have some way.

The Senator from West Virginia suggested in the committee that bus lanes be constructed and other mass transportation assistance be provided. This would be a way of helping to move into the mass transportation area without

really deteriorating in any way the highway trust fund. That suggestion was rejected by the committee.

Mr. RANDOLPH. The Senator is correct.

Mr. PROXMIER. I hope that the committee will take another look at that suggestion.

Mr. RANDOLPH. I also hope so.

Mr. PROXMIER. That was a constructive proposal. Unless we can find some way of meeting these very real and badly neglected priorities in our cities—

Mr. RANDOLPH. Mr. President, I must interrupt the Senator at that point. I do not want the Senator to be under a misapprehension.

I had a two-pronged proposition. The bus lanes are provided in the bill. The subsidization features relating to the upgrading of the equipment was not approved.

Mr. PROXMIER. I felt that the original proposal of the Senator from West Virginia was a very sound proposal. I hope that the committee will accept it next year.

I want to thank the Senator very much as I think he has done a fine job on the bill. I intend to vote for it. But I hope that in the future we realize that if we evaluate the priorities sensibly and rationally, we should find some way to get at effective economic analysis of the enormous amount of money we are spending in this bill. We are not doing it at the present time.

Mr. RANDOLPH. Mr. President, the chairman of the committee—and I hope I speak for the members of the committee—is generally in agreement with what the Senator from Wisconsin has expounded here in the Senate. I promise that I shall give increased attention to the subject matter he has discussed. I hope that I may be able to discuss it more fully with him in person than I have in the past.

I think these are matters that we cannot lightly put aside. I think they are matters of genuine concern. We cannot run away from the problems the Senator has presented. There is no sanctuary in which we can hide. We must come to grips with the problems.

I want to join with the Senator from Wisconsin in doing that job.

Mr. PROXMIER. Mr. President, the Subcommittee on Economy in Government of the Joint Economic Committee has recently conducted a study of the way in which we make our transportation expenditure decisions. In August we issued a report on this subject. One of our recommendations was that there be no further authorizations for the interstate highway system at this time. We made this recommendation for the following reasons:

First, existing authorizations already extend into fiscal 1974, which seemed to us ample time for advance planning of an efficient highway program.

Second, we have at this time totally inadequate information regarding the social costs and benefits of the remaining segments of the interstate system. There is no question that some of the remaining segments are inordinately expensive and that more efficient and more socially desirable ways of meeting our transporta-

tion needs are available. But we have far from a complete picture of which remaining parts of the designated interstate system can really be justified and what they will actually cost. By authorizing funds so far in advance, we remove any incentive to really come to grips with the difficult questions of sorting out necessary from unnecessary highways.

I continue to find the arguments against further interstate authorizations at this time persuasive. I expressed these views to the Roads Subcommittee of the Public Works Committee when I testified before them last June. The subcommittee afforded me a most cordial reception. I know that the members of that subcommittee share my concern for developing a highway program which is less costly, more efficient, and more in keeping with what our communities really want. This concern is reflected in the many fine provisions of the bill which is presently before us.

However, I do not share the committee's conclusion that it is necessary to authorize funds through 1976. I would have liked very much to have introduced an amendment to limit the authorizations to a shorter period of time. I recognize, however, that because it is late in the session, because we have had so little time to study this bill and, above all, because the economic interests behind the highway program are so powerful, so aggressive, and so effective, such an amendment would have been a futile gesture.

In the next session of Congress it is imperative that we begin early in the session to work vigorously on the measures we must take in order to develop a balanced national transportation system. We must do something about the highway trust fund, which has become, in my opinion, a monstrous barrier both to a balanced transportation system and to a sensible fiscal policy. We must develop means of financing transportation investment which will give us the flexibility to make intelligent choices between different kinds of transportation. This means we must stop segregating funds and marking them "for new highway building only." I know that Senator RANDOLPH and other members of the Public Works Committee attempted to provide in this bill for at least some modest broadening of the uses of trust fund money, so as to give some support to public transportation systems. But this effort was beaten back, which only illustrates again how powerful are the forces behind the highways.

The Subcommittee on Economy in Government has recommended phasing out the highway trust fund and financing transportation investment out of general revenues, as we did before 1956. This seems to me the best way of bringing expenditures back under congressional control. Other Members of Congress, I know, have other proposals they wish to see fully considered. This whole question must be faced up to urgently in the next Congress. There is starting to be much talk of "the post-interstate highway program." This is the wrong approach. We must think in terms of the "post-interstate transportation program." We must recognize that there are

alternatives to highways, alternatives which our citizens, especially those in urban areas, desperately long to see introduced, evaluated, and funded on an equal footing with highways.

At the same time that we plan for post-interstate transportation needs, we must also be sure that the interstate program is brought to an end. There are some who would like to see it go on forever. Better to pave the country solid, they believe, than to cause any painful readjustments in the cement industry. I want to commend the Public Works Committee for introducing into this bill a definite timetable for planning and construction of the remainder of the Interstate System. I hope the timetable will be strictly adhered to, and that it will have its intended effect of getting some of the more horrendously expensive and environmentally destructive segments of the system eliminated. The committee points out in its report that there is a potential saving of \$4 billion if controversial segments of the system are eliminated. I hope this saving will be realized. We in Congress must be alert to see that it is.

The committee is also to be commended for introducing provisions requiring highway plans to adequately solve problems of environmental impact. I am disappointed, however, that this provision will not become fully effective before July 1974. Perhaps I might inquire of my distinguished colleague from West Virginia (Senator RANDOLPH) whether there is not some way this timetable could be speeded up?

I want to further commend the committee for the provisions in the bill which would restore to residents of the Washington, D.C., metropolitan area the same prerogatives respecting highway construction which are enjoyed by residents of other localities. This provision is badly needed.

Because this bill contains these several very fine provisions, I intend to vote for it, even though I continue to regard the interstate authorization provisions as, at best, unnecessary at this time, and, at worst, an added incentive to inefficiency and overinvestment in highways.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. RANDOLPH. Mr. President, I was engaged in a discussion with other Senators at the time the unanimous-consent agreement was entered into. Would the Chair inform me of the unanimous-consent agreement?

The ACTING PRESIDENT pro tempore. Any amendment or motion has 30 minutes, 15 minutes to a side.

The amendment of the Senator from Kentucky (Mr. COOPER), amendment No. 1005, will have 40 minutes, 20 minutes to the side.

In the event the Senator from Washington (Mr. MAGNUSON) offers a possible substitute, there will be no time limitation on his amendment.

On the bill there is 1 hour. That time can be used on amendments or after third reading or in any other way.

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

Mr. PEARSON. Mr. President, in June of this year I introduced the Rural Development Highways Act—S. 3986. The objective of this proposed legislation is to encourage a more balanced geographical distribution of the Nation's people and industry, and to generally promote the economic development of our rural communities through more effective use, location, and design of the federally aided highways system.

We have come to realize that the migration of more and more people into the already overcrowded and overburdened metropolitan centers will magnify the crisis that plagues the great cities. We cannot solve the problems of urban America unless we also solve the problems of the farm and smalltown America. We must expand the economic, social, and cultural opportunities in rural communities so that more people will have the choice or living outside the metropolitan centers.

The Rural Development Highways Act—S. 3986—is based on the proposition that the location and design of highways can be an important factor in rural community development.

Mr. President, I am pleased that the Senate Public Works Committee has taken note of the importance of rural community development by providing in section 10(h) of the Federal-Aid Highway Act of 1970 that priority be given to projects on the Federal-aid secondary system which will encourage the economic and social development of rural communities.

The rural development section of the bill before us today does not go as far as I would like but, nevertheless, the fact that such a provision is included in the bill represents another forward step in the overall rural development effort that reflects a recognition of the special importance of highways in the economic growth of small communities. It serves to dramatize the needs of rural areas and provides a basis for a more comprehensive rural development highways program in the future. Therefore, I commend the committee for adding this provision to the bill.

Mr. MONTROYA. Mr. President, before this bill moves to final passage I want to take the opportunity to commend the distinguished Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from Kentucky (Mr. COOPER) for the exceptionally fine work they have put forth on this bill as chairman and ranking Republican, respectively, of the Public Works Committee. They have worked long and hard, have held extensive hearings, have suffered criticism and questioning with great patience, and have produced a good bill. The Subcommittee on Roads is a dedicated subcommittee, and all of its members have worked diligently to produce this bill. Members traveled all over this country to hold hearings and discuss the needs of our Nation's people.

I want to point out the close cooperation we on this side of the aisle have had from the Senator from Kentucky (Mr. COOPER). He has displayed great cooperation with all of us. In fact, I should point out that the relations among

all members of the subcommittee and full committee have been most amiable. This is one of the outstanding characteristics of the Public Works Committee, and I am pleased to be a member of such a group.

The hearings and committee sessions have been as detailed and informative as any I have participated in. All members of the committee are to be congratulated on their efforts in forming this bill and bringing it to the floor.

AMENDMENT NO. 1005

Mr. COOPER. Mr. President, I call up my amendment No. 1005 and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. COOPER) proposes amendment No. 1005 as follows: On page 36, beginning on line 16 strike out all through line 5 on page 38.

The language sought to be stricken is as follows:

ADDITIONS TO INTERSTATE SYSTEM

Sec. 24. The existing language of section 139 of title 23, United States Code, shall be designated as subsection (a) and a new subsection (b) added as follows:

(b) Whenever the Secretary determines that a highway on the Federal-aid primary system would be a logical addition or connection to the Interstate System and would qualify for designation as a route on that system in the same manner as set forth in paragraph 1 of subsection (d) of section 103 of this title, he may upon the affirmative recommendation of the State or States involved designate such highway as part of the Interstate System. Such designation shall be made only upon the written agreement of the State or States involved that such highway will be constructed to meet all the standards of a highway on the Interstate System within twelve years of the date of the agreement between the Secretary and the State or States involved. The mileage of any highway designated as part of the Interstate System under this subsection shall not be charged against the limitations established by the first sentence of section 103(d) of this title. The designation of a highway as part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway except that Federal-aid highway funds otherwise available to the State or States involved for the construction of Federal-aid primary system highways may be used for the reconstruction of a highway designated as a route on the Interstate System under this subsection. In the event that the State or States involved have not substantially completed the construction of any highway designated under this subsection within the time provided for in the agreement between the Secretary and State or States involved, the Secretary shall remove the designation of such highway as a part of the Interstate System. Removal of such designation as result of failure to comply with the agreement provided for in this subsection shall in no way prohibit the Secretary from designating such route as part of the Interstate System pursuant to subsection (a) of this section or under any other provision of law providing for addition to the Interstate System."

Mr. COOPER. Mr. President, I yield myself 3 minutes on the bill, to speak generally and to comment upon the chairman's statement.

The ACTING PRESIDENT pro tem-

pore. The Senator is recognized for 3 minutes.

Mr. COOPER. Mr. President, the chairman made a very constructive and comprehensive statement on the bill, S. 4418. I commend him for his thorough discussion of the bill. Our committee, under the chairmanship of the Senator from West Virginia, conducted the best and fullest hearings I can remember in all the years I have been on the committee.

Senator RANDOLPH deserves great credit for his leadership and for the guidance which he provides us and all involved in the highway program, from the benefit of his experience and, I may say, his keen awareness of the changing moods of the country and the expressed desires to reorder national priorities. All members of the committee have made a contribution, and the committee staff, both majority and minority, has devoted conscientious effort to the development of this bill.

As the chairman noted, this bill has several new and innovative sections which will deal with problems in the highway program which must be met. I call especial attention to one provision Senator RANDOLPH discussed at some length, the Federal-aid urban system, which would enable the cities to study their own transportation problems and make initial recommendations to improve the flow of traffic throughout the cities.

There are many other sections of the bill about which I would like to speak but the chairman has done such a thorough job I will not do so at this time. I know some Members of the Senate have appointments and they are anxious to meet them. The provisions of the bill are well described in the Committee report. And I may say that in my individual views and supplemental views contained in the report I discuss several of the problems which are met in this bill.

I would mention also that I see in the Chamber Mr. Berry Meyer, Committee counsel, and Miss Adrien Waller, professional staff member, who have worked hard for months on this bill.

Now, Mr. President, I yield myself 5 minutes on the amendment, No. 1005.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 5 minutes.

AMENDMENT NO. 1005

Mr. COOPER. Mr. President, my amendment would strike section 24 of the bill. Section 24 of the bill would authorize the Secretary of Transportation to designate as an interstate highway, any existing road which would be a logical addition or connection to the Interstate System and make the State responsible for rebuilding such a road to Interstate System standards within 12 years. No financial obligation would be established on the part of the Federal Government, beyond that which is required for primary road construction.

My opposition to section 24 grows from the fact that this amendment to title 23, the Federal-aid highway law, would permit the interstate designation of roads which have not been constructed to interstate highway standards. There is

no assurance other than the statement of the State that it would, if it could, build the road to those interstate standards within 12 years.

Mr. President, there is a section in the law now, which is a very proper one. Section 16 of the Federal-Aid Highway Act of 1968, Public Law 90-495, provides that "Whenever the Secretary determines that a highway on the Federal-aid primary system—and this is the important thing—meets all of the standards of a highway on the Interstate System and that such highway is a logical addition or connection to the Interstate System, he may, upon the affirmative recommendation of the State or States involved, designate such highway as a part of the Interstate System. The mileage of any highway designated as part of the Interstate system under this section shall not be charged against the limitation established by the first sentence of section 103(d) of this title. The designation of a highway as part of the Interstate System under this section shall create no Federal financial responsibility with respect to such highway."

Originally there were 41,000 miles of limited-access highways established as the Interstate System. Some 200 miles were allowed to make necessary changes, particularly around our cities. In 1968, Congress added 1,500 miles to the Interstate System. The law requires that these highways shall be constructed to certain specifications, with the highest quality construction, that they include safety features such as four lanes divided by a median, limited access, wide shoulders, which have made the Interstate System a much safer system than the primary, secondary, or urban highways. The law is that if a State, using its own money, builds a highway to interstate standards, the Federal Government can then accept that section as part of the Interstate System and so designate it.

The section of the bill which I opposed in committee and have moved to strike out, would enable a State to have a segment of road designated as an interstate highway, and as part of the Interstate System when, in fact, it is not. It would enable a State to have a portion of its road system designated and represented as being built to interstate highway standards when, in fact, it would not meet such standards.

The Department of Transportation opposes this section on several grounds: First, that it would be a danger, in that people using our national road systems to travel through the country look at their maps and see a section of road designated as an interstate road and expect the same safety features on that section as the law now provides on a true interstate highway. Instead, they would find themselves on a road that does not meet the safety standards of the Interstate System.

Further, while under the section as here presented, there is no obligation upon the part of the Federal Government to provide any funds to build that section as a part of the Interstate System, in fact there would be increasing pressure from the States to add so-called interstate mileage—and then to feder-

ally finance its reconstruction. That would happen.

Mr. President, it will be at least 1978 or 1979 before the present designated mileage can be constructed and the National System of Interstate and Defense Highways completed, even without extensions. I do not think this section should be allowed to remain in the bill.

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

Mr. COOPER. Mr. President, I yield myself an additional 2 minutes.

To mark 10 miles or 15 miles, or 50 or 100 miles, of a State highway as being on the Interstate System, and to lead people to believe it has been constructed to Interstate standards, would simply be saying to people something which is not true. That is exactly what this section would do.

In addition, it could create additional danger for travelers and motorists.

Also, the section requires no firm commitment on the part of a State to ever bring it up to standards and make it truly part of the Interstate System.

Mr. President, that is all I have to say on the subject at this time. But I say again that if we put into law statements which mislead the traveling public, I think we venture on a very bad course.

Mr. MONTOYA. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I yield 7 minutes to the Senator from New Mexico.

Mr. MONTOYA. Mr. President, I fully appreciate the position taken by my good friend from Kentucky with respect to this particular provision. I know how jealous he has been of the original concept with respect to the Interstate system and of retaining it. I, too, have tried to be jealous about this provision in the hope we could retain the original concept substantially.

But it was in 1947 that this concept was developed, and reaccentuated in the act of 1956, I believe. During the consideration of this bill, we had some public hearings in different parts of the country. I presided over many of those hearings. We had hearings here in Washington.

It was the general feeling, reflected in those hearings, that the existing act now on the statute books locked the Interstate System so that there was no flexibility and no opportunity for many communities which had grown and which were or could be a part of a Federal system. They could not come in because of the inflexible, locked situation presented by the existing law.

Because of that fact and because of the hearings, we provided and drafted section 24 of the proposed bill. This section has importance for all of the Nation, and particularly for U.S. 70 in my own State of New Mexico. Many other areas and States would be involved—New York, Georgia, Nevada, Texas, Pennsylvania, and many others.

The designation of highways as interstate highways under the present law is of crucial economic importance for communities, yet the mileage limitations of

the present law do not allow for expansion of the Interstate System. In 1968 the law was amended, but only 1,500 miles of road were added. There is simply not enough to meet the legitimate growing needs of our country.

So what avenue has been open to States and communities who desperately needed to have highways designated as interstate so that they might make the economic plans and reap the economic benefits of such designation? Under present law, the highway can be built to interstate standards and then, years after the effort, the planning, the expense, have been expended by the State and these communities—then and only then can these roads be designated as interstate highways.

In other words, under the present system, millions upon millions of dollars have to be expended by the States, hoping they will qualify after they petition the Secretary of Transportation to designate these highways as interstate highways.

Under this provision, the States petition the Secretary of Transportation to designate these highways as interstate highways and a certain plan is submitted for construction and upgrading of that particular highway. If within 12 years that is not done to the satisfaction of the Secretary of Transportation, that designation is eliminated.

I say the present system in the existing law is unfair. These people should be able to enjoy the economic benefits now, not in 12 or 15 years. Such benefits and plans can be crucial to the development of communities. If a State is willing to use regular Federal funds and its own State funds to upgrade a section of highway to meet the standards of an interstate highway, and makes an agreement to do so, then it should enjoy the benefits of entering into this agreement now, not later.

The Subcommittee on Roads heard testimony from all parts of this Nation in support of this section of the bill. Georgia, Nevada, New York, Texas, and Pennsylvania all expressed their desire to see this portion of the bill enacted. I am sure that many other States might choose to use the provisions of this section, and they will do so to the benefit of all involved.

No one loses from the provisions of this section. I want to make that very clear. States are merely given some flexibility in deciding the best expenditure of their Federal and State Highway funds. No new highways will come under the 90-percent Federal funding of the Interstate System.

There have been some complaints that this provision would lead to deception toward the public, and that they would be deceived into believing that the highways that would be brought into the Interstate System by this section of the bill are now presently built to meet the interstate standards. But the committee has already made provision for this. Page 8 of the committee report recommends that such highways be given a special road sign and marked accordingly on road maps. This allows us to deal honestly with the public and also allow

the communities along the highways to attract industry and benefit from the fact that they will be upgrading their highway.

The ACTING PRESIDENT pro tempore (Mr. METCALF). The time of the Senator has expired.

Mr. MONTROYA. Mr. President, I ask unanimous consent to have 1 additional minute.

Mr. RANDOLPH. I yield 1 minute to the Senator from New Mexico.

Mr. MONTROYA. Mr. President, there seems to be little reason to object to this provision. In fact, the provision put in the bill by the committee is an incentive to the States to upgrade their highways so they can qualify as interstate highways, whereas right now, without that particular designation, the highway departments are going to have to dedicate their funding to other interstate highways that cross the States.

I say a good incentive is provided by this section in the bill. I hope the rest of my colleagues will agree that the committee action is sound; that the provision will help many parts of the country; that the provision will be of benefit to many communities that are now far away from the existing Interstate System. I hope the Senate will concur in the action and recommendation of the full committee.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. COOPER. Mr. President, I yield myself 2 minutes.

I can only repeat the statements I have already made in opposing this provision. I have regard for my friend from New Mexico. He is so interested in maintaining this section in the bill that he flew back to Washington to be here today to speak for it. Yet I must oppose the section for the reasons I have stated.

There is an Interstate Highway System which has been designated by the States and the Federal Government. Additions to that system have been made from time to time—1,500 additional miles in the bill of 1968.

I would suggest that a better way to answer the problem of the Senator from New Mexico would be for us to take forthright action and add mileage to the Interstate System—increase the mileage of roads to be built on a 90-10 basis—90 percent to be paid for by the Federal Government and 10 percent by the State. But we will not take that course at present. I believe, because the system originally designed to be constructed in full by 1972, will not be finished until 1978, if at that time. Also, the costs have risen tremendously.

A provision added to the law in 1968 enables a State to add certain mileage to the Interstate System if the highway is constructed to the standards of the Interstate System. The Senator from New Mexico (Mr. MONTROYA) says that if we merely designate some of those roads as interstate roads, they will attract traffic and business. But I do not think they will, if the tourists, and the motorists that go to such a stretch of road, hoping to find an interstate road, simply find a primary or secondary road. I cannot see how that would really help a State

at all. I should think it could be harmful to the reputation of a State for good roads, and very dangerous to motorists.

I cannot see the logic of adding sections of State roads to the Interstate System when, in fact, such roads do not need the interstate highway standards.

I do not like to see the Committee on Public Works, or the Senate or the House, placing in a Federal-Aid Highway Act provisions which really, as I said a while ago, do not represent a correct statement of the nature and construction of a highway. I think it would be a disservice to the Senate to retain this section of the bill, because it would constitute a bad precedent.

So, with all due regard to my good friend from New Mexico, I urge that this section be stricken.

Mr. President, I ask for the yeas and nays on the vote.

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

Mr. COOPER. I yield 2 minutes to my colleague from Kentucky.

Mr. COOK. Mr. President, I would like to ask, if this section stays in the bill and the Senator's amendment is not successful, would it not then logically follow that all road maps that would be printed and distributed through all of the filling stations, the American Automobile Association, and all of the other associations that drivers belong to, would show all of these roads marked as interstate roads, if they are accepted and so designated, and that literally hundreds of millions of the traveling public would read these maps and see them marked as part of the Interstate System, and rely on their being up to the standards and caliber of the portions of the Federal system they are used to traveling throughout the country today?

Mr. COOPER. The Senator is correct. They would be labeled as part of the Interstate System, but would not, in fact, be part of the high-speed, limited-access Interstate System.

Mr. COOK. And the States could continue to have hundreds of miles of two-lane roads that would be designated as part of the Interstate System, and the traveling public could really be given a fast shuffle for almost 12 years?

Mr. COOPER. That is correct. Carried to its logical conclusion, though, I doubt it would happen, as the Senator has said, the States could just keep on requesting designation of roads they like, roads they think would induce development if designated as part of the Interstate System. It would make a shambles of the whole National Highway System—interstate, primary, secondary, and all.

I think the Senator's question is a very apt one, and he has illustrated the problem very well.

Mr. COOK. I thank the Senator.

Mr. RANDOLPH. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has 12 minutes remaining.

Mr. RANDOLPH. I yield myself such time as I may require.

Mr. President, I have great respect for my colleague the senior Senator from Kentucky. I also have, of course, great

respect for the junior Senator from Kentucky (Mr. COCK). But what has been going on here is inaccurate colloquy, and I say that very kindly.

When the junior Senator from Kentucky asked the senior Senator from Kentucky if such and such was not true, the general agreement seemed to be that it was true, in reference to these so-called inadequate roads being scattered all over the country.

We have made a specific provision here in the report, to which I call attention, on page 8, and I shall read it:

In order to avoid confusion to the traveling public, the Committee directs the Secretary when he agrees to such additions to require that maps and other references to such routes carry a special designation so that such prospective additions to the system will not be referred to as completed and up-to-standard portions of that system.

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

Mr. RANDOLPH. I yield.

Mr. COOPER. Will the Senator yield one moment to me, on my time?

Mr. COOK. Go ahead.

Mr. COOPER. Mr. President, the Senator and I work together, and we have the highest regard for each other, but I must insist that what I have said is correct.

Of course, the Department of Transportation could put different signs on segments designation under section 24. I did not say anything about signs in discussing my amendment to strike that section. What I have said is that we would be telling the people of the country that they are on an interstate highway, or can get to an interstate highway, when in fact that is not the case.

The very language my good friend quoted just illustrates the problem:

In order to avoid confusion to the traveling public, . . .

It is not only the signs which cause confusion; it is the fact that people believe they will be on the Interstate System.

The language of section 24 speaks of the designation of highways as a part of the Interstate System. The Senator from New Mexico described them that way. I think the question of the junior Senator from Kentucky was to the point, and I agree with him.

Mr. RANDOLPH. Mr. President, I yield myself 2 additional minutes. I want to be very much in good humor on this matter. I never said that such and such would take place. I simply referred to what Senator Cook had said and had implied, that we would be constructing such a system of roads, designating such a system of roads throughout the country.

In the language of the report, we say:

The amendment which the Committee recommends for approval does not require any particular additions. It does, however, give an opportunity for the people of various communities to seek through their State Governments additional designations of Interstate routes. This provision follows the adoption of an amendment in the Federal Aid Highway Act of 1968, which allows highways built to Interstate standards to be added, when the Secretary of Transportation finds that such additions are in keeping with the purposes of the basic authorizing legislation.

I now read, with special emphasis, this language:

It should be stressed that no Federal commitment to fund construction of these specific new routes would be made and that the States would have to agree to build such routes to proper geometric and design standards within twelve years of their being added to the system.

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

Mr. RANDOLPH. I yield, gladly.

Mr. COOK. The reason that I asked the Senator to yield is because he just stated that the Federal Government could take into the system an interstate highway that had been constructed by a State, that met all the criteria, that came up to all the standards. That is a positive thing. That is an affirmation of a fact. It is there already put down; we can take it in because we can utilize it the minute we designate it, because it is built to all the standards.

This is a negative approach. It says we are going to designate something which has not been there, that we have no logical reason, other than that, in a 12-year period, a State might be able to do that.

In my State, that would be through the terms of three Governors, because a Governor cannot succeed himself. We would undertake to make a designation of a highway as to which we really have no honest knowledge whether it will ever be built to those standards.

I get back to my question about the maps. What do we do? Designate them with an additional letter, mark them yellow, mark them amber, or how do we do this on a map, for the traveling public?

Mr. RANDOLPH. Mr. President, I yield myself 2 minutes.

I do not think that the approach of those of us who favor this language in the bill and are against the amendment is negative in any sense. I ask my colleague, the junior Senator from Kentucky, to hear what I now say, because he has directed certain questions to me.

Mr. COOK. Yes, sir.

Mr. RANDOLPH. It is not a problem in the Eastern and urban sections of the United States. In the more rural sections of the Northwest, the Southwest, and the Middle West, however, there are areas where the isolation is very real, where communities have been left out of the Interstate System. They need the opportunity—and I use the word very advisedly—to be economically competitive, at least in part, as we think in terms of the future in reference to the continuation of the highway program.

Mr. COOPER. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 6 minutes remaining.

Mr. COOK. Mr. President, will the Senator yield me 2 minutes?

Mr. COOPER. I yield 2 minutes to the Senator.

Mr. COOK. I say in reply to the Senator from West Virginia that I could agree with him. I think my State finds itself in that position. It has floated hundreds of millions of dollars worth of bonds to build toll parkways, and we live in that kind of State. But I think what is being

done is to make something out of the National Defense Interstate Highway System that was never intended, when we talk about the problems of those communities, and many of those communities are in my own State.

I dislike to use the word, but I think the apparent subterfuge in this in the language starting on page 37, at line 19:

In the event that the State or States involved have not substantially completed the construction of any highway designated under this subsection within the time provided for in the agreement between the Secretary and State or States involved, the Secretary shall remove the designation of such highway as a part of the Interstate System.

What that really says is that a State can have some of its secondary and primary roads designated as part of the Interstate System for 12 years and, having done nothing about it, they are automatically removed. The only people who really have been fooled in all this are the millions of traveling Americans who see a designation of an interstate highway, who take it, and find themselves on a two-lane road, with culverts on each side, with no guardrails, with stop signs, with speed traps, with everything in creation, across the United States; and in essence they have been sold a bill of goods.

Mr. RANDOLPH. I do not believe there is subterfuge in the provision within the committee bill. I do know that during the period of the construction of the Interstate system there has been growth in many of these areas of the Southwest and other sections, where the only reason why a community or an area is not on an interstate system is that there is no more mileage in the Interstate System.

Why is this not then a very reasonable way to accomplish what we seek? It does not vitiate the strength of the Interstate System, but it does bring about a certain flexibility during a period of years of transition which I think is very important and which will help areas of this country.

Mr. COOPER. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. TALMADGE. Mr. President, I rise in opposition to the pending amendment.

I wish to congratulate the chairman, Mr. RANDOLPH, and the other members of the Public Works Committee on the fine job they have done in reporting S. 4418. Their action demonstrates a full awareness of the need to expand our Interstate System while, at the same time, adapting it to the changing economic, social, and environmental considerations of the coming decades.

The committee has removed the major barrier to an effective beautification program by providing financing through the highway trust fund. Also, the committee has recognized the need to aid our cities in developing better urban highway systems. These are but a few of the progressive and farsighted improvements that the committee bill would make in our Interstate Highway System.

Mr. President, it has become fashionable in many circles to attack the Interstate Highway System as an unwise use of tax dollars. The phrase, "building roads to nowhere" has become a popular one. I believe that such a view is ex-

tremely shortsighted and against our national interest.

While I feel that we must devote more of our resources to urban mass transit and other pressing social problems, I do not feel that we can afford to do less for our Interstate Highway System.

On September 17, the Senate passed H.R. 18546, which commits the Congress to achieve a sound rural-urban balance. In approving title IX of the general farm bill, an amendment offered by Senator Dole and myself, it recognized that continued congestion of our urban areas is making them unliveable as well as un-governable. A pertinent part of title IX reads:

The Congress is, therefore, committed to a sound balance between rural and urban America. The Congress considers this balance so essential to the peace, prosperity, and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas.

Our Government will have to do a great many things if we are to achieve a sound rural-urban balance, if we are to reverse the trend of rural outmigration. Certainly, one of the most fundamental and basic requirements of population dispersal is a transportation system which will allow the fastest possible movement of people, goods, and services between urban centers and outlying areas.

Each time I travel down Interstate 75 in my own State, I am impressed by the tremendous economic growth which is occurring in the small towns and communities that are in close proximity to this newly constructed interstate highway.

If we are to make a serious effort in population dispersal and in the development of the potential for economic growth in rural areas in Georgia and other States, we are going to need a great many more four-lane, limited access highways. We will have to build numerous connectors and extensions of the Interstate Highway System.

For this reason, I believe the Senate should reject the pending amendment which would strike from the committee bill the authority for the Secretary of Transportation to approve the applications of State governments for additional designations of interstate routes.

A group from my own State testified before the committee in favor of this provision. This group, the Tri-State Interstate Connector Association, seeks to gain designation of an interstate route between Columbia, S.C., and Tallahassee, Fla. In my statement for the committee hearing record, I emphasized that this route would be a boon to the economic development of an area that lags well behind the national average in per capita income. As I stated, it would be a tremendous stimulus for growth for several small towns which are struggling to attract industry that is badly needed to provide employment for displaced farmworkers.

Of course I recognize that there is a pressing need not only to gain designation of new interstate routes, but to fund routes already designated. For a number of years, the citizens of Columbus, Ga., which is the site of Fort Benning, have

sought construction of an interstate route through their city. It is indeed unfortunate that this route has not yet been funded.

Mr. President, I urge that the Senate reject the pending amendment and affirm the committee's position on the expansion and improvement of our Interstate System.

Mr. COOPER. Mr. President, I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Kentucky. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.
Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYB), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. ELLENDER), the Senator from Tennessee (Mr. GORE), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), the Senator from Virginia (Mr. SPONG), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also 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 because of official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. PROUTY), the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from Florida (Mr. GURNEY),

the Senator from Maryland (Mr. MATHIAS), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY) and 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.

If present and voting, the Senator from South Dakota (Mr. MUNDT) and the Senator from California (Mr. MURPHY) would each vote "nay."

The result was announced—yeas 21, nays 35, as follows:

[No. 349 Leg.]

YEAS—21

Allott	Curtis	Pearson
Baker	Dole	Percy
Boggs	Goldwater	Saxbe
Brooke	Griffin	Smith, Maine
Case	Hansen	Thurmond
Cook	Hatfield	Tower
Cooper	Jordan, Idaho	Williams, Del.

NAYS—35

Allen	Holland	Nelson
Anderson	Hollings	Packwood
Bible	Long	Proxmire
Byrd, Va.	Manusson	Randolph
Byrd, W. Va.	Mansfield	Ribicoff
Church	McCarthy	Schweiker
Cranston	McClellan	Scott
Eagleton	McGovern	Stennis
Ervin	Metcalf	Stevens
Fannin	Miller	Talmadge
Fullbright	Mondale	Young, N. Dak.
Harris	Montoya	

NOT VOTING—44

Alken	Gurney	Murphy
Bayh	Hart	Muskie
Belmont	Hartke	Pastore
Bennett	Hruska	Pell
Burdick	Hughes	Prouty
Cannon	Inouye	Russell
Cotton	Jackson	Smith, Ill.
Dodd	Javits	Sparkman
Domnick	Jordan, N.C.	Spong
Eastland	Kennedy	Symington
Ellender	Mathias	Tydings
Fong	McGee	Williams, N.J.
Goode	McIntyre	Yarborough
Gore	Moss	Young, Ohio
Gravel	Mundt	

So Mr. COOPER's amendment (No. 1005) was rejected.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIBLE. Mr. President, I applaud the Senate's decision to support the Public Works Committee's inclusion in this Federal-Aid Highway Act of 1970 of section 24 authorizing additions to the Interstate System.

The record before the Subcommittee on Roads includes a strong appeal by the National Highway 50 Federation and representatives of my State of Nevada for legislative authority to permit the extension of Interstate Highway 70 from its deadend in western Utah through points in Nevada to Sacramento, Calif., and a compelling proposal to upgrade transcontinental U.S. Highway 50 in any future highway improvement program.

Testimony establishing a strong case for these developments was presented at

hearings held in Carson City and Ely, Nev., which included support for these projects by many representatives not only from Nevada but from California, Utah, and Colorado as well.

I will not detail the reasons why these projects should be moved forward promptly. The details are in the hearing record, and available to the Department of Transportation. I am convinced that the record demonstrates beyond doubt that enormous economic good would result from the proposed extension of Interstate 70 and the inclusion in the Interstate System of U.S. Highway 50.

Section 24 of S. 4418 recognizes that but for the mileage limitations imposed by the basic law many communities which were not eligible for interstate connections when the system was laid out in 1947 and revised in 1956 and 1968 would now be eligible for such connections. It recognizes that location on or near an interstate route has a major effect on the future of communities and their social, economic, and industrial growth. And it recognizes the importance of permitting communities and States to request and have designated the inclusion of highway segments in the Interstate System in aid of and to properly facilitate their growth and development.

Section 24 of this bill is without question an overdue step in the right direction. Again, I applaud its retention in the bill. I realize that the bill does not require the designation of any particular additions to the Interstate System. However, in view of the strong case that has been made for the extension of Interstate 70 from western Utah to California, and for the designation of U.S. Highway 50 as a part of the Interstate System, I call upon the Department of Transportation to recognize the compelling advantages of these proposals, and to move with dispatch to make them a reality.

Mr. BOGGS. Mr. President, I wish to express my support for S. 4418, the Federal-Aid Highway Act of 1970. This bill serves as another step in making the world's best highway transportation system even better.

Senators RANDOLPH and COOPER, the distinguished chairman and ranking minority member of our Committee on Public Works, have been most eloquent in detailing the thoughts of the committee, on which I have the honor to serve. They have discussed the creation of a Federal-aid urban highway system, which is an important concept. They have discussed the need to evaluate more effectively the economic, social, and environmental aspects of highway projects.

Their leadership on these points and many more has been most helpful to the Members. This leadership has enabled the committee to find which, I believe, to be the most reasonable approaches to an extension of the highway legislation. I commend them.

There are two aspects of the bill that I wish to comment on briefly. The first involves section 27 of the bill, altering the formula under which allocations are made to the States for support of highway safety programs.

This is an excellent program and the proposed addition placing the primary emphasis on population within a State for setting the allocation is a reasonable one. The committee also establishes a minimum allocation to any State of one-third of 1 percent of the funds available for this program. This language was added to assure that our smaller States can cover certain basic costs for an effective highway safety program. Specifically, the minimum of one-third of 1 percent will increase funds available to the States of Alaska, Delaware, Hawaii, and Vermont, as well as the District of Columbia.

For the first time, the funds for the highway safety program will come from the highway trust fund, rather than general revenues. This also is an important step. Highway safety is an integral and necessary aspect to any highway construction program; it is only logical that the trust fund be utilized to make our roads safe.

The minimum allocation and the use of the trust fund will guarantee that smaller States, such as my own, will be able to plan ahead from year to year toward implementing an effective safety program. This has not been so in the past.

During the current fiscal year, Delaware's allocation under the safety program was slashed by \$40,000. This reduction forced a discontinuation of new funds for emergency medical services, a sharp curtailment of efforts to improve driver education, and a slowdown in other programs.

Personally, I have been very encouraged by Delaware's progress with its highway safety efforts in the past several years. The program has led to improvements in the driver education programs available in schools throughout my State. It has supported the training of many law-enforcement officers in courses in accident investigation and traffic safety. It has financed the training of emergency medical teams to save lives on our highways. It has helped finance the purchase of a helicopter for use as an ambulance, in accident investigation, and highway patrol work, and in other traffic-safety-related projects.

Such highway-safety expenditures, matched dollar for dollar by the State and other Delaware agencies, are wise expenses. By insuring a viable program in each of our States through use of a minimum allocation formula and funding from the trust fund, we make certain that this money will be spent well.

A similar concept is incorporated into section 5 of the bill, which amends section 104(b) (5) of title 23. This provision insures that no State will receive in a single year less than one-half of 1 percent of the total funds appropriated for the interstate program. This will assist a number of States, which otherwise would find it difficult to maintain a meaningful level of construction activity in coming years, largely because of the rapid progress these States have made in building their share of the Interstate System. States that will benefit from this new formula include, Delaware, Idaho, Nebraska, Nevada, New Hampshire, and North Dakota.

Again, Mr. President, I wish to express my strong support for S. 4418. The improvements it brings to the Federal Highway program are important ones. I commend this legislation to my colleagues.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT—CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a cloture motion and ask that it be read.

The ACTING PRESIDENT pro tempore. Under rule XXII, the clerk will state the motion.

The legislative clerk read the cloture motion, as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending resolution of the Senator from Indiana (Mr. BAYH)—proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

HUGH SCOTT, MIKE MANSFIELD, WILLIAM PROCMIRE, PHILIP A. HART, JOSEPH M. MONTOYA, THOMAS F. EAGLETON, JAMES B. PEARSON, GEORGE MCGOVERN, LEE METCALF, JENNINGS RANDOLPH, MARLOW W. COOK.

ROBERT P. GRIFFIN, GAYLORD NELSON, EDWARD W. BROOKE, RICHARD S. SCHWEIKER, W. B. SAXBE, WALTER MONDALE, EUGENE MCCARTHY, CLIFFORD P. CASE, WARREN G. MAGNUSON.

FEDERAL-AID HIGHWAY ACT OF 1970

The Senate continued with the consideration of 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.

Mr. MANSFIELD. Mr. President, I yield 5 minutes on the bill to the junior Senator from Alaska.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized for 5 minutes.

Mr. STEVENS. Mr. President, I would like to support the Federal Aid Highway Act of 1970 as a bill of great importance to our Nation. The authorization provided in the pending bill would move us ever nearer to completing the greatest network of highways ever conceived, our Interstate Highway System.

I particularly want to pay a debt of gratitude on behalf of the State of Alaska to the chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH), the ranking minority member of the committee, the Senator from Kentucky (Mr. COOPER), and also particularly to my good friend, the Senator from Delaware (Mr. BOGGS).

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The ACTING PRESIDENT pro tempore. The point of order is well taken. The Senate is not in order. The Senator will not continue until the Senate is in order.

The Senator from Alaska may continue.

Mr. STEVENS. Mr. President, I thank the Chair.

In addition to authorizing funds for the Interstate System, the 1970 Highway Act contains provisions of significance to my State of Alaska. Alaska is the only State in the Union in which there are no interstate highways. As a result we have not participated in the major portion of highway funding over the past several years. This year the Public Works Committee included a provision which would allow each State to receive at least one-half of 1 percent of the interstate funds. However, because Alaska had no interstate highways on which to spend the money, we would not have been able to use our share. I wrote to Senator RANDOLPH on August 12 and explained this inequity to him. I asked the chairman if it would be possible to include in the Highway Act a special authorization equal to our share of interstate money—approximately \$20,000,000 annually. The Highway Act of 1970 provides for a special authorization for Alaska of \$20 million for each of the fiscal years 1972 and 1973. This money is critically important to my State, which has more land and fewer miles of highway than any State in the Union. I am very pleased that the chairman has seen fit to accept that recommendation.

I also explained to the chairman in a letter of August 28 that the State commissioner of highways was very interested in obtaining equality for our State under this new Highway Act.

Mr. President, because of the rugged terrain and extensive inland waterways of the Alaskan southeast, we rely on a system of ferries—called the Alaskan marine highway system—to handle the traffic that would normally ride the highways. I have been working ever since I came to the Senate to have the Alaska marine highway system included in the Federal-aid highway program. On February 2 of this year I asked the Senate to include the marine highway system in the urban mass transit bill. I was told at that time that the system should be in the highway program. So I cosponsored a bill with my colleague, Senator GRAVEL, to include the ferries in the Federal-aid highway program. That bill was introduced on August 5 and has been incorporated in the Highway Act now before us.

I also cosponsored legislation to pave the remainder of the Alaska Highway. That bill was introduced June 12, 1969. Provision for negotiation between the Canadian and U.S. governments on paving the Alaska Highway is made in the Highway Act.

The Federal-Aid Highway Act of 1970 contains the most comprehensive treatment of Alaska's highway problems ever attempted by Congress. It is a great bill because of the evenhandedness and fairness with which it treats all States, including my State of Alaska.

I wish to support the bill again and to commend the members of the committee. The people of Alaska owe their thanks to the great work done in this committee, Senator RANDOLPH, Senator COOPER, and Senator BOGGS on this landmark bill. I am certain that were my colleague from Alaska present today, he

would join me in thanking the members of the committee. As a member of this committee, he deserves a great deal of credit for the work that it has done.

Mr. President, I ask unanimous consent that my letters of August 12 and August 28, 1970, to the chairman of the Committee on Public Works and a copy of my bill S. 933 be printed at this point in the RECORD.

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

HON. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR JENNINGS: Thank you for your recent letter inviting my cosponsorship of the Federal-Aid Highway Act of 1970. I am most happy to join with you in cosponsoring this measure.

After reviewing the bill, I noticed that the Interstate program will now carry with it a requirement that a minimum of one-half of one percent of the total funding go to each state. I certainly consider the goal of this provision laudable; however, the State of Alaska will be the only state which will not participate in these funds. This results, of course, in the fact that we do not have any Interstate highways on which to spend the money.

It would seem logical, therefore, that a special provision permitting Alaska to use its allocation on its primary and secondary systems should be included. This was done in the Highway Act of 1966, which included a special provision authorizing appropriations of \$14 million annually for each of the fiscal years 1968 through 1972. Our share of the Interstate funds of \$4 billion per year would be approximately \$20 million annually. It would therefore seem appropriate to include a special authorization of an additional \$6 million for fiscal year 1973 thus bringing the total for that year to \$26 million and an authorization of \$20 million for fiscal 1973.

I would very much like to see this special authorization included in the bill you will introduce next Monday.

With best wishes,
Cordially,

TED STEVENS,
U.S. Senator.

AUGUST 28, 1970.

HON. JENNINGS RANDOLPH,
Chairman, Public Works Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRSMAN: I recently wrote to you concerning a special authorization for the State of Alaska in lieu of participation in the Interstate Highway System. At the same time, I wrote to the State of Alaska's Department of Highways for material explaining why this authorization was needed and how the funding, if made available, would be used.

I enclose a letter from Commissioner Robert L. Beardsley, explaining our highway program for the next two fiscal years. In particular, the specific jobs for fiscal 1971 have been set out for your information.

At the conclusion of Commissioner Beardsley's letter, he quotes a telegram he sent me explaining how he would like to see the State of Alaska's participation authorized. I would appreciate the Committee considering the Commissioner's proposal. If that is not acceptable, I would appreciate consideration of the proposal made in my letter of August 12, a copy of which is attached.

I am looking forward to hearing from you on this matter soon.

With best wishes,
Cordially,

TED STEVENS,
U.S. Senator.

S. 933

A bill to vacate and relinquish the reservation of rights-of-way for certain purposes made pursuant to section 321 (d) of title 48, United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any right-of-way for roads, roadways, highways, tramways, trails, bridges, and appurtenant structures reserved by section 321 (d) of title 48, United States Code (61 Stat. 418, 1947), not utilized by the United States or by the State or territory of Alaska prior to the date of enactment hereof, shall be and hereby is vacated and relinquished by the United States to the end and intent that such reservation shall merge with the fee and be forever extinguished.

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. NELSON). The amendment will be stated. The legislative clerk read as follows:

On page 21, between lines 8 and 9 insert a new Section 15 as follows and renumber succeeding sections:

Sec. 15. Section 129 of Title 23, United States Code, is amended by adding new subsection (g) (1) and (2):

"(g) (1) The amount of Federal Aid Highway funds paid to the State of Michigan for the construction of the bridge and approaches thereto over the St. Clair River at Port Huron, Michigan, shall, prior to the collection of any tolls thereon be repaid to the Treasurer of the United States. The amount to be repaid shall be deposited to the credit of the appropriation for 'Federal Aid Highways (Trust Fund)'. Such repayment shall be credited to the unprogrammed balance of Federal Aid Highway funds of the same class last apportioned to the State of Michigan. The amount so credited shall be in addition to all other funds then apportioned to said State and shall be available for expenditure in accordance with the provisions of Title 23, United States Code, as amended.

"(2) Upon the repayment by the State of Michigan of the Federal Aid Highway Funds received for the said Bridge project, the Bridge and its approaches shall become and be free of any and all restrictions contained in Title 23, United States Code, as amended, or in any regulation thereunder, with respect to the imposition and collection of tolls or other charges thereon or for the use thereof, provided such tolls or charges do not exceed the amount necessary for the proper maintenance, repair and operation of the bridge and its approaches under economical management."

Mr. GRIFFIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. GRIFFIN. Mr. President, I have discussed this amendment with the distinguished Senator from West Virginia (Mr. RANDOLPH) and the ranking minority member of the committee, the Senator from Kentucky (Mr. COOPER).

Both have indicated to me that they see merit in the amendment and are willing to accept it.

Mr. President, I have a letter from the Office of the Secretary of Transportation addressed to Representative JAMES HARVEY of Michigan, who represents the district which includes the Blue Water Bridge, which explains the amendment and indicates that the Department of Transportation has no objection. I ask unanimous consent that the text of the letter be printed at this point.

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

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 5, 1970.

HON. JAMES HARVEY,
House of Representatives,
Washington, D.C.

DEAR MR. HARVEY: This is in response to your letter of April 13 to Mr. Baker requesting a further clarification of our position on H.R. 6001, a bill which would permit the State of Michigan to reimpose tolls on the Blue Water Bridge during any period when Canada imposes tolls.

Our major objection to the measure was, and continues to be, its conflict with long-standing United States bridge policy, now embodied in 23 U.S.C. 129. This policy provides that direct Federal participation in the cost of constructing a toll bridge or its approaches is conditioned on the bridge becoming toll free when the construction bonds have been repaid.

The project agreement of June 8, 1938, between Michigan and the Federal Government, contained a provision substantially identical to the provision of law in 23 U.S.C. 129. Thus, Federal participation was conditioned on the bridge becoming toll-free after amortization. Nevertheless, the legislation authorizing the bridge (49 Stat. 1067) provides that after amortization of the cost of the bridge and its approaches, "such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management". (Emphasis supplied)

It would appear, then, that if the State of Michigan were to authorize the repayment of the Federal highway funds involved in the project, the reason for the inclusion of the toll-free condition in the project agreement would no longer exist. In that case, we would have no objection to the reimposition by Michigan of tolls on the bridge during periods when Canada imposes tolls, and no additional legislation would seem to be necessary to enable the State of Michigan to so reimpose such limited tolls.

The repaid amount would be credited to the Highway Trust Fund and added to the unprogrammed balance of highway funds available to Michigan for projects of the same class. A similar procedure was followed in the State of New Jersey to allow for the reimposition of tolls on sections of the Garden State Parkway (section 20, Federal-Aid Highway Act of 1968, 82 Stat. 815).

I trust this clarifies our position on your measure, but if you have any further questions, please do not hesitate to contact me.

Sincerely,

JAMES A. WASHINGTON, JR.

Mr. GRIFFIN. Mr. President, as I indicated earlier to the Senator from West Virginia, I have discussed this matter with the ranking minority member of the committee (Mr. COOPER) and he is willing to accept it.

I yield now to the chairman of the committee.

Mr. RANDOLPH. Mr. President, the able Senator, the assistant minority leader of the Senate, has explained the reasons for his amendment. It is a unique problem but not an unprecedented one and it is a matter that we, as a Senate Committee, would agree to take to conference. Therefore, I support the amendment. The Congress has on other occasions in the past permitted the return of Federal funds in such situations. Two

which come to mind, involved the State of Connecticut and the States of Maryland and Delaware.

Mr. GRIFFIN subsequently said: Mr. President, I want to make this statement at this time, only because it has to do with the debate and deliberations of the Senate earlier today on S. 4418.

It will be recalled that the junior Senator from Michigan offered an amendment on page 21 to add language with reference to a bridge over the St. Clair River at Fort Huron, Mich. I want to ask unanimous consent that my senior colleague from Michigan (Mr. HART) be added as a cosponsor of that amendment.

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

Mr. GRIFFIN. Mr. President, I also want to indicate that although my colleague from Michigan (Mr. HART) is absent from the Senate today, he very much supports the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GRIFFIN. I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

Mr. BOGGS. Mr. President, I send to the desk an amendment on behalf of the Senator from New York (Mr. JAVITS) and the Senator from Maine (Mr. MUSKIE).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BOGGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment offered by Mr. BOGGS, on behalf of Mr. JAVITS and Mr. MUSKIE, is as follows:

On page 51, line 24, insert the following as a new section:

"Sec. 35. Notwithstanding any other provisions of title 23 to the contrary, the Governor of a State may utilize any funds apportioned to that State for any fiscal year under this title for construction of Interstate highways within an urban area with a population of fifty thousand or more in such State, to construct alternative public transportation systems to serve such area, if the Governor determines that such alternative public transportation systems are necessary in the public interest. Federal participation in the cost of constructing such alternative transportation systems shall not exceed the Federal pro rata share applicable to the construction of Interstate highways. Funds shall not be expended for such alternative public transportation systems if after public hearing the Governor receives negative recommendation of any major or city council, county board or other equivalent duly constituted authority with jurisdiction over such area, or if the alternative public transportation system is not consistent with any applicable comprehensive transportation plan for the area. Funds available under this sec-

tion may be expended for acquisition of land rights-of-way, construction or acquisition of track, buildings, or other facilities, and acquisition of rolling stock, vehicles or other equipment for publicly owned systems.

"(b) The Secretary of Transportation shall promulgate regulations prescribing what shall constitute an urban area with a population of fifty thousand or more."

Mr. BOGGS. Mr. President, the amendment I have sent to the desk is submitted to S. 4418 on behalf of the distinguished senior Senator from New York (Mr. JAVITS), who is necessarily absent to observe a religious holiday. The amendment which the Senator from New York has prepared, and on which the Senator from Maine (Mr. MUSKIE) has joined, authorizes the diversion of certain funds in the highway trust fund for use in the construction of such things as mass transportation systems. This amendment is similar to one that was offered in committee by the Senator from Maine (Mr. MUSKIE). That amendment was considered by committee, but not included in the bill.

The amendment the Senator from New York (Mr. JAVITS) has suggested would allow construction of an alternative public transportation system if a Governor makes the determination that such an alternative is necessary in the public interest and important to a more efficiently balanced transportation system for the area.

It is the thought of the Senator from New York (Mr. JAVITS) that the transportation needs of many of our urban areas could, in some cases, be more effectively met by the use of highway funds on such things as mass transit systems.

Mr. President, I have discussed the amendment with the chairman of the committee and the ranking minority member, the Senator from Kentucky (Mr. COOPER). I would appreciate the comments of the distinguished chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I yield myself such time as I may desire.

The PRESIDING OFFICER. The Senator is recognized.

Mr. RANDOLPH. Mr. President, the knowledgeable Senator from Delaware, a member of the Committee on Public Works, presents this amendment not for himself, as he indicated, but for the Senator from New York (Mr. JAVITS) and the Senator from Maine (Mr. MUSKIE). The Senator from Maine is an active member of our committee.

The individual views of the Senator from Maine (Mr. MUSKIE) are incorporated in the report to the Senate on S. 4418, Senate Report 91-1254. We went into this matter very thoroughly in the committee, as the Senator from Delaware knows. I do not wish to deprecate the efforts of the Senator from Maine (Mr. MUSKIE) but he had no support in the committee at the time, so he accepted the situation. But the Senator from Maine and the Senator from New York, and perhaps others, wished that the matter be made a part of the colloquy here and the proposal has been introduced as an amendment. I would hope the amendment would be withdrawn.

I would like to read for the RECORD

what the Senator from Maine said in the conclusion of his individual views in the report:

During the first session of the 92d Congress, I shall propose major revisions in the Federal highway program—intended to make the program more responsive to the transportation needs of all Americans. I hope other members of the Senate will offer similar suggestions, and that the committee will consider ways of making the highway program more consistent with efforts to insure a livable environment.

Mr. President, what the Senator from Maine said is what all members of the Committee on Public Works would and do say. As we make these changes, as we are creative and innovative, we recognize we cannot do the job all at once, so we are attempting to approach it in steps in a constructive way.

I am grateful to the Senator from Delaware for pursuing the matter as he has during the debate.

Mr. BOGGS. I thank the distinguished chairman. I wish to ask the chairman if in the next session of Congress it is contemplated we will have hearings in committee on this subject.

Mr. RANDOLPH. I would not want to say categorically we will have hearings in the next session but I will certainly say in the next Congress, although it could well be in the first session.

Mr. BOGGS. I thank the distinguished Senator for those words of assurance that hearings on the subject covered by this amendment undoubtedly will be held in the next Congress, and very likely in the next session. Secretary of Transportation Volpe has in the past expressed the thought that the idea of a broad transportation trust fund needed to be explored, and I believe Senator JAVITS would consider that hearings by the Committee on Public Works would be most useful and helpful in evaluation of this subject.

Mr. President, I therefore ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

The amendment is withdrawn.
Mr. BOGGS. I thank the Senator.

AMENDMENT NO. 1006

Mr. COOPER. Mr. President, I call up my amendment No. 1006.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. COOPER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 33, line 6, insert "(a)" following "Sec. 20," and after line 13 add a new subsection (b) as follows:

"(b) Section 134 of title 23, United States Code, is further amended by adding '(a)' at the beginning thereof and a new subsection (b) as follows:

"(b) The Secretary shall, as soon as practicable, define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary shall by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary shall, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and shall provide assistance including financial assistance to such bodies. Funds authorized pursuant to section 307 of this title for research and planning may be utilized for the purposes of this subsection."

Mr. COOPER. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. COOPER. Mr. President, I am joined in offering this amendment by the chairman of our committee, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maine (Mr. MUSKIE), and the Senator from Kansas (Mr. DOLE).

For the last several years there has been a great deal of discussion in the Committee on Public Works, and I am sure in other committees of the Congress, about the necessity of devising means to solve the problems of duplication, waste, and lack of efficient transportation.

This year in our hearings in the Committee on Public Works, Secretary of Transportation Volpe said that the Department is conducting studies and making surveys, and he hoped that by 1972 at the latest he would be prepared to suggest legislation to Congress to meet the urgent question of the necessity of a balanced system of transportation, taking into account all modes of transportation, and the formulation of a national transportation plan and policy.

The Federal-aid highway law now provides, in section 134 of title 23, that the Secretary shall, in cooperation with the States, conduct surveys and make studies to plan comprehensive transportation systems in metropolitan areas of over 50,000 population, these critical areas of our country where over 70 percent of the population resides. After hearing this testimony, not only from the Secretary of Transportation, but also from Senators and Members of Congress, from officials of the State of New York and New Jersey, and others along the Atlantic seaboard, among them the Governor of Maryland, it seemed to me we should not be required to wait before

making a start on this very serious problem.

I offered to introduce the amendment, which I shall read, in the committee. But being advised that there might be a question of appropriate jurisdiction, as between the Public Works Committee and the Committee on Commerce, out of courtesy, I decided not to pursue it in committee, but rather to introduce it on the floor.

I want to read the amendment, because I think it clearly states the purpose and the objective which we are trying to reach:

(b) The Secretary shall, as soon as practicable, define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary shall by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary shall, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and shall provide assistance including financial assistance to such bodies. Funds authorized pursuant to section 307 of this title for research and planning may be utilized for the purposes of this subsection.

Mr. President, I am not from an urban area. I am from a rural area. I do not claim to understand the problems of our great urban centers, but for several years I have heard Governors of States such as New York, Maryland, Illinois, and other urban States speak of the duplication of the modes of transportation. If studies could be made to determine whether a highway or a busline or an interurban system or a rail system could be utilized in a balanced way to better meet the needs of that area, there could be a great saving. It would eliminate duplication and waste, and would provide the best possible means of bringing persons and goods into and out of urban areas.

Mr. President, my amendment is a modest start. The authority resides in the act today for the Secretary to require planning and surveys but only in metropolitan areas, not in corridors which could include both urban and rural segments. This proposal carries it a step further to provide that he shall immediately consult with officials of broader areas which have critical transportation needs and then establish planning bodies to begin to tackle this problem.

I do not believe we can wait 2 years. I

think the time to act is now, and I believe this is the way in which we can really begin to make some progress on this problem. I think all of us would admit, it is one of the most serious in our country today.

Mr. MAGNUSON. Mr. President, I offer a substitute amendment to the amendment of the Senator from Kentucky, on behalf of myself and the distinguished Senator from Kansas (Mr. PEARSON). Other members of the Committee on Commerce who joined with me as cosponsors when this bill was originally introduced as S. 2425 were the Senator from Indiana (Mr. HARTKE), the Senator from Michigan (Mr. HART), and the Senator from Louisiana (Mr. LONG). Unfortunately, the distinguished Senator from New Hampshire (Mr. COTTON) the ranking minority member of the Committee on Commerce is unavoidably absent. I know that he would have wanted to be present because of the great importance attached to transportation planning and development by the Committee on Commerce.

Mr. President, it is apparent to all members of the Committee on Public Works, and to all members of the Committee on Commerce—which has primary jurisdiction in transportation matters—that the transportation system of this Nation is in disarray and in desperate need of rationalization. I share the sense of urgency expressed by the Senator from Kentucky (Mr. COOPER) that our transportation system needs immediate improvement.

Mr. President, the pending amendment embodies the concept of developing transportation systems along regional lines, and this is an urgently-needed concept, since transportation is primarily a regional phenomenon. The Committee on Commerce has studied the regional transportation concept very intently in connection with S. 2425, the National Transportation Act, which I introduced and which is cosponsored by many members of the committee. The National Transportation Act would authorize the Secretary of Transportation to designate major transportation regions throughout the Nation, and contains extensive provisions for the comprehensive planning, development, and funding of transportation on a regional basis.

The Committee on Commerce has held extensive hearings on the National Transportation Act and the regional transportation concept. This year we had 5 full days of hearings on this legislation—February 26 and 27, April 14 and 15, and May 12. Several members took an active role in these hearings including particularly the Senator from Indiana (Mr. HARTKE), chairman of the Subcommittee on Surface Transportation and the Senator from New Hampshire (Mr. COTTON).

We heard more than two-dozen witnesses, including several recognized national experts in the transportation field, and including transportation officials from every section of the Nation and from every level of government.

We compiled a hearing record of more than 400 pages.

Many Senators appeared before our committee during these hearings, and many others sat in on the hearings and listened to witnesses. To the best of our knowledge, no member of the Committee on Public Works nor a member of our committee attended our hearings, and none testified.

I do know, however, that if the Senators have read our hearings or our legislation, or if they have sought the advice of the witnesses that appeared to testify on the National Transportation Act, they recognize the inadequacies of this amendment, number 1006. These inadequacies could have been pointed out by members of the Commerce Committee or by the committee staff, since we have studied this matter in depth.

The inadequacies of this amendment, Mr. President, were apparent to me when I first read S. 4260, the Federal-Aid Highway Act of 1970, which initially contained a different scheme for transportation planning. For this reason, Mr. President, I wrote to the Senator from West Virginia (Mr. RANDOLPH), the chairman of the Committee on Public Works, on September 17 of this year. I pointed out not only that such a proposal fell within the jurisdiction of the Committee on Commerce, and in fact overlapped with the National Transportation Act, S. 2425, but also that the language contained in S. 4260 initially, and now in this amendment number 1006, is inadequate to deal properly with the need for better transportation planning and development.

Amendment No. 1006 contains no standards, guidelines, or criteria for the establishment of transportation regions or regional transportation systems. It takes no account of the extremely important question of which bodies, groups, and governmental entities should be represented, and in what manner, on the planning bodies. It contains no provision for the implementation, evaluation, or funding of the plans that may be developed for a particular region. This one shortcoming would be sufficient to warrant my personal opposition, as a member of the Transportation Appropriations Subcommittee, even if I did not object as the chairman of the Committee on Commerce and as one who has spent a considerable amount of time drafting and refining the most comprehensive piece of regional transportation legislation ever offered in the U.S. Congress.

Mr. President, there is a very simple reason why the regional transportation concept has come to the floor in the form of an amendment rather than in the form of the National Transportation Act, of which I am the author. That reason is that after all our hearings and extensive study, the Committee on Commerce was not quite satisfied that the National Transportation Act was yet in optimum form. We feel it may still need improvement.

But if the Senate feels that it should act on the regional transportation concept, there is no question in my mind that the National Transportation Act is a lot more desirable piece of legislation than the pending amendment. It is quite comprehensive, has been worked out in

extensive consultation with all recognized transportation authorities, and has the benefit of very extensive exhaustive hearings.

Consequently, Mr. President, I am now offering a substitute amendment to the Federal-Aid Highway Act, in place of Amendment No. 1006. My amendment is the National Transportation Act of 1970, with appropriate alterations. I urge that my amendment be adopted in place of Amendment No. 1006, if the Senate desires to act now on the regional transportation concept and if the Senate desires to aid, rather than to confuse, our efforts to improve the transportation system of the United States.

The PRESIDING OFFICER. Did the Senator from Washington send his amendment to the desk?

Mr. MAGNUSON. I sent it to the desk.

The PRESIDING OFFICER. The amendment offered by the Senator from Washington, in the nature of a substitute for the amendment of the Senator from Kentucky, will be stated.

The legislative clerk read the amendment offered to the amendment, as follows:

On page 33, between lines 13 and 14 insert the following:

NATIONAL TRANSPORTATION PLANNING

Sec. 21. (a) The Congress finds—

(1) that the development of a balanced and efficient transportation system adequate to meet the current and future transportation needs of the United States is essential to the commercial life, national defense, and general welfare of the people of the United States;

(2) that present transportation facilities, transportation planning, and transportation development are inadequate to meet the minimum current and future transportation needs of the people of the United States;

(3) that the preservation and enhancement of the environment, the conservation of natural resources, including scenic, historic, and recreation assets, and the strengthening of long-range land-use planning is vital to the health and welfare of the people of the United States, and that the planning and development of transportation facilities should be consistent with these goals; and

(4) that systematic and coordinated planning and development of balanced transportation facilities within and between all regions of the United States must be encouraged and should be vigorously pursued as provided in this section.

(b) The primary purpose of this section is to provide for the planning and development of a balanced transportation system throughout the United States. In furtherance of this purpose this section is designed to encourage the major regions, geographic and economic, of the United States to plan for and provide, with the aid and support of the Federal Government, coordinated transportation planning and development within and between such regions. It is the intent of this section to encourage such regions to undertake planning, research and development programs, and demonstration projects which will lead to improved and compatible transportation capabilities related to the needs of regional development and also to encourage diversity of approaches and experimentation which will be suitable and productive for the regions of the country.

(c) The Secretary of Transportation (hereinafter in this section referred to as the "Secretary") is authorized and directed, within six months of the effective date of

this section, to designate appropriate "major transportation regions" within the United States with the concurrence of the Governors of the States and the authorized representative of the District of Columbia in which such regions will be located, provided that there is a relationship between the areas within each such region geographically, demographically, and economically. As used in this section, the terms "State", "States", and "United States" include the several States, the District of Columbia, and Puerto Rico.

(d) (1) Upon designation of major transportation regions, the Secretary shall invite and encourage the States wholly or partially located within such regions to establish appropriate multistate regional commissions.

(2) Each such commission shall be composed of one member from each participating State in the region and one Federal member, hereinafter referred to as the "Federal cochairman" who shall be the Secretary or his designee. Each State member may be the Governor, or a person who shall be appointed by and serve at the pleasure of the Governor, or such other person as may be provided by the law of the State which he represents. The State members of the commission shall elect a cochairman of the commission from among their number. Notwithstanding the foregoing provisions relating to State membership, in the event the Secretary finds that an existing regional commission embraces within its functions and purposes the field of transportation development, the Secretary may, at the request or with the consent of the participating States, accept such regional commission as the transportation regional commission for the purposes of this section.

(3) Decisions by a regional commission shall require the affirmative vote of the Federal cochairman and of a majority or at least one if only two, of the State members. In matters coming before a regional commission, the Federal cochairman shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter and the State members shall consult with representatives of appropriate local subdivisions within their respective States.

(4) Each State member of a regional commission shall have an alternate, appointed by the Governor, or as otherwise may be provided by the law of the State which he represents. The Secretary shall appoint an alternate for the Federal cochairman of each regional commission. An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the State or Federal cochairman for whom he is an alternate.

(5) If any one State is designated a major transportation region, the Secretary may establish a commission for such State in a manner agreeable to him and to the Governor of such State.

(e) In carrying out the purposes of this section each regional commission shall with respect to its region—

(1) develop plans, research and development programs, and demonstration projects for balanced and coordinated regional transportation developments, and establish a priority ranking for such plans, programs, and projects, and in accomplishing the objectives of this clause each regional commission shall—

(A) evaluate the relative benefit of the plan, program, or project in serving the essential transportation needs of the affected area;

(B) evaluate the prospects that the plan, program, or project on a continuing rather than a temporary basis will improve the economic, environmental, and social development of the area served by the plan, program, or project; and

(C) with respect to its planning function—

(i) initiate and coordinate the preparation

of long range overall transportation plan for such region, such plan to designate the priority of transportation needs of the affected area and identify transportation resources of the affected area;

(ii) develop comprehensive and coordinated plans utilizing the long range overall transportation plan as a guide, and establish priorities thereunder, that give due consideration to other Federal, State, and local transportation planning in the region; and relate transportation development to other planning and development activities and needs of the region, including but not limited to preservation and enhancement of the environment;

(iii) prepare specific plans for the development of improved and compatible transportation systems within such region; and

(iv) conduct investigations, research, surveys, and studies to provide data required for the preparation of plans;

(D) with respect to research and development programs—

(i) initiate research and development of intercity systems aimed at immediate improvements in intercity passenger service using existing facilities and available equipment;

(ii) initiate research and development of safe and reliable high speed prototype intercity passenger systems, susceptible of early demonstration;

(iii) initiate research and development of equipment for use in urban areas for the purpose of providing at an early date a prototype demonstration system providing high speed passenger transportation for such areas;

(iv) initiate research and development of transportation systems that provide compatibility between urban and intercity systems; or

(v) initiate research and development of other transportation systems essential to the needs of the affected area;

(E) with respect to demonstration projects, insure that such projects reflect the priority of the transportation needs of the affected area as determined by the commission in accordance with this section; and

(F) cooperate with Federal, State, and local agencies in the conducting or sponsoring of research and development programs and demonstration projects required to improve regional transportation;

(2) review and study, in cooperation with the appropriate agencies involved, Federal, State, and local public and private transportation plans, programs, and projects and, where appropriate, recommend modifications or additions which will increase their effectiveness and compatibility in the region;

(3) provide a form for consideration of transportation problems of the region and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences;

(4) formulate and recommend, where appropriate, interregional compacts and other forms of interstate and interregional cooperation to carry out recommended programs for improved transportation, and work with Federal, State, and local agencies in developing appropriate model legislation;

(5) prepare legislative and other recommendations with respect to both short-range and long-range transportation programs and projects for Federal, State, and local agencies and the methods of their implementation; and

(6) provide for and encourage financial participation by State and local governments and private industry to the maximum extent practicable including, but not limited to the provision of land to conduct prototype demonstrations.

(f) To carry out its duties under this section, each regional commission is authorized to:

(A) adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of its functions;

(B) accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible; and

(C) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in carrying out its functions and on such terms as it may deem appropriate, with any department, agency, or instrumentality of the United States or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation.

(2) In order to obtain information needed to carry out its duties, each regional commission shall:

(A) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable, a cochairman of such commission, or any member of the commission designated by the commission for the purpose, being hereby authorized to administer oaths when it is determined by the commission that testimony shall be taken or evidence received under oath;

(B) arrange for the head of any Federal, State, or local department or agency (who is hereby so authorized, to the extent not otherwise prohibited by law) to furnish to such commission such information as may be available to or procurable by such department or agency; and

(D) keep accurate and complete records of its doings and transactions which shall be made available for public inspection.

(g) (1) Not to exceed 90 per centum of the administrative expenses of each regional commission as approved by the Secretary may be paid by the Federal Government. The remaining 10 per centum of such costs or expenses shall be paid by the States included in each region. The share to be paid by each such State shall be determined by the regional commission. The Federal cochairman shall not participate or vote in such determination. In determining the amount of the non-Federal share of such costs or expenses, the Secretary shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services.

(2) Each regional commission may appoint an executive director, who shall be responsible for the day-to-day management of the operations conducted by the commission. The executive director shall receive compensation at a rate not to exceed \$30,000 per annum.

(3) Each regional commission may employ, in addition to an executive director, such technical, clerical, or other personnel on a regular, part-time, or consulting basis as may be necessary for the discharge of its functions. Regional commissions for regions comprising two or more States shall not be bound by any statute or regulation of any participating State in the employment or discharge of any officer or employee.

(h) (1) Except as permitted by paragraph (2) hereof, no State member or alternate and no officer or employee of a regional commission shall participate personally and substantially as a member, alternate, officer, or employee, through decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization (other than a State or political subdivision thereof) in which he is serving as officer, director, trustee, partner, or

employee, or any person or organization with whom he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest. Any person who shall violate the provisions of this subsection shall be fined not more than \$10,000, or imprisoned not more than two years, or both.

(2) Paragraph (1) hereof shall not apply if the State member, alternate, officer, or employee first advises the regional commission involved of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the commission may expect from such State member, alternate, officer, or employee.

(3) No State member of a regional commission, or his alternate, shall receive any salary, or any contribution to or supplementation of salary for his services on such commission from any source other than his State. Any person who shall violate the provisions of this subsection shall be fined not more than \$5,000, or imprisoned not more than one year or both.

(4) Notwithstanding any other provisions of this subsection, the Federal cochairman and his alternate on a regional commission shall not be subject to any such provisions but shall remain subject to sections 202 through 209 of title 18, United States Code.

(5) A regional commission may, in its discretion, declare void and rescind any contract or other agreement pursuant to this section in relation to which it finds that there has been a violation of paragraph (1) or (3) of this subsection, or any of the provisions of sections 202 through 209, title 18, United States Code.

(i) There are hereby authorized to be appropriated out of the Highway Trust Fund \$100,000,000 for the fiscal year ending June 30, 1971, and for the fiscal year ending June 30, 1972, for the purposes of carrying out the provisions of this section. Appropriations authorized under this section shall remain available until expended.

(j) (1) The Secretary shall apportion the sums appropriated pursuant to this section for each fiscal year among the major transportation regions in the following manner:

(1) one-third in the ratio which the total area of each region bears to the total area of all regions;

(2) one-third in the ratio which the total population of each region bears to the total population of all the regions as shown by the latest available Federal census; and

(3) one-third in the ratio which the population in municipalities and other urban places, of five thousand or more, in each region bears to the total population in municipalities and other urban places of five thousand or more in all the regions, as shown by the latest available Federal census. For the purpose of this provision, Connecticut and Vermont towns shall be considered municipalities regardless of their incorporated status.

(2) In no case shall the total Federal contribution to the cost of any plan, program, or project hereunder be more than 90 per centum of the total cost of such plan, program, or project. In determining the amount of the non-Federal share of such costs, the Secretary shall give due consideration to all contributions, both in cash and in kind, fairly evaluated, including but not limited to land, space, equipment, and services.

(3) The Secretary shall authorize the release of funds hereunder to a region on the

basis of the establishment of an acceptable regional commission and the existence of plans, programs, or projects, which are approved by such commission and comply with this section. Any funds which are apportioned to a region under paragraph (1) of this subsection which, by agreement between the regional commission and the Secretary, are not needed by that region may be expended for plans, programs, or projects in another region, as determined by the Secretary, except that no region shall receive more than 25 per centum of the total funds appropriated pursuant to this section for any fiscal year.

(4) Funds available for expenditure hereunder for any region may be utilized for plans, programs, or projects involving only such region or in cooperation with other regions, or through payment of funds authorized hereunder to departments or agencies of the Federal Government for conducting such plans, programs, or projects.

(5) Each regional commission is authorized in its discretion to transfer not to exceed 10 per centum of any funds which are apportioned to the region under paragraph (1) of this subsection to the Secretary for the conduct of such research and development in the field of transportation as he may deem desirable. In utilizing such funds the Secretary is authorized to enter into contracts with public or private agencies, institutions, organizations, corporations and individuals without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5a).

(k) (1) Each regional commission receiving assistance under this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the plan, program, or project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the plan, program, or project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this section.

(l) (1) Each regional commission established pursuant to this section shall make a comprehensive and detailed annual report each fiscal year to the Secretary with respect to such commission's activities and recommendations for plans, programs, and projects. The first such report shall be made for the first fiscal year in which such commission is in existence for more than three months. Such reports shall be transmitted to the Secretary not later than September 30 of the calendar year following the fiscal year with respect to which the report is made.

(2) The Secretary shall make a comprehensive and detailed annual report to the Congress of his operations under this section for each fiscal year beginning with the fiscal year ending June 30, 1971. Such report shall be printed and shall be transmitted to the Congress not later than January of the year following the fiscal year with respect to which such report is made.

(m) In performing his duties under this section, the Secretary is authorized to—

(1) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics needed to carry out the purposes of this section; and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized to fur-

nish such information, suggestions, estimates, and statistics directly to the Secretary;

(2) call together and confer with, from time to time, any persons, including representatives of labor, management, transportation, and government, who can assist in meeting the problems of area, regional, or national transportation, and make provisions for such consultation with interested departments and agencies of the Government as he may deem appropriate in the performance of the functions vested in him by this section;

(3) employ experts and consultants or organizations therefor as authorized by section 3109 of title 5 of the United States Code, compensate individuals so employed at rates not in excess of \$100 per diem, including travel-time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently, while so employed; *Provided*, That contacts for such employment may be renewed annually; and

(4) establish such rules, regulations, and procedures as he may deem appropriate in carrying out the provisions of this section.

(n) (1) Except as may be otherwise expressly provided in this section, all powers and authorities conferred by this section shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing.

(2) Funds authorized to be appropriated under this section may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

(3) All financial and technical assistance authorized under this section shall be in addition to any Federal assistance previously authorized and no provision hereof shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance to which any region, State or other entity eligible under this section would otherwise be entitled under the provisions of any other section.

Redesignate the succeeding sections of the bill accordingly.

Mr. MAGNUSON. Mr. President, we have for a long time discussed what we call the National Transportation Act, which I think covers most of the matters the Senator from Kentucky is suggesting. This problem has been before us for a long time. We are about ready to take some action on it. It would authorize the Secretary of Transportation to designate major transportation regions throughout the Nation and it contains extensive provisions for the comprehensive planning, development, and funding of transportation on a regional basis.

I think the only difference between the proposal of the Senator from Kentucky and that of the Committee on Commerce is that we take it on a regional basis. The Senator from Kentucky is more concerned with the urban aspect. For that reason, I have offered my amendment as a substitute for the amendment of the Senator from Kentucky.

We have had long hearings on this question. There is a problem of jurisdiction as between the Public Works Committee and the Commerce Committee. I am hopeful that the Senator from Kentucky and the Senator from West Virginia, and all the rest of the Senators

who have done such a good job on the bill, will accept this substitute and, when a conference is held, discuss it with the House Members and see what the conferees think about it. I think we are trying to achieve the same goal. Our proposal is a little more comprehensive than the proposal of the Senator from Kentucky.

I am anxious to get the bill passed and over to the House for conference. So there will be no delay, I hope the substitute amendment will be accepted.

Mr. RANDOLPH. Mr. President, I wish to commend the able Senator from Washington as well as the able Senator from Kentucky on their discussion of this matter. There is in some degree conflict, I shall not stress it, because I think it is minimal; but more importantly, there is the element of one program complementing the other.

As the Senator from Washington has said, his program is broader in scope, whereas in our Public Works Committee, we thought in terms of the critical transportation regions to be set forth.

The Senator from Kentucky, of course, and others of us interested in this matter, have discussed with the Senator from Washington his proposal. I am agreeable to accepting the substitute, if the Senator from Kentucky is agreeable, for the amendment that has been offered, to taking the matter to conference, and going further into the problems presented at that time.

Mr. COOPER. Mr. President, I appreciate very much the statement of the Senator from Washington, and also the statement of our chairman, the Senator from West Virginia. I do not wish any action or statement I make to be considered as a yielding of committee jurisdiction. As I stated a while ago, section 134 of the Transportation Act authorizes the Secretary to require that highway projects in urban areas over 50,000 population conform to a comprehensive transportation plan developed by the State or States, and local officials of that metropolitan area.

The purpose of my amendment was to get some action in areas of critical need now, areas larger than those covered by section 134. In his testimony before the committee, the Secretary stated that some of his proposals for this kind of planning might be ready in 6 months, but some might not be ready for 2 years.

I have read the bill which the Senator from Washington has offered as a substitute amendment. It is a very good and broad bill, which would provide for the study of transportation needs in regions of the United States, and continuing work upon them, because it provides for commissions to be established in each of those regions.

I am concerned that, if we fail to act now, it would only postpone work upon, as the Senator has stated, one of the most critical problems facing the country. This bill and my amendment could also affect, in a large degree, the Air Quality Act which we passed a few days ago, because unless some efficient mode or modes of transportation in our great

urban areas can be established, perhaps automobile transportation will have to be sharply restricted or even discontinued at times in the cities, in order to meet the air quality standards. It is imperative that we take action now.

I would say to the Senator that I do not believe the amendment which I, and those who have joined me, have offered today is as broad as his bill. I do not see how it could deny what his fuller study and his larger proposal would provide. My proposal would apply only to those areas which are most critical now.

I wonder if the Senator from Washington would agree to his proposal being accepted as a separate amendment, rather than as a substitute for mine.

Mr. MAGNUSON. As a plain amendment?

Mr. BOGGS. And take a vote?

Mr. COOPER. Yes.

Mr. MAGNUSON. I have no objection to that, because I think we are both trying to do the same thing, and I would be hopeful that, although our proposal is much broader, they might zero in jointly on certain problems. The Senator's objective is very worthwhile, and is urgent.

So, if the Parliamentarian will advise us as to how we can do that, I would be glad to do it.

The PRESIDING OFFICER (Mr. NELSON). The Chair is advised by the Parliamentarian that if the Senator will withdraw his amendment and offer it after the adoption of the pending amendment, that could be accomplished.

Mr. MAGNUSON. Yes; we could offer our amendment, and then he could offer his amendment afterwards. Except, I would say to the Senator from Kentucky, that I think the substitute covers what he is trying to do.

Mr. COOPER. It covers it, but 2 years later.

The PRESIDING OFFICER. The Parliamentarian advises the Chair that to accomplish the purpose the Senators wish, the Senator from Washington could withdraw his amendment, the Senate could agree to the amendment of the Senator from Kentucky, and then the Senator from Washington could reoffer his amendment.

Mr. MAGNUSON. I think we have a drafting problem here which might interfere.

I think the amendment I have offered covers what the Senator from Kentucky wants to do. I think in conference we have a wide range for discussion with the House's Representatives on the matter.

Mr. COOPER. It could, in theory, cover what I want to do, but it is not as precise in its immediate application, and it just postpones any action for 2 years.

Mr. RANDOLPH. Let us take them both.

Mr. MAGNUSON. Mr. President, I suggest that I move the adoption of the substitute, and then the Senator from Kentucky can offer his amendment right afterward, and the two of them will be before the conference.

Mr. RANDOLPH. I think that is agreeable.

Mr. MAGNUSON. I move the adoption of the substitute amendment.

Mr. CASE. Mr. President, the Chair is undoubtedly going to tell us what is going on.

The PRESIDING OFFICER. The Senator from Washington is moving the adoption of his substitute amendment.

Mr. CASE. Yes. Would the Chair advise the Senator from New Jersey and his colleagues how after that, if it is agreed to, the amendment of the Senator from Kentucky can be voted on?

The PRESIDING OFFICER. The Senator from Kentucky can reoffer his amendment.

Mr. COOPER. Yes, it can be reoffered. Mr. CASE. I understood the Chair first suggested that the Senator from Washington do the withdrawing and reoffering. Was that correct?

The PRESIDING OFFICER. That was the suggestion of the Chair, but the Senator from Washington did not accept that suggestion.

Mr. CASE. And this will, no more than the other course, prejudice the alternative?

Mr. MAGNUSON. Mr. President— Mr. CASE. Mr. President, I am asking the Chair a question, if I may.

Mr. MAGNUSON. Yes.

The PRESIDING OFFICER. I am advised by the Parliamentarian that if the substitute offered by the Senator from Washington is agreed to, then the Senator from Kentucky may offer his amendment, and it may be agreed to.

Mr. CASE. And no prejudice would result?

The PRESIDING OFFICER. No prejudice respecting the amendment of the Senator from Kentucky.

Mr. MAGNUSON. Mr. President, I move the adoption of the substitute amendment.

The PRESIDING OFFICER (Mr. NELSON). The question is on agreeing to the substitute amendment offered by the Senator from Washington.

The substitute amendment was agreed to.

The PRESIDING OFFICER. Is all time yielded back on the amendment of the Senator from Kentucky?

Mr. RANDOLPH. I yield back the remainder of my time.

Mr. COOPER. Mr. President, I call up amendment No. 1006, and ask that it be read.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky (Mr. Cooper), as amended by the substitute amendment.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. I call up my amendment No. 1006 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

Mr. Cooper's amendment is as follows:

On page 33, line 6, insert "(a)" following "Sec. 20," and after line 13 add a new subsection (b) as follows:

"(b) Section 134 of title 23, United States Code, is further amended by adding '(a)' at the beginning thereof and a new subsection (b) as follows:

"(b) The Secretary shall, as soon as practicable, define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary shall by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary shall, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and shall provide assistance including financial assistance to such bodies. Funds authorized pursuant to section 307 of this title for research and planning may be utilized for the purposes of this subsection."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. ELLENDER. Mr. President, I have been so busy with the farm bill that I have been unable to study the pending bill very carefully, and I should like to ask a few questions of the manager of the bill.

Mr. RANDOLPH. I would be very happy to engage in a colloquy with the able Senator from Louisiana.

Mr. ELLENDER. How many more miles does this bill add to the Interstate System?

Mr. RANDOLPH. There is no additional mileage.

Mr. ELLENDER. It is 41,000 miles? Mr. RANDOLPH. No; it is 42,500 miles. The Senator will recall that it was 41,000, but in the 1968 act, in conference, there was an agreement on 1,500 additional miles, making 42,500 miles in the Interstate System.

Mr. ELLENDER. Then, the additional mileage is presently in the law?

Mr. RANDOLPH. The Senator is correct.

Mr. ELLENDER. How will it be financed—in the same manner as the 41,000 miles?

Mr. RANDOLPH. Yes, the same manner. There will be no change.

Mr. ELLENDER. Has an allocation been made of the extra 1,500 miles?

Mr. RANDOLPH. All the mileage has been allocated, except perhaps a mile or two.

Mr. ELLENDER. I thank the Senator. Mr. RANDOLPH. I appreciate the interest of the Senator from Louisiana, who has been very active in the development of our highway program.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1007

Mr. COOPER. Mr. President, I call up my amendment No. 1007.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 29, line 20, following "ites" insert the following: "lawfully in existence on the date of enactment of this section".

Mr. COOPER. Mr. President, this amendment deals with junk yards. Under present law, the Highway Beautification Act of 1965, junk yards must be screened, with the exception of those that are established in industrial zones, that is, areas which are zoned industrial under authority of State law, or—and this is rather imprecise language—areas which are used for industrial activities.

As Senators will recall, we have been dealing with the problem of junkyards and billboards along the Interstate and primary systems since about 1958. I have supported the beautification bills, in many sessions here, urged billboard and junkyard control, and fought to secure and maintain an effective program.

With respect to my amendment today, I recall the argument made during consideration of the 1965 act, that these junkyards were established before standards were set. I do not believe they have the right to make that argument when they establish new junkyards along the roads, particularly the interstate system, and then fall within some exemption and a relief from screening the junkyard.

My amendment would change the law in this respect: Screening would be required in every case on the primary system or the interstate system from the time of the enactment of this measure.

If we do not do something like this, there is just no end to it. They will be establishing junkyards along the roads, primary and interstate, wherever it can be called an "industrial use" area. Why should there be any right to establish new junkyards, auto graveyards, garbage dumps or sanitary fills anywhere along the interstate system?

I want to make it clear that my amendment would apply to junkyards established along and visible from the interstate and primary systems after the enactment of this measure—and in all cases they must be screened.

Mr. RANDOLPH. Mr. President, I support the amendment offered by the able Senator from Kentucky. The amendment is in concert, as it were, with the purposes of the prior legislation with respect to highway beautification, and requiring the screening of junkyards, and advancing the scenic development of our highway system. I am very happy to accept the amendment.

Mr. COOPER. I yield back the remainder of my time on the amendment.

Mr. RANDOLPH. 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 Kentucky.

The amendment was agreed to.

Mr. BOGGS. Mr. President, on behalf of the distinguished Senator from Tennessee (Mr. BAKER), a member of the committee, I wish to make a brief statement and propound a question to the chairman of the committee.

Mr. President, I should like to ask just one question of the distinguished chairman of the Public Works Committee, if I may, so as to make entirely clear for the record the intention of this legislation with respect to new language on the control of outdoor advertising.

Section 16 of S. 4418, beginning at page 22, line 16, would make certain changes in section 131 of title 23, United States Code.

Section 131(b), as amended by the pending bill, would require that the States provide for effective control of the erection and maintenance along the interstate and primary systems of outdoor advertising signs which are visible from the main traveled way of the systems and which are not otherwise permitted by section 131(d). Section 131(d) would permit only the erection and maintenance of those outdoor advertising signs that are within zoned and unzoned commercial or industrial areas adjacent to the interstate and primary systems.

For the purpose of establishing legislative history, my question of the distinguished chairman of the Public Works Committee is this: Is it intended that signs lawfully erected in commercial or industrial areas not adjacent to the interstate and primary systems are to be considered "controlled" under this section, simply because such sign structures may also be visible from these systems? Put another way, is it not a fact that it is not the intent of this legislation to declare illegal signs in business areas designed primarily to be viewed by traffic on streets and roads other than the interstate and primary systems but which may be incidentally visible from such systems?

Mr. RANDOLPH. Mr. President, the answer is "Yes." In the report, the committee stated quite clearly that the exception from the new nobility would extend to all signs lawfully erected and located.

Mr. President, I am delighted that the able Senator from Delaware (Mr. BOGGS) a member of the Public Works Committee has, on behalf of the able Senator from Tennessee (Mr. BAKER) also—a member of our committee—focused attention on this matter, because we need to continue to zero in on this problem.

Mr. BOGGS. I thank the chairman.

Mr. COOPER. I yield myself 3 minutes on the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts from my individual views and supplemental views which are part of the committee report on S. 4418, Senate Report 91-1254.

The PRESIDING OFFICER. There being no objection, the views of Senator COOPER were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE INDIVIDUAL VIEWS OF SENATOR JOHN SHERMAN COOPER

Great credit is due Secretary Volpe and the administration for the amendments they have developed to make the highway beautification program work. His recommendations, that the costs of sign removal and junkyard screening be paid from the highway trust fund, and to restrict the waiver of penalties now permitted, are most significant improvements in this program. It is a difficult field, and a program which has been frus-

trated by lack of funds and by administrative complexities growing from the nature of the task. I am certain the people of the country want this program to go forward, and to succeed, and hope very much that the provisions of the bill will be enacted into law.

DISTRICT OF COLUMBIA HIGHWAYS

I am very pleased with the action of the committee in reporting a Federal-Aid Highway Act of 1970 which includes repeal of section 23 of the Federal-Aid Highway Act of 1968—the section which was the cause of my refusal to sign the report of the Senate-House conference in 1968 and my subsequent vote against final passage.

In section 23 the Congress for the first time—and the only time to my knowledge—directly interceded in the process of planning and approving specific projects in the Federal-aid highway program. Section 23 directed the District of Columbia and the Department of Transportation to construct all projects included in the District 1968 cost estimate "in accordance with all applicable provisions of title 23 of the United States Code." As to four projects, section 23 directed that work commence within 30 days following enactment. Remaining projects were to be given further study and a report "including any recommended alternative routes or plans" made to Congress within 18 months.

Section 23 contradicted the principles of federalism underlying the Federal-aid highway program. Under title 23 the District of Columbia is defined as a State, and the States are given responsibility for initiating the planning and approval of specific projects. The Federal Government then approves the plans and the process of their local development at a number of stages, and reimburses a portion of the cost of construction. Local initiative and execution is essential. I said in 1968 that I believed Members of Congress lacked the expertise, experience and authority necessary to determine the need, desirability, location, and design of specific highway projects. The major objection which I raised was that the section effectively superseded local responsibility and initiative in the District of Columbia and created a dangerous precedent for similar action with controversial highways in the several States.

Section 23 has created confusion and dismay in the District of Columbia. It has, in my opinion, been misinterpreted by some, to require the construction of all highways included in the 1968 cost estimate without regard to any local or Federal laws. In fact, however, its directive was specifically qualified by a clause requiring that all action be taken according to all applicable provisions of title 23. Judge Skelly Wright of the U.S. Court of appeals pointed out in an opinion involving one of the projects included in section 23, an interpretation which "would result in discrimination between District residents . . . and all other residents affected by highway projects in their localities" would condemn section 23 as unconstitutional.

Section 23 was not included in the Senate version of the Federal-Aid Highway Act of 1968. Much of the confusion about its meaning has resulted from the statement of House managers, which accompanied the conference bill, and which set forth detailed location and design instruction. I do not believe that the manager's statement reflected the views or the understanding of the Senate conferees.

A great deal of the confusion created by section 23 has resulted from conflicting interpretations by the same District and Federal officials. At President Johnson's direction, the National Capital Planning Commission and the District of Columbia developed and adopted, in December of 1968, a comprehensive highway plan that omitted

two of the most controversial projects included in section 23 and modified the location and design of others. But last summer, faced with the threat of discontinuing the rail rapid transit system construction for the District because of blocked appropriations, the District government and the Department of Transportation decided, in effect, to follow the directions in the statement of House managers without regard to any other laws. Citizens' lawsuits have not resulted in stopping construction of two of the projects included in section 23—the Three Sisters Bridge and the east leg of the Inner Loop—until all applicable provisions of title 23, United States Code, are complied with.

Mr. President, rather than solve the controversy in the District of Columbia, section 23 has inflamed it. Events in the Nation's Capital in the past 2 years have confirmed the Senate's wisdom in not attempting to approve construction of specific highway projects. Section 23 of the Federal-aid Highway Act of 1968 should be repealed.

The Department of Transportation has acted with care and concern in fulfilling the study requirements of section 23. I included their report in the Congressional Record of February 24, 1970, and applauded the report of the Secretary of Transportation for its goals and direction. The Department has not, however, in my view dealt according to their own procedures in requiring the adherence to all the planning and approval requirements of title 23, with respect to the most controversial segments of the District's highways. They have, rather, accepted the judgment of Congress, which in this case, in my judgment, is neither qualified, nor authorized by law, to make such decisions.

The action of the committee in repealing section 23 does not express support or opposition to any highway system or specific part of a system for the District of Columbia. It expresses the principle which had been adhered to by the Congress prior to 1968. That principle is, that it is not the function of the Congress to prescribe and force upon the citizens of a State or the District of Columbia a particular highway construction program. It is certain that the Congress would not attempt to direct the highway program of the 50 States for local initiative is crucial to the success of the Federal-aid highway program—it should not be ignored in the Nation's Capital.

ADDITIONAL INTERSTATE DESIGNATIONS

In the committee, I oppose section 24 of the bill. The section authorizes the Secretary to designate as an interstate highway any existing road which would be a "logical addition or connection to the Interstate System," and would establish with the State responsibility to rebuild such a road to interstate standards within 12 years. No Federal financial responsibility, beyond that required under primary road construction, would be created by the section.

My opposition to the section grows from the fact that it would permit interstate signing and interstate designation of highways which are not limited access highways, and which are not built to the interstate standards the public has a right to expect from interstate designation. The road would not, in fact, be an interstate highway, but would be designated as one.

In 1968 the Congress included in the Federal-Aid Highway Act, Section 16, which reads as follows:

"Whenever the Secretary determines that a highway on the Federal-aid primary system meets all of the standards of a highway on the Interstate System and that such highway is a logical addition or connection to the Interstate System, he may, upon the affirmative recommendation of the State or States involved, designate such highway as a part of the Interstate System. The mil-

age of any highway designated as part of the Interstate System under this section shall not be charged against the limitation established by the first sentence of section 103(d) of this title. The designation of a highway as part of the Interstate System under this section shall create no Federal financial responsibility with respect to such highway."

Under this section, designation as part of the Interstate System follows construction to interstate standards, rather than precedes it.

The public, because of the generally excellent job done in interstate mileage construction, expects an interstate route to be a fast, limited-access highway without drive-ways and traffic lights. If the language which is in the bill is allowed to stand, map designations will be made which may not be altogether truthful for as much as 12 years, if ever.

If States believe that interstate connections and additions are crucial to their economic development, they should proceed with the improved construction of those segments as quickly as possible. The provision in the bill could bring confusion, generate traffic beyond the capacity of the segments, and endanger safety.

The Department of Transportation opposes the proposal primarily on the grounds of highway safety. In a letter presenting views on this provision as a separate piece of legislation, the Department stated in part:

"With deference to the sponsors of the proposed legislation, we think it unnecessary and inadvisable. The language of 23 U.S.C. 139 is sufficiently broad to permit general agreement between the Secretary of Transportation and a State highway department to designate a selected Federal-aid primary segment as part of the Interstate System, subject to the State reconstructing the highway to meet all Interstate standards before formal approval. Such an agreement, however, would not permit installation of Interstate signs until the route actually met Interstate standards. By contrast, S. 9281 would permit immediate designation as part of the Interstate System before the State has reconstructed the highway to the standards of that system, with implied permission to install Interstate signs before the route is upgraded.

"The Interstate System, by virtue of the geometric design standards approved for its construction, is a system of national freeways. That is to say that opposing directions of travel are separated, all crossings of other highways or railroads are separated, and access to the highway and right-of-way is restricted to designated points. A freeway provides fast, safe and efficient movement of traffic because of these features. * * *

"As a result a driver identifies interstate highway markings with a fast, safe controlled-access highway and unconsciously drives faster than on a highway marked with a U.S. or State route shield. This induced sense of safety leaves him unprepared for slower moving traffic which enters or leaves the highway by a grade level side road or other traffic moves normally absent from freeways. As can readily be appreciated, it would be dangerous to allow interstate signs on a highway which does not fully meet interstate standards. Since this bill could permit such a result, we must oppose its enactment.

"If 9281 were enacted in its present form there would be inevitable community pressures to add highways to the Interstate System for reasons of prestige. * * *

"To avoid these unnecessary problems, we think that any further consideration of expansion of the Interstate System would best await the results of the current highway needs and functional classification studies. We note that the American Association of State Highway Officials also has taken this position."

I consider that enactment of this section would be a mistake and expect to move that it be struck from the bill.

SUPPLEMENTAL VIEWS OF SENATOR JOHN SHERMAN COOPER, JOINED BY SENATORS JENNINGS RANDOLPH AND EDMUND S. MUSKIE

I have presented my individual views, included elsewhere in this report, comments on the Federal-Aid Highway Act of 1970 as reported by the Committee on Public Works which, with the exception of one section, I support. For the purpose of this statement, I would note that I presented in the committee two amendments, which were discussed and sympathetically received and which, because they were new proposals, I agreed to offer in the Senate. The first amendment is directed to coordinated transportation planning in critical transportation regions. The second amendment would require the screening of new junkyards located in industrial zones, and visible from the interstate and primary system, just as junkyards in other areas along the interstate and primary system are required to be screened.

CRITICAL TRANSPORTATION REGIONS

The pattern of development of our country and the growth of urban areas has resulted, we know, in great areas and corridors which depend absolutely on the efficient movement of people and goods, which without question will continue to develop, and for which it is essential to plan integrated and coordinated transportation systems. It seems to me that certain transportation modes are better suited to convey different types of cargo, and to carry people for different purposes. And the quality difference of the transporting function becomes critical in urban areas under the constraints of numerous people and limited space. It is not satisfactory that highway, mass transit, railroad, and airway planning proceed separately. Rather, we recognize the urgent need to coordinate the use of these systems to reduce duplication, pollution and waste, so that they can serve the needs of these regions and their people most effectively—which was one of the purposes in establishing the Department of Transportation.

When Secretary Volpe appeared before the committee, he emphasized the importance of coordination between transportation modes, planning for the better utilization of our interrelated transportation systems, and expressed his great interest in directing the immediate efforts of the Department toward this problem. At that time I discussed with the Secretary the concept embraced by my amendment. While we expect the Department, which is developing information, to have recommendations at a later time, I consider it important to provide the Secretary with authority to make a beginning now, and to establish a framework in which State and local governments can start to work on coordinated regional transportation planning. Other witnesses also expressed concern about the necessity of providing better systems of mass transportation in heavy traffic use areas.

The amendment would authorize the Secretary of Transportation to designate critical transportation regions, and provide assistance to planning bodies established within those regions. Such planning agencies could develop comprehensive integrated transportation plans for the region, according to guidelines developed by the Secretary.

The amendment would be an addition to section 134 of title 23, United States Code, which requires the "3-C" continuing, coordinated comprehensive transportation planning in urban areas of over 50,000 population.

While the goals of existing section 134 and my proposal are compatible, their thrust is different. Under my amendment, regions as large as the corridor which stretches from

Washington to Boston, or from San Diego to Seattle—areas which include both urban and rural segments, but which are vital corridors to commerce and travel in those regions—could be designated critical transportation corridors. The orderly development and future growth of these areas will be better assured if careful transportation planning can begin now.

The proposal places specific emphasis on consultation by the Secretary with the Governors of States which would be affected by a "critical transportation region" designation. Although the purpose of existing section 134 is to plan comprehensive systems of transportation "embracing various modes of transportation," the regulations implementing that section specify that initial agreements for establishing planning agencies be between State highway departments. I believe the effort must be more broadly based if integrated, rather than competing, interstate transportation planning is to be achieved—planning directed to regional goals, objectives, and future growth.

Chairman Randolph and Senator Muskie, who participated in the committee's discussion of the amendment and expressed their support for it, are joining me in these views.

The text and an explanation of the amendment I expect to offer in the Senate follows: Section 134 of Title 23, United States Code, is amended by adding thereto:

"(b) The Secretary shall, as soon as practicable, define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary shall by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary shall, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and shall provide assistance including financial assistance to such bodies. Funds authorized pursuant to section 307 of this title for research and planning may be utilized for the purposes of this subsection."

Explanation.—Existing section 134 of title 23 declares it to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport, in a manner that will serve the States and local communities efficiently and effectively. It directs the Secretary to cooperate with the States in the development of long range highway plans properly coordinated with plans for improvements in other forms of transportation, with consideration to the future development of urban areas. It further prohibits approval of projects in urban areas (50,000 population) unless the Secretary finds they are based on the so-called 3-C continuing, cooperative, comprehensive transportation planning. However, the Department regulations for Interstate 3-C planning give the initiative to State highway departments, and as a practical matter this planning has been dom-

inated by highway departments and consists of highway plans. The purpose of the amendment adding a new subsection (b) would be to strengthen section 134, to emphasize intermodal coordination, and to begin a concentrated effort in the regions and corridors facing the most critical transportation problems.

JUNKYARDS

The Highway Beautification Act of 1965, while generally requiring that junkyards within 1,000 feet of the right-of-way along the interstate and primary systems be screened, made an exception permitting their operation without screening in industrial zones. That provision is maintained in the committee bill, conforming to the change which will now require screening of other junkyards "visible from the main traveled way of the system" rather than only those within 1,000 feet of the right-of-way.

The argument was made during the discussion of earlier legislation that we not require the screening of junkyards and scrapyards which have been in existence and operating for years along the primary system or even the Interstate System, and which are located not in commercial areas—where, for example, the size and spacing of signs is controlled—but in a zoned industrial area. They are unsightly in any event, and we would hope that through the solid waste recovery effort there will finally be recycling of automobile hulks.

But I am concerned that the provision would also permit establishing new junkyards or garbage dumps visible from the Interstate System and the primary system, so long as the area is zoned industrial. It would seem to me a shame to permit junkyards to grow up along the Interstate System in any area.

I raised this question in committee, and expressed my intention to offer an amendment in the Senate which would limit the exception permitting the operation of junkyards in industrial zones to those already in existence.

Several members of the committee expressed interest in supporting such a provision, and I hope it would be adopted by the Senate.

Mr. COOPER. Mr. President, I thank the Senator from West Virginia for expressing his support of the amendment dealing with junkyards. He was one of the authors of the amendment, and I know how great an interest he has in this subject.

The Presiding Officer, the Senator from Wisconsin (Mr. NELSON), also has been very much concerned about the beautification section, as has the Senator from New Jersey (Mr. CASE), the Senator from Maine (Mrs. SMITH), and many other Senators.

Mr. President, I want to take this opportunity to make a statement about section 23 of the Federal Aid Highway Act of 1968. The Senator from West Virginia referred to it in his opening statement and said, very correctly, that section 23 was not a part of the Federal Aid Highway Act when it was passed by the Senate in 1968.

The Senate acted first in 1968, as it is doing this year. The Senator from West Virginia stated that when the Senate went to conference with the House, section 23 had been made a part of the bill by the House. The Senate conferees worked hard in the conference to secure deletion of that section. But after several days we had to accept it, because otherwise it would have been impossible

to have had a highway bill in 1968—the House conferees were that adamant.

In section 23 the Congress substantially lays out a road system for the District of Columbia. That went against all precedent, because Congress never attempts to tell a State how its road system should be laid out. However, the House demanded it, and because there would otherwise have been no bill at all, we finally had to give in.

Now we have voted in the Senate Committee on Public Works, and when this bill is passed the Senate will have voted, to strike section 23 of the 1968 act. In doing so, we are not attempting to approve or disapprove any segment of a highway system in the District of Columbia. We are saying that as a matter of law, as a matter of principle, and as a matter of justice to the people of the District of Columbia, Congress should not attempt to become highway engineers and impose on the District of Columbia, or any State, its idea of a highway system.

Mr. President, I want to make that very clear, because I think that to act otherwise is wrong. I said so in 1968 on the floor of the Senate. I voted against adoption of the conference report then. I think it is wrong if this kind of action continues.

I foresee a very controversial conference with the House. I do not know what will be worked out there, but I am very glad that the Senate at least, has expressed its will on this subject.

Mr. RANDOLPH. Mr. President, I yield myself 3 minutes on the bill.

THE PRESIDING OFFICER. (Mr. FANNIN). The Senator from West Virginia is recognized for 3 minutes.

Mr. RANDOLPH. Mr. President, I do not want to labor the District of Columbia discussion further, except to reiterate what I said during my opening statement today. I recounted to Senators the experiences we had in 1968, when the Senate committee did not attempt to direct the building, within the District of Columbia, of highways or bridges. But, as I indicated in the conference, we yielded on that point. I disagreed with my friend from Kentucky at that time in one degree. He voted against the conference report. I voted for the conference report. The reason I did so was not that I felt any less that we had a proper position than did he, but I felt it was my responsibility, along with others, I am sure shared by the Senator from Kentucky, that we should continue the Federal-aid highway program throughout the United States. That is the reason I reluctantly agreed. But now we are taking further action and are spelling it out.

I hope, even though we will have difficulty in the conference with the House that, somehow or other, we will realize that the District of Columbia, with respect to the Federal aid highway program is a State, and we do not attempt to tell any other State what to do, and should not attempt to tell the District of Columbia what to do in respect to a specific project, or a specific route.

This is the basic concept we have of the orderly way in which the highway

program, a Federal-State cooperative effort should function.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The bill is open to further amendment. Mr. MILLER. Mr. President, may I ask the Senator from West Virginia, does he contemplate the yeas and nays on final passage?

Mr. RANDOLPH. We do not contemplate the yeas and nays. Hopefully we would like to get the bill passed within the next few minutes. There are reasons for some of our colleagues being in their own States today. We had an earlier vote, when 56 votes were cast on a rollcall. I shall not ask for a rollcall on final passage and I believe the Senator from Kentucky, the ranking minority member, will not ask for it either.

Mr. MILLER. I understand the feelings of the Senator from West Virginia, but we have been having a lot of rollcalls lately with many Members absent. I have been among those absent on occasion. This is a very important bill. I commend the chairman of the committee and the committee for doing an outstanding job on this most important bill. I do not see why we cannot have a rollcall vote on it. We are going to have rollcall votes on other bills, which we have been having. If anyone is absent necessarily, they can list themselves in favor of or against the measure, and they will have built their record.

Mr. President, I ask for the yeas and nays.

Mr. RANDOLPH. If the Senator will withhold that just a moment.

Mr. MILLER. Yes.

Mr. RANDOLPH. I say to my able colleague from Iowa that, of course, if there is not a quorum, why the bill will have to go over until next Monday and I am wondering whether the Senator would want that to happen.

Mr. MILLER. Well, Mr. President, I would guess that there will be a quorum—

Mr. RANDOLPH. I hope so. The Senator wants me to take a chance with him on that?

Mr. MILLER. I will.

Mr. RANDOLPH. All right.

Mr. MILLER. Mr. President, I renew my request for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I yield.

Mr. NELSON. I want to ask the Senator a question. Perhaps it has already been answered. On page 5 of the report, there is a short paragraph which I do not quite understand. It says:

Provisions of the Environmental Policy Act concerning highways will remain in effect until the provisions of the Federal-Aid Highway Act of 1970 becomes effective.

Will the Senator tell me what that means?

Mr. RANDOLPH. While guidelines governing the ways and means to avoid, overcome, or minimize adverse impact are being developed, we intend that the Environmental Policy Act apply fully,

the sentence was included to stay any premature application of section 105 of the Environmental Policy Act.

Mr. NELSON. It is not removing any environmental guidelines at all?

Mr. RANDOLPH. No, indeed, sir.

Mr. NELSON. All right.

Mr. RANDOLPH. We will not do that. Mr. NELSON. I am sure the Senator would not, but I did not understand that part.

Mr. RANDOLPH. I appreciate this colloquy with the Senator from Wisconsin, that he brings this matter to the attention of the Senate so that we may clarify that point.

Mr. PERCY. Mr. President, I wish to speak briefly on the pending bill.

REPLACEMENT HOUSING

I am most pleased that the Federal-Aid Highway Act of 1970 recognizes the problem of persons dislocated by Federal highway construction. The bill gives the Secretary of Transportation authority to approve the use of highway funds to construct or rehabilitate replacement housing for persons dislocated by highway projects if no other housing is available.

The Government's right of eminent domain has long been recognized. Finally, we as a body are facing up to the responsibility that this right imposes. The Government has the obligation to provide a house comparable to the one it destroys. No family should be forced to leave its home until it is provided with a suitable alternative.

I am pleased that the Public Works Committee has adopted as part of this bill legislation that I earlier introduced, S. 3992, which made provision for paying for replacement housing out of highway trust funds. As Chairman RANDOLPH knows, the need for this provision was brought home to me clearly in a visit I made to Charleston, in his State of West Virginia, where the lack of replacement housing is delaying construction of an interstate highway. Charleston is not the only place with this problem. In other areas projects also have been brought to a standstill because replacement housing cannot be found. The committee recognizes that this problem must be solved and provides the means by which decent, safe and sanitary housing can be provided where it is otherwise not available.

The bill improves upon my original legislation by further providing that where an individual would be required to finance replacement housing at a higher interest rate than that which he currently pays, payments from highway trust funds would compensate him for the increased interest cost. This is an important addition to the legislation.

I commend the committee for this very important addition to the Federal-Aid Highway Act of 1970.

FOREST HIGHWAYS

I am also pleased by the committee action which provides \$33 million in fiscal year 1972 and \$33 million in fiscal year 1973 out of the highway trust fund for forest highways.

As I pointed out on the floor of the Senate on August 14 of this year, in the past interstate highway trust funds have not been used to build the connecting parts of interstate highways that go

through public lands. Additional funds have had to be appropriated in the past to build the connecting link of roads through public lands to join two sections of interstate highways. This has been an unnecessary expenditure of general revenue funds in the past and I am pleased that these expenditures in the future will come out of the highway trust fund.

HIGHWAY TRUST FUND

I am disappointed that the committee did not make a greater commitment to the problems of our cities by providing increased flexibility in the use of highway trust funds to use them to meet overall urban transportation needs.

The committee considered a proposal to allow urban areas to use urban highway funds for the support of public transportation operations. This proposal would have made highway funds available in standard metropolitan statistical areas for alternative public transportation systems if the Governor determined that such alternative public transportation systems were necessary to implement any applicable air quality standards for that area. Funds would have been available for land, construction or acquisition of track, and acquisition of rolling stock or other equipment.

I am sorry that this provision was not included in the bill reported out of the committee. Our urban areas have acute transportation problems that cannot be solved by use of the automobile alone. In Chicago, for example, to replace the Chicago Transit Authority track would require 70 lanes of highways just to move the same number of people. In cities that depend on buses the problem is just as acute. As the committee itself points out in its report, for want of less than \$200,000 the city of Peoria, Ill., lost its bus service.

We must have increased flexibility in the expenditure of transportation funds for urban areas to meet their transportation needs in the way best designed to help that particular area, not just allocate funds for one particular mode of transportation.

I shall be working in the next session of Congress to establish an overall transportation trust fund so that States can use available funds to build whatever forms of transportation are most needed.

Mr. DOLE. Mr. President, I support S. 4418, the Federal-Aid Highway Act of 1970. This legislation represents a timely and constructive response to the changing transportation needs of our Nation. It recognizes that, while highways are our principal means of surface transportation, they must be part of an integrated transportation system. As we continue construction of that system, this bill requires that we minimize the adverse social, economic, and environmental import of highway construction on our communities.

Of particular interest to Kansas is section 14, authorization for the improvement of toll roads. Portions of the Kansas turnpike are part of the Interstate Highway System, which means they must meet the standards established for the Interstate System. Our turnpike was built prior to the authorization of the system, and portions of the turnpike

totaling 131.8 miles need improvements to bring them up to standards. This legislation will permit the turnpikes that are part of the Interstate System to use Federal funds for upgrading, subject to the condition that tolls be removed as soon as existing obligations have been retired.

Section 10 is also important to those States which need to encourage the growth of industry in their rural areas. In our rush to aid urban America, we often overlook the economic plight of our rural areas. Because their young people cannot find employment, we see an ever-increasing number moving to the cities. This movement compounds our urban problems and contributes to the economic decline of rural areas. Efficient transportation is often an important consideration when an industry is deciding on the location of a new plant. We must give more help to providing modern transportation systems for our rural areas. Establishing a priority for secondary road projects that will encourage development is only a first step.

I join Senator COOPER in his proposal for designation of critical transportation regions. This is a first step toward a national transportation system. The proposal recognizes the need to start with those metropolitan areas where the demands on our transportation system are so great.

I commend the chairman of the Public Works Committee, Senator RANDOLPH, Senator COOPER, and the Members of the Subcommittee on Roads for their untiring efforts to meet our highway needs in the seventies.

MR. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement on the pending bill prepared for delivery by the distinguished Senator from California (MR. MURPHY).

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

STATEMENT BY SENATOR MURPHY

MR. MURPHY. Mr. President, I support the Federal Aid Highway Act of 1970. This bill authorizes a two-year extension of the interstate system through 1976 and provides an additional \$9.775 billion from the highway trust fund for this purpose. In addition, the measure provides a new authorization for the federal-domain roads such as our forest highways, public lands highways, forest development roads and trails.

I am pleased that the bill adds a new category of federal assistance, federal aid to our urban systems. We certainly must solve the transportation problems of our nation's metropolitan areas. On February 3 of this year, the Senate passed the Urban Mass Transportation Act, a major federal program to encourage and help finance urban mass transportation. This was a vital measure in the nation's effort to build a balanced and optimum transportation system. I ask unanimous consent that my statement strongly supporting the Urban Mass Transportation bill be printed following my remarks.

The Mass transportation legislation, coupled with the new category of federal highway assistance to the nation's urban areas, should be a big help to states and cities as they attempt to cope with their transportation problems.

I also supported the special \$150 million program designed to replace the nation of our unsafe bridges. I was a member of the

Senate Public Works Committee when the tragedy occurred on the Silver Bridge, which runs across the Ohio River, on December 15, 1967. Senator Randolph and the Committee are to be congratulated for leading this effort to survey the nation's many bridges and to assist in their correction where it proves necessary.

Also, I am pleased with the changes that the Committee recommends to further assure that justice is done to those individuals who are displaced because of highway construction. While one may justify taking private property for the benefit of the community at large, we must make certain to the extent possible, that the citizens affected do not suffer as a result of the public taking. The Federal Aid Highway Act of 1968, which I helped to shape, took significant steps to relieve the hardship on individuals because of highway construction. This measure makes two additional improvements, first by giving states authorization to provide housing for displaced individuals if no other housing is available; and, secondly, the bill adds to the relocation assistance benefits a new provision designed to help in those cases where an individual was forced to finance a home as a result of a highway program at a higher interest rate than he was paying on the displaced home. Without the same interest rates or additional payment to reflect the additional interest cost the individual in my judgment does not receive just compensation. This provision will help to assure that he does.

I am particularly pleased and grateful to Senator Randolph and the Committee for adopting my recommendation with respect to the apportionment factor so as to reflect the new increased cost estimates of the Century Freeway. This will mean an additional \$20 million a year or approximately \$110 million to the State of California. My staff and the State of California have been working with the Public Works Committee with respect to these new cost estimates, and I am delighted with the Committee's action. I was a member of the Public Works Committee in 1968, and I successfully sponsored an amendment which brought about the inclusion of the Century Freeway within the apportionment formula.

The Century Freeway is an excellent addition to the interstate system both to the country and to California. It serves numerous vital defense industries, ends at one of the nation's most important airports—Los Angeles International—and will ease serious congested problems over an extended area. It is estimated that the highway will carry more than 150,000 vehicles daily. In addition, the highway will serve an important function of helping to make jobs in other sections of the city of Los Angeles available to the minority community, who presently find transportation difficult.

The original estimate that had been submitted by the Department of Transportation for allocation of the funds among the states totaled approximately \$110 million from the estimated amount required to complete the Century Freeway in California. This was because the Department was not allowing any increased cost for the Century Freeway. I felt that this was wrong for the Century Freeway, like other highway programs, has had to contend with rising costs. Additional requirements of the Bureau of Public Roads, such as a very wide median strip for the future use of mass transit or exclusive bus lanes, were imposed.

The Century Freeway then deserves only to be treated in the same manner as any other interstate route and I am certainly glad that the Committee did just that.

MR. STENNIS. Mr. President, since 1949, I have strongly supported efforts to strengthen the Federal program for improvement of county highways.

Beginning with the committee report on the Federal-Aid Highway Act of 1950, the Senate Public Works Committee emphasized that a portion of the secondary highway funds should be used on rural roads and to develop a county system of improved roads to serve local communities. Discretion has been vested in the Federal Highway Administrator and the State highway commissions.

I have been assured by the chairman of the committee that in this bill the secondary Federal-aid funds are carried down into the county level roads so as to help serve the rural communities for which all-weather roads are much needed. It is a very important program to the State of Mississippi. Since 1950, the secondary rural road system in Mississippi has been improved by investment of over \$214 million. A little less than half of this was in Federal funds.

I wish to congratulate the distinguished chairman of the Public Works Committee on the Federal-aid highway bill of 1970 which I am supporting.

MR. RANDOLPH. Mr. President, before the Senate proceeds to the vote on the final passage of S. 4418, I wish to express my deep appreciation to the members of the Committee on Public Works, Senators YOUNG, MUSKIE, JORDAN, BAYH, MONTGOMERY, SPONG, EAGLETON, GRAVEL, COOPER, BOGGS, BAKER, DOLE, GURNEY, and PACKWOOD, for their excellent contributions to the committee's deliberation and consideration of this important bill. Special commendation is due Senator JOHN SHERMAN COOPER, the ranking minority Member, for his work in helping to refine and strengthen this measure. As always the members all participated in the development of legislation which all could support. I also wish to commend the able staff of the committee and the legislative aides of the Members for their assistance in the development of this bill. The contributions of Richard B. Royce, staff director, J. B. Huyett, assistant staff director, Mr. Barry Meyer, counsel, Bailey Guard, minority clerk, and professional staff members, John Yago, Adrien Waller, and Harold Brayman, enabled us to understand and resolve the complex issues confronting us.

The PRESIDING OFFICER (MR. MILLER). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

All time has been yielded back. On the question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

MR. BYRD of West Virginia. I announce that the Senator from Indiana (MR. BAYH), the Senator from North Dakota (MR. BURDICK), the Senator from Virginia (MR. BYRD), the Senator from Nevada (MR. CANNON), the Senator from California (MR. CRANSTON), the Senator from Connecticut (MR. DONN), the Sena-

tor from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Virginia (Mr. SPONG), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also 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 Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Virginia (Mr. SPONG), the Senator from Missouri (Mr. SYMINGTON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Ohio (Mr. YOUNG) and the Senator from New Mexico (Mr. MONTOYA) would each vote yea.

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from Florida (Mr. GURNEY), the Senator from Maryland (Mr. MATHIAS), the Senator from Nebraska (Mr. Hruska), the Senator from California (Mr. MURPHY), and 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. JAVRS) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Colorado (Mr. ALLOTT), the Senator from Kansas (Mr. DOLE), 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 Colorado (Mr. ALLOTT), the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG), the Senator from South Dakota (Mr. MUNDT),

the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH), and the Senator from North Dakota (Mr. YOUNG) would each vote "yea."

The result was announced—yeas 51, nays 0, as follows:

[No. 350 Leg.]

YEAS—51

Allen	Griffin	Packwood
Anderson	Hansen	Pearson
Baker	Harris	Percy
Bible	Hatfield	Proxmire
Boggs	Holland	Randolph
Brooke	Hollings	Ribicoff
Byrd, W. Va.	Jordan, Idaho	Russell
Case	Long	Saxbe
Church	Magnuson	Schweiker
Cook	Mansfield	Scott
Cooper	McCarthy	Smith, Maine
Curtis	McClellan	Stennis
Eagleton	McGovern	Stevens
Elliander	Metcalf	Talmadge
Ervin	Miller	Thurmond
Fannin	Mondale	Tower
Fulbright	Nelson	Williams, Del.

NAYS—0

NOT VOTING—49

Aiken	Gore	Mundt
Allott	Gravel	Murphy
Bayh	Gurney	Muskie
Bellmon	Hart	Pastore
Bennett	Hartke	Pell
Burdick	Hruska	Prouty
Byrd, Va.	Hughes	Smith, Ill.
Cannon	Inouye	Sparkman
Cotton	Jackson	Spong
Cranston	Javits	Symington
Dodd	Jordan, N.C.	Tydings
Dole	Kennedy	Williams, N.J.
Dominick	Mathias	Young, N. Dak.
Eastland	McGee	Yarborough
Fong	McIntyre	Young, Ohio
Goldwater	Montoya	
Goodell	Moss	

So the bill (S. 4418) was passed. Mr. RANDOLPH, Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD of West Virginia. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH, Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 4418, and that the bill be printed as passed by the Senate.

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

Mr. MANSFIELD, Mr. President, the Senate's unanimous approval of this measure marks another outstanding achievement for the distinguished senior Senator from West Virginia (Mr. RANDOLPH). As the chairman of the Committee on Public Works he has labored tirelessly in behalf of a responsible highway program for this Nation. He has succeeded. His success is due in large measure to the outstanding legislative skill and ability he applies to every proposal that gains his support. His leadership on this measure demonstrates that fact clearly. The Senate is again deeply grateful. Senator RANDOLPH again has earned its highest commendation.

The Senate is indebted as well to the distinguished senior Senator from Kentucky (Mr. COOPER). As the ranking minority member of the committee he joined in typical fashion to assure the Senator's approval. His cooperation and strong support were indispensable.

To the Senate as a whole goes equally high praise. This proposal was disposed

of efficiently and expeditiously. The cooperation of every Member was necessary and each Senator may share in the achievement.

Several Senators addressed the Chair. The PRESIDING OFFICER. The Senator from Michigan is recognized.

PROGRAM—DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT—ORDER FOR ADJOURNMENT TO MONDAY

Mr. GRIFFIN, Mr. President, for the benefit of the Senate I take this time to inquire of the distinguished majority leader whether he can advise us concerning the schedule for the remainder of the day and for as far in the future as he may be able to indicate.

Mr. MANSFIELD, Mr. President, what is the pending business?

The PRESIDING OFFICER. There is no pending business before the Senate.

Mr. MANSFIELD, Mr. President, I ask unanimous consent that Senate Joint Resolution 1 be laid before the Senate and made the pending business at this time.

The PRESIDING OFFICER. The resolution will be stated by title.

The title of the resolution was read, as follows:

A joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the joint resolution.

Mr. MANSFIELD, Mr. President, I yield to the Senator from Alabama.

Mr. GRIFFIN, Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. GRIFFIN, Mr. President, before he yields I wonder if the distinguished majority leader is inclined to advise the Senate concerning the schedule.

Mr. MANSFIELD, Mr. President, I shall be delighted to do so. I was attempting to initiate a procedure which I understood had been cleared or nearly cleared by all concerned.

It is the intention of the leadership to lay before the Senate this evening the bill on legislative reorganization, Calendar No. 1237, H.R. 17654, an act to improve the operation of the legislative branch of the Federal Government, and for other purposes.

Mr. MANSFIELD, Mr. President, I ask unanimous consent at this time that the Senate convene at 12 noon on Monday, October 5, 1970, and that on Tuesday, October 6, 1970, the Senate convene at 11 o'clock a.m.

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

Mr. MANSFIELD. That will accommodate the Republican conference luncheon and the Democratic Policy Committee meeting, both of which are scheduled.

The PRESIDING OFFICER. Does the Senator wish that the Senate adjourn or recess?

Mr. MANSFIELD. Adjourn.

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

Mr. MANSFIELD. Mr. President, it is anticipated that nearly all of Monday, if not all of Monday, will be devoted to the consideration of Senate Joint Resolution 1; that amendments will be offered; and that, in all likelihood, there could be votes on amendments that day.

After the cloture vote on Tuesday, 1 hour after the Senate convenes, it would be the intention of the leadership, should cloture fail, to turn to the consideration of the legislative reorganization bill at an appropriate time. If cloture carries, of course, the Senate will proceed with Senate Joint Resolution 1. To try to state all of the possible contingencies now is not possible. But that is a general description of what the leadership expects on Monday and possibly Tuesday.

Thereafter, the equal rights for women constitutional amendment must be considered, the class action measure, which is to be reported on Monday; the drug bill which is now on the calendar, and the four crime bills which are on the calendar. Then there are the various appropriation bills. Of course they will be considered on a priority basis when they become available. Hopefully, social security legislation will soon be reported so that the Senate may proceed to its consideration before the middle of the month.

This is a very flexible schedule. It is the best I can do on such short notice. I ask for the understanding of the Senate for not being more definitive. I am confident that there are a number of other measures that I did not mention, but which will be considered in the remaining weeks along with those specifically referred to.

Mr. ERVIN. Mr. President, I wonder if the Senator from Michigan will yield to me without losing his right to the floor?

Mr. GRIFFIN. Mr. President, I believe there was some misunderstanding. Which was not the fault of the majority leader. Some Senators may have been under the impression that I plan to withdraw my proposed amendment to Senate Joint Resolution 1. I am not in a position to do that yet, although I did indicate that I shall give consideration to the possibility—particularly if I become convinced that the Senate is not going to adopt the direct popular election plan.

As I understand it, what the Senator from North Carolina intends to do is offer an amendment to my amendment, or a substitute thereto. Of course, he would be within his rights.

Now I yield to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I might state to the distinguished Senator from Michigan that it is my purpose to call up my amendment No. 942, which is an amendment to his amendment and would take precedence over it.

For the information of the Senate, this amendment would provide, in lieu of the Griffin amendment, a proportional voting system. Therefore, we would have a vote on that.

I hope, however, that on consideration, the distinguished Senator from Michigan will withdraw his amendment and let

me then offer a proportional voting system in lieu of my present amendment, because my present amendment, if it prevailed, would have to be followed by a motion to strike out the rest of Senate Joint Resolution 1. It would be more difficult to have a direct vote on the proportional amendment than on the substitute itself.

I can understand why the Senator from Michigan is not prepared to take that action at the present moment, but I hope, on further consideration, he will do it. It would simplify procedures.

As it is I want to call up my amendment to his amendment, and ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment: Senators HOLLAND, HOLLINGS, BYRD of Virginia, FULBRIGHT, THURMOND, STENNIS, ALLEN, SPARKMAN, MCCLELLAN, BYRD of West Virginia, and ELLENDER.

The PRESIDING OFFICER. Is there objection?

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

Mr. GRIFFIN. I yield.

The PRESIDING OFFICER. Is the Senator from North Carolina calling up his amendment?

Mr. ERVIN. Mr. President, as soon as I get the floor, I would like to call up my amendment No. 942. I have asked unanimous consent that the Senators whose names I have mentioned be made cosponsors.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows: The Senator from North Carolina (Mr. ERVIN) for himself and other Senators, proposes amendment No. 942 in the nature of a substitute.

Amendment No. 942 is as follows:

AMENDMENT No. 942

In lieu of the language proposed to be inserted by amendment No. 711, insert the following:

That the following article is proposed as an amendment to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution only if ratified by three-fourths of the legislatures of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as provided in this Constitution.

"The office of elector of the President and Vice President, as established by section 1 of article II of this Constitution and the twelfth and twenty-third articles of amendment to this Constitution, is hereby abolished. The President and Vice President shall be elected by the people of the several States and the district constituting the seat of Government of the United States. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that the legislature of any State may prescribe lesser qualifications with respect to residence therein. The electors in such district shall have such qualifications as the Congress may prescribe. The places and manner of holding such election in such district shall be

prescribed by the Congress. Congress shall determine the time of such election, which shall be the same throughout the United States. Until otherwise determined by the Congress, such election shall be held on the Tuesday next after the first Monday in November of the year preceding the year in which the regular term of the President is to begin. Each State shall be entitled to a number of electoral votes equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress. Such district shall be entitled to a number of electoral votes equal to the whole number of Senators and Representatives in Congress to which such district would be entitled if it were a State, but in no event more than the least populous State.

"Within forty-five days after such election, or at such time as Congress shall direct, the official custodian of the election returns of each State and such district shall make distinct lists of all persons for whom votes were cast for President and the number of votes for each, and the total vote of the electors of the State or the district for all persons for President, which lists he shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. On the 6th day of January following the election, unless the Congress by law appoints a different day not earlier than the 4th day of January and not later than the 10th day of January, the President of the Senate shall, in the presence of the Senate and House of Representatives, open all certificates and the votes shall then be counted. Each person for whom votes were cast for President in each State and such district shall be credited with such proportion of the electoral votes thereof as he received of the total vote of the electors therein for President. In making the computation, fractional numbers less than one one-thousandth shall be disregarded. The person having the greatest number of electoral votes for President shall be President, if such number be a majority of the whole number of electoral votes. If no person has a majority of the whole number of electoral votes, then from the persons having the two greatest numbers of electoral votes, for President, the Senate and the House of Representatives sitting in joint session shall choose immediately, by ballot, the President. A majority of the votes of the combined authorized membership of the Senate and the House of Representatives shall be necessary for a choice.

"The Vice President shall be likewise elected, at the same time and in the same manner and subject to the same provisions, as the President, but no person constitutionally ineligible for the office of President shall be eligible to that of Vice President of the United States.

"The Congress may by law provide for the case of the death of any of the persons from whom the Senate and the House of Representatives may choose a President whenever the right of a choice shall have devolved upon them, and for the case of death of any of the persons from whom the Senate and the House of Representatives may choose a Vice President whenever the right of choice shall have devolved upon them. The Congress shall have power to enforce this article by appropriate legislation.

"Sec. 2. This article shall take effect on the 10th day of February next after one year shall have elapsed following its ratification."

Mr. MANSFIELD. Mr. President, if the Senator will yield, is the leadership correct in its previous statement to the effect that the Senate can very well expect to have votes on amendments to Senate Joint Resolution 1 on Monday next?

Mr. ERVIN. Yes. This would be the first, because it is an amendment to the

pending amendment. I hope, however, we can make arrangements for the Senator to withdraw the pending amendment and vote directly on proportional voting, which is what is incorporated in this amendment.

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

Mr. ERVIN. I yield.

Mr. MANSFIELD. Would the Senator consider the possibility on Monday of a time limitation on amendments which may be offered?

Mr. ERVIN. Yes.

Mr. MANSFIELD. I thank the Senator.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. May I inquire who has the floor at this time?

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BAKER. Mr. President, will the Senator from North Carolina yield to me quite briefly so that I may ask him if I understand him correctly?

Mr. ERVIN. I yield.

Mr. BAKER. Is it the Senator's intention that we should vote on Monday on his amendment in the nature of a substitute for the Griffin-Tydings amendment?

Mr. ERVIN. My amendment is a perfecting amendment, technically, for the Griffin-Tydings amendment, but it is the proportional amendment. I hope the Senator from Michigan will withdraw his amendment and let us vote on this one and have a direct vote on this amendment. But I am willing to have a vote on either one.

Mr. BAKER. The reason I made the inquiry is that I am pleased to see that we will at last vote on the merits, but I must say there are those of us who feel that what we must have in the final analysis is direct popular election, and I am not prepared to say I can say we will want to vote on Monday. It may be that the consideration of the merits of the Senator's plan as opposed to the direct popular vote plan will require more time. So that my silence does not mislead anyone, I want to say there probably will be discussion on the amendment in the nature of a substitute, or on the amendment directly in the event the Senator from Michigan (Mr. GRIFFIN) withdraws his amendment. There may be a vote on Monday, but the Senate should not feel certain that there will be a vote then.

Mr. ERVIN. I was not undertaking to say whether the Senator would be ready to vote, but what I was saying was that I will be ready to vote on my amendment as a substitute for the Griffin amendment, or, if that is withdrawn, on my amendment directly.

Mr. BAKER. I wonder if the Senators would be agreeable to a vote on Senate Joint Resolution 1, just as it is?

Mr. ERVIN. I think if we would cross each bridge as we got to it we would do better and make better progress.

Mr. BAKER. If the Senator will yield, the great difficulty has been in getting to a vote on Senate Joint Resolution 1. Two cloture motions have been filed against debate on it, without success.

So on Monday next, I shall repeat my request that the Senator from North Carolina and the rest of our colleagues consider voluntarily setting a time to vote on Senate Joint Resolution 1, or at least to vote on the Griffin-Tydings amendment to Senate Joint Resolution 1.

Mr. ERVIN. The Senator from Tennessee does not seem to be willing to vote next Monday on the proportional voting proposal, so I doubt that he is in a position to take someone else to task for not being willing to vote on something else, when he is not willing to vote on the proportional voting proposal.

Mr. BAKER. Of course, the Senator from Tennessee harbors some of the same instinct and feeling as well, because I have been trying to get to a vote for a long time, and I just want to make sure that a compromise or accommodation does not just mean me giving up.

So I wish to put the Senate on notice that we may have to discuss this matter a little farther than next Monday.

Mr. ERVIN. Yes, Mr. President, I would like, for clarification, to state, as I have stated—and I am sorry that the Senator from Tennessee was not present—to the distinguished Senator from Indiana several days ago that I would be perfectly willing to vote on the Katzenbach proposal or the Katzenbach amendment, or upon a proportional voting amendment.

Unfortunately we have not been able to do that because the pendency of the Griffin amendment made the Griffin amendment the order of business, and we could not call up another amendment prior to that time.

I would say to the distinguished Senator from Tennessee that the natural order of voting would be to vote on substitutes for Senate Joint Resolution 1 before we ever vote on Senate Joint Resolution 1. We have not been able to do that, but we offer to do that now, and we offer to have the vote on Monday.

Mr. BAKER. Mr. President, if the Senator will yield for a parliamentary inquiry, may I address the Chair?

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. I ask whether or not the pending amendment in the nature of a substitute for the Griffin-Tydings amendment is in itself open to amendment?

The PRESIDING OFFICER (Mr. HANSEN). The substitute may not, but the language proposed to be stricken out of the committee amendment in the nature of a substitute would be open to amendment.

Mr. BAKER. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Do I correctly understand that the amendment in the nature of a substitute now proposed by the distinguished Senator from North Carolina could be adopted as a substitute by a simple majority vote, and not require a two-thirds vote?

The PRESIDING OFFICER. That is right.

Mr. BAKER. And by the same token, a new substitute to the resolution itself, striking the amendment in the nature of

a substitute, could also be adopted by a majority vote?

The PRESIDING OFFICER. Any amendment to the substitute of the pending resolution could be adopted by a simple majority vote.

Mr. BAKER. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Just to make sure that I fully understand the Chair—

Mr. ERVIN. Mr. President, I think, if the Senator from Tennessee will pardon me, he is making a mistake in calling my pending amendment a substitute. It is a perfecting amendment.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is the amendment of the Senator from North Carolina at the desk?

The PRESIDING OFFICER. The amendment offered by the Senator from North Carolina is at the desk.

Mr. BAKER. Could the Chair inform the Senator from Tennessee as to whether it is an amendment in the nature of a substitute or a perfecting amendment?

The PRESIDING OFFICER. It is not a substitute for the bill. It is language in lieu of that proposed by the Senator from Michigan.

Mr. BAKER. Does that constitute a substitute for the Griffin-Tydings amendment?

The PRESIDING OFFICER. That is right.

Mr. BAKER. Is it amendable further?

The PRESIDING OFFICER. At this stage, the amendment submitted by the Senator from North Carolina is not further amendable.

Mr. BAKER. But Senate Joint Resolution 1 could be amended to delete the Ervin amendment's effect, by a simple majority vote?

The PRESIDING OFFICER. The amendment submitted by the Senator from Michigan (Mr. GRIFFIN) proposes to strike out the language on page 5, including lines 1 through 7, and insert new language in lieu thereof.

Then the Ervin amendment proposes to substitute new language in lieu of the language of the Griffin amendment; and this language in the committee substitute, proposed to be stricken out by the Griffin amendment, is open to amendment. That is the only other amendment in order at this time, except the original language of the bill proposed to be stricken by the committee amendment.

Mr. BAKER. Not wishing to unduly impose on my colleague from North Carolina, who has the floor, but just to make sure that I do understand: If the amendment offered by the Senator from North Carolina, whether it be an amendment in the nature of a substitute or a perfecting amendment, is agreed to by a simple vote, would it have the effect of modifying the pending amendment, which is the Griffin-Tydings amendment to Senate Joint Resolution 1?

The PRESIDING OFFICER. It would eliminate that.

The Chair should further observe that other sections of Senate Joint Resolution 1, not dealt with by the amendment offered by the Senator from Michigan and further perfected by the amendment of the Senator from North Carolina, would be open to further amendment after disposition of the pending amendments.

Mr. BAKER. But the point I wanted to reach—and I hope this will be my final parliamentary inquiry—is this: If the Ervin amendment is adopted, would another amendment to Senate Joint Resolution 1 to delete the Ervin amendment be in order, and could such an amendment be adopted by a majority vote?

The PRESIDING OFFICER. If the Ervin amendment were agreed to and the Griffin amendment were agreed to as amended, then the whole substitute would be open to amendment as agreed to, except that exact language that had been agreed to. Even another substitute for the entire bill would be in order.

Mr. BAKER. I thank my colleague for yielding.

Mr. ALLEN. Mr. President—

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Alabama yield?

Mr. ALLEN. I yield. I was going to ask if the Senator from North Carolina would yield to me.

Mr. ERVIN. Yes. I yield to the Senator from Iowa.

Mr. MILLER. I thank the Senator. Following on the Chair's last ruling, do I correctly understand that the substitute that could be offered in lieu of the matter pending—and the matter pending would be the Griffin amendment, as modified by the Ervin amendment—do I understand that a further substitute could be offered to replace it, and could include language which would delete the Ervin amendment?

The PRESIDING OFFICER. If the Ervin amendment and the amendment by the Senator from Michigan were disposed of, then a complete substitute for the committee amendment in the nature of a substitute would be in order.

Mr. MILLER. Notwithstanding the fact that that complete substitute would delete the language of the Ervin amendment?

The PRESIDING OFFICER. It could delete the entire amendment that had been adopted.

Mr. MILLER. I thank the Chair.

Mr. ALLEN. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. Yes, I am delighted to yield to the Senator from Alabama.

Mr. ALLEN. I commend the distinguished Senator from North Carolina for his statesmanship in proposing this perfecting amendment to the Griffin-Tydings amendment. I commend him further on offering an amendment which is the very amendment that the junior Senator from Alabama understands was once approved by the U.S. Senate, and it would not be any departure at all from precedent if the Senate should agree to this amendment and it should be approved by the House of Representatives and submitted to the States.

I have been somewhat amused at the consternation that has been caused in

the ranks of those proposing Senate Joint Resolution 1 by the statement of the distinguished Senator from North Carolina that he would be happy to see a vote on his amendment and possibly other amendments, such as the district plan and the Katzenbach plan—formerly the Bayh plan—also on Monday. He recalls the occasions when the distinguished Senator from Indiana would challenge the distinguished Senator from North Carolina to agree on a vote. Now the distinguished Senator from North Carolina states that, so far as he is concerned, we can vote on his amendment on Monday, vote on the Katzenbach-Bayh plan, vote on the district plan.

Now some of the proponents of Senate Joint Resolution 1 say, "No, no, we may want to talk some ourselves." So that would seem to indicate that on Tuesday, if the proponents of Senate Joint Resolution 1 want to talk some more, that gives a pretty dim outlook on the cloture vote on Tuesday, does it not?

Mr. ERVIN. I would certainly welcome support on my proposition.

I should like to say, for the information of the Senate, that, as the Senator from Alabama has so well said, my amendment incorporates what was known some years ago as the Lodge-Gossett amendment. It may not be in exactly the same words, but it would have exactly the same effect. It would retain the federal system. In other words, it would recognize that the States have a direct interest in the election of the President. It would retain the electoral votes as they now exist. But it would abolish the office of elector and thus do away with the defaulting or disloyal elector. He would be relegated to the scrap heap of history, if this proposal were adopted.

The next thing it would do is that it would let every voter in every State and in the District of Columbia vote directly for President and Vice President. In other words, he would not have to vote through an intermediary, in the form of a presidential elector. It would divide the electoral vote of each State in accordance with the popular vote received by the candidates in the election.

It would also still require a majority of the electoral vote as thus determined to elect a President. I do not believe in 40 percent Presidencies, as I have stated on the floor of the Senate. It would do away with the present method of electing the President in the event no candidate for President gets a majority of the electoral vote.

Instead of having the President elected by the House, with each State having one vote, this proposal would provide that in the event that no candidate received a majority of the whole number of electoral votes, apportioned in accordance with the popular vote in each State, Congress, sitting in joint session, with each Senator and each Representative having a single vote, would elect the President, he being the choice of the majority of the Senators and of the Representatives in that event.

This would do away with what I consider every valid objection to the present method of electing Presidents, without going to the drastic extreme of convert-

ing the 184,000 voting precincts throughout the length and breadth of the United States into one vast election precinct. It would be a decided advantage over the present system of electing the President, without fleeing to the perils we know not of in respect to the popular election.

Mr. ALLEN. Does the junior Senator from Alabama correctly understand, then, that it would do away with the so-called unit rule—the winner-take-all rule—in respect to States?

Mr. ERVIN. Yes.

Mr. ALLEN. It would do away with that?

Mr. ERVIN. It would do away with that.

Mr. ALLEN. It would do away with the issue of the faithless elector?

Mr. ERVIN. That is correct.

Mr. ALLEN. It would provide for the direct election in the sense that one could vote for the President and Vice President rather than for the electors themselves?

Mr. ERVIN. That is correct.

Mr. ALLEN. Then, if no candidate got a majority in the electoral college, the election would go into the new Congress, with each Member of the House and Senate having one vote.

Mr. ERVIN. That is correct.

Mr. ALLEN. So it would then eliminate the present provision of the top three going before the House of Representatives only, with each State delegation casting one vote.

Mr. ERVIN. That is correct.

Mr. ALLEN. Actually, then, there would be no possibility of a tieup in the House of Representatives, because the issue would just be between two candidates rather than three and before the whole Congress with each Member having one vote.

Mr. ERVIN. Yes.

Furthermore, I think that in all probability the States would ratify this amendment if it should be submitted to them. I have grave doubt as to whether the States would ratify an amendment for popular election of Presidents, because it would deprive 34 States of the 50 States in the Union of some of their voice in the election of the President at this time.

Mr. ALLEN. The plan that the distinguished Senator from North Carolina has introduced, which he says he hopes—and I know that he does—will receive a vote on Monday, has features of the automatic plan.

Mr. ERVIN. It is automatic in the sense that the electoral votes of each State will be divided automatically among the candidates in proportion to their respective popular vote.

Mr. ALLEN. But what the junior Senator from Alabama has reference to is that it has features of the so-called automatic plan.

Mr. ERVIN. Yes.

Mr. ALLEN. And it has features of the direct plan, in that one would vote for the President and Vice President directly, rather than for electors.

Mr. ERVIN. That is correct.

Mr. ALLEN. It has features of the one-man, one-vote theory, in that it is not subject to the objection that in each State the losing voters lose their votes and they are added to the winning can-

didate, so that each winning voter and each losing voter has his pro rata part of the electoral vote counted. Is that not correct?

Mr. ERVIN. That is correct.

Mr. ALLEN. So that it would seem to cover all the features of the desirable democratic methods proposed by the other plans.

Mr. ERVIN. It covers every desirable change that should be made, without converting 184,000 separate election precincts into one great election precinct, where in every close election the probability is that there is going to be controversy, litigation, doubt, and uncertainty for months after the election, as to whether anybody has been elected President at all.

Mr. ALLEN. If the amendment of the distinguished Senator from North Carolina is adopted, then, the Senator from North Carolina would support Senate Joint Resolution 1 as amended, let it go back to the House, and be agreed on there, or in conference, and then submit it to the States.

Mr. ERVIN. Yes.

Mr. ALLEN. Does the distinguished Senator from North Carolina feel that the proportional plan would stand a better chance of being ratified by 38 States than the direct plan?

Mr. ERVIN. I do, because it preserves the federal system of government. It preserves the electoral voting system. It does not deprive 34 of the States of their present voice in the election of a President.

Mr. ALLEN. I thank the distinguished Senator from North Carolina for this information. I am happy to be one of the cosponsors of the Senator's amendment, and I pledge that if this amendment is adopted, I will vote for this electoral reform on final passage of the measure.

Senate Joint Resolution 1, then, would remain as the vehicle by which this electoral reform is accomplished, would it not?

Mr. ERVIN. That is what it is designed to do.

Mr. ALLEN. I thank the Senator from North Carolina.

Mr. BYRD of West Virginia. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia will state it.

Mr. BYRD of West Virginia. Do all amendments to Senate Joint Resolution 1 now at the desk qualify under rule XXII?

The PRESIDING OFFICER (Mr. SCHWEIKER). The Chair would state that there is no precedent to that effect because a new cloture motion has been filed.

Mr. BYRD of West Virginia. So, Mr. President, if I am to understand the Presiding Officer's response correctly, the pertinent unanimous-consent request made prior to the second previous cloture motion does not necessarily carry over beyond the action of the Senate on that cloture motion.

The PRESIDING OFFICER. That is a questionable point.

Mr. BYRD of West Virginia. Mr. President, in order that there shall be no question, I ask unanimous consent that

all amendments now at the desk and all amendments submitted at the desk up to the time the vote begins on the motion to invoke cloture on Tuesday next—

Mr. ERVIN. If the Senator from West Virginia will yield for a question there, as I understand the Senator's unanimous-consent request, all amendments proposed, down to and prior to the cloture motion vote, shall be considered as presented and read for all practical purposes under rule XXII in the event cloture is voted.

Mr. BYRD of West Virginia. Yes. That is my intention.

The PRESIDING OFFICER. Will the Senator from West Virginia please restate his unanimous-consent request?

Mr. BYRD of West Virginia. I ask unanimous consent that all amendments now at the desk and all amendments submitted at the desk up until the time the vote commences under rule XXII on Tuesday next be considered as having been presented and read under the provisions of rule XXII.

Mr. BAKER. Mr. President, reserving the right to object—

The PRESIDING OFFICER. Does the Senator desire to speak on this question?

Mr. BAKER. Yes, Mr. President. The import of the request of the Senator from West Virginia, as I understand it, would be to reinstate the amendments that have already been offered at the table for presentation under rule XXII but which are no longer at the table after disposition of the previous cloture motion. Is that correct?

The PRESIDING OFFICER (Mr. SCHWEIKER). That would be the intent of the unanimous-consent request according to the Chair's understanding.

Mr. BAKER. So that the effect would be to reinstate, for the purposes of qualification under rule XXII, all amendments at the desk at the time of voting on the last cloture motion, and including all those filed and presented at the desk prior to voting on the cloture motion on Tuesday.

The PRESIDING OFFICER. That is the Chair's judgment as to the effect of the unanimous-consent request.

Mr. BAKER. Mr. President, I have no objection.

Mr. GRIFFIN. Mr. President, reserving the right to object, as I understand it, under rule XXII, every amendment must be germane. Is that the case?

The PRESIDING OFFICER. That is correct.

Mr. GRIFFIN. And agreement to the unanimous-consent request will not waive or change the requirement, that each amendment must be germane?

The PRESIDING OFFICER. It would have no effect on that consideration.

Is there objection to the unanimous-consent request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ERVIN. Mr. President, in the printing of the pending amendment (No. 942), there is an error on line 7 on page 4. On line 5, it reads, "In making the computation, fractional numbers less than one one-thousandth shall be disregarded."

It should be "disregarded."

Mr. President, I modify the pending amendment (No. 942) accordingly, to change the verb "disregard" to the verb "disregarded."

The PRESIDING OFFICER. The amendment will be so modified.

Mr. GRIFFIN. Mr. President, because the amendment which I have cosponsored with the Senator from Maryland (Mr. TYDINGS), seems to be an important item in this discussion, I wish to speak for a moment or two about the situation which confronts the junior Senator from Michigan.

I wish to indicate that next to that, if the Senate cannot adopt the direct popular election proposal, then I hope the Senate will move toward reform and, if possible, will then adopt the proportional plan.

In the past, President Nixon has indicated support for the proportional plan. I am convinced it has widespread support and would have a good chance of being ratified by the several States.

But as we approach the possibility of a vote in the Ervin substitute for the Griffin-Tydings amendment, I am in a difficult and awkward position. It will be difficult to vote for the proportional plan embodied in the Ervin substitute so long as I believe the direct popular election proposal has any chance.

I must say, however, after two cloture votes, that the junior Senator from Michigan has about arrived at the conclusion that the Senate is just not going to approve the direct popular election proposal. I realize that there are many who have been fighting with me for the direct popular election proposal who still think there is a chance to prevail.

If the Senator from Tennessee (Mr. BAKER) takes steps to make sure we do not come to a vote on Monday, he may be performing a valuable service. Perhaps we should go to a third cloture vote. Then, if cloture is not invoked, I will be in a position to withdraw my amendment and make the amendment of the Senator from North Carolina (Mr. ERVIN) a direct substitute for the resolution itself.

At the present time, I am inclined toward that course of action.

Mr. BAKER. May I say, along that same line, I do not believe anyone doubts where I stand with respect to support of the direct popular election proposal. I do not believe anyone misunderstood me when I indicated there was some doubt about us voting on Monday on the distinguished Senator's amendment. I do not mean to imply that I am opposed to his amendment. I am not. I share the sentiment of the Senator from Michigan that if we cannot get the direct popular election proposal there are two or three other plans that appeal to me, and which we have discussed. I would hope that we have time enough to consider those aspects, some of which are hybrid ones—the direct popular vote, maybe the proportional plan, the Gossett plan, the district plan, eliminating the runoff, or a half-dozen other things.

The point is that I did not file the cloture motion. I did not know it was going to be filed. I am not forcing this vote on the question. I am in no way criticizing

the distinguished majority leader for filing it. It simply means that we will come to grips with the cloture motion on Tuesday.

The point is that I have some considerable reluctance about foreclosing from a practical standpoint, the over several variations of plans that have been discussed from the time of the last cloture motion before the cloture vote on Tuesday. Therefore, it is not my intent on Monday to be an obstructionist when I indicate that I doubt that we will vote on the proportional plan, but rather to indicate that I want to fully explore the several possibilities that I know are still under consideration.

Mr. President, I make this pledge to my colleagues, that I am a realist, and if I am convinced that the direct popular vote proposal will not be passed, I will move on to find out the next plan that can be passed in order to get electoral reform. But I do not think we are there now. I do not think we will be there on Monday.

My statement was made to clarify my previous statement.

Mr. ERVIN. Mr. President, I understand the Senator's statement very clearly. I would say that the proportional voting plan, like the so-called Katzenbach plan, has the virtue of simplicity, unlike the proposal here which seems to me to be rather complicated.

I think that whatever system we have, it ought to be very simple of operation. Of course, Senate Joint Resolution 1, outside of the complications arising from converting all precincts into one precinct, is simple. So is the proportional vote system. So is the Katzenbach plan.

Mr. President, some of the plans are rather complicated. I think that whatever system we have, it should be a simple and understandable plan.

Mr. HOLLAND. Mr. President, I have listened with a great deal of interest to the statement of the distinguished Senator from Tennessee, because he states exactly the way I felt about this matter when I very strongly opposed cloture, as we had it up twice before.

The Senator from Tennessee says that he thinks all plans ought to be fully explored and fully debated and fully understood. That is exactly what those of us who are opposed to cloture have been contending for all along.

May I say to my friend, the Senator from Michigan, that the withdrawal of his amendment—and he said that he would think about it over the weekend—would at least permit a direct vote on the proportional plan without any other obstruction whatever. If it is voted up and adopted, we would be on our way to the submission of an amendment. If it is voted down, there would still be available not only Senate Joint Resolution 1, but also the amendment offered by the Senator from Michigan and the Senator from Maryland which could again be reoffered.

I am hoping that we get a chance to vote on Monday and vote on something that is meaningful and might be passed or might not be. But I strongly share the feelings of the distinguished Senator from Tennessee that if we do not agree

on anything on Monday, all plans that are proposed should be fully discussed. That has been exactly my feeling all the way through, as cloture has been proposed twice heretofore already.

Mr. BAKER. Mr. President, I entirely agree. I would hope that this matter would be accomplished not by a cloture motion, but by an agreement to give us a time certain to vote on every proposal, including the popular vote.

Mr. DOLE. Mr. President, I was not present earlier. I understand that there could still be a substitute to the Ervin substitute offered on Monday.

I might say at this time that there is some chance that I might have such a substitute amendment to offer, No. 957, which does contain at least the principle of direct election.

Any candidate receiving 50 percent of the votes would be elected President. If that measure failed, then we would have the so-called Katzenbach plan, or the Ervin plan, which would provide automatically that if no candidate had a majority of 270, there would be a joint session of the House and Senate, with each Member having one vote.

It is much like the Tydings-Griffin plan. That sets forth a 50-percent requirement.

The point has been raised, and quite properly, many times by the Senator from North Carolina that we should not have a 40-percent President. We all agree that the man receiving the most votes, if there is a 50-percent requirement, should be President.

I state at this time that I will be studying this possibility over the weekend and will be here on Monday.

Mr. BAKER. Mr. President, I think the Senator from Kansas. He has been very helpful in seeking to get some sort of accommodation with regard to this matter.

I believe that all of us are dedicated to the idea that there must be a test of the several proposals for electoral reform. All I ask is that the direct popular vote be considered on its merits as one of those proposals.

Mr. President, I yield the floor.

Mr. ALLEN. Mr. President, I appreciate the comments of the distinguished Senator from Tennessee and the distinguished Senator from Michigan when they say that if they cannot get the direct election method, they will then be pleased to have the proportional election system.

The junior Senator from Alabama would like to point out, however, that if they go the route they suggest—and that is to wait until the cloture vote on Tuesday before making up their minds to take the proportional plan—that plan might not be available to them if the cloture motion fails. In other words, there is a likelihood that it will be necessary, in order to have a compromise reached, to give up at this time the idea of getting the direct election method and agreeing on the proportional plan. If the cloture motion fails on Tuesday, there is an extremely good likelihood that some of those now willing to support the proportional plan and see it on through to approval by two-thirds of the Senate

might not be so enthusiastic about going that route if the cloture motion fails on Tuesday.

So it does seem to the junior Senator from Alabama that it would be more appropriate, if we hope to get meaningful electoral reform, to vote here on Monday for the proportional plan. If that measure does not carry, then we could vote on the district plan, the automatic plan, and the various alternatives to the direct election to see if the majority of the Senate does want some alternative to the direct system. Then, if those alternatives, all of them, are separately voted down, there would be the opportunity on Tuesday to explore the possibility of forcing the direct election method to a vote.

But as things now stand, some of those who are willing to support a proportional plan on Monday might not be willing to do that if the direct election system fails through the refusal of the Senate to invoke cloture on Tuesday.

So if we are going to have electoral college reform, it does seem to the junior Senator from Alabama that the best plan would be the plan that the Senate tried—I believe in 1958—when it submitted the proportional plan and the district plan as alternate routes.

The junior Senator from Alabama is hopeful that on Monday the proponents of Senate Joint Resolution 1, who have been saying, "Let us have a vote on something," will have had their challenge accepted.

So far as those who have been discussing the language of this proposal are concerned, they are willing to see a vote on the proportional plan on Monday.

The junior Senator from Alabama is hopeful that the distinguished Senator from Tennessee will not stand in the way of a vote on Monday on the proportional plan. Now, if the distinguished Senator from Tennessee and others of like mind who are pushing direct election take the position on Monday that these plans need more discussion, then what would be the logic on Tuesday of them voting to apply cloture? So if they feel on Monday we need more debate, let us see whether on Tuesday they will be of the same mind.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday next, immediately following the disposition of the reading of the Journal and until the beginning of the automatic quorum call under rule XXII, the time be equally divided between the able Senator from Indiana (Mr. BAYH) and the able Senator from Nebraska (Mr. HRUSKA).

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

THE LEVEL OF UNEMPLOYMENT HAS BECOME INSUFFERABLE

Mr. PROXMIRE. Mr. President, the level of unemployment has become insufferable. The unemployment figure for September was released at 11:45 this morning. It showed unemployment of 5.5 percent. That is bad news. But more

important, worse news is yet to come unless there is constructive action now.

The time has come for the President and the Congress to act. Unemployment is the one misfortune that Americans overwhelmingly feel to be cruel, unjust, and wholly unnecessary.

Not only is 5.5 percent the highest monthly figure since January 1964, but a whole series of facts clearly indicate that joblessness will continue to rise.

The Pollyannish prediction by Chairman McCracken of the Council of Economic Advisers, that unemployment would average 4.3 percent this year, has long ago been overtaken by events.

There are a number of reasons, both short term and long term which things will get worse before they get better.

First, unemployment almost always continues to rise at the end of a recession. It lags behind the upswing. The Federal Reserve Bank of St. Louis, for example, projects that the unemployment rate will rise to 6.2 percent by mid-1971 even if we continue an expansionary monetary policy.

Second, hours of work are now very short. They have been as low as 37 hours a week. Employers will use their work force more intensively before hiring new workers in a period when they have been squeezed by both increased costs and lower profits.

Third, many employers in the inflationary period we have experienced, have been hoarding labor. With wages and prices rising, employers are reluctant to let their work force go. Consequently, productivity dropped, and dropped sharply. Now the same work force will be employed more intensively and productivity should rise. This should happen before new workers are hired and will be a major factor why unemployment will persist.

Fourth, there has been a cutback in defense spending due almost entirely to the cutback in Vietnam war spending. This has affected technical and engineering employees especially, and the transition which they will make from defense and space industry into civilian work may well take longer than most people anticipate.

Finally, there are long-term forces at work which will most likely affect the unemployment levels of the decade to come. The estimates of Peter Bernstein, who heads a New York investment service, are that if the economy grows at a 3.4 percent rate—which was the growth rate in the 1950's—unemployment in 1975 would be 10 million or 12 percent. To get below 5 percent unemployment by 1975, the growth rate would have to exceed 4 percent. And there is nothing in the administration's program to indicate that economic growth is likely to achieve this level.

For all these reasons, the September unemployment figure is bad news. But this is probably just the beginning of more bad news, if not next month, in the months to come.

Since President Nixon took office, unemployment has gone up by 2.2 percent. Each 1-percent increase in the unemployment rate means about 800,000 men and women lose their jobs. Thus, over

1,760,000 Americans are jobless today who had a job 20 months ago.

It is time for the Nixon administration to act. It must act to increase jobs, lower interest rates, and stimulate housing. To put idle men to work on idle machines is the way to increase production and decrease unemployment without inflation.

This administration has fought inflation by increasing unemployment. Its fight on inflation has been disappointing. The consequences in increased unemployment have been disastrous for those Americans now without work.

We need a new game plan and one that is not so insensitive to the plight of the unemployed.

I have said previously that when the level of unemployment reaches 5.5 percent that the Federal Government should consider becoming the employer of last resort.

There may be debate on whether or not the Government should provide a family assistance plan or an improved welfare program for those who do not work. But there can be no justification for the Federal Government not to provide adequate employment opportunities for those who are able to work, yet cannot find jobs.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from today's Wall Street Journal on the subject of unemployment and a release from the Department of Labor entitled "The Employment Situation: September 1970."

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

[From the Wall Street Journal, Oct. 2, 1970]

ECONOMIC SOFT SPOT: JOBLESSNESS IS LIKELY TO PERSIST, EVEN GROW DESPITE BUSINESS RISE—ANALYSTS CALL PATTERN NORMAL DURING RECOVERY; DEFENSE CUTBACKS HEIGHTEN PROBLEM—SOME LONG-TERM OPTIMISM

(By Alfred L. Malabre, Jr.)

At long last, things seem to be really improving on the economic front. Inflation is easing. Fears about a liquidity crisis continue to recede. Stock prices have been rising.

There's only one little problem:

Unemployment is up and probably will continue to increase.

The September jobless rate, to be announced in Washington today, is expected to be up sharply from August's already worrisome level of 5.1%. Some insiders say the figure, which is based on a survey taken before the General Motors strike began, may be as high as 5.5%. That would be higher than any month since January 1964. At the start of this year, the jobless level was below 4%.

Many economists believe the situation will get even worse before it gets better. A reasonably typical forecast comes from Alan Greenspan, president of Townsend-Greenspan & Co., a New York economics consultant. The nation's jobless rate will rise slowly in coming months, Mr. Greenspan predicts, reaching about 6% by the summer of 1971. Beyond that, he looks for only a very gradual decline, to about 5.7% by the end of next year.

MR. STEIN'S VIEW

Even normally sanguine officials of the Nixon Administration, with a worried eye on the approaching election, concede that the employment picture is far from bright. Earlier this week Herbert Stein, a member

of the President's Council of Economic Advisers, forecast further increases in the jobless rate. He added, however, that "we don't forecast getting to 6%," the level that Mr. Greenspan and many other private seers anticipate.

Forecasting the jobless trend, to be sure, is hazardous. In September 1969 unemployment jumped to 3.8% from 3.5% in August. But then in November, after remaining at 3.8% in October, the rate dropped right back down again to 3.5%. Nobody rules out the possibility of another drop in the monthly unemployment rate soon. But there is wide agreement that the trend will be in the direction of more joblessness—even after the General Motors strike has been settled and even though such major business yardsticks as industrial production and corporate profits will probably be on the rise.

The belief that unemployment will continue to climb even in the face of improving general business is based partly on the lessons of economic history. Economists say this is what has generally happened in the past, and they see no reason why things should work differently now.

"Recent history clearly shows that the general level of unemployment has tended to keep on going up for a while after overall business activity has started to pick up momentum," declares an economist at the National Bureau of Economic Research, a nonprofit organization in New York that studies business trends.

AFTER PAST RECESSIONS

The 1957-58 recession ended in April 1958, the economist recalls, but the unemployment rate did not begin to come down until September of that year. In fact, between March and July, the jobless level jumped from 6.7% of the labor force to 7.5%. A similar development occurred after the 1960-61 recession. When the recession ended in February 1961, unemployment stood at 6.99%. But as late as July 1961 the rate was at 7%.

Unemployment is slow to decline in recovery periods, economists explain, largely because employers are often slow to increase their payrolls until they are certain that business really has begun to improve. Indeed, some employers try to keep right on trimming their work forces after business has clearly turned around, analysts contend. "Occasionally, a businessman is among the last to recognize that the business climate has changed and that he should be hiring instead of firing," declares an economist at the Conference Board, formerly known as the National Industrial Conference Board, a nonprofit research group based in New York.

There comes a point, of course, at which employers are compelled to increase their work forces or lose business. But that point has not nearly been reached, in the view of many analysts. When the long economic expansion of the 1960s finally ended last year, these economists say, many companies had more employees than they really needed. Consequently, when general business activity slowed late last year and in the early months of 1970, many employers found they were able to trim their work forces extra sharply.

PRODUCTIVITY BEGINS TO GROW

Clear evidence that employers are getting more work out of fewer people shows up in Government figures that report the output per man-hour of employees in private nonfarm businesses. These workers were less productive at the start of 1970, the figures show, than a full two years earlier—despite the increased use of computers and other labor-saving equipment in the interim. Since the first quarter of this year, however, productivity has risen substantially. In the second quarter output per man-hour rose at an annual rate of 3.2%, and most analysts predict further, and very possibly larger, increases in subsequent quarters.

Many analysts fear that unemployment in the present business recovery will prove even harder to bring down than in the 1958 and 1961 periods.

A prolonged General Motors strike, of course, would tend to keep joblessness high. Also, unemployment during the 1969-70 business slowdown remained substantially below levels reached in the full-fledged recessions of 1957-58 and 1960-61. Layoffs were not as widespread in 1969-70 as in the earlier periods, economists note, and therefore hiring can be expected to increase less dramatically now.

The planned reduction of the U.S. armed forces, promised by the Nixon Administration, would also tend to keep unemployment relatively high for a long time, many economists say. The Administration has plans to cut troop strength by more than 200,000 during the fiscal year ending June 30, 1971, and another 400,000 reduction may be made during the following fiscal year. In addition, the Administration has been trimming defense and space spending, with the result that thousands of engineers and other skilled personnel are struggling to find jobs.

A PAINFUL TRANSITION

Eventually, such persons should manage to find work in nondefense industries, analysts claim. But they warn that the transition is likely to be longer and more painful than is generally realized, and it will probably keep unemployment at abnormally high levels.

On top of these considerations, unusual demographic developments in coming years will tend to aggravate unemployment, some economists say.

The young working-age segment of the U.S. population will grow at an abnormally rapid rate in the years ahead. During the decade, the overall U.S. population is expected to increase about 12%, roughly the same rate as in the 1960s. But the segment of the population that will be entering the labor force and seeking work in coming years—the bumper post-World War II baby crop—will grow spectacularly. Projections show that during the decade the age group between 18 and 24 will expand by some 25%, and the 25-to-24 group will grow nearly 50%.

Economists have made various estimates of how rapidly the country's economy will have to grow in the years ahead in order to provide jobs for this flood of young job-seekers. Most point a gloomy employment picture. A study by Peter L. Bernstein, the head of New York investment advisory service, finds that if the economy expands during the next few years at an annual rate of 3.4%—the rate that prevailed during the 1960s—unemployment in 1975 would total about 10 million persons, or 12% of the projected labor force. Mr. Bernstein reckons that economic growth will have to exceed 4% a year—close to the rate at which the economy grew during the record-breaking 1960s expansion—if unemployment is to get under the 5% level in 1975.

COMMISSIONER MOORE'S VIEW

Some economists claim that such forecasts are unnecessarily gloomy. They don't take into full account, it's argued, the stimulus to economic growth that a burgeoning young adult population—who will be consumers as well as job-seekers—should provide. "The economy should be able to grow rapidly enough to offer the necessary jobs," says Commissioner of Labor Statistics Geoffrey H. Moore.

Many analysts, however, question whether such growth can be maintained, particularly if significant headway is to be made in restoring price stability. They worry, moreover, that even if Government officials pursue economic policies sufficiently expansionary to accommodate all the job-seekers, in the process dangerous inflation could be produced. "Coping with unemployment will be the big problem of the 1970s," predicts Mr.

Bernstein, adding that this means inflation will also be a problem.

Ironically, Mr. Bernstein concludes in a recent letter to his clients that the unemployment problem could prove beneficial to stock prices. He reasons that the sort of expansionary policies that Government officials will be forced to pursue because of unemployment pressures traditionally have served as "powerful ingredients for bull markets."

[From the U.S. Department of Labor, Oct. 2, 1970]

THE EMPLOYMENT SITUATION: SEPTEMBER 1970

Employment remained essentially unchanged in September, while unemployment increased, the U.S. Department of Labor's Bureau of Labor Statistics announced today.

The increase in unemployment was concentrated among 16-24 year-olds (seasonally adjusted) and brought the overall unemployment rate to 5.5 percent in September. The increase among young workers may have partly reflected the earlier-than-usual survey week, which included Labor Day, and which occurred before many young people had given up summertime jobseeking efforts to return to school. Jobless rates for men 25 years and over were unchanged over the month at 3.0 percent, while the rate for women 25 and over edged up from 4.1 to 4.4 percent.

Nonagricultural payroll employment, after seasonal adjustment, remained unchanged in September at 10.4 million. This marked the first month since April that payroll employment did not show a decline. Total civilian employment (based on the household survey) also remained unchanged over the month.

UNEMPLOYMENT

The number of unemployed persons totaled 4.3 million in September. Unemployment usually falls substantially between August and September, but this September it failed to drop. As a result, after seasonal adjustment, unemployment was up by 375,000 over the month with four-fifths of the increase occurring among workers in the 16 to 24 age group, largely males. The sharp rise in joblessness among young workers partly reflected the impact of an earlier-than-usual survey week this September which included the Labor Day holiday. As a result, the September figures may not have fully reflected the usual exit of youths from the labor market to begin the fall school term. Employment of 16-24 year-olds rose by 300,000 in September (seasonally adjusted), but there was an increase of 600,000 in their labor force.

Primarily as a result of the increased unemployment among young workers, the overall unemployment rate rose to 5.5 percent in September, the highest level since January 1964. The jobless rate for men 20-24 years old, at 11.0 percent, was up significantly from the 8.5 percent in August and reached its highest point since July 1961. By way of contrast, the unemployment rate for men 25 years and over was unchanged over the month at 3.0 percent; the rate for married men (2.9 percent) was also virtually unchanged from its August level. For all adult males (20-24 and 25 years and over combined), the jobless rate rose from 3.7 to 4.0 percent.

The unemployment rate for teenagers, at 16.8 percent in September, was up from 15.9 percent in August, reaching its highest point

When the seasonal factors are revised early in 1971 to take the recent data into account, the increase in the unemployment rate for September will probably be reduced, as it was last year. Such revisions normally reduce sharp month-to-month changes in the seasonally adjusted figures. (See the February 1970 issue of *Employment and Earnings*.)

since January 1965. Jobless rates rose for both male and female youths.

For adult women, the jobless rate rose from 4.8 to 5.1 percent over the month. Unlike the unemployment increase among males, however, the increase for women was mostly among those 25 years and over, whose rate rose from 4.1 to 4.4 percent in September. The jobless rate for 20-24 year-old women, at 8.4 percent in September, was little changed over the month.

Nearly two-thirds of the September increase in unemployment was among workers who had reentered the labor force or were new entrants, reflecting the increase in unemployment among young workers and adult women. However, unemployment also increased among persons who lost their last job, as their number moved up to 2.5 percent of the labor force in September, slightly above the levels registered in 3 of the last 4 months.

The number of persons unemployed for 15 weeks or longer continued to rise in September, moving up to 790,000; this was twice the level of last September and at the highest point since mid-1965. Long-term unemployment was 1.0 percent of the labor force. Because of the increased short-term joblessness among youths, however, the average duration of unemployment at 8.9 weeks, showed little change in September following declines in August and July. Since last September, the average duration has risen by 1 full week, although the September average still remained well below the levels of most of the early and mid-1960's.

Unemployment rates for both full-time and part-time jobseekers rose in September. The full-time rate rose to 5.0 percent, after holding relatively steady for the past 4 months. The part-time rate reached 8.0 percent, its highest point since the series began in 1963. Over the year, the rate for full-time workers has increased more rapidly than for part-time workers.

Rates of unemployment for both white and Negro workers were up in September. The white rate rose from 4.8 to 5.1 percent, the highest level since July 1963. The Negro rate, at 9.0 percent, was slightly above the highs reached earlier this year. September marked the eleventh month out of the last 13 in which the ratio of Negro-to-white joblessness was below the 2-to-1 pattern that has prevailed for many years.

Among the occupation groups, the jobless rate for blue-collar workers rose from 7.0 to 7.5 percent in September, due entirely to increased unemployment among craftsmen and nonfarm laborers. The jobless rate for white-collar workers, at 2.8 percent, remained relatively unchanged over the month, after declining in August from its 9-year high reached in July.

The unemployment rate for persons whose last job was in the construction industry rose sharply over the month to 13.8 percent, the highest rate since March 1963. The rise in construction unemployment also partly reflected the increased joblessness among young workers over the month.

The unemployment rate for workers covered by State unemployment insurance programs rose substantially in September, from 3.7 to 4.2 percent. Since the September survey week included Labor Day, the increase was partly the result of administrative procedures used by State employment security agencies to count insured unemployment during weeks including a holiday.

The number of persons employed part time for economic reasons in nonagricultural industries declined by 190,000 in September to 2.1 million. Despite this drop, the increase in joblessness resulted in a rise in labor force time lost; this is a measure of man-hours lost to the economy through unemployment and involuntary part-time employment as a percent of total man-hours available from those in the labor force. The percent of labor force time lost rose from 5.5 to 6.0 percent in September.

Over the year, unemployment has risen by 1.3 million—650,000 adult men, 395,000 adult women, and 290,000 teenagers. Four-fifths of the increase was among full-time workers, mostly those who had lost their last jobs.

LABOR FORCE AND TOTAL EMPLOYMENT

There were 82.5 million persons in the civilian labor force in September, about 1.6 million fewer than in August. The decline was less than usual for this time of year, however, possibly reflecting the effects of the earliness of the survey week. After seasonal adjustment, the labor force was up 355,000 over the month, with the increase occurring primarily among young men and teenagers. Compared with September 1969, the civilian labor force has risen by 1.6 million, with nearly three-fifths of the increase occurring among adult full-time workers. The male labor force growth reflected the net reduction in the number of young men in the Armed Forces over the past year.

Total employment, at 78.3 million, declined in September in line with seasonal expectations, and after seasonal adjustment was unchanged over the month. Since last September, total employment has risen by 230,000, with the increase occurring largely among part-time workers.

PAYROLL EMPLOYMENT

Nonagricultural payroll employment rose in line with seasonal expectations in September to 70.8 million and, after seasonal adjustment, was unchanged from the August level. This marked the first month since April that payroll employment did not decline. However, the September level was 200,000 below last year.

Over the month, a 70,000 decline in employment in contract construction (seasonally adjusted) countered moderate increases in trade and services (20,000 each) and State and local government (30,000). The cutback in contract construction brought employment in this industry to 220,000 below last year.

Employment in manufacturing, at 19.3 million (seasonally adjusted) in September, was unchanged from August following 5 consecutive months of substantial declines. Factory employment was unchanged in both the durable and nondurable goods industries. Employment cutbacks in machinery (15,000) and transportation equipment (10,000) were offset by widespread gains elsewhere in the durable goods sector. Since September 1969, factory employment has declined by 975,000, with nearly all of the reduction occurring in durable goods.

HOURS OF WORK

The average workweek for all rank-and-file workers on private nonagricultural payrolls dropped 0.6 hours between the August and September survey weeks. Average weekly hours usually rise between these two months, but this September hours were affected by the earlier-than-usual survey week which included the Labor Day holiday. As a result, after seasonal adjustment, the average workweek fell 0.4 hour to 36.8 hours. The average workweek was lower in most major industries. In the payroll employment series, hours of work relate to hours paid for by employers during the survey week; therefore, only persons not being paid for the holiday are reported as having reduced weekly hours.)

EARNINGS

Average hourly earnings of production and non-supervisory workers on private payrolls rose 3 cents in September to \$3.28. Hourly earnings usually rise in September, as many of the young people returning to school leave jobs with comparatively low hourly rates. Compared with a year ago, average hourly earnings were up 17 cents, or 5.5 percent.

As a result of the reductions in the workweek, average weekly earnings declined by 84 cents over the month to \$121.36. In manufacturing, however, average weekly earnings rose by \$2.04 over the month to a record \$136.17, due to a 6-cent increase in hourly earnings. Compared with September 1969, weekly earnings for all rank-and-file workers increased by \$3.49, or 3.0 percent.

Over the year ending in August 1970, average weekly earnings rose by 4.8 percent; after adjustment for consumer price changes, however, earnings were down by 0.8 percent.

THIRD QUARTER DEVELOPMENTS

Civilian labor force and total employment. In the third quarter, the labor force averaged 82.8 million (seasonally adjusted), up 325,000 from the second quarter following a 100,000 advance in the previous quarter. The increase in the July-September period was largely among adult women, in contrast to the second quarter increase which was entirely among adult men.

Total employment, after declining by 460,000 between the first and second quarters, remained relatively unchanged in the third quarter at 78.5 million. An employment increase among adult females over the quarter was offset by declines among adult males and teenagers. (Total employment includes persons employed in agriculture, private household service, as self-employed and un-

paid family workers, and those on unpaid absences, in addition to nonagricultural wage and salary workers.)

Unemployment. In the third quarter of 1970, the number of unemployed persons averaged 4.3 million (seasonally adjusted), up 355,000 over the quarter and the highest average since first quarter 1964. Although substantial, the third quarter increase in joblessness was somewhat smaller than the increases in the second and first quarters of this year (505,000 and 495,000, respectively). Nearly three-fifths of the unemployment increase in the third quarter occurred among workers who had reentered the labor force, mainly adult women and 20-24 year-old men. This contrasted with the increases in the 2 previous quarters, which were primarily due to higher joblessness among persons who had lost their last job. Furthermore, over two-fifths of the third quarter increase in unemployment occurred among part-time workers; in the earlier 2 quarters, the unemployment increase took place almost entirely among full-time workers.

The overall employment rate, which had risen from 3.6 to 4.8 percent over the first 2 quarters, moved up to 5.2 percent in the July-September quarter. Jobless rates for most groups of workers continued to increase in the third quarter but at a less rapid pace than earlier in the year. The third quarter jobless rates averaged 3.8 percent for adult men, 5.0 percent for adult women, and 15.6 percent for teenagers—all were at their highest points in over 5½ years.

While workers accounted for all of the third quarter rise in joblessness, as their rate rose from 4.4 to 4.8 percent. The jobless rate for Negroes, at 8.5 percent, was about the same as in the second quarter. As a result, the ratio of Negro-to-white jobless rates moved down to 1.7-to-1 in the third quarter, the lowest ratio since 1953.

Industry employment. Nonagricultural payroll employment, at 70.4 million in the third quarter (seasonally adjusted), was down by 440,000 from the second quarter. This compared with a reduction of 250,000 between the first and second quarters. The third quarter reduction in payroll employment reflected a continued cutback in goods-producing industries, along with a small downturn in the service-producing sector. Since the first quarter of 1970, employment in the goods-producing industries has declined by 820,000, with nearly four-fifths of the cutback occurring in manufacturing. Over the same period, employment in the service-producing industries rose by 130,000.

TABLE A-1: EMPLOYMENT STATUS OF THE NONINSTITUTIONAL POPULATION BY SEX AND AGE (In thousands)

Employment status, age, and sex	Seasonally adjusted							
	September 1970	August 1970	September 1969	September 1970	August 1970	July 1970	June 1970	May 1970
Total:								
Total labor force.....	85,656	87,248	84,527	86,140	85,810	85,967	85,304	85,783
Civilian labor force.....	82,547	84,115	80,984	83,031	82,676	82,813	82,125	82,555
Employed.....	78,256	78,894	78,026	78,424	78,445	78,533	78,225	78,449
Unemployed.....	3,525	3,782	3,629	3,399	3,420	3,519	3,554	3,613
Nonagricultural industries.....	74,730	76,112	74,397	75,025	75,025	75,119	74,671	74,836
On part time for economic reasons.....	2,044	2,697	1,867	2,110	2,298	2,326	2,289	2,249
Usually work full time.....	1,071	1,390	1,089	1,029	1,329	1,240	1,126	1,253
Usually work part time.....	973	1,307	798	1,081	969	1,086	979	896
Unemployed.....	4,292	4,220	2,958	4,607	4,231	4,175	3,900	4,106
Men, 20 years and over:								
Civilian labor force.....	47,324	47,652	46,620	47,439	47,178	47,294	47,154	47,226
Employed.....	45,762	46,030	45,706	45,522	45,424	45,524	45,521	45,593
Unemployed.....	1,578	2,618	2,663	2,517	2,522	2,633	2,633	2,633
Nonagricultural industries.....	43,184	43,416	43,043	43,012	42,901	42,931	42,918	42,968
Unemployed.....	1,562	1,622	914	1,917	1,754	1,770	1,633	1,633
Women, 20 years and over:								
Civilian labor force.....	28,310	27,690	27,711	28,200	28,447	28,500	28,026	27,885
Employed.....	26,712	26,229	26,509	26,750	27,092	27,073	26,772	26,476
Unemployed.....	573	581	605	507	514	545	573	567
Nonagricultural industries.....	26,138	25,648	25,904	26,243	26,578	26,528	26,199	25,909
Unemployed.....	1,598	1,461	1,202	1,450	1,359	1,424	1,459	1,459
Both sexes, 16 to 19 years:								
Civilian labor force.....	6,913	8,772	6,853	7,392	7,051	7,019	6,945	7,444
Employed.....	5,782	7,635	5,811	6,152	5,929	6,041	5,832	6,383
Unemployed.....	374	387	362	382	383	381	378	421
Nonagricultural industries.....	5,408	7,048	5,449	5,770	5,546	5,660	5,554	5,959
Unemployed.....	1,131	1,137	842	1,240	1,122	978	1,013	1,064

TABLE A-2: FULL- AND PART-TIME STATUS OF THE CIVILIAN LABOR FORCE BY SEX AND AGE

Full- and part-time employment status, sex, and age	Seasonally adjusted							
	September 1970	September 1969	September 1970	August 1970	July 1970	June 1970	May 1970	September 1969
Full time:								
Total, 16 years and over:								
Civilian labor force.....	71,229	70,350	71,445	71,086	71,132	70,653	71,116	70,308
Employed.....	68,186	68,275	67,900	67,778	67,855	67,885	67,742	67,993
Unemployed.....	3,143	2,075	3,545	3,308	3,277	3,068	3,374	2,315
Unemployment rate.....	4.4	2.9	5.0	4.7	4.6	4.3	4.7	3.3
Men, 20 years and over:								
Civilian labor force.....	45,156	44,657	45,120	44,896	45,042	44,966	45,061	44,482
Employed.....	43,750	43,872	43,403	43,339	43,403	43,476	43,554	43,524
Unemployed.....	1,406	875	1,717	1,557	1,639	1,490	1,507	958
Unemployment rate.....	3.1	1.9	3.8	3.5	3.6	3.3	3.3	2.2
Women, 20 years and over:								
Civilian labor force.....	22,472	22,098	22,233	22,439	22,295	22,050	21,937	21,878
Employed.....	21,771	21,594	21,102	21,309	21,211	21,045	20,788	21,096
Unemployed.....	1,201	894	1,131	1,130	1,084	1,004	1,201	842
Unemployment rate.....	5.3	4.0	5.1	5.0	4.9	4.6	5.5	3.8
Part time:								
Total, 16 years and over:								
Civilian labor force.....	11,218	10,634	11,641	11,944	11,640	11,455	11,425	11,072
Employed.....	10,069	9,751	10,638	10,984	10,775	10,685	10,689	10,301
Unemployed.....	1,149	883	1,003	960	865	770	736	771
Unemployment rate.....	10.2	8.3	8.6	8.0	7.4	6.7	6.4	7.0

NOTE: Persons on part-time schedules for economic reasons are included in the full-time employed category; unemployed persons are allocated by whether seeking full- or part-time work.

TABLE A-3: MAJOR UNEMPLOYMENT INDICATORS

[Persons 16 years and over]

Selected categories	Thousands of persons unemployed		Seasonally adjusted rates of unemployment					
	September 1970	September 1969	September 1970	August 1970	July 1970	June 1970	May 1970	September 1969
Total (all civilian workers)	4,292	2,958	5.5	5.1	5.0	4.7	5.0	3.8
Men 20 years and over.....	1,562	914	4.0	3.7	3.7	3.5	3.5	2.4
Women 20 years and over.....	1,598	1,202	5.1	4.8	5.0	4.5	5.1	3.9
Both sexes 16-19 years.....	1,131	842	16.8	15.9	13.9	14.6	14.3	12.9
White.....	3,529	2,400	5.1	4.8	4.7	4.2	4.6	3.5
Negro and other races.....	762	598	9.0	8.4	8.3	8.7	8.0	6.7
Married men.....	892	514	2.9	2.9	2.7	2.5	2.6	1.7
Full-time workers.....	3,143	2,075	5.0	4.7	4.6	4.3	4.7	3.3
Part-time workers.....	1,149	883	8.6	8.0	7.4	6.7	6.4	7.0
Unemployed 15 weeks and over ¹	655	324	1.0	.9	.9	.8	.7	5.5
State insured ²	1,646	848	4.2	3.7	3.5	3.7	3.5	2.2
Labor force time lost ³			46.0	5.5	5.4	4.9	5.4	4.3
Occupation: ⁴								
White-collar workers.....	1,758	932	2.8	2.7	3.1	2.6	2.8	2.2
Professional and technical.....	279	196	1.9	1.9	2.2	1.5	2.1	1.4
Managers, officials, and proprietors.....	130	83	1.5	1.3	1.7	1.5	1.1	1.0
Clerical workers.....	651	516	3.9	3.9	4.4	4.0	3.9	3.2
Sales workers.....	136	137	3.9	4.0	4.0	3.4	4.4	2.8
Blue-collar workers.....	1,804	1,064	7.5	7.0	6.6	6.3	6.2	4.4
Craftsmen and foremen.....	402	175	5.8	4.4	4.4	4.0	4.2	2.6
Operatives.....	1,007	646	7.6	7.9	7.2	6.8	6.7	4.7
Nonfarm laborers.....	395	246	11.7	10.2	9.9	10.4	9.1	7.6
Service workers.....	598	463	5.8	5.5	5.3	5.0	4.9	4.8
Farm workers.....	115	55	4.1	2.8	2.7	2.0	3.5	1.9
Industry: ⁴								
Nonagricultural private wage and salary workers ¹	3,503	2,106	6.0	5.5	5.6	5.2	5.2	3.9
Construction.....	380	182	13.8	12.2	11.0	10.9	11.9	7.4
Manufacturing.....	1,189	730	6.1	5.7	6.0	5.3	5.2	3.7
Durable goods.....	723	379	6.3	5.8	5.9	5.1	4.9	3.2
Nondurable goods.....	446	351	5.8	5.9	6.2	5.6	5.7	4.3
Transportation and public utilities.....	129	92	2.8	3.1	3.3	3.3	3.3	2.0
Wholesale and retail trade.....	754	536	6.0	5.4	5.3	5.4	4.5	3.4
Finance and service industries.....	868	564	5.0	4.4	4.8	4.1	4.2	3.4
Government wage and salary workers.....	300	283	1.9	2.1	2.0	1.9	2.2	1.9
Agricultural wage and salary workers.....	113	67	10.2	8.2	8.6	5.5	9.2	6.5

¹ Unemployment rate calculated as a percent of civilian labor force.

² Insured unemployment under State programs—unemployment rate calculated as a percent of average covered employment.

³ Man-hours lost by the unemployed and persons on part time for economic reasons as a percent of potentially available labor force man-hours.

⁴ Unemployment by occupation includes all experienced unemployed persons, whereas that by industry covers only unemployed wage and salary workers.

⁵ Includes mining, not shown separately.

⁶ The labor force time lost rate is adjusted to allow for the effects of the Labor Day holiday on hours worked in the September survey week.

TABLE A-4: UNEMPLOYED PERSONS 16 YEARS AND OVER BY DURATION OF UNEMPLOYMENT

[In thousands]

Duration of unemployment	Seasonally adjusted							
	September 1970	September 1969	September 1970	August 1970	July 1970	June 1970	May 1970	September 1969
Less than 5 weeks.....	2,473	1,863	2,331	2,206	2,061	1,961	2,219	1,756
5 to 14 weeks.....	1,163	771	1,501	1,320	1,334	1,303	1,214	995
15 weeks and over.....	655	324	792	736	711	685	612	392
27 weeks and over.....	400	191	501	479	470	450	325	240
27 weeks and over.....	255	133	291	257	241	235	260	152
Average (mean) duration, in weeks.....	8.3	7.4	8.9	8.8	9.3	9.5	9.0	7.9

TABLE A-5: UNEMPLOYED PERSONS BY REASON FOR UNEMPLOYMENT

(Numbers in thousands)

Reasons for unemployment	Seasonally adjusted							
	September 1970	September 1969	September 1970	August 1970	July 1970	June 1970	May 1970	September 1969
Number of unemployed:								
Lost last job.....	1,698	823	2,048	1,946	1,833	1,928	1,912	993
Left last job.....	675	556	570	570	600	569	560	483
Reentered labor force.....	1,404	1,105	1,371	1,296	1,284	1,268	1,168	1,079
Never worked before.....	514	445	572	495	439	468	464	495
Percent distribution:								
Total unemployed.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Lost last job.....	39.5	27.8	45.0	45.2	44.1	48.2	46.7	32.6
Left last job.....	13.7	19.8	12.2	13.2	14.4	14.2	13.4	15.8
Reentered labor force.....	37.7	37.4	30.2	30.1	30.9	25.9	28.5	35.4
Never worked before.....	12.0	15.0	12.6	11.5	10.6	11.7	11.3	16.2
Unemployed as a percent of the civilian labor force:								
Lost last job.....	2.1	1.0	2.5	2.3	2.1	2.3	2.3	1.2
Left last job.....	.8	.7	.7	.7	.8	.7	.7	.6
Reentered labor force.....	1.7	1.4	1.7	1.5	1.6	1.3	1.4	1.3
Never worked before.....	.6	.5	.7	.6	.5	.6	.6	.6

TABLE 1A-6.—UNEMPLOYED PERSONS BY AGE AND SEX

Age and sex	Thousands of persons		Percent looking for full-time work September 1970	Seasonally adjusted unemployment rates					
	September 1970	September 1969		September 1970	August 1970	July 1970	June 1970	May 1970	September 1969
Total, 16 years and over.....	4,292	2,958	73.2	5.5	5.1	5.0	4.7	5.0	3.8
16 to 19 years.....	1,131	842	47.4	16.8	15.9	13.9	14.6	14.3	12.9
16 and 17 years.....	544	430	22.6	19.6	17.4	15.2	16.0	15.6	16.1
18 and 19 years.....	587	412	70.4	14.6	14.7	13.2	13.3	13.8	10.6
20 to 24 years.....	998	628	83.4	4.1	4.1	3.6	3.7	3.7	3.4
25 years and over.....	2,162	1,491	82.1	3.5	3.4	3.5	3.2	3.3	2.4
25 to 34 years.....	1,753	1,202	82.5	3.6	3.6	3.7	3.3	3.4	2.5
35 years and over.....	410	289	89.0	3.1	2.7	2.9	3.0	3.3	2.0
Males, 16 years and over.....	2,142	1,321	77.4	5.0	4.6	4.5	4.3	4.4	3.2
16 to 19 years.....	580	407	43.4	16.7	15.8	14.1	14.8	15.0	12.0
16 and 17 years.....	297	227	24.6	19.6	17.2	15.2	16.6	16.4	15.0
18 and 19 years.....	283	180	62.9	14.1	14.6	13.6	13.2	14.6	9.4
20 to 24 years.....	535	282	85.0	11.0	8.5	9.1	7.2	7.7	6.4
25 years and over.....	1,027	632	92.6	3.0	3.0	3.0	2.9	2.9	1.8
25 to 34 years.....	785	478	95.0	2.9	3.0	3.0	2.8	2.8	1.8
35 years and over.....	242	157	84.7	3.1	2.9	2.8	2.8	3.0	2.0
Females, 16 years and over.....	2,150	1,638	69.1	6.4	5.9	5.9	5.5	5.9	5.0
16 to 19 years.....	552	435	51.4	16.9	16.0	13.7	14.3	13.4	14.2
16 and 17 years.....	247	204	20.2	19.6	17.6	15.1	15.3	14.6	17.7
18 and 19 years.....	304	231	77.0	15.1	14.9	12.7	13.4	12.9	12.0
20 to 24 years.....	463	343	81.4	4.4	8.0	8.1	7.7	8.7	6.6
25 years and over.....	1,135	858	72.6	8.4	4.1	4.5	3.8	4.2	3.4
25 to 34 years.....	967	678	72.6	8.8	4.6	5.2	4.1	4.3	3.7
35 years and over.....	168	131	73.2	3.2	2.5	3.1	3.2	3.6	2.5

TABLE B-1.—EMPLOYEES ON NONAGRICULTURAL PAYROLLS, BY INDUSTRY

(in thousands)

Industry	1970				Seasonally adjusted				Change from August 1970	
	September 1970 ¹	August 1970 ¹	July 1970	September 1969	Change from August 1970	September 1969	August 1970 ¹	July 1970		
Total.....	70,760	70,534	70,602	70,964	226	-204	70,380	70,384	70,546	-4
Mining.....	621	637	635	630	-16	-9	614	620	618	-6
Contract construction.....	3,468	3,601	3,572	3,687	-133	-219	3,232	3,301	3,314	-69
Manufacturing.....	19,508	19,454	19,325	20,482	54	-974	19,276	19,276	19,402	0
Production workers.....	14,210	14,110	13,958	15,041	100	-831	13,996	13,978	14,090	18
Durable goods.....	11,203	11,104	11,156	12,030	99	-827	11,137	11,133	11,217	14
Production workers.....	8,093	7,966	7,993	8,767	127	-674	8,036	8,015	8,082	16
Ordinance and accessories.....	238	238	243	243	-5	-7	239	239	243	-4
Lumber and wood products.....	582	589	589	616	-7	-34	572	568	570	4
Furniture and fixtures.....	454	456	446	486	-1	-31	452	452	454	0
Stone, clay, and glass products.....	648	647	643	659	.7	-20	636	639	628	7
Primary metal industries.....	1,306	1,307	1,316	1,373	-5	-67	1,313	1,300	1,301	13
Fabricated metal products.....	1,399	1,384	1,370	1,459	6	-60	1,392	1,386	1,387	6
Machinery, except electrical.....	1,921	1,936	1,969	2,032	-15	-118	1,929	1,943	1,969	-14
Electrical equipment.....	2,918	2,911	2,912	2,957	4	-39	2,911	2,911	2,911	0
Transportation equipment.....	1,850	1,746	1,795	2,096	140	-245	1,827	1,839	1,853	-12
Instruments and related products.....	456	456	457	476	-2	-20	456	453	458	3
Miscellaneous manufacturing.....	432	430	412	454	9	-22	416	419	420	-3
Nondurable goods.....	8,305	8,350	8,169	8,452	-45	-147	8,139	8,143	8,185	-4
Production workers.....	6,177	6,144	5,965	6,274	-27	-157	5,960	5,963	6,008	4
Food and kindred products.....	1,915	1,930	1,826	1,928	-15	-13	1,786	1,791	1,786	-5
Tobacco manufactures.....	82	87	71	87	6	-15	70	81	81	-11
Textile mill products.....	957	958	948	997	-2	-40	952	951	955	1
Apparel and other textile products.....	1,384	1,391	1,346	1,421	4	-37	1,372	1,375	1,393	-3
Paper and allied products.....	711	712	703	718	0	-7	708	704	706	4
Printing and publishing.....	1,188	1,104	1,104	1,098	8	6	1,109	1,103	1,105	6
Chemicals and allied products.....	1,057	1,066	1,066	1,063	9	-2	1,058	1,053	1,054	5
Petroleum and coal products.....	193	196	197	191	9	-1	191	191	191	0
Rubber and plastics products, nec.....	573	571	569	579	6	-1	571	569	578	2
Leather and leather products.....	321	330	328	336	1	-14	322	325	333	-3
Transportation and public utilities.....	4,576	4,576	4,593	4,508	0	68	4,526	4,522	4,539	4

[In thousands]

Industry	September 1970 ¹	August 1970 ¹	July 1970	September 1969	Change from		Seasonally adjusted			Change from August 1970
					August 1970	September 1969	September 1970 ¹	August 1970 ¹	July 1970	
Wholesale and retail trade	14,906	14,867	14,924	14,714	39	192	14,931	14,910	14,933	21
Wholesale trade	3,853	3,889	3,902	3,781	-36	72	3,834	3,843	3,856	-9
Retail trade	11,053	10,978	11,022	10,933	75	120	11,097	11,067	11,077	30
Finance, insurance, and real estate	3,686	3,730	3,738	3,595	-44	91	3,675	3,668	3,676	7
Services	11,545	11,642	11,698	11,300	-97	245	11,533	11,515	11,514	18
Government	12,450	12,027	12,117	12,048	423	402	12,593	12,572	12,550	21
Federal	2,598	2,675	2,700	2,733	-77	-135	2,611	2,623	2,627	-12
State and local	9,852	9,352	9,417	9,315	500	537	9,982	9,949	9,923	33

¹ Preliminary.TABLE B-2: AVERAGE WEEKLY HOURS OF PRODUCTION OR NONSUPERVISORY WORKERS¹ ON PRIVATE NONAGRICULTURAL PAYROLLS, BY INDUSTRY

Industry	September 1970 ¹	August 1970 ¹	July 1970	September 1969	Change from		Seasonally adjusted			Change from August 1970
					August 1970	September 1969	September 1970 ¹	August 1970 ¹	July 1970	
Total Private	37.0	37.6	37.6	37.9	-0.6	-0.9	36.8	37.2	37.3	-0.4
Mining	42.4	42.6	42.9	43.4	-2.2	-0.6	42.1	42.1	42.5	0
Contract construction	35.8	38.5	38.5	39.3	-2.7	-3.5	34.7	37.3	37.4	-2.6
Manufacturing	39.7	39.8	39.9	41.0	-1.1	-1.3	39.4	39.8	40.1	-1.4
Overtime hours	3.0	3.0	2.9	4.0	0	-1.0	2.7	3.0	3.0	-0.3
Durable goods	40.4	40.2	40.3	41.7	-1.3	-1.4	40.1	40.3	40.7	-2
Overtime hours	3.0	2.9	2.9	4.2	-1.1	-1.2	2.7	2.9	3.1	-2
Ordinance and accessories	40.0	40.1	39.8	40.6	-1.1	-1.6	39.7	40.3	40.3	-0.6
Lumber and wood products	39.5	40.2	39.7	40.3	-0.7	-0.7	39.2	39.9	39.8	-0.7
Furniture and fixtures	40.4	39.9	39.8	40.7	-0.4	-1.6	38.5	40.0	39.3	-0.5
Stone, clay, and glass products	41.3	41.5	41.3	42.4	-2	-1.1	40.8	41.0	41.2	-2
Primary metal industries	41.1	40.4	40.6	42.1	-1	-1.0	41.1	40.5	40.7	-0.6
Fabricated metal products	40.6	40.6	40.9	42.1	-1.5	-0.5	40.0	40.5	41.3	-0.8
Machinery, except electrical	40.0	40.4	40.6	42.7	-4	-2.7	39.9	40.9	41.1	-1.0
Electrical equipment	39.2	39.8	39.8	40.7	-1.5	-1.5	38.9	39.9	40.4	-1.0
Transportation equipment	42.7	40.0	40.7	42.3	-2.6	-2.5	42.0	40.7	41.2	-1.3
Instruments and related products	40.5	39.8	39.9	41.2	-1.1	-1.1	40.3	40.6	40.3	-1.5
Miscellaneous manufacturing	37.9	38.4	38.4	39.2	-1.5	-1.3	37.7	38.4	39.1	-1.7
Nondurable goods	38.8	39.4	39.3	40.0	-1.2	-1.2	38.5	39.2	39.3	-0.5
Overtime hours	2.8	3.1	2.9	3.7	-0.9	-0.9	2.5	3.0	2.9	-0.9
Food and kindred products	40.7	41.3	40.7	41.8	-1.1	-1.1	39.9	40.8	40.2	-0.6
Tobacco manufactures	38.8	37.8	37.5	39.0	-1.0	-1.0	37.2	37.5	37.9	-0.3
Textile mill products	39.1	39.9	39.9	41.0	-1.9	-1.9	38.8	39.8	40.3	-1.0
Apparel and other textile products	40.5	40.5	40.5	35.8	-1.4	-1.4	40.3	35.1	35.7	-4.6
Paper and allied products	34.1	41.8	41.7	43.3	-2	-1.7	41.2	41.6	41.7	-0.4
Printing and publishing	37.4	37.9	37.8	38.6	-1.2	-1.2	37.1	37.7	37.9	-0.6
Chemicals and allied products	42.0	41.2	41.4	41.8	-3	-2	42.0	41.3	41.5	-0.7
Petroleum and coal products	42.4	42.1	42.1	42.6	-0.8	-0.8	43.0	42.6	42.6	0
Rubber and plastics products, nec.	39.9	40.5	40.4	41.5	-1.6	-1.6	39.4	40.4	40.8	-1.0
Leather and leather products	35.5	36.9	37.9	36.8	-1.4	-1.3	35.8	36.7	37.6	-0.9
Transportation and public utilities	40.9	41.1	41.1	41.0	-0.4	-0.4	40.3	40.6	40.7	-0.9
Wholesale and retail trade	35.2	36.3	36.2	35.7	-1.1	-1.1	35.1	35.4	35.4	-0.3
Wholesale trade	39.6	40.1	40.3	40.3	-0.5	-0.5	39.6	39.9	40.0	-0.3
Retail trade	33.8	35.0	34.9	34.2	-1.2	-1.2	33.9	33.9	33.9	0
Finance, insurance, and real estate	36.8	36.9	36.9	37.0	-0.1	-0.1	36.9	36.9	36.8	0.1
Services	34.5	35.0	34.9	34.6	-0.5	-1.1	34.6	34.7	34.6	0

¹ Data relate to production workers in mining and manufacturing; to construction workers in contract construction; and to nonsupervisory workers in transportation and public utilities; wholesale and retail trade; finance, insurance, and real estate; and service. These groups account for approximately 56 of the total employment on private nonagricultural payrolls.

² Preliminary.TABLE B-3.—AVERAGE HOURLY AND WEEKLY EARNINGS OF PRODUCTION OR NONSUPERVISORY WORKERS¹ ON PRIVATE NONAGRICULTURAL PAYROLLS BY INDUSTRY

Industry	Average hourly earnings					Average weekly earnings						
	September 1970 ¹	August 1970 ²	July 1970	September 1969	Change from August 1970	September 1970 ¹	August 1970 ¹	July 1970	September 1969	Change from August 1970		
											September 1970 ¹	August 1970 ¹
Total private	\$3.28	\$3.25	\$3.23	\$3.11	\$0.03	\$0.17	\$121.36	\$122.20	\$121.45	\$117.87	-\$0.87	\$3.49
Mining	3.88	3.84	3.82	3.65	0.04	0.23	164.51	163.59	163.88	158.41	8.33	6.10
Contract construction	5.34	5.29	5.20	4.92	0.05	0.42	191.17	203.17	200.20	193.36	-12.50	2.19
Manufacturing	3.43	3.37	3.37	3.24	0.06	0.19	136.17	134.13	134.46	132.84	3.04	3.33
Durable goods	3.65	3.62	3.60	3.46	0.03	0.19	145.00	145.16	143.28	140.48	84	5.82
Overtime hours	3.02	3.05	2.98	2.84	0.03	0.18	119.29	122.61	118.31	114.45	-3.32	4.84
Lumber and wood products	2.82	2.81	2.78	2.68	0.01	0.14	110.26	111.00	107.96	109.08	-0.74	1.18
Furniture and fixtures	3.64	3.58	3.57	3.44	0.06	0.20	131.05	143.92	142.87	143.39	-4.2	3.33
Stone, clay, and glass products	4.11	3.99	3.94	3.87	0.12	0.24	168.92	161.20	159.96	162.93	7.72	5.98
Primary metal industries	3.62	3.56	3.54	3.40	0.06	0.22	146.97	144.54	144.79	143.14	2.43	3.83
Fabricated metal products	3.81	3.77	3.77	3.63	0.04	0.18	152.40	152.31	153.06	155.00	-0.9	-2.60
Machinery, except electrical	3.98	3.91	3.92	3.75	0.04	0.21	131.32	131.74	131.14	129.89	4.2	3.33
Electrical equipment	4.13	4.10	4.08	3.94	0.03	0.19	176.35	164.00	166.6	166.68	12.35	9.69
Transportation equipment	3.43	3.37	3.33	3.19	0.06	0.24	132.74	134.13	132.87	131.43	1.39	1.31
Instruments and related products	2.85	2.82	2.82	2.68	0.03	0.17	108.02	108.29	108.29	105.06	2.7	2.96
Miscellaneous manufacturing	3.13	3.08	3.09	2.95	0.05	0.18	121.44	121.35	121.44	118.00	0.9	3.44
Nondurable goods	3.18	3.12	3.16	2.97	0.06	0.21	129.43	128.86	128.61	124.15	5.7	5.28
Food and kindred products	3.46	3.43	3.43	3.25	0.05	0.21	110.15	105.46	113.63	117.80	5.5	5.10
Tobacco manufactures	2.45	2.44	2.43	2.41	0.01	0.04	95.80	97.36	96.96	98.81	-1.56	-3.01
Textile mill products	2.45	2.41	2.39	2.34	0.04	0.11	83.55	85.56	84.61	83.77	-2.01	-2.22
Apparel and other textile products	3.53	3.49	3.47	3.31	0.04	0.22	146.85	145.88	144.70	143.32	0.97	3.53
Paper and allied products	3.98	3.94	3.92	3.75	0.04	0.23	148.85	149.33	148.18	144.75	4.48	4.10
Printing and publishing	3.79	3.73	3.71	3.52	0.06	0.27	159.18	153.68	153.59	147.14	5.50	12.04
Chemicals and allied products	4.32	4.25	4.25	4.04	0.07	0.28	187.49	183.18	184.45	172.10	4.31	15.39
Petroleum and coal products	3.23	3.22	3.22	3.13	0	0.1	128.48	130.41	129.68	129.80	-1.93	-1.42
Rubber and plastics products, nec.	2.50	2.47	2.48	2.38	0.03	0.12	88.75	91.14	93.99	87.58	-2.39	1.17
Leather and leather products												

¹ Preliminary.

	Average hourly earnings						Average weekly earnings					
	September 1970 ¹	August 1970 ²	July 1970	September 1969	Change from		September 1970 ¹	August 1970 ²	July 1970	September 1969	Change from	
					August 1970	September 1969					August 1970	September 1969
Transportation and public utilities.....	\$3.90	\$3.89	\$3.87	\$3.71	\$.01	\$.19	\$157.95	\$159.10	\$159.06	\$152.11	-\$1.15	\$5.84
Wholesale and retail trade.....	2.75	2.72	2.71	2.59	.03	.16	96.80	98.74	98.10	92.46	-1.94	4.34
Wholesale trade.....	3.45	3.44	3.42	3.28	.01	.17	136.62	137.94	137.83	132.18	-1.32	4.44
Retail trade.....	2.48	2.44	2.44	2.33	.04	.15	83.82	85.40	85.16	79.69	-1.58	4.13
Finance, insurance, and real estate.....	3.08	3.08	3.06	2.93	0	.15	113.34	113.65	112.61	108.41	-.31	4.93
Services.....	2.91	2.86	2.83	2.67	.05	.24	100.40	100.10	98.77	92.38	.30	8.02

¹See footnote 1, table B-2.²Preliminary.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, immediately following the disposition of the reading of the Journal and the disposition of any unobjected to items on the Legislative Calendar, there be a period for the transaction of routine morning business, with statements limited therein to 3 minutes.

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

SENATE JOINT RESOLUTION 240—INTRODUCTION OF A JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION REQUIRING THE SUBMISSION OF BALANCED FEDERAL FUNDS BUDGETS BY THE PRESIDENT

Mr. FANNIN. Mr. President, sometimes politicians act as though tax revenues flow from a magic, never-ending fountain. But you and I know that tax revenues really represent the sweat and toil of the people.

The big spenders in Government forget, or refuse to recognize, that since taxes come from the people, the revenue should be spent with the same great care that workers and businessmen use in spending their own income.

When the Federal Government miscalculates or purposely overspends, it is the American taxpayers who suffer. And they are suffering.

There is inflation, there is a threat to our international trading position, and there is a soaring national debt.

I am deeply concerned about these problems. It worries me when the Government pays off \$3 billion a week in notes, but borrows another \$3.1 billion. A little simple math shows that at this rate, we slip about \$100 million a week—or some \$5 billion a year—additionally deeper into national debt.

That is why I am introducing today a constitutional amendment which would require the Congress to show fiscal responsibility.

Mr. President, I send to the desk a Senate joint resolution and I ask that it be appropriately referred.

Mr. President, I introduce the joint resolution for myself and Senators ALLEN, ALLOTT, BAKER, BELLMON, COOK, COOPER, CURTIS, DOLE, EASTLAND, ERVIN, GOLDWATER, GURNEY, HANSEN, HATFIELD, HOLLINGS, HOLLAND, HRUSKA, JORDAN of Idaho, MILLER, MURPHY, PEARSON, SAXBE,

STENNIS, TALMADGE, THURMOND, TOWER, WILLIAMS of Delaware, and YOUNG of North Dakota.

The PRESIDING OFFICER (Mr. SCHWEIKER). The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 240) proposing an amendment to the Constitution of the United States requiring the submission of balanced Federal funds budgets by the President and action by the Congress to provide revenues to offset Federal funds, introduced by Mr. FANNIN (for himself and other Senators), was received, read twice by its title, and referred to the Committee on the Judiciary.

Mr. FANNIN. Mr. President, I have already discussed this proposal on the Senate floor several times.

What I am proposing, briefly, is this: Congress would be required to balance the budget over a 2-year period. In other words, Congress could vote to spend more than the Government collects in revenue one year, but it would have to make up the difference the next year.

This would allow the Government to make prudent use of its credit, operating at a temporary deficit for 1 year where necessary. The next year Congress would either have to cut back on spending or raise taxes to pay off the previous year's debt. Conversely, it might be possible for Congress to program a budget surplus for 1 year and where necessary a matching deficit in the next.

What would happen if Congress misjudged or purposely failed to come out with a balanced budget or surplus at the end of a 2-year period?

In this case, under my amendment, Congress could not pass any appropriations bills until it took action on revenue measures to pay off the deficit. Any appropriations bills Congress might try to pass would not be constitutional.

I am not requiring that the Federal Government cut back on any current program. But under my amendment, Congress would have to pass tax legislation to provide revenue to pay for these programs immediately. Taxpayers would have an almost instant gage of the cost of their Government, and they could vote accordingly in the next election.

The amendment is practical; it is flexible; it is enforceable.

And there are indications we will have a good deal of bipartisan support in the drive to put this amendment across.

On August 15 I sent out letters to the Nation's State Governors asking for their opinions and suggestions concerning the proposed amendment. One of the most

enthusiastic replies came from Gov. Preston Smith of Texas.

Governor Smith said he endorses the principle heartily.

The Governor went on to note that like Arizona, Texas is on a pay-as-you-go basis in its State Government operations. Texas is one of the majority of States which have constitutional provisions making it difficult if not impossible to have a deficit any year.

Governor Smith observed:

Our Federal colleagues might learn something of value from the experience of State governments.

To that, I can only say, amen.

As Governor of Arizona for three terms I managed to live with the requirement that the State budget be balanced every year.

Citizens may rightfully ask just why in the world we should need to force Congress to act in a fiscally responsible manner. You would think that the men elected to Congress—for the most part intelligent, mature individuals, many with at least some experience in business—would be fully aware of the dangers of huge deficit spending.

Yet the spending goes on.

President Nixon is trying to reverse the trend of deficit spending that has marked the past four decades. In the fiscal year which ended just over 2 months ago, the Federal Government showed good departmental management of expenditures.

But efforts to halt the inflation the administration had inherited caused a falloff in revenues. The drop was about \$5½ billion. So President Nixon found himself with a \$2.9 billion deficit instead of a small surplus he had planned.

Unfortunately, there are predictions from some quarters that there could be a \$5 billion to \$10 billion deficit in the current fiscal year.

While the administration has been struggling to put the budget in balance and at the same time curtail inflation, the big spenders in Congress have been going their own way.

During the past fiscal year, the Congress voted \$1.1 billion more than the President asked for Labor, Health, Education, and Welfare.

It is not that I am opposed to programs for health, education, labor, housing, space, veterans, or hospitals.

I have sponsored and worked for legislation in all these areas. I wish we had the resources to do even more. But I feel that it is wrong for Congress to promise the solution of current problems through

means that will result in severe economic problems in the future.

Right now we are feeling the effects of policies which resulted in almost \$38 billion in Federal deficits during the last 3 years of the Johnson administration.

The \$2.9 billion deficit of the just concluded fiscal year is certainly an improvement, but we must improve on that record.

It is unfortunate, of course, that the Government was not able to turn the corner completely in fiscal 1970.

Deficits are wrong economically and cost the Nation many times the apparent amount.

Deficit financing is costly in terms of interest, adding many billions to future tax burdens.

Continued deficits are costly in terms of the loss of housing and of business investments which will result from high interest rates that accompany the Government's heavy borrowing. Anyone who has tried recently to finance a home or expand a business is all too painfully aware of the high interest legacy left from the free-spending 1960's era.

These deficits are costly to American consumers and exporters. Large deficits put American businesses in a disadvantageous position in dealing with other nations.

It is apparent that deficits have been attended by gold outflows and balance of payments deficits, and this eventually brings attacks on the value of the dollars.

Deficits bring inflation. While the Nation was becoming mired in an additional \$60 billion in debt this past decade, the dollar's purchasing power plummeted. The dollar which bought 97 cents worth of goods in 1961 was worth only 83 cents in 1968.

The lesson of history is plain to see. Failure to hold expenditures within the Nation's resources bring higher prices both domestically and on imports. It brings great burdens of interest on the debt and high interest rates on all borrowing. It forces other nations to act in ways which cheapen the dollar.

Despite these lessons, the trend continues.

Federal spending totaled \$196.8 billion last year. President Nixon had estimated in February that the Federal spending this fiscal year would be just under \$201 billion.

Congress has raised this figure by almost \$2 billion. Uncontrollable items such as interest on the huge Federal debt and social security payments will add about \$3 billion to previous estimates.

Thus, we now have an estimated \$205.7 billion budget for the current year. Imagine, the Federal Government is spending about \$1,000 for every man, woman, and child in the Nation.

There are several things the President has asked Congress to do to ease the deficit that is looming for this year. He has proposed a new tax on leaded gasoline, a speedup in gift and estate tax collections, and extension of excise taxes on telephones and automobiles.

These measures would make up as much as \$4.5 billion of the anticipated deficit.

As an alternative or additional step, Congress should take a good second look at the myriad of programs it has approved in the past decade and begin to trim away some of the fat.

Unfortunately, the national debt ceiling has been no deterrent to deficit spending.

The national debt was \$1.4 billion at the turn of the century; it was only \$55.3 billion even after the Roosevelt pump-priming efforts of the great depression. In 1946 following World War II, the debt limit stood at \$275 million. Between 1960 and 1966 the Congress approved 13 so-called temporary debt limit increases. The latest increase put the permanent ceiling at \$395 billion.

Three hundred and 95 billion dollars. Compare that with the \$11.5 billion debt limit—the first official debt limit—set in 1917.

Obviously the debt ceiling has been no deterrent to deficit financing. Congress simply raises the ceiling by a majority vote in each House when the summit is about to be reached. Members have no real choice.

The constitutional amendment I propose would be a deterrent. Congress would have no option but to balance spending with revenues for each 2-year period. National debt could not be increased as a result of any 2-year segment simply by the action of Congress.

There would be an escape clause to give flexibility in genuine emergencies. The constitutional provision would be suspended in time of war, or when the President declares a national emergency.

Perhaps, with closer budget control, we could prevent or at least slow the shrinkage of the dollar.

As Governor Smith said in his letter to me on the proposed constitutional amendment:

Inflation is the cruellest, most insidious form of taxation. It robs the value of savings by prudent citizens.

The Governor continued:

It unnecessarily adds to the critical problems of State and local governments for which public service demands have risen more rapidly than revenue capabilities.

Governors and local government officials have special cause to be alarmed. Most of them agree that the Federal Government should share its vast revenues with the States and cities.

President Nixon proposed such a program—which would give more than \$50 billion to Arizona—but the heavy spending hand of Congress has doomed that plan for the time being.

Mr. President, in closing, let me sum up a few things:

The administration is struggling to put an end to irresponsible deficit spending. But Congress has shown no indication it is willing to balance the budget voluntarily.

We need some effective control, and I think a constitutional amendment is the answer.

Mr. HANSEN. Mr. President, I thank the distinguished Senator from Arizona. I want to express my appreciation to the senior Senator from Arizona (Mr. FANNIN) for the leadership he has ex-

hibited in taking the initiative in proposing steps that I think can be most meaningful in returning this country to a position of fiscal responsibility which, more than any other one thing, can help dampen the fires of inflation.

Despite what some detractors say, the record seems clear to me that government expenditures exceeding incomes have been the primary and most important factor contributing to inflation.

So if we are going to come to grips with the real problem that has been plaguing all our citizens for all too long a time, I think what has been proposed by the distinguished Senator from Arizona will do precisely that. I am delighted and privileged to be a cosponsor.

Mr. FANNIN. Mr. President, I thank the distinguished Senator from Wyoming. By his own record, he exemplifies exactly what he has been saying. As a distinguished Governor of his State of Wyoming, he did abide by the same rules we are talking about in this particular amendment. In his work on the Committee on Finance, I have observed his continuous fight and drive to bring fiscal responsibility to the Federal Government. I know that his work has been very productive and successful, and I am very pleased that he has joined me in this effort, and that Senator GOLDWATER and others have joined in this effort to bring about fiscal responsibility in our Federal Government.

Mr. GOLDWATER. Mr. President, before I begin the remarks with which I intend to address the Senate this afternoon, I commend my senior colleague (Mr. FANNIN) for the presentation of this proposed constitutional amendment, which I think we should have had long ago. If we really mean to bring inflation under control, and to protect the dollar, we in Congress have to be more mindful of the people's money and the way it is spent.

I am very happy to join as a cosponsor of the amendment, and I feel we are going to have every success with it.

Mr. FANNIN. Mr. President, I thank my distinguished colleague. Certainly he has, over the years, worked toward this objective, and I commend him for it. He has fought many battles to accomplish the fiscal responsibility that we desire to accomplish with this amendment, and I know that his work has in the past produced and is at the present time producing results in this effort. I very much appreciate his support.

THE FACTS ON SST

Mr. GOLDWATER. Mr. President, as so often is the case with an issue of far-reaching importance, a large amount of confused, misleading and, I believe, downright erroneous information is being passed around these days about the administration's program to develop a U.S. supersonic transport.

I should like to make clear at the very beginning that I believe very strongly in the need for such a plane and for the need of the United States to participate in its development. I say this regardless of all the alarming and frightening predictions that have been made by oppo-

nents to the program. Because I do not believe, Mr. President, that American technology and know-how is so deficient that it must bow to the Russian and the French and the British in this area of air supremacy.

We are confronted today, Mr. President, by a nationwide campaign promulgated on a series of hypotheses, all of which are designed to alarm the American people and bring pressure on the Congress to deny the Department of Transportation the money required for the SST program. For example, we are told by some alarmists that development of supersonic transports could decrease the supply of ozone in the upper atmosphere and thereby expose the surface of the earth to the full force of solar radiation. The result would be the destruction of all life on earth except that which exists in the oceans. Other alarmists argue that a fleet of SST's might put out enough water in the atmosphere to change the temperature in the atmosphere and result in a melting of the polar ice cap and the consequent flooding of large areas of the civilized world. Of course, it is also true that you can find scientists who will tell you that the amount of water placed in the atmosphere by a fleet of 400 SST's in a single day is about equal to the amount injected into the upper atmosphere by one thunderstorm. And there are sound scientists who will dispute the claim of SST opponents that a change of 5 degrees in the atmospheric temperature might melt the ice cap. They point out that between 1880 and 1940 the temperature in the upper atmosphere increased by 9 degrees, but no ice melted. They also recall that back in 1883, when the Pacific Island of Krakatoa blew up, it put a cubic mile of sea water into the upper atmosphere at one time without changing the atmospheric temperature of the world. The Krakatoa phenomena was so tremendous that the volcanic explosion was heard for 3,000 miles and the dust in the atmosphere gave some parts of the world green sunsets for an entire year. But even this development—certainly one more tremendous than could be produced by any kind of an enormous SST fleet than men might build in our lifetime—did not melt the polar ice cap.

Mr. President, I can recall, as many people can, the 1,000-plane raids over Germany in World War II, and I just did a little quick calculating here. Those 1,000 planes represented 5 million horsepower. One SST represents 390,000 pounds of thrust, which is the modern way of expressing horsepower, and while they are not precisely the same in power, they are very closely related.

Those raids over Germany, with the long trails produced by the superchargers emitting warm air, which produced molecules of water which froze and made the long wide trails, plus the compression of the air at the wingtips of the aircraft, which did the same thing whenever there was moisture in the air, did not change the weather in Europe one bit, during the raids or after them.

I cite these fantastic tales which are being spread about what a few airplanes

might do to the atmosphere to give you an example of how far the opponents of this program are willing to go to support their cause. It has been pointed out by Mr. William Magruder, Director of the SST development program in the Department of Defense, that all the scare predictions are based on "iffy" hypotheses.

Magruder says:

There is no evidence of any kind to verify that the temperature of the atmosphere will rise because of water vapor in it. It is true that it's increasing, and we should know more about why it is increasing. We do have large research and development programs looking into the problem but not just because of the SST. There is just as much evidence to say that this is a good development as there is to say that it is a bad development. But if you've made up your mind to shoot at the SST, you can turn all your "ifs" against it.

Magruder pointed out that more than \$27 million has been proposed to study the question although no knowledgeable person is predicting major environmental problems will result from the SST operation.

The scare techniques such as those suggestions that the sun will burn up life on earth or melt the polar ice cap are similar to those used years ago in connection with the atom bomb. For example, at the time of the Bikini A-bomb tests in the Pacific in 1946, all kinds of fantastic predictions were made—and many of them by reputable members of the scientific community. As I recall, there was one suggestion that the underwater explosion of nuclear fission might blow a hole in the earth's crust causing the sea water to rush into the molten core of our planet and result in a tremendous explosion or a steam vapor that would not quit. At the same time some oceanographers predicted that the underwater A-bomb explosion would jar loose from the sides of the Bikini atoll centuries of lava deposits causing such a displacement of mass that tidal waves a thousand feet high would shoot out across the Pacific. There were other predictions equally as wild and which received a degree of credence merely because they dealt with an enormous natural force about which all knowledge was extremely limited.

Of course, none of these horrendous results occurred at Bikini. Men who witnessed it were greatly impressed with the force and power of the underwater explosion, and there is no question that the test added greatly to our knowledge of nuclear reaction and related scientific questions. But, no tidal waves occurred and the earth's crust remained undamaged, and about all that came out of the predictions of catastrophe was a vast supply of sorely needed scientific information that we never would have gotten had we turned all the "ifs" in that situation against Operation Crossroads, as the Bikini tests were known.

More recently and somewhat along the same line were the reports of what might happen if a dam were constructed across the Colorado River in the Grand Canyon. I was in that controversy up to my neck, and I know how far and how wide

the opponents to dams were able to spread the report that the project would result in the flooding of the Grand Canyon and make an inland lake of one of the world's greatest natural wonders. Those of us who knew the situation argued almost in vain that there was not enough water in all the rivers in the entire world to flood the Grand Canyon. Our arguments that the dam would be so small that it would be almost impossible to see it from most parts of the Canyon rim were very often received with complete disbelief. Even when we quoted the official statistics—the height of the Canyon versus the proposed size of the dam, and so forth—the going was still very difficult. I might point out, Mr. President, that some of the same groups that were responsible for the propaganda myth about flooding the Grand Canyon are among those contending that development of the SST would pollute the atmosphere. I refer particularly to one of the Nation's great organizations, an organization of which I am very proud to be a member, the Sierra Club, which has been dedicated, throughout its history, to the prevention of pollution and the preservation of our environment and the preservation of our natural resources. They were opposed to the building of a dam across the Grand Canyon.

I got a friend of mine with a computer he was not using to find out how much concrete it would take to build a dam approximately 12.5 miles long, a mile high, and proportionately deep, at the base and the top, to hold back the water. The computer indicated that there is not much concrete in the world. I am happy to say that we did not build the dam; I am happy that we are proceeding without it. But I do not think the Sierra Club or any other organization has a right to improperly inform the people of this country on any subject.

I should like to point out that I yield to no Member of the Senate in my concern over the problem of pollution. I have a new book coming out which devotes many thousands of words to the great need for maintaining a healthy atmosphere regardless of what it costs. Consequently, I say here that I am absolutely convinced that far from endangering the atmosphere, the SST will generate less pollutants per passenger mile than most other transportation alternatives.

It is interesting to go back and trace the genesis of the environmental objection. In the beginning, the SST critics virtually rested their case on the dramatic and attractive argument that sonic booms produced by SSTs in the country would rock millions of people back on their heels 10 to 20 times everyday. One group, called the Citizens League Against the Sonic Boom, even published a handbook on the subject, entitled "The SST and the Sonic Boom." Interestingly enough, the handbook was published by Ballantine Book Publishers of New York City in cooperation with the Sierra Club. I might point out that it was the Sierra Club that played a major role in promoting the myth about flooding the Grand Canyon. The handbook contains an introduction by author William A.

Shurcliff, and appropriately enough it begins with one capitalized word—"if." The introduction goes on to point out:

If overland supersonic flight is permitted, 500 million people in America, Europe and Asia will be jolted every hour, day and night, by sonic booms from hit and run SSTs.

I think we all know, Mr. President, that the opponents of the SST were gaining great mileage from their sonic boom argument until the Department of Defense announced that no SST would be permitted to exceed the sound barrier—thereby creating a sonic boom—within 100 miles of the American coast.

I might say that since that time there has been an international agreement reached that no supersonic transport will fly supersonically over any land mass in the world.

From that time on, the SST critics began shifting their arguments to the hypothetical conclusions about polluting the atmosphere, melting the ice cap and turning the direct rays of the sun loose on all living forms which inhabit the earth. In other words, they lost the sonic boom argument and immediately shifted to new ground and laid all their bets on the fact that because the atmospheres of the situation are unknown in some respects their arguments about catastrophe could not be finally and conclusively contradicted.

Mr. President, just to divert a moment, a word about the sonic boom. This airplane will not go supersonic until it is a hundred miles from the American coast. It will be climbing when it goes into this configuration, and the boom, while it could be heard by ships at sea, would be directed upward, into the atmosphere. On the other side of the ocean, or when the aircraft is preparing to land, it would be reduced to subsonic speed, and the reentry, as we call it, would not be heard at all. So there is nothing at all to the argument about the sonic boom.

I happen to live in a part of the United States over which three times a day are flown aircraft capable of mach 3.1, or three times the speed of sound, and it is very difficult to hear or feel the shock wave which is generated at about 80,000 feet.

I have flown that airplane myself, and a passenger would experience no feeling at all as the sonic barriers were met.

Mr. President, as I have already pointed out, there is no—let me repeat—no evidence presently available that SST operations will be environmentally offensive or constitute any kind of a danger to life on earth. All that we have in this area of the controversy at the present time are theories. I am sure I do not have to explain to this body of intelligent legislators that one can always find theories to fit almost any situation he wants to encompass. Thus, the opponents of the SST program have all kinds of theories which they too often offer as established fact. Included, of course, are the theories that SST operations will pollute the atmosphere, alter the weather, or induce the radiation dangers by disrupting the ozone in the atmosphere. Very seldom

do the purveyors of these contentions point out that the vast weight of scientific opinion refutes such theories.

In view of all of this, I believe it is highly commendable that the advocates of a supersonic transport plane are taking nothing for granted. Thus, despite all assurances that the effects of the SST flight on the atmosphere will be inconsequential, a research program is underway to produce full data on this situation. Right here I should like to point out that the frightening theories advanced by opponents to the U.S. program have to apply just as strongly to the operation of supersonic aircraft produced by foreign countries. It stands to reason that if the theories about environmental effects have any basis in fact, they would, by their very nature, have to be universal. But we find that other nations, including the Russians and the French, are operating supersonic aircraft at high altitudes at this very time.

Now, Mr. President, for the sake of argument, let us give full weight to the possibility of environmental effects stemming from SST operations. The present administration request is for \$290 million to further this program in the fiscal year 1971. Contrary to the impression being left with the people of this Nation, the request now before us contains no element of danger. It would provide the funds necessary to produce the machinery that will tell us once and for all what kind of effects supersonic transportation might result in. This major point has been made repeatedly, most recently, I believe, by the distinguished Senator from Texas (Mr. Tower). He pointed out that in the case of the SST, we are not risking damage to the environment for the simple reason that our program, as presently drawn, calls only for the development of prototype aircraft. Consequently, as research on the prototype progresses, so will research on its environmental effects. And we can not possibly know the full story of what, if any, lasting effects SST operations might have until after full testing of the prototype plane.

It is too often misunderstood that approval of the request now before us does not in any way commit this Nation to the development of a full fleet of commercial SST's. Yet, if we do not test our own SST prototype, we will not know what effects the Russian or the French/British supersonic transports are likely to have on the environment.

Interestingly enough, the foreign producers do not seem to be testing the effects of their planes on the environment. And it must be remembered that while the environment covers all nations, the authority of this Congress to speed up or stop the development of supersonic transports does not extend beyond our own borders.

This brings us to an interesting point. Suppose, for the sake of argument, that we vote down the present request and reject all future measures aimed at the development of an SST. That will have absolutely no effect on the dangers if the arguments of the SST opponents are true. Nothing we do, either in this Cham-

ber or in the House, is likely to slow down the development of the British/French Concorde or the Soviet TU-144. I doubt if it would make any difference if we were to reject this request and then approve a resolution calling upon our State Department to acquaint the British, French and Soviets of an American concern for contamination of the environment, a melting of the ice cap, or the destruction of all nonoceanic life on earth.

Whether we like it or not, it is about time that we understand that the objections being raised to the U.S. SST program have very little validity. No matter what we do here, there is going to be supersonic transportation in the world and on a large globe-circling basis in a very few years. That is as certain as the development of the automobile was in the early part of this century. The development of an SST program is a measure of transportation progress. It will come as quickly as it is feasible. In Europe it already is feasible. Not only the Soviets but the French and British are busy testing SST's prototypes which will shortly be moved into production and placed in operation on regularly scheduled world airlines.

As I say, the SST is already here. Versions of it are now being test flown in Europe. The only question remaining, therefore, is whether the United States will play a leading role in its commercial development. This is vitally important from a strategic standpoint. We must maintain the air superiority which we have enjoyed since World War II. But it is just as important to the traveling public. It is rarely explained by the opponents of the SST that its development will bring about a virtual revolution in cheap subsonic air travel. The high speed SST will provide the expensive flights. Eventually they will become equivalent perhaps to today's first-class accommodations. But as more and more SST's take to the air, the slower version of subsonic jets like those flying today will be able to offer cutrate fares on international travel. Some experts believe the day is coming before too many years when a traveler will be able to fly round trip from New York to London for about \$150. Our stake in this development is enormous. It should not be lost for the very weak reasons which currently are being raised by its critics.

One more point I should like to make, relative to the demand for SST travel, is that the only economic area in which the United States still dominates the world is in the construction of aircraft—the only one. When the airlines reach the point that they have to have supersonic transportation to meet competition from overseas, they will buy that airplane. They will buy it from the Soviets, or the French, or the British if we are not able to provide it.

Mr. President, as surely as I am standing here speaking today, when that day comes, and we are no longer able to build or able to compete with supersonic aircraft which will be making inroads into the market, inroads which are still being made, the Lord help us when the Japanese decide to get into the field.

From listening to some of the arguments on the floor of the Senate during the past few months, a casual observer would get the impression that it is within our power to decide whether the world is to have this tremendous escalation in its traveling and transportation potential. The only things we can decide here is whether the United States is going to play any significant role in this enormous development.

Mr. President, I should like to emphasize that there is not a lot of time left. The foreign producers are not going to wait for our pseudo-scientists in the Halls of Congress to decide this matter on the basis of possible environmental effects or domestic spending priorities. They are competitors who have come in second best too often and too long in the history of commercial affairs to pass up the opportunity they have right now to assume leadership over the United States in the matter of air superiority.

When I listen to Senators and House Members complaining that we can not build an SST that will not pollute the atmosphere and jolt the entire earth with its sonic boom, I sometimes wonder what happened to that fine old boast about Yankee knowhow. I would remind the Members that for many years our Nation was able to overcome competition from foreign countries using cheap labor by the simple expedient of being able to build a "better mousetrap." And in the "mousetrap" business we were unchallenged. Whether the "mousetrap" involved tanks, guns and planes to defeat the Axis, or housing materials to overcome postwar shortage or automobiles of a superior nature, we always came up with the better product. In space today, our "mousetrap" is one that was capable of landing men on the moon before any other nation or collection of nations. And against this backdrop we have Members of this body telling us that in the SST development, we not only cannot build a better mousetrap, we cannot even build one.

Even so, Mr. President, that is not the strangest thing to come out of the wide-ranging debate over the development of the SST. For openers, I should like to quote some remarks made by Prof. John Kenneth Galbraith, of Harvard University, a former chairman of Americans for Democratic Action and a self-styled "alarmed conservative." I might say, parenthetically, that if he is an alarmed conservative, I really am. Professor Galbraith is using an old familiar argument. He sees in the administration's request for the development of the SST an evidence of creeping socialism. Perhaps that is not fair, because Professor Galbraith did not use the word "creeping," but he told a breakfast meeting with reporters at the National Press Club that Government sponsorship of the SST is a manifestation of what he calls the Socialist drive. Professor Galbraith also saw some significance in the fact that the SST program is being spearheaded by the Secretary of Transportation John A. Volpe, whom he described as "an old-line Socialist."

Mr. President, keeping tabs on the

views of the card-carrying liberals in this debate is a bit confusing. As I have pointed out, Professor Galbraith has taken a rather interesting and uncharacteristic stand. And in the same week my distinguished colleague from Wisconsin, Senator PROXMIRE, charged on the Senate floor that the Department of Transportation is engaging in something he calls SST McCarthyism. As I say, the whole thing is a bit confusing. We seem to number among the opponents of this measure of progress those very liberals who have staked their entire political lives on demands for change and progress in our society. It seems to me when we have one liberal charging socialism and another alleging McCarthyism, the whole thrust of this opposition is a matter of sponsorship. It strikes me that the liberal community is bound and determined that a Republican Nixon administration should never be credited with having advocated and developed a major move in the direction of progress. Perhaps if a liberal Democrat were in the White House, the opponents of the SST would be less fearful of melting ice caps and Socialists' threats and more confident of American technological ability.

Mr. Galbraith, in his newly found ideological role, seemed concerned less Government sponsorship of the SST would lead to nationalization of the entire transportation industry. He failed to point out, of course, that the program is a joint venture designed to meet the enormous cost of providing this type of transportation. The program calls for a total Government commitment of \$1.3 billion. In addition to this, the SST contractors will put up about \$3.2 billion, \$54 million of it in facilities. And finally the airlines themselves are putting money on the line. They already have invested \$60 million in risk capital and \$22 million more in reservation position deposits.

Of course, critics of the SST continually overlook the fact that the program has a built-in system by which the Government will be repaid for its expenditures. Royalties will be paid the Government on every SST sold and the rate of payment will assure full reimbursement of the Government's investment when 300 American SST's are sold. Thus, it will be seen that Mr. Galbraith's newly developed fear of Government ownership is completely without foundation.

Mr. President, I might point out that, if my memory is correct, it was Professor Galbraith some time within the last 12 months who suggested that the Government take over the whole business of constructing military weapons and equipment. I am glad to see that he has seen the error of his ways.

Mr. President, one of my great concerns in this matter lies in the fact that the determined drive to make sure the United States plays no part in the development of the SST is in line with other moves designed to reduce America to the status of a second- or third-rate power. The people who are spearheading the drive against the SST are many of the same people who have been attempting, through every possible device, to bring about a reduction in American arms.

More than anything else, I believe it is the timing of these endeavors which bothers me. The concerted, many-faceted campaign to slash defense funds coincided precisely with a period of massive armaments buildup in the Soviet Union. While we are being urged to slash overall defense funds and eliminate many types of weapons systems, the Russians have been rapidly stockpiling more and more intercontinental ballistic missiles, deploying an ABM system, building new fighter planes and developing a wartime navy capable of dominating every major waterway in the world. Now we have a drive to prohibit the United States from even developing two prototype SST's while three other nations, including the Soviet Union, are already testing aircraft of this type.

Mr. President, these moves aimed at our defense capabilities and our transportation potential appear for all the world like unrelated developments. I hope this is the case. But I do not like the overall picture which shows a determined group of Americans working night and day to reduce our capability in areas of direct and strategic competition with other nations. I repeat, regardless of the motivation, the result if all these drives are successful will be to end this country's leadership of the free world and reduce us to the status of a second- or third-class power. This result, strangely enough, comes at a time when liberals in this country are making full use of the Nation's weariness and frustration over Vietnam to develop a new brand of isolationism for this country.

If we are second best in the air and second or third best in military capability and isolationist in our foreign affairs, America's time of greatness and promise will be forever ended.

ORDER FOR RECOGNITION OF SENATOR JAVITS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of all unobjectioned items on the Legislative Calendar on Monday next, and prior to the period for the transaction of routine morning business, which has already been ordered, the able Senator from New York (Mr. JAVITS) be recognized for not to exceed 30 minutes.

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

LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the unfinished business now be temporarily laid aside, that it remain in that status until the conclusion of morning business on Monday morning next, and that the Senate proceed at this time to the consideration of Calendar No. 1237, the legislative reorganization bill, with the understanding that there will be no action on this measure today.

The PRESIDING OFFICER (Mr. SCHWEIKER). The bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 1237, H.R. 17654, to improve the operation of the legislative branch of the Federal Government, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to the consideration of the bill. Mr. BYRD of West Virginia. Mr. President, as the majority leader stated a little earlier today, it is the intention of the leadership to discuss Senate Joint Resolution 1 throughout Monday next, but if perchance it appears feasible later in the day on Monday to take up some other measure, it will be the Legislative Reorganization Act.

The purpose of laying H.R. 17654 before the Senate today is to be sure to put

Senators on notice that it may be considered if the situation on Monday next should develop wherein action on Senate Joint Resolution 1 were completed at a reasonable hour.

ADJOURNMENT UNTIL NOON MONDAY, OCTOBER 5, 1970

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 4 o'clock and 15 minutes p.m.) the Senate adjourned until Monday, October 5, 1970, at 12 o'clock noon.

EXTENSIONS OF REMARKS

SUBVERSION BY THE NUMBERS BY ORDER OF SECRETARY RESOR

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. RARICK. Mr. Speaker, for those Members who do not understand the revolutionary changes and attitudes on our military posts one need only examine the "Guidance on Dissent" regulations issued May 28, 1969, by the Department of the Army by order of the Secretary of the Army, Stanley Resor.

Mr. Resor's "Guidance on Dissent" rationalizes that the question of soldier dissent is linked with the constitutional right of free speech. Further, that "complaining personnel must not be treated as 'enemies of the system'."

Since Mr. Resor's guidance on dissent establishes "the mission of the Army is to execute faithfully, as ordered, policies and programs established in accordance with law by duly elected and appointed Government officials" we may wonder if the new army of dissent was Mr. Resor's idea or if he has proselytized the New Mob's petition for grievances.

Many of us so-called out-of-step Americans who are accused of living in the past, which includes, by the way, most workers and taxpayers, have always understood that the prime mission of the Army was to maintain a well-disciplined force of men to preserve and defend our Constitution and to protect our people from all enemies, both foreign and domestic, from within and without.

Now we learn of an additional accommodation to the dissidents and defectors through an alteration of AR 840-10, paragraph 105, with regard to the display of the U.S. flag on military installations. The headquarters, Fifth U.S. Army letter—ALFGA-SP—dated July 30, 1970, refers to the display of the U.S. flag during "incidents." The order authorizes that during any threatened invasion or activities by antimilitary mobs, the commander or senior officer present

may remove the U.S. flag to prevent desecration or violence.

We know who Mr. Resor is, but his mission as Secretary of the Army appears to foster insubordination if not subversion.

Mr. Speaker, I ask that the "Guidance on Dissent" letter and the April 3, 1970 Herald of Freedom follow my remarks.

The items follow:

DEPARTMENT OF THE ARMY,
OFFICE OF THE ADJUTANT GENERAL,
Washington, D.C. 20310
AGAM-P(M) (27 May 69) DCSPER-SARD
28 May 1969.

SUBJECT: GUIDANCE ON DISSENT

See distribution

1. In the past few weeks there have been press reports suggesting a growth in dissent among military personnel. Questions have been raised concerning the proper treatment of manifestations of soldier dissent when they occur. The purpose of this letter is to provide general guidance on this matter. Specific dissent problems can, of course, be resolved only on the basis of the particular facts of the situation and in accordance with provisions of applicable Army regulations.

2. It is important to recognize that the question of "soldier dissent" is linked with the Constitutional right of free speech and that the Army's reaction to such dissent will—quite properly—continue to receive much attention in the news media. Any action taken at any level may therefore reflect—either favorably or adversely—on the image and standing of the Army with the American public. Many cases involve difficult legal questions, requiring careful development of the factual situation and application of various constitutional, statutory, and regulatory provisions (See Appendix A). Consequently, commanders should consult with their Staff Judge Advocates and may in appropriate cases confer with higher authority before initiating any disciplinary or administrative action in response to manifestations of dissent. The maintenance of good order and discipline and the performance of military missions remains, of course, the responsibility of commanders.

3. "Dissent," in the literal sense of disagreement with policies of the government, is a right of every citizen. In our system of government, we do not ask that every citizen or every soldier agree with every policy of the Government. Indeed, the First Amendment to the Constitution requires that one

CONFIRMATIONS

Executive nominations confirmed by the Senate October 2, 1970:

DEPARTMENT OF DEFENSE

Richard J. Borda, of California, to be an Assistant Secretary of the Air Force.

OFFICE OF TELECOMMUNICATIONS POLICY

George Frank Mansur, Jr., of Texas, to be Deputy Director of the Office of Telecommunications Policy.

DEPARTMENT OF TRANSPORTATION

Willard J. Smith, of Michigan, to be an Assistant Secretary of Transportation.

IN THE COAST GUARD

The nominations beginning Michael J. Schiro to be lieutenant commander and ending Roy E. Henderson to be lieutenant commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on Sept. 24, 1970.

be permitted to believe what he will. Nevertheless, the Government and our citizens are entitled to expect that, regardless of disagreement, every citizen and every soldier will obey the law of the land.

4. The right to express opinions on matters of public and personal concern is secured to soldier and civilian alike by the Constitution and laws of the United States. This right, however, is not absolute for either soldier or civilian. Other functions and interests of the Government and the public, which are also sanctioned and protected by the Constitution, and are also important to a free, democratic and lawful society, may require reasonable limitations on the exercise of the right of expression in certain circumstances. In particular, the interest of the Government and the public in the maintenance of an effective and disciplined Army for the purpose of National defense justifies certain restraints upon the activities of military personnel which need not be imposed on similar activities by civilians.

5. The following general guidelines are provided to cover some of the manifestations of dissent which the Army has encountered.

(a) *Possession and distribution of political materials.*—(1) In the case of publications distributed through other than official outlets, a commander is authorized to delay distribution of a specific issue of a publication in accordance with the provisions of para. 5-5 of AR 210-10. Concurrently with the delay, a commander must submit a report to the Department of the Army, ATTN: CINFO. A commander may delay distribution only if he determines that the specific publication presents a clear danger to the loyalty, discipline, or morale of his troops.

(2) In the case of distribution of publications through other than official outlets, a commander may require that prior approval be obtained for any distribution on post. Distribution without prior approval may be prohibited. A commander's denial of authority to distribute a publication on post is subject to the procedures of para. 5-5, AR 210-10, discussed above.

(3) A commander may not prevent distribution of a publication simply because he does not like its contents. All denials of permission for distribution must be in accordance with the provisions of para. 5-5, AR 210-10. For example, a commander may prohibit distribution of publications which are obscene or otherwise unlawful (e.g., counselling disloyalty, mutiny, or refusal of duty). A commander may also prohibit distribution if the manner of accomplishing the distribu-