SENATE—*Tuesday, October 6, 1970*

(Legislative day of October 5, 1970)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. STEPHEN M. YOUNG, a Senator from the State of Ohio.

The Reverend Dr. Armando Silverio, pastor, Rolling Hills Baptist Church, Pittsburgh, Pa., offered the following prayer:

Our Heavenly Father, we know that You created the heavens and the earth, and that You are the giver of life. Very humbly we bow before Your throne this morning, and ask You to look this day with favor upon the gathering of our U.S. Senate.

We acknowledge Thee, Lord, as omnipotent, omniscient, and omnipresent. Our prayer is that You will be in our midst in every decision made this day by our Senate, and we ask Your leadership.

We pray that You will be with our armed services around the world, and especially our men in Vietnam. We thank You for the privilege of living in a God-fearing Nation and a democracy.

We pray, Lord, that the decisions made today will make our country, and the world, a better place in which to live. Today we depend upon You, Lord, and we ask You please to bless real, real good our President, our Senators, and our Nation, whose God is the Lord.

In Jesus' name we pray. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 6, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. STEPHEN M. YOUNG, a Senator from the State of Ohio, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. YOUNG of Ohio thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. SCOTT. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, October 5, 1970, be approved.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 2176. An act to implement the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, and for other purposes;

S. 3822. An act to provide insurance for member accounts in State and federally chartered credit unions and for other purposes; and

S. 4247. An act to amend the Bankruptcy Act, sections 2, 14, 15, 17, 38, and 58, to permit the discharge of debts in a subsequent proceeding after denial of discharge for specified reasons in an earlier proceeding, to authorize courts of bankruptcy to determine the dischargeability or non-dischargeability of provable debts, and to provide additional grounds for the revocation of discharges.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. SCOTT. Mr. President, I ask unanimous consent that the following committees be authorized to meet during the session of the Senate today:

The Subcommittee on Internal Security of the Committee on the Judiciary; the Committee on Finance; the Committee on Foreign Relations; and the Subcommittee on Governmental Relations of the Committee on Government Operations.

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

EXECUTIVE SESSION

Mr. SCOTT. 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.

U.S. CIRCUIT COURTS

The legislative clerk read the nomination of Max Rosenn, of Pennsylvania, to be a U.S. circuit judge for the third circuit.

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

U.S. DISTRICT COURTS

The legislative clerk read the nomination of Cornelia G. Kennedy, of Michigan, to be a U.S. district judge for the eastern district of Michigan.

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

Mr. SCOTT. 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. SCOTT. 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.

LEGISLATIVE REORGANIZATION ACT OF 1970

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business, which the clerk will state.

The legislative clerk read as follows:

H.R. 17654. To improve the operation of the legislative branch of the Federal Government, and for other purposes.

The Senate continued with the consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the unanimous-consent agreement, it is ordered that further debate on the Javits amendment to H.R. 17654 be limited to 20 minutes, with the time to be equally divided and controlled by the manager of the bill and the Senator from New York (Mr. JAVITS).

The Senator from New York (Mr. JAVITS) is now recognized.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, this is an amendment which has a very interesting situation facing it in the Senate. So far as I know, both the manager of the bill and the ranking minority member have supported the amendment before and will support it again.

They feel bound, however, by their instructions with respect to the handling of the bill, which means that they will reject amendments on subjects which are not already accomplished in the Senate bill. Hence, they have been unable to accept this one.

This amendment is adequately described from a reading of it. I have sent a letter to every Senator which they have received in their offices and is also on their desks.

In brief, the amendment would seek only to effectuate a rule of the Senate that there shall be committee rules of procedure. It does not dictate what the rules shall be. It does not even make the rules conform to the rules of the Senate, as is the case in the other body where the rules of committees must conform to the rules of the House.

This amendment does no such thing. It provides only that there shall be rules and that they shall be published in the CONGRESSIONAL RECORD not later than March 1 of each year.

Most committees have rules. Some, like my own Government Operations Committee, have interesting, detailed, and admirable rules, but it is not universal. It seems to me that in an age of controversy, when witnesses are subpenaed from the outside and where there are great problems about the testimony which is given before committees, and authority in terms of reporting critically

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

important legislation to the floor, the Senate at least should require committees to inform the public annually as to what their rules of procedure are. That is the only purpose of the amendment. I have given the reasons why the manager of the bill and the ranking minority member could not accept it. I hope very much that the Senate will approve it as a desirable reform, directly germane to any legislative reorganization bill.

On a previous occasion, a few years ago this amendment was in a reform bill and it was rejected, but I think we have learned since, in the current climate of our time, that such a reform is desirable and would inspire greater confidence on the part of the public.

I believe this is an idea whose time has come and that it should be approved.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. JAVITS. Mr. President, if I could have the attention of the manager of the bill, the Senator from Montana (Mr. METCALF)—and I yield myself 1 more minute for that purpose—I should like to state to the Senate that the reason we put this over for a vote until today was that Senators were not ready to vote last night, although the arguments had been quite fully made.

I took the precaution to inform Members by letter as to the pendency of the amendment and what it was all about. I have just stated that I was hopeful the manager of the bill and the ranking minority Member would vote for it, as they have before, and that the reason for not accepting the amendment was that their instructions were to confine themselves strictly to the particular items in the Senate bill.

Mr. President, I am ready to vote.

Mr. METCALF. Mr. President, I voted for this amendment in the committee. I supported the Monroney bill when it came to the floor. The distinguished Senator from Delaware (Mr. BOGGS) voted for this measure. This was a unanimous provision in the Monroney bill.

I felt that I could not accept the amendment only because of the ground rules we laid down to provide that we were going to support the Monroney bill. During the time, as the Senator from New York has pointed out, amendment after amendment was voted down. This was one of the amendments that was taken out of the bill.

I propose to vote for the amendment of the Senator from New York. I would suggest that he submit it to a division vote at this time and withdraw his request for a rollcall vote.

Mr. JAVITS. Mr. President, I would be perfectly willing to do that. At the suggestion of the manager of the bill, Mr. President, I ask unanimous consent that——

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Mr. President, I withdraw my request and yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, it was my understanding that it was the position and contention of my friend, the Senator from New York, that no committees now have rules with the exception of the Committee on Government Operations.

Mr. JAVITS. Mr. President, the Committee on the Judiciary does also. Quite a few committees do. It is not a universal practice.

Mr. COTTON. Mr. President, the Committee on Commerce publishes rules. While such publication does not encompass a great body of rules, it does have rules. They are published in the committee's legislative calendar.

Mr. President, if the amendment of the Senator from New York should be adopted and become part of the pending bill, how detailed and elaborate would such committee rules have to be?

Mr. JAVITS. Mr. President, theoretically a committee can publish a page and say, "These are our rules." They might have nothing on the page. Under my amendment it would still qualify. Of course, no committee would do that.

I have no desire to dictate form, substance, or anything else. However, I think every committee should know that it ought to publish a set of rules, and that they ought to be revised periodically so that on the first of March each year, the world will know the rules in effect. The committee can make them long, short, adequate, or inadequate.

Mr. COTTON. Mr. President, in other words the Commerce Committee probably is complying with this provision at the present time?

Mr. JAVITS. Exactly, except for the requirement for the publication on a given date.

Mr. COTTON. It is published in the committee's legislative calendar.

Mr. JAVITS. The Senator is correct. This would now be published in the CONGRESSIONAL RECORD.

Mr. COTTON. Mr. President, I thank the Senator.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the yeas and nays on my amendment be vacated.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. METCALF. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a schedule listing the committees that do have rules and the way in which the rules are published.

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

COMMITTEE RULES, U.S. SENATE [1]

	Calendar	Multilith	None	Pamphlet
Aeronautical and Space Sciences	× (7)			
Agriculture			×	
Appropriations			×	
Armed Services	× (10)			
Banking and Currency	× (8)			
Commerce	× (4)			
District of Columbia			×	
Finance			×	
Foreign Relations				
Government Operations	× (2r)			
Subcommittee on Investigations	× (17)			
Interior and Insular Affairs			×	
Judiciary	× (3r)			
Subcommittee on Internal Security				× (4r, 12).
Labor and Public Welfare			×	
Post Office and Civil Service	× (16)			
Public Works			×	
Rules and Administration			×	
Nutrition		×		
Small Business		×		
Standards and Conduct		×		
Aging		×		
Total	8	4	8	1.

[1] Number of committee rules in parentheses. r=resolution. We have indicated the source where one can find the rules.

Note.—Published rules=13. None available=8.

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

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

Mr. JAVITS. Mr. President, I ask for a division.

The ACTING PRESIDENT pro tempore. All time having expired, the question is on agreeing to the amendment of the Senator from New York. On this question a division has been asked for. (Putting the question.)

On a division, the amendment was agreed to.

Mr. JAVITS. Mr. President, I thank the Senator from Montana and the Senator from Delaware. I think this is a very important reform. I hope very much that it will prove to be of great benefit.

Mr. GRIFFIN. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. GRIFFIN. Mr. President, as the senior Senator from New York has pointed out, the rules of congressional committees can be very important, particularly in situations where litigation turns on committee action or inaction.

I would think that a model or standard set of rules could be developed which every committee would be expected to adopt with such changes as might be necessary to accommodate particular problems of the committee.

I think it would be a good idea if the Committee on Rules and Administration or perhaps an ad hoc committee were designated to meet during the recess and seek to work out a model set of rules that would be available for consideration by the several committees when the new Congress convenes.

Mr. JAVITS. I think that would be admirable. Mr. President, I greatly ap-

preciate the comments of the distinguished Senator from Michigan. I would hope very much that the majority leader and minority leader might decide as a question of policy whether to entrust the matter to the Policy Committee of each party or whether we should have some ad hoc group which would suggest the rules.

Mr. President, perhaps this will be a major reform which would establish a very fine attitude on the part of the public when they appreciate that we, too, have published rules, publicly announced and drafted with a sense of expertise and a sense of fairness to the individual witnesses and participants before the various committees. I think that it would be a great element in public confidence. I welcome and will follow through on the suggestion of the Senator from Michigan.

Mr. GRIFFIN. Mr. President, of course, let me say it would be well for those seeking to develop model rules for Senate Committees to take a good look at rules already in effect in the Committees of the House of Representatives as well as the Senate.

Mr. JAVITS. Mr. President, I think that is very desirable. We are dealing now with a relatively uncharted field. There are some excellent models. I think that we can use this provision if it becomes law. It would be very advantageous.

Mr. COTTON. Mr. President, would the Senator yield?

Mr. JAVITS. I yield.

Mr. COTTON. Mr. President, I suggest to the interested Senators now present that in dealing with this very important measure there is a related problem area. While the amendment of the Senator from New York is certainly, I think, a step in the right direction—and a very logical and orderly addition to the procedure—it will not make a single bit of difference how scrupulous and careful committees are in adopting and enforcing rules within the committee if a recent practice is continued. I now have reference to the practice of "tacking on" bills pending before one committee as an amendment to another committee's reported bill.

The ACTING PRESIDENT pro tempore. The Senate will be in order. During the remainder of the session attachés must be seated in the rear of the Chamber.

Mr. COTTON. Mr. President, I will state frankly that I endeavored this morning, with the assistance of the staff members, to try to draft an amendment which I was tempted to offer to this measure in order to end this practice.

For example, within the past 2 weeks I discovered that two bills referred to our Committee on Commerce—S. 3072 and S. 2425—have been adopted as amendments to two bills reported by the Committee on Public Works—S. 4358 and S. 4418—and passed by the Senate.

One of them—S. 3072—already had passed the Senate so there was no great objection. The other—S. 2425—however, had not been reported.

Now, because we are nearing the end of this Congress, I served notice in our Committee on Commerce that we were going to have a quorum present and voting on any controversial measures before they were reported.

In connection with the second bill—S. 2425—there had been controversy in the committee. I was very, very much opposed to it in its present form, as was the Department of Transportation, notwithstanding concurrence in its objective. There were other members of the committee who were dubious about it. But, we never had an opportunity to vote on it. I find, as I indicated earlier, that it was attached in the form of an amendment to a bill from another committee, and passed the Senate last week. I did not know about it until Friday night. I appreciate the concern of the chairman of our Committee on Commerce in offering the bill as an amendment to preserve committee jurisdiction and share it with him as the senior Republican on that committee. However, I do question the practice in principle.

I now learn that another bill, S. 2236 which would establish a Federal Insurance Guarantee Corporation or Agency is about to be proposed as an amendment to a bill from the Committee on Banking and Currency—S. 2348—which now is pending on the Senate calendar—Order No. 1236. S. 2236 has been the subject of determined and sharp controversy in our Commerce Committee.

If that sort of thing goes on what difference does it make if there are rules in committee or not? What difference does it make if it is said a measure is not going to be reported from committee unless a quorum is present and voting or, if as provided in section 108 of H.R. 17654, the report must be available for at least 3 calendar days before consideration by the Senate? If any Member objects on that ground, then someone need only attach the same measure, which is in controversy in the committee to which it was referred, to a similar bill—and sometimes a bill of not a similar subject—putting it through here when interested Senators are not in the Chamber. Then the committee wakes up only to find that the Senate passed the measure as an amendment without its knowledge, except for perhaps two or three Senators who were interested in the bill?

I am serving notice in connection with the measure I have just referred to—S. 2236—that when it comes up in the Senate I hope to be notified. I must say I hate to do it since I have never been involved in a long discussion, sometimes known as a filibuster, but I will certainly be able to consume 5 or 6 hours in debate on that bill if this procedure of offering it as an amendment is followed.

I am not, however, going to complicate the situation with respect to the bill, H.R. 17654, now under consideration by a last-minute amendment. I did give consideration to an amendment which would have provided that after x date in the year no legislation could be reported from any standing committee without the approval of the majority leader and minority leader, leaving open the opportunity to consider vital legislation. I also gave some thought to an amendment concerning this practice of attaching bills pending in committee in the form of amendments to other bills on the floor.

However, I did not want to prepare an amendment hastily and perhaps complicate this bill, H.R. 17654. But, I do wish to call the attention of Members of the Senate to the fact that this is a practice which I think should be avoided, if at all possible.

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

Mr. COTTON. I yield.

Mr. METCALF. Without adequate hearings, a record vote, and so forth, I would oppose such an amendment if it were offered at this time. However, I wish to assure the Senator that the junior Senator from Montana is in complete accord with his unhappiness with respect to attaching some of these measures to other bills. I shall certainly support the Senator if at the appropriate time he desires to offer an amendment, or change the rules of the Senate, or approach it in an orderly manner.

Mr. COTTON. I thank the Senator. He is fair, considerate, and wise, as he always is. I agree with him that it would be a mistake to offer a hastily improvised amendment and I shall not do so.

Mr. METCALF. I thank the Senator.

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

Mr. METCALF. I yield.

Mr. COOK. Mr. President I refer the Senator to page 46 of the bill, starting at line 5. I must admit to the Senator that this deals with conference reports. The provision on page 46 reads:

> If time for debate in the consideration of any report of a committee of conference upon the floor of the Senate is limited, the time allotted for debate shall be equally divided between the majority party and the minority party.

I inquire as to why on conference reports the time for debate is limited to the majority party and the minority party, rather than the proponents and the opponents. I call to the attention of the Senator this situation. Suppose that when a debate ensues there is not someone on one side of the aisle that is a proponent or that on the other side of the aisle there is not someone who is an opponent, or vice versa.

I have prepared an amendment that would delete the words "majority party and the minority party." and insert in lieu thereof "opponents and proponents." I am asking because it would seem to me we may find a situation where the time is being divided but there is no one on one side of the aisle who wishes to take up the gauntlet, while there may be two Senators on the other side diametrically opposed in their views on the conference report.

Mr. METCALF. When the joint committee originally reported this legislation in the previous Congress, the language read as suggested by the Senator from Kentucky: That the time would be controlled by the opponents and proponents of the conference report. The question of whether opponents and proponents should control the time or whether the time should be controlled by the House leadership was fought out very strenuously on the floor of the House. The

language that the time on conference reports should be controlled by the leadership was placed in the bill by the House. My own experience with the leadership has been that I have never been turned down on a request to debate a conference report in this body. I have been turned down, as all of us have, in the other body, and this language makes a substantial improvement in the rules for handling conference reports in the House. I have never experienced any difficulty in getting time from the leadership. The other day the Senator from New York was the ranking minority member in connection with the manpower bill. He was supporting the conference report and yet he was yielding time to the other side.

I did not feel this provision was worth taking back to the House in a conference and the Senator from Delaware (Mr. BOGGS) agreed.

Mr. COOK. I might suggest that I agree. Would the Senator consider, then, an additional sentence on that section which would provide:

And in the Senate the time shall be equally divided by the opponents and proponents.

Then, the distinction could well be made in the House. This seems rather odd language for the operation of the Senate, as I have observed in the short time I have been a Member of the Senate. It seems rather odd to say that on a conference report somehow the time has to be divided between the majority party and the minority party rather than the opponents and proponents, which has always been the case.

Mr. METCALF. Would the Senator withhold his amendment?

Mr. COOK. Absolutely.

Mr. METCALF. The Senator will have the opportunity to renew it.

The Senator from Montana and the Senator from Delaware are both inclined to accept it, but we would like to discuss it with the leadership and Senators who would have to be on conference committee.

Mr. COOK. I will withhold it.

AMENDMENTS NO. 1017

Mr. BYRD of West Virginia. Mr. President, on behalf of the junior Senator from North Carolina (Mr. JORDAN), who is unavoidably absent on Senate business, I call up amendments No. 1017 to H.R. 17654 and ask that they be stated by the clerk.

The ACTING PRESIDENT pro tempore. The clerk will read the amendments.

The legislative clerk proceeded to read the amendments.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments (No. 1017) are as follows:

On page 94, line 7, strike out "and Congressional Research".

On page 95, line 13, strike out "and Congressional Research".

On page 103, line 1, strike out "and Congressional Research".

Beginning with line 1, page 104, strike out all to and including line 5, page 110.

On page 110, line 6, strike out "PART 4", and insert in lieu thereof "PART 3".

On page 110, line 10, strike out "SEC. 341", and insert in lieu thereof "SEC. 331".

On page 111, line 17, strike out "SEC. 342", and insert in lieu thereof "SEC. 332".

On page 3, in that portion of the table of contents relating to title III of the bill, strike out all matter relating to part 3 thereof (including sections 331 and 332 thereof).

On page 3, in that portion of the table of contents relating to title III of the bill, strike out all matter relating to part 4 thereof, and insert in lieu thereof the following:

PART 3—PARLIAMENTARY PRECEDENTS OF THE HOUSE OF REPRESENTATIVES

Sec. 331. Periodic compilation of parliamentary precedents of the House of Representatives.

Sec. 332. Periodic preparation by House Parliamentarian of condensed and simplified versions of House precedents.

Mr. BYRD of West Virginia. I am speaking on this amendment on behalf of the junior Senator from North Carolina (Mr. JORDAN), who is absent on official business.

Part 3 of title III of H.R. 17654 would abolish the Joint Committee on the Library and substitute therefor a new entity entitled the Joint Committee on the Library and Congressional Research. The Jordan amendment would simply delete said part 3 from the bill, and retain the Joint Committee on the Library as it is now constituted, with its present functions and authority.

Inasmuch as the distinguished junior Senator from North Carolina (Mr. JORDAN) is the present chairman of the Joint Committee on the Library, and since during his entire tenure on the joint committee he has served in alternate years either in that capacity or as vice chairman, there is undoubtedly no Member of the Congress more experienced or knowledgeable on matters relating to the Library of Congress. Consequently his views on the radical changes in the Joint Committee on the Library proposed by H.R. 17654 are deserving of the most serious and sympathetic consideration by the Senate. Inasmuch as he has not been consulted on these proposed sweeping changes, and since the parliamentary situation in the Senate precludes him from addressing his views to the appropriate committee of the Senate, he has found it necessary to present his position in the form of this amendment.

In essence, the junior Senator from North Carolina (Mr. JORDAN) contends that the proposal contained in part 3 of title III of H.R. 17654 is unnecessary and undesirable, and that it would involve considerable additional expenditures without adequate justification. Moreover, the proposal would do violence to the accepted principles of committee jurisdiction and majority control of the Congress. The reasons for these contentions will become readily apparent as I proceed.

Since January 3, 1947, when the Legislative Reorganization Act of 1946 became effective, the Joint Committee on the Library has consisted of the chairman and four other members of the Committee on Rules and Administration of the Senate and the chairman and four other members of the Committee on House Administration of the House of Representatives. I ask unanimous consent that the pertinent provisions of that act, now codified as section 132b of title 2 of the United States Code, be inserted in the RECORD at this point.

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

§ 132b. Joint Committee on the Library.

The Joint Committee of Congress on the Library shall, on and after January 3, 1947, consist of the chairman and four members of the Committee on Rules and Administration of the Senate and the chairman and four members of the Committee on House Administration of the House of Representatives. (Aug. 2, 1946, ch. 753, title II, § 223, 60 Stat. 838.)

Mr. BYRD of West Virginia. Mr. President, another section of the same act provided that the Joint Committee on Printing should be similarly constituted: that its membership would consist of the chairman and two other members of the Committee on Rules and Administration and the chairman and two other members of the Committee on House Administration. Since the Reorganization Act of 1946 provided that those two committees would in their respective Houses have practically exclusive jurisdiction over matters relating to the Library of Congress and over congressional printing, it was natural and proper that the joint committee memberships come from those committees. The rationale that was employed then is just as valid today.

It is at least interesting to note that H.R. 17654 does not seek to broaden the membership of the Joint Committee on Printing, even though the potential value to Congress of new technological advances in printing is just as apparent as are the benefits to be derived by the expansion under the bill of the present Legislative Reference Service.

Mr. President, at this point I ask unanimous consent to insert into the RECORD the short explanation for proposing the reconstitution of the present Joint Committee on the Library, which is contained in House Report 91–1215, to accompany H.R. 17654.

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

(Excerpt from page 19 of House Report 91–1215, to accompany H.R. 17654, the Legislative Reorganization Act of 1970)

Management of CRS

Because its new duties will involve the Congressional Research Service in a most vital function of the legislature, the supervision of its work will be a matter of intense interest to the whole Congress. We therefore propose that the present Joint Committee on the Library be reconstituted as the Joint Committee on the Library and Congressional Research, and that its membership be broadened to make it more generally representative of both Houses.

CRS will fulfill its responsibilities properly only if the Joint Committee provides close and aggressive support and leadership. We envision the Joint Committee as a managing board, providing CRS both with policy guidance and with assistance in securing the resources the agency will require.

The new Joint Committee will have 12 members, equally divided between the two major parties. Its six House members will be appointed by the Speaker, two from the Committee on House Administration. The Senate's President pro tempore will appoint six Senators, two from the Senate Committee on Rules and Administration. Although the Joint Committee will choose its own chairman and vice chairman, the chairmanship will alternate between the two Houses and the vice chairman will not be of the same party as the chairman. The Joint Committee is directed to file an annual report on the Library and with special reference to the Congressional Research Service, and it is provided professional and clerical staff to assist in carrying out its responsibilities.

Mr. BYRD of West Virginia. Mr. President, I call attention to the statement of explanation and justification given in the House report for the sweeping changes in the Joint Committee on the Library proposed by H.R. 17654. It is worthy of note that that statement is primarily one of explanation of the proposal and that it contains very little in the nature of justification. Taken in sequence, the points of that statement, together with our view thereon, are as follows:

First. Because its new duties will involve the Congressional Research Service in a most vital function of the legislature, the supervision of its work will be a matter of intense interest to the whole Congress. We therefore propose that the present Joint Committee on the Library be reconstituted as the Joint Committee on the Library and Congressional Research, and that its membership be broadened to make it more generally representative of both Houses.

The Legislative Reference Service already is performing and for a long period has performed a vital function in respect to the operation of the Congress. All Members of Congress are already aware of the excellent professional services available to them from this important department of the Library of Congress. The functions of LRS have continuously been expanded to meet the ever increasing needs of the Congress. The Joint Committee on the Library as presently constituted has kept abreast of that expansion as well as with other advances of the Library. There is no evidence to the effect that the present joint committee could not just as adequately exercise the desired oversight of the proposed Congressional Research Service. Also, it is difficult to imagine how broadening the membership of the joint committee to include Members of Congress serving on committees not having jurisdiction over Library matters could improve the competence of the joint committee.

Second, CRS will fulfill its responsibilities properly only if the joint committee provides close and aggressive support and leadership. We envision the joint committe as a managing board, providing CRS both with policy guidance and with assistance in securing the resources the agency will require.

The strong implication here is that the present Joint Committee on the Library does not provide "close and aggressive support and leadership" in matters relating to the Library of Congress, and that it does not assist the Library in securing the resources it requires.

To the contrary, the present joint committee is an active oversight and policymaking group for the Library. It is true that the Joint Committee on the Library does not meet as a body as frequently as some joint committees. This is so, however, only because the joint committee has found it expedient to delegate considerable authority to its chairman and vice chairman. The Librarian of Congress consults with both the chairman and the vice chairman on a frequent and regular basis. During calendar year 1970 to date the Librarian has personally contacted the chairman or vice chairman on 22 occasions, and has written to them on 50 occasions. Liaison between the staff of the Library and the staffs of the two administration committees occurs with similar frequency.

If the pace of Library activities expands by virtue of enactment of H.R. 17654, there is no reason whatsoever why the joint committee as presently constituted could not or would not expand its activities correspondingly.

In respect to assistance to the Library in securing the resources it needs, I point out that the present chairman of the Joint Committee on the Library (Mr. JORDAN of North Carolina) is also the chairman of the coordinating committee on the construction of the Library's third building, the Madison Memorial Library. The Librarian always seeks the counsel of the chairman and vice chairman during the development and before implementation of new Library programs. The Library always consults with the joint committee concerning legislation of interest to the Library and about testimony it may wish, or be called upon, to offer on such legislation. Members of the joint committee frequently testify before other congressional committees on Library affairs.

Furthermore, the chairman and vice chairman of the joint committee frequently meet with other Members of Congress and with members of the general public to hear, discuss, and resolve their complaints or suggestions concerning the Library. In all of these activities the other members of the joint committee participate to the degree their schedules permit.

In summary, the present Joint Committee on the Library, particularly through its chairman and vice chairman, does provide constant and continuous policy guidance for the Library of Congress and all of its elements.

Third. The new joint committee will have 12 members, equally divided between the two major parties. Its six House members will be appointed by the Speaker, two from the Committee on House Administration. The Senate's President pro tempore will appoint six Senators, two from the Senate Committee on Rules and Administration.

Unless the Congress is prepared at this point to depart from two well established principles, the above proposal should not even receive serious consideration. I refer, of course, first, to the practice under which the party in control of Congress exercises the right of control of the operation of its committees, and second, to the logical and well established principle that the membership of joint committees of the Congress should be drawn from those committees having jurisdiction over the subject matter. In respect to the first point above, it seems superfluous to add that a joint committee composed of equal representation from the majority and the minority could be entirely ineffective and could arrive at a stalemate on any major policy decision involving party considerations.

To this I would note that if the proponents of this portion of the bill were consistent, they would also propose—as I previously indicated—that the Joint Committee on Printing also be reconstituted to include members from committees not having jurisdiction over printing, but who by virtue of that fact would be better qualified to make judgments in respect to the many technological advancements in that area.

Fourth. Although the Joint Committee will choose its own chairman and vice chairman, the chairmanship will alternate between the two Houses and the vice chairman will not be of the same party as the chairman.

On this point I believe it sufficient to say that for the past several years the chairmanship of the Joint Committee on the Library has passed in alternate years from the chairman of the Committee on House Administration to the chairman of the Committee on Rules and Administration. It is my considered judgment that should our present minority become the majority, they would prefer to follow the same arrangement.

Fifth. The joint committee is directed to file an annual report on the Library and with special reference to the Congressional Research Service, and it is provided professional and clerical staff to assist in carrying out its responsibilities.

The proposal that the Joint Committee on the Library file an annual report is, of course, reasonable and logical. This desirable objective could be attained, however, without a drastic reconstitution of the joint committee.

The staffing of the joint committee, at least at this point, is totally unnecessary and would constitute an unjustifiable additional expenditure of the taxpayers' money. In alternate years the respective staffs of the Committee on House Administration and of the Committee on Rules and Administration have adequately and competently discharged the staff functions of the Joint Committee on the Library. If the necessity should arise, those staffs could be expanded for the purpose.

Mr. President, in view of the fact that the House report to accompany H.R. 17654 has expressed little if any justification for the reconstitution of the present Joint Committee on the Library, and in consideration of the many valid arguments I have presented for the deletion of part 3 of title III of that bill, I urge the adoption of this amendment, which

has been submitted by the distinguished junior Senator from North Carolina (Mr. JORDAN).

The ACTING PRESIDENT pro tempore. The Chair wishes to know from the Senator from West Virginia whether it is his desire that the amendments be considered en bloc.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

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

Mr. METCALF. Mr. President, substantial changes were made in the Legislative Reference Service by the House bill. Additional duties were given to the Legislative Reference Service. The committee felt it was necessary to give additional status and additional stature to the Joint Committee on the Library. At the present time the Joint Committee on the Library consists of the chairman and members of the House Committee on Administration and the chairman and members of the Senate Committee on Rules and Administration. In order to provide for administration of the additional duties and the augmented capacities and additional responsibilities of the Legislative Reference Service, a rather complex Joint Committee on the Library was established.

Yesterday I called Members of the House who had offered this proposal on the floor and asked them if they would consent to the amendment of the Senator from North Carolina which would restore the jurisdiction of the present Joint Committee on the Library and then we could see whether or not the present committee could take care of these additional duties and augmented responsibilities. Then, if another staff or other members were required, we consider that at some later date.

Under the bill as it was originally proposed, this committee was not included. The Senate bill retained the present Joint Committee on the Library and provided that it would have an additional staff to take care of additional duties, it provided, too, that there be an annual report, but the provisions were not nearly as extensive as those added by the House bill.

I would, as a part of the legislative history, and in accepting this amendment and going back to the present system, I would like to suggest to the cochairman of the joint committee that there be an annual report. Then, without any further debate, I am willing to accept the amendment offered by the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield, it is my understanding, after talking with the staff of the Senate Committee on Rules and Administration, that that would be very acceptable. There is no objection on the part of the Senator from North Carolina (Mr. JORDAN) to having such an annual report. As a matter of fact, he would support the suggestion.

Mr. METCALF. I am certain the members of the House Committee on Administration would also support it, because they have supported annual reports as provided in the amendment being offered.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield, I thank the able manager of the bill for his expressed willingness to accept the amendment and take it to conference.

Mr. METCALF. I hope we do not go to conference. I have talked with the House Members and asked what the position of the House was on these various amendments. I refer to the manager of the bill and some of the Members who offered the amendment on the floor of the House and who are trying to improve the capabilities of the Legislative Reference Service. All of them said that if this was a matter of concern to Members on the Senate side, they would try to get along with the present situation and if we needed further staff or another committee, we could do it at a later date.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield, I am sure the able Senator from North Carolina (Mr. JORDAN) would want to express appreciation for that understanding on the part of the Members of the House. I share the feeling of the Senator from Montana with respect to avoiding a conference.

Mr. METCALF. It would be my hope that the Senator from North Carolina would heed the admonition that there be an annual report.

Mr. BYRD of West Virginia. I am sure the Senator from North Carolina will heed that admonition. I thank the distinguished Senator from Montana.

Mr. BOGGS. Mr. President, I just want to comment that this provision would restore the provisions contained in the Senate bill on the Committee on the Library and that were included in the bill passed in 1967. So I am in accord with the floor manager in acceptance of the amendment.

Mr. BYRD of West Virginia. Mr. President, I thank the able Senator from Delaware.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendments (No. 1017) offered by the Senator from West Virginia.

The amendments were agreed to.

PRIVILEGE OF THE FLOOR

Mr. BOGGS. Mr. President, I ask unanimous consent that Mr. George Meador, a former Member of the other body and a former staff member of the joint committee, who worked on this matter for 2 years, be given permission to be on the floor during consideration of this measure, as a help to Senators.

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

AMENDMENT NO. 1018

Mr. McCLELLAN. Mr. President, I call up my amendments No. 1018, and I send to the desk a modified version. I ask that the amendment be modified according to the version I now send to the desk.

The ACTING PRESIDENT pro tempore. The clerk will read the amendment as modified.

The legislative clerk read the amendments (No. 1018) as modified, as follows:

AMENDMENT NO. 1018

On page 6, lines 23 and 24, strike out "(except the Committee on Appropriations)".

On page 9, lines 24 and 25, strike out "(except the Committee on Appropriations)".

On page 11, line 24, strike out "(except the Committee on Appropriations)".

On page 13, line 14, strike out "except" and insert in lieu thereof "including".

On page 15, lines 14 and 15, strike out "(except the Committee on Appropriations)".

On page 18, line 8, strike out "except", and insert in lieu thereof "including".

On page 20, between lines 16 and 17, insert the following new subsection:

"(d) Section 139(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190f(a)) is repealed."

On page 21, strike out all in line 7, and insert in lieu thereof the following new section caption: "COMMITTEE FUNDS AND SENATE APPROPRIATION COMMITTEE EXCEPTION".

On page 21, line 11, strike out the word "subsection", and insert in lieu thereof the words "subsections".

On page 21, lines 12 and 13, strike out "(except the Committee on Appropriations)".

On page 22, line 24, strike out the closing quotation marks and the period which appears last therein.

On page 22, between lines 24 and 25, insert the following new quoted subsection:

"(h) Except as otherwise specifically provided by this section, the foregoing provisions of this section do not apply to the Committee on Appropriations of the Senate.".

On page 2, in that portion of the table of contents relating to title 5 of the bill, strike out the item relating to section 110 thereof, and insert in lieu thereof the following:

"Sec. 110. Committee funds and Senate Appropriations Committee exception."

Beginning with line 3, page 67, strike out all to and including line 4, page 68.

On page 68, line 5, strike out "(f)", and insert in lieu thereof "(b)".

On page 68, line 10, strike out "(g)", and insert in lieu thereof "(c)".

Mr. McCLELLAN. Mr. President, I believe the manager of the bill is just as familiar with the amendments as I am. I have discussed them with him. We agreed to certain modifications of the amendments, which I have made. I trust the manager of the bill will take the amendments to conference and maintain them in the bill.

Mr. METCALF. Mr. President, this amendment deals only with procedures of the Senate Committee on Appropriations. So, whether we go to conference or not, appropriately the duty of the conferees would be to sustain this amendment.

Mr. McCLELLAN. Yes. I said I hope the Senator will retain it.

Mr. METCALF. So, if the amendment is accepted I think it will be retained in the bill.

This amendment deals with procedures of the Senate Committee on Appropriations as contained in title I and title II of H.R. 17654. The amendment is a result of my discussions with Senator RUSSELL, the distinguished chairman of the committee and the distinguished Senator from Arkansas, Senator McCLELLAN.

This amendment recognizes that the appropriations process is indeed a separate and distinct procedure. Accordingly, the provisions of title I of the bill are not made applicable to the Appropriations Committee. This is in line with the action taken by the Senate in 1967 in its consideration of S. 355.

There are a number of provisions in

title II of S. 355 and of S. 844, as reported by the Senate Government Operations Committee last year, which were not included in H.R. 17654. These provisions imposed certain requirements on the Appropriations Committee in the manner of presentation of committee reports and in the consideration of appropriations bills on the floor. After discussions with Senator RUSSELL and Senator MCCLELLAN, I have concluded that these provisions are unnecessary—I will ask the distinguished Senator from Delaware to respond to that in a moment—and I shall not offer them to the pending legislation.

H.R. 17654 also provides a mandatory requirement for hearings on the budget as a whole by both the Senate and House Appropriations Committees. We believed that such a hearing is essential and beneficial since it enables the entire Congress to focus on general budgetary priorities and a report of the hearings would be available to all Members; and many Members of both the House of Representatives and the Senate have asked for public hearings on the whole comprehensive budget. The House Appropriations Committee had been in the practice of holding hearings, but they were executive hearings, a report was not printed for many months, and the information on the hearings was not available to the Members who were not on the Appropriations Committee.

There were two things to be desired. One was that sometime early in the session, the Appropriations Committee take an early and comprehensive look at the budget. The other was that Members who were not on the Appropriations Committee have an opportunity to participate in the report and discussion of this early look at the budget. At that time, the bill was in the Senate first, and we could not tell the House of Representatives that it should hold hearings and not provide the same hearings for the Senate. The bill now provides that these hearings shall be open, and that they shall be held by the House of Representatives, where appropriations measures originate as a matter of longstanding practices; so it does seem unnecessary to have such hearings in both Houses. Accordingly, I have acceded to the wishes of Chairman RUSSELL and I am agreeing as a part of this amendment to strike the mandatory provision from this bill.

Of course, there is no reason why such a hearing may not be held if the committee wishes to do so.

Mr. MCCLELLAN. Or, if the chairman will yield, a majority of the committee.

Mr. METCALF. Or a majority of the committee.

Mr. MCCLELLAN. In other words, they are not precluded from holding such hearings. The House will hold them, and they will be public.

Mr. METCALF. And make a report.

Mr. MCCLELLAN. It would not ordinarily, in my judgment, be necessary for the Senate to duplicate that action.

Mr. METCALF. And are we in accord on the matter of the report?

Mr. MCCLELLAN. Yes.

Mr. METCALF. However, we have agreed that one procedure is important to insure that appropriations bills reflect the views of the entire committee membership when they are reported. There has been some ambiguity as to the requirement for a majority quorum to report an appropriations bill. The Appropriations Committee has followed such a requirement as a matter of practice. We would, by this amendment, write this practice into law and eliminate any ambiguity by specifically requiring a quorum for this purpose.

Mr. MCCLELLAN. I have been on the Appropriations Committee for about 20 years, and I do not recall ever having noted that a bill was reported except when a quorum was present.

Mr. METCALF. I have understood that is the present practice of the committee.

Mr. MCCLELLAN. And I doubt the need for this provision, but as the Senator says, it probably does no harm. I have never known the practice to be departed from. It is perfectly all right.

Mr. METCALF. It resolves an ambiguity in the present rules.

Mr. BOGGS. Mr. President, as both a member of this committee and of the Appropriations Committee, I wish to state that the distinguished floor manager has made a very able and fine statement in regard to this matter, and I commend the chairman of the Appropriations Committee (Mr. RUSSELL) and the Senator from Arkansas (Mr. MCCLELLAN), who have offered the amendment, for offering it. I move that the amendment be accepted.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment (No. 1018) of the Senator from Arkansas.

The amendment was agreed to.

Mr. COOK. Mr. President, I send to the desk an amendment—or I shall send it to the desk in just a moment. I know this is going to cause some debate and confusion, and I want to say first that I wish some of the Senators would stay, because I intend to ask for the yeas and nays.

On page 140 of the bill—and if Senators will read the report, at page 24 there—the minimum age of the pages is raised from 14 to 16. The House of Representatives, if Senators will read the report, wanted the minimum age to be after the 12th year of high school.

I have an amendment which strikes from line 3 the words "Senate or," and adds a new section after line 6, which reads:

A person shall not serve as a page of the Senate—

(1) before he has attained the age of fourteen years; or

I send the amendment to the desk, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. COOK. I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. COOK's amendment is as follows:

Delete that part of line 3 on page 140 beginning with the word "Senate" and ending with the word "or" and add a new section at the end of line (6) which shall read as follows:

"A person shall not serve as a page of the Senate—

(1) before he has attained the age of fourteen years; or"

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

Mr. COOK. I yield.

Mr. MCCLELLAN. The minimum age would be 14, and what would be the maximum?

Mr. COOK. The maximum age would stay, in accordance with the House provision, at age 18.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. COOK. Mr. President, it used to be that a page could be 12 years old. The minimum age was raised to 14, and it is now proposed to raise it to 16.

I point out to Senators—and I hope this will not embarrass him—that the No. 1 floor boy on the Republican side, Mr. Scott, attained the age of 15 years in June. He has been able to do his job so well that he has been put in charge of the other pages. The other pages are of the ages of 15 and 16.

I do not know why it should be necessary that we increase this minimum age by 2 years. As a matter of fact, I might even suggest, Mr. President, that it has been stated to me by a part of the staff in charge of them that the older they get, the harder they get to work with. So I can only say that I think this is doing away with a great tradition. I think we are seeing so many young people throughout this country who would like to be pages in the U.S. Senate that it is now proposed that they have to wait until they are 16. I might suggest, Mr. President, that if we go through the age of 18, we might have to permit some of our pages to leave the Senate because they may be called to serve their country.

I think this would be doing away with a tradition that I want to fight for, frankly, Mr. President, and I see no reason to make a determination of this kind when the history of the Senate started with pages at the age of 12. We then raised the minimum age to 14, and it is now sought to raise it to 16.

I see no grandfather clause in this bill, Mr. President; so I guess that if the bill were passed and signed by the President, every one of these youngsters who has not attained his 16th year would have to leave. Mr. President, I submit that I for one do not intend to impose that kind of restrictive obligation on these young men under these circumstances.

Mr. BOGGS. Mr. President, I might comment that I have no particular objection to the Senator's amendment to keep the age limit in the Senate at 14.

I think the other body wrote in the age limits of 16 to 18 in contemplation of an authorization for the page school, the idea being to have pages of about similar ages in similar grades, to facilitate the operation of the proposed McCormack Page School. Personally, I think that this body should have a right to set the age of its own pages and that the other body should have the right to set the ages of its pages.

Is the Senator's amendment restricted to the Senate?

Mr. COOK. Yes.

Mr. BOGGS. And it would leave the other body with pages aged 16 to 18?

Mr. COOK. Yes.

If the Senator will turn to page 140 of the bill, starting at line 3, I will read:

A person shall not serve as a page of the Senate or House—

My amendment removes the words "Senate or".

Now I refer the Senator to line 5, which reads:

before he has attained the age of 16 years—

After line 6, I add a new section which reads:

A person shall not serve as a page of the Senate—before he has attained the age of 14 years.

Mr. BOGGS. So it applies only to this body.

Mr. COOK. So the House may maintain its own standards, and the Senate may maintain its own standards.

Mr. METCALF. Mr. President, there is a grandfather clause that provides for the pages of the age of 14 to be "grandfathers."

Mr. COOK. That is good. I did not get that far.

Mr. METCALF. In the joint committee, we went the other way. Senator MONRONEY was a proponent of pages of college age, and he wanted to have all the pages of college age. Already we have committed ourselves to pages who are under college age because of the John McCormack School. If we go to the proposal of pages of college age, we will have a school without any students.

If any Senator feels strongly about it, I believe we should cooperate with the House of Representatives. As the Senator from Kentucky has pointed out, a 15-year-old page has done a remarkable job, and other 14- and 15-year-old pages have done equally remarkable jobs.

If the Senator from Delaware would consent, I would accept the amendment, and the Senator could withdraw his——

Mr. COOK. I would withdraw my unanimous-consent request for the yeas and nays if I felt that we would sincerely fight for this in conference.

Mr. METCALF. This would not be in conference.

Mr. BOGGS. This would apply only to the Senate.

Mr. COOK. All right.

Mr. METCALF. In the first place, we do not want to go to conference; and, in the second place, it will not be in conference. It applies only to the Senate.

Mr. COOK. With that in mind, I withdraw my request for the yeas and nays and merely ask that it be done on the basis of a voice vote.

The PRESIDING OFFICER (Mr. MCINTYRE). Does the Senator ask unanimous consent?

Mr. COOK. I ask unanimous consent that the order for the yeas and nays be vacated.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I do not know whether I shall object—I must say, very frankly, that it would be very unfortunate if we should begin now to make a number of changes in this bill. I recognize the perfect right of the Senator from Kentucky to offer this amendment; he is within his rights. But this matter was carefully discussed and debated before. As the distinguished Senator from Montana has already indicated the bill adopted earlier by the Senate required that only college-age students could serve as pages.

I share the high opinion expressed concerning the excellent pages we have now in the Senate, particularly the head page, who happens to be under the age of 16. But he would be protected, of course, by a grandfather clause in the bill.

We have a problem here in the city of Washington, a problem which has become more and more acute in recent years. Unfortunately, some areas of the city—and I refer to areas close to the Capitol Building—are not desirable places for young people, 14 years of age, to live—without the guidance and supervision of their parents. This has concerned a number of Members of both Houses of Congress for a number of years. So far, I must say, we have not done much about the problem.

Of course, we can establish an age bracket for Senate pages that is different from the ages established for House pages. But this will create difficulties. The pages will go to the same school. The school is set up especially for the pages of the Senate, the House and the Supreme Court. It would be much better if the pages coming to school were in the same age bracket.

I am reluctant to accept this amendment if there is no intention of going to conference. If the Senator feels that strongly about his amendment, perhaps we ought to go to conference with the House and see whether there can be argument upon an age limit for pages in both Houses, whether it is 14, 15, or 16. Frankly, I think 16 is a good compromise between the provisions that were in the Senate-passed bill, which required that pages be of college age, and the provision in effect now, which allows pages to be 14.

On reflection, I think we should vote on this amendment, and I hope it will be rejected, I say most respectfully to the Senator from Kentucky.

Mr. COOK. May I say to the Senator, in all fairness, that I did not think this was going to cause such a degree of consternation on his part, because there are other sections in the rules that create new committees, new staffs, and new payrolls that are far more obnoxious to this Senator than lowering the age of pages to 14 years, which is the age now and has been for a long, long time.

I might say to the Senator from Michigan that I am delighted that the Senate took the position of going the other way, because I cannot imagine having a row of young people sitting on the steps who are college graduates or who are in college. I say to the Senator that if these rules apply to the Senate and they are our rules, it has been said to me by those who are in charge of the pages that they would absolutely prefer that the age stay at 14 years. They have absolutely said to me that the older the young men get, the more difficult they may be to handle in regard to their duties and their responsibilities.

This is a matter of tradition that I am really not willing to give up. If we are going to have a major discussion about it, I will renew my request for the yeas and nays.

Mr. METCALF. Mr. President, reserving the right to object—and we are still on the unanimous-consent request—let me say to the Senator from Michigan, who served on the joint committee as a Member of the other body and whose continuing interest in legislative reform has been a great deal of assistance in bringing this bill to the floor, that it was because of the action of the House in creating a dormitory for pages and going into this whole problem that we have answered some of the problems with which we have been confronted with respect to young boys living without supervision in the city of Washington.

They will be residents of a dormitory. They will participate in and go to a school that will ultimately be an accredited high school. We are about to lose our accreditation of the high school because we do not have the proper library or the proper facilities.

In view of the action of the House, this Senator thought we would be willing to go along with the amendment of the Senator from Kentucky.

Mr. GRIFFIN. Mr. President, further reserving the right to object, I know the deep interest the Senator from Montana has and the deep interest the Senator from Delaware has in getting a reform bill passed, and I share that interest.

But I fear we are in a position here where we may be bending too much in an effort to make sure we will not have to go to conference. There is no question in anyone's mind, I am sure, that it would be desirable—not only as to the age of pages but also as to a number of the other housekeeping matters affecting both sides of the Capitol, if there could be agreement between the House and the Senate.

There is no particular need or justification for a variation as between the House and the Senate in age of pages. To have an age difference will be inconvenient and difficult. I think it would be too bad. Accordingly, Mr. President, I do object in order that we can have a rollcall vote.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from Kentucky (Mr. COOK).

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massa-

chusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), and the Senator from Missouri (Mr. SYMINGTON) 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), and the Senator from Ohio (Mr. YOUNG) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea."

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS) would vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from California (Mr. MURPHY) and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from New York (Mr. JAVITS) and the Senator from Oklahoma (Mr. BELLMON) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from California (Mr. MURPHY) would vote "yea."

On this vote, the Senator from New York (Mr. GOODELL) is paired with the Senator from South Dakota (Mr. MUNDT). If present and voting, the Senator from New York would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 48, nays 19, as follows:

[No. 352 Leg.]

YEAS—48

Allen	Eastland	Pearson
Allott	Ellender	Percy
Baker	Ervin	Randolph
Bayh	Gurney	Saxbe
Bible	Hansen	Schweiker
Boggs	Hatfield	Scott
Brooke	Holland	Smith, Maine
Byrd, W. Va.	Hruska	Stennis
Case	Jordan, Idaho	Stevens
Cook	Magnuson	Talmadge
Cooper	Mansfield	Thurmond
Cranston	Mathias	Tower
Curtis	McClellan	Tydings
Dole	Metcalf	Williams, N.J.
Dominick	Miller	Williams, Del.
Eagleton	Packwood	Young, N. Dak.

NAYS—19

Anderson	Hollings	Nelson
Bennett	Hughes	Proxmire
Byrd, Va.	Inouye	Ribicoff
Church	Jackson	Spong
Cotton	McGovern	Yarborough
Griffin	McIntyre	
Hart	Mondale	

NOT VOTING—33

Aiken	Dodd	Goldwater
Bellmon	Fannin	Goodell
Burdick	Fong	Gore
Cannon	Fulbright	Gravel
Harris	McGee	Pell
Hartke	Montoya	Prouty
Javits	Moss	Russell
Jordan, N.C.	Mundt	Smith, Ill.
Kennedy	Murphy	Sparkman
Long	Muskie	Symington
McCarthy	Pastore	Young, Ohio

So Mr. COOK's amendment was agreed to.

Mr. COOK. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. BOGGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I call up my amendment No. 1004.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PACKWOOD. 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, ordered to be printed in the RECORD, is as follows:

On page 6, line 23, immediately after the subsection designation "(a)", insert the following new sentence: "The chairman of each standing, select, and special committee of the Senate shall be chosen by majority vote of the members thereof who are members of the majority party, and the ranking minority member of each such committee shall be chosen by majority vote of the members thereof who are members of the minority party."

Mr. PACKWOOD. Mr. President, in a sentence, this is an amendment to eliminate the seniority system in the Senate.

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

Mr. PACKWOOD. I yield.

Mr. METCALF. Mr. President, this is one of the important amendments that will be offered to the bill. At the same time I know many of our colleagues would like to know when the rollcall vote will come. I wonder if the Senator from Oregon would agree to a time limitation.

Mr. PACKWOOD. I would be happy to. One-half hour on each side?

Mr. METCALF. One-half hour on each side.

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

Mr. METCALF. I yield.

Mr. GRIFFIN. Would the Senator make provision for amendments to the amendment or substitutes therefor?

Mr. METCALF. Mr. President, I ask unanimous consent that the time on this amendment and amendments thereto be limited to 1 hour, the time to be controlled equally between the Senator from Oregon and the manager of the bill, the Senator from Montana.

The PRESIDING OFFICER. Does the Senator from Montana mean 1 hour on this amendment and 1 hour on any amendment to the amendment?

Mr. METCALF. One hour on this amendment and any amendment thereto, or a total of 1 hour.

The PRESIDING OFFICER. Is there objection?

Mr. METCALF. Mr. President, I withdraw my previous unanimous-consent request.

Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. No.

Mr. PACKWOOD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. METCALF. Mr. President, I ask unanimous consent that there be a vote on this amendment at 2:30 p.m., and if debate on this amendment is concluded that we be able to set it aside and take up other amendments, but that the vote be at 2:30 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to objection, and I shall not object, what is the situation with respect to any amendment to the amendment or a substitute for the amendment?

The PRESIDING OFFICER. As the Chair understands, there is not time limit on any amendment to be offered to the pending amendment, but an amendment could be offered at any time up to 2:30, and whatever time is remaining but not consumed on the pending amendment would be available for amendments to the amendment.

Mr. GRIFFIN. And a vote on an amendment would be taken at 2:30 p.m.?

The PRESIDING OFFICER. Yes.

Is there objection? The Chair hears no objection, and it is so ordered.

The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, in a sentence, this is the amendment to eliminate the seniority system in the Senate as the method of selecting committee chairmen.

I realize this is an amendment of some substance and some controversy, or I hope the vote will reflect some controversy on this matter. I made a rather lengthy speech at the time I indicated several weeks ago I would offer this amendment, and I reiterate a few of those points about the amendment now.

First, the seniority system in the Senate did not come about with our Founding Fathers. The seniority system in the Senate was not adopted in this body until 1846, and it was adopted as a matter of expediency. It was adopted because up until 1846 committee chairmen had been selected in one of two ways, principally: they were either elected by fellow Senators or appointed by the Presiding Officer, who on some occasions was the Vice President and on other occasions was the President pro tempore.

One thing is clear as one reads the early CONGRESSIONAL RECORDS. Our Founding Fathers did consider the seniority system and they rejected it time after time. It was offered and they perpetually refused to use it.

The reason it was adopted in 1846 was that the Senate found itself in a perpetual problem. The Senate did not trust the Vice President who insisted on exercising his right to appoint committee chairmen under the existing rules. They had had some previous unhappy experiences with delay in organizing the Sen-

ate because committee chairmen were picked by vote of the Senate, and Members were picked by vote of the Senate, and with sessions taking no more than 6 weeks to 2 months in those days they found themselves taking too much time in organizing committees. So they adopted the seniority system as a quick and expedient way to insure that the majority party would have the chairmanship of committees and that succession to the chairmanship would be by virtue of seniority in the majority party. It was strictly expediency and really an historical accident. From 1846 to this time we have taken that historical accident and almost deified it as a part of our government organization.

I know many of my fellow Senators are going to ask, "If we are going back to picking committee chairman from other than the seniority system will we not face the same problem that was faced prior to 1846? Are we not going to spend weeks and weeks and months and months electing committee chairmen?" I would say no, because the provisions of my amendment allow the majority members of any committee to elect from their own number the committee chairman. So if at any sessions of Congress there is a committee with 15 or 17 members and the majority has 9, 10, or 11 members, they could elect from among their own number their own committee chairman, and we would have no delay in the organization of Congress.

It is interesting to note, if one examines other governments in this world, not a single civilized or uncivilized government uses the seniority system, not any large country, not any small country, no State legislature, no city council in the United States—none of them use the seniority system. No Communist country uses it and no non-Communist country uses it. Only the U.S. Congress of all the governments known to man uses the seniority system.

I had hoped in my research that I might turn up some small Communist country that uses the seniority system so that I could say only Albania and Congress have something of that nature, but I could not find even a small Communist country that uses the seniority system.

Mr. President, I think it is fair to say that no objective observer of the seniority system would defend it. By "objective" I mean somebody not immediately affected by it. The news media throughout the United States uniformly condemns it; academicians who have studied the seniority system condemn it; public opinion polls show overwhelmingly that the public uniformly condemns it; yet we keep it basically because the mathematics of the Senate insures that almost anyone who has been here over 6 or 8 years is on the verge of rising to the top and becoming either a committee chairman or ranking minority member.

When one considers we have 100 Members and 16 standing committees, that means 16 committee chairmen and 16 ranking minority members. It is easy to see why committee members next in seniority say to themselves, "If my committee chairman retires or is defeated or by chance dies, I will be chairman." It is perfectly understandable why perhaps a fair majority have some misgiving about changing the present system. Perhaps I should be the last to complain, because the seniority system absolutely adheres to the benefit of someone who is elected to the Senate at a relatively young age and then continues to be reelected. All he has to do is get here in his midthirties or early forties and continue to be reelected and he will get to be a committee chairman. It takes slightly over two terms, on the average, to become a committee chairman. So that means, with luck, assuming that my party ever attains majorityship in this body, I would have a chance to be a committee chairman when I am 48 or 49.

But the discrimination in this system is against the very talented men and women who are elected to this body at 53, 54, or 55, and just as they reach the place where they might rise to a committee chairmanship, they are playing hide and seek with the insurance mortality tables as to whether they will live long enough to make it.

So, for my benefit, I should just keep quiet, hope that I am reelected, and I will rise to the top.

But I do not think that the obligation of the U.S. Senator is solely for his benefit or is solely for the benefit of his State. We have an obligation to the people of this country to try to give them the best form of government organization we can give them, and the seniority system is perhaps the worst. It does have one saving grace—it is nondiscriminatory. It affects equally well the healthy and the ill. It affects equally well the dull and the bright. And it affects equally well the wicked and the noble. Any man of great ability can rise to the top, and any man of great inability can rise to the top.

Even the law of the jungle seems to be a bit fairer, because in the law of the jungle there is survival of the fittest, whereas in the U.S. Congress we have survival—period.

Mr. President, I shall not tarry much longer with my remarks, because I think every Senator's mind on this particular subject is reasonably well fixed. I would simply ask the Members of this body to look objectively, not subjectively, at this system, to realize that it was never intended by the founders of this country to be a fixed system of government, and that they rejected it on numerous occasions; to look at the system objectively and honestly and say to themselves, "Is this the best method of selecting committee chairmen to preside over obviously powerful committees, which can determine the destiny of this country?" I do not think, in fairness, Senators can answer, "Yes, the seniority system is the best method known."

So I would ask, when we vote, that we consider not ourselves personally, but that we consider the people of this country; that we consider their wishes, their obviously expressed distaste of this system, vote it out, and replace it with a system that selects committee chairmen on the basis of ability rather than on the basis of longevity.

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

Mr. PACKWOOD. I yield.

Mr. DOLE. Would this same system apply to subcommittees?

Mr. PACKWOOD. No, it would not apply to subcommittees. I have checked into it. It appears that subcommittees are picked in a variety of ways. It may vary from committee to committee, and it may vary on committees with respect to taking the ranking member. There is no fixed method in the Senate of selecting subcommittees solely on the basis of seniority.

Mr. DOLE. I think some may be based on seniority and some based on a variety of ways, as the Senator has said. Normally, subcommittees have chairmen who are senior members. Sometimes ranking positions or relatively unimportant subcommittees are given to junior Members. I am, for example, the ranking Republican on the Disaster Subcommittee.

Mr. PACKWOOD. I serve with the Senator from Kansas on the minority side of that committee, and I assure him that he was picked for ability.

Mr. DOLE. I am not sure that happened, but it is a good subcommittee.

I share in part the views expressed by the junior Senator from Oregon. When I first became a Member of the other body I felt the seniority system should be changed. Then, in a few years, the present system looked a little better all the time. Particularly as we searched for some alternative, it looked even better.

I might say that if we had to rely on the election of committee chairmen, there could be—I am not suggesting it would happen—great pressures exerted by those seeking the chairmanship on the Republican or Democratic side in the effort to be elected chairman. This is one fault, or at least one defect, that puzzled many of us on the House side who felt, some years ago, that the system should be changed.

It is not perfect, as the Senator from Oregon has indicated. The route the Senator suggests may be a better one, but many of us on the House side felt it would lay the groundwork for intraparty politicking and at least some pressures being exerted by a majority of one side or another to elect this man or that man chairman. There might be such a division that the committee could not function because of the division among Democrats on one hand and the Republicans on the other.

Mr. PACKWOOD. Bear in mind that my proposal allows only the majority party to vote for chairman. The minority party would have the right to pick the ranking member, but no right to pick any chairman.

Mr. DOLE. I know that, but the point has been made, which has some validity, that if we have this struggle within a committee, if we discard the seniority system, we might well end up with a deep division on the majority and minority sides that would make it almost impossible for the committee to function.

Mr. PACKWOOD. The argument the Senator makes is always the one that is made—that the seniority system at least avoids an intraparty fight. The argument is always made that if the senior member is to become chairman, it avoids any

intraparty struggle. If that argument is valid, why do we not pick our majority and minority leaders and our majority and minority whips on the same basis? In our own party we have gone through two wrenching battles in this Congress on the selection of a whip and then the minority leader. Could not we have avoided it if we had simply picked the senior Republican here and elected him to the position of leadership?

Mr. DOLE. It was a consideration in the wrenching battle the Senator mentions as to whether we should select a senior Member or a less senior one. The more senior Member prevailed, so I would presume it was a very important factor in that exercise last year.

Mr. PACKWOOD. But, interestingly enough, in the last 55 years, in the election of majority party leaders and minority party leaderships and in the election of majority whips and minority whips, only once—and that was when Styles Bridges, for an interim period when he was picked as the Republican leader in 1952—was the senior ranking member in either party selected as the party leader or as the whip. So we have obviously denied it in the selection of our floor leaders.

Mr. DOLE. I cannot vote for the Senator's amendment. It at least raises the question of seniority, and while I would suppose there may be a better way, it appears and I find, in the Senate and in the House of Representatives, that when a man reaches the position of becoming chairman of a committee, he is an expert in the field, by and large. He is not necessarily in the twilight of his career. I feel that by and large, though it may not be perfect, it is not such a bad system.

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

Mr. PACKWOOD. I yield to the Senator from Illinois.

Mr. PERCY. Heretofore, in commenting on the refreshing suggestion of the distinguished Senator from Oregon, I have used rather evasive language, such as, "It is a good thing to debate this issue and get it out before us" or "It raises an interesting question." But I have not really committed myself to it, because I have been somewhat awed by the prospect that now, through the misfortune of our colleague the Senator from South Dakota (Mr. MUNDT) and the working proposition that no one could be chairman of two committees which would probably cause the Senator from New York (Mr. JAVITS) to move over to Labor and Public Welfare to serve as chairman of that committee, I suddenly find myself close to the top of the Committee on Government Operations. The Ripon Society has indicated that I would, by virtue of our system of Senate operation, become chairman, if and when the Republicans take over the control of the Senate, hopefully in January of 1971.

So I face the prospect of being a committee chairman very early in my career—a fact which could cause me to be very hesitant about the suggestion of the Senator from Oregon to change the system which, it seems to me, has worked very well, at least in my case.

But there are other considerations I have to make, which I find confront many of my colleagues.

Quite by accident, many times, we get our first committee assignments. They are often not the first choice or the second choice, and many times not the third or fourth choice, of a freshman Senator.

Through the magnanimity of former Senator Thruston Morton and others, who said that every freshman Senator on the Republican side ought to have at least one relatively major committee assignment, we at least did not all end up crowding ourselves on the District of Columbia or the Post Office and Civil Service Committees. Consequently we each have a responsible committee assignment, though it may not necessarily, and usually is not, our first choice and does not necessarily represent our field of expertise.

Yet, once a Senator is in there and he develops a few years' seniority, he begins to think twice about giving that seniority up and starting at the bottom of the pile on the committee that really provides him with his greatest interest and opportunity to exercise his expertise. The rationalization is, "I would like to run something; it may not be my first choice, but I would rather run my second choice than be lower down the totem pole on my first choice." In my judgment, this works against the general interest we should have. We are not drawn to areas we should gravitate toward: Those areas of our greatest interest and expertise, and those areas in which we can make the greatest contribution.

I also think when we stay rigidly bound to the seniority system, the system tends to underestimate the judgment, the capabilities, and the competence of our colleagues. It has been suggested that by changing the system the rewards will go to the Senator who tries to become the most popular man, or make the most commitments, or promise the most. But we are all practical politicians. We know the devices used by people to secure pull, not on the basis of ability, but on the basis of representations which might not be in the Nation's best interests.

I think we all share the common wish to promote the best interests of the Senate and of the United States, and we want to see those people in leadership positions who can contribute the most, and under whom, because of the challenge, we would most enjoy working.

Such leadership may not necessarily be provided under the seniority system. For very good reasons, we have chosen our majority and minority leaders by the voices of the majority and the minority, not strictly according to the seniority system. I think the leaders we have had—the late Everett McKinley Dirksen, Senator SCOTT, Senator MANSFIELD, and others—prove that this method has worked very well indeed.

Why should not the same procedure, in principle, be used, then, in our committees, where the real work of the Senate is done?

Therefore, even though it might be casting a vote against a sure thing that I would be a committee chairman when we take over control of the Senate, and even though I would be opening myself up to the individual judgment and the free choice of the Republican members of the Committee on Government Operations, I certainly feel that the weight of the evidence and of argument as to what is best for the Senate and the country is on the side of the junior Senator from Oregon.

Once again, I find that when he undertakes the study of a subject, he becomes the master of that subject. I think he probably knows more about the selection of chairmen of legislative bodies than anyone else in the Senate, even though he is a junior Member. His paper on this subject, which I was privileged to be present to hear when he originally presented the idea, was a masterpiece of research, study, and logic. His logic and his research overcome me. I shall cast my vote in favor of his amendment, and I urge my colleagues to do so as well.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. Senators have until the vote at 2:30.

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

Mr. PACKWOOD. I yield to the Senator from Tennessee.

Mr. BAKER. I thank the Senator for yielding on an important matter, of great significance to the Senate at this time.

I do not find myself in the position of one of those whom the distinguished Senator from Oregon characterized as having already made up his mind. I am afraid I have not quite made up my mind. I am frank to say that I have made it a point to try to be here when this debate was conducted, to try to gain some additional information on how this judgment must be made at this time. I still have not quite made up my mind, which is no reflection on the forensic ability of the Senator from Oregon, or that of the Senator from Kansas or the Senator from Illinois, but rather points up a basic ambivalence from which I think the Senate suffers in this respect, which is that, while most of us would agree that the seniority system is not ideally suited for the selection of committee chairmen or ranking members, we have so far been unable to come up with anything with which we would be more at ease, not necessarily on some selfish basis, but on the basis of what is likely to work best under all the circumstances.

It would be an extraordinary thing to claim that pure seniority is always the best answer to the choice of the leader and the next in command of a particular committee. On the other hand, I must take minor issue with the Senator from Oregon when he characterizes the seniority system in the Senate as a pure seniority system. It is not quite that—not in the same way that he referred to the law of the survival of the fittest in the jungle—because in the Senate at least there is the requirement that we face the people every 6 years, and that, in addition to our chronological longevity, we also must earn some degree of political longevity.

Admittedly, the prospects of political longevity are different in different parts of the country. I would feel very comfortable indeed as a candidate for reelection from a very Republican State, which Tennessee is not; maybe even more secure in Oregon. But my constituents point out from time to time that Republicans, especially statewide Republicans, are distinctly perishable commodities in the State of Tennessee.

So there is a process of elimination. There is some hedge or check on how long one does stay here, or how much seniority he is likely to accumulate.

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

Mr. BAKER. The Senator from Oregon has the floor. I am happy to yield to him to respond.

Mr. PACKWOOD. The Senator from Tennessee touches upon one of the very grave defects of the system. It is designed to help hold seniority for those who come from the very one-party States where they are least likely to be defeated. So the greatest States, if we talk about size and population, in this Nation—New York, Illinois, California, and Pennsylvania—hold no committee chairmanships. In most of the States where there is a viable two-party system, and you really have to go to the electorate and put your neck in the noose every 6 years, and may or may not be defeated, you never have the chance, because of the viable two-party system, to hold any chairmanships.

Mr. BAKER. That is frequently so; and if the Senator will yield further, I will say that I was working up to making two points that I think are of significance to this debate, though only tangentially. The first is that I think one-party States are disappearing from the landscape. I think the prospects are such that in the next several years two-party competition will be the rule in every State in the Union, partly as a result of the advent of television, partly because of rapid transportation, partly because it is just happening that way; because one-party domination in a region, a geographical region, is a monolith that is destined to collapse.

Another reason is that I am convinced that the people of the United States now look at themselves as a Nation-State and that regionalism is slipping into oblivion. Therefore, I am convinced that the seniority system in the future will mean less than it has meant in the past.

I am convinced that the discipline of presenting oneself for election at 6-year intervals will present the best method possible for leadership on a particular committee, but I am also convinced that it is not exactly the best method for selecting the committee chairmen.

I am convinced that the Senator's proposal would have a greater chance of adoption if there were some sort of saving clause for existing chairmen or existing ranking Members and if this were innovated over a period of time. I am sure that would do no great violence to the philosophy or the concept, but I am sure it would add to its prospect for success. I do not suggest that he do that now. I rather point out that he is distinctly swimming upstream on this otherwise.

I do not have any idea that I can present nor have I ever presented something that is better. I do not believe that any Member of the Senate will contend seriously that the seniority system is the best. But I do suggest that forces are working in the country and in the Senate that make the seniority system in the Senate less onerous than it is in the House, that make a committee chairman less powerful in the Senate than in the House, and make it more likely that with complete destruction of one-party geographical domination of the country, the evils of the seniority system will be less significant in the future than in the past.

I am hopeful that something can be worked out to modify the pure seniority system on a more institutional basis, but, reluctantly, I am not sure that this would be the way to do it.

I thank the Senator for yielding.

Mr. METCALF. Mr. President, I want to read to my colleagues the present rule on appointment of the chairman of committees. Rule XXIV, paragraph 1, reads as follows:

> In the appointment of the standing committees, the Senate, unless otherwise ordered, shall proceed by ballot to appoint severally the chairman of each committee, and then, by one ballot, the other members necessary to complete the same. A majority of the whole number of votes given shall be necessary to the choice of a chairman of a standing committee, but a plurality of votes shall elect the other members thereof. All other committees shall be appointed by ballot, unless otherwise ordered, and a plurality of votes shall appoint.

If we were to adopt the amendment of the Senator from Oregon, it would be a step backward. It would be a step away from a democratic rule in electing the chairmen of committees. It would provide that part of a committee would elect its chairman. There is no question that experience is necessary to become a diligent chairman, to prepare the agenda, to run a committee. Nevertheless, under the present rule, the newest member of the minority party could be elected chairman of a committee if he could get enough votes on the floor of the Senate.

Of course, as the Senator from Oregon pointed out in his original speech, when he submitted his amendment, Henry Clay was elected Speaker of the House of Representatives when he started his first term because he got enough votes.

Mr. President, it seems to me that we are not attacking a rule. We have the most democratic rule that could possibly be devised—that is, that the chairman of a committee shall be elected by a majority vote of the Senate. Sometimes it may well be that a vote of the majority part on a committee might not reflect the democracy in the Senate. We are not attacking a rule in the seniority system so-called. We are confronted by a party program, largely, and we are confronted by a system.

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

Mr. METCALF. I yield.

Mr. PACKWOOD. When was the last time that rule XXIV was applied as it reads?

Mr. METCALF. I do not know when it was applied.

Mr. PACKWOOD. 1845.

Mr. METCALF. I am not in the fortunate position of some Members on the minority side who are looking forward to a change in Government. I have been in the Senate 10 years and am low in seniority on both my committees, so I am not looking forward to the seniority system giving me any benefit at all. But it is not a matter of how the chairman is elected or appointed or selected. It is the power we give to the chairman.

As the Senator from Oregon knows, in a series of amendments that I am going to submit—conforming amendments which were omitted from the House bill because of comity—I am going to talk about some way to attack meaningfully the so-called seniority system.

It seems to me, in the light of the colloquy that has been engaged in by several Senators, that it would be wrong to adopt a rule such as the Senator from Oregon has suggested and move ourselves away from the most democratic rule that we possibly could have. Let us try to apply the rule, if we are unhappy with the way of selecting chairmen, and try to get enough votes in the Senate, in the next organization of the Senate, to elect the chairmen of the committees. But let us not depart from a rule because of a custom or a tradition, which is much harder to overcome than a rule itself.

Mr. PACKWOOD. The Senator says, "Let us not depart from a rule." We have departed from it for 125 years. There is a clause that reads, "unless otherwise ordered," and it has been ordered in every organization of Congress since 1846.

Mr. METCALF. In every organization of Congress, a caucus is held, new members of the committee are appointed, and then they come in with a resolution that so-and-so shall be chairman of a committee and so-and-so shall be members of the committee, and those members are selected. In the House, there is a conference of the Republican Party and a caucus of the Democratic Party, and that resolution is passed by unanimous consent. A couple of times in the House, as the Senator from Oregon knows, there was a resolution from the caucus that did change the system a little.

Under the Senator's proposal, as I understand it, we would elect the members of the committee in the same way as now, by selection in the caucus, and then the majority would vote for a chairman and the minority would vote for its ranking member. Is that the way the Senator's amendment would work?

Mr. PACKWOOD. That is the way my amendment would work. That is correct.

Mr. METCALF. In this body, would we have a continuation of the seniority system for people who continue to serve on the committees?

Mr. PACKWOOD. Is the Senator talking about new Members being appointed or about existing members on the committee?

Mr. METCALF. Would we have a right to change the membership of the committees?

Mr. PACKWOOD. My amendment does not in any way affect the way either party chooses to put people on a committee. It deals only with the selection of the committee chairman after the two parties, respectively, are appointed, elected, or selected, or whatever way they want to get their people on the committee.

Mr. METCALF. The present rule provides for the selection of the members of the committee by the Senate.

Mr. PACKWOOD. That is right.

Mr. METCALF. By the entire Senate. The Senate has been recognized by the rulings of several Vice Presidents as a continuing body. Would members of the committee be continuing members as long as they remained Members of the body, or would they be replaced?

Mr. PACKWOOD. The Senator is well aware that people do change committees. Even though this is a continuing body, they move from one to another. The Democratic Party has a slightly different method of picking Members than does the Republican Party. I have misgivings about the way both parties pick them. I am not quarreling now with the way committee members are picked, only the way the chairmen are picked.

Mr. GRIFFIN. Mr. President, I have listened very carefully to the explanation of the distinguished Senator from Montana, and I must say that he is absolutely right concerning his explanation of the present rules of the Senate. I would suggest that the complaint of the Senator from Oregon is directed not so much against the existing rules as the fact that the existing rules are not being observed.

Mr. METCALF. Technically, they are being observed. A resolution comes in and it is adopted by unanimous consent. If the Senator from Oregon would object to that unanimous consent, then we would probably have a rollcall vote.

Mr. GRIFFIN. Let us get to the heart of the matter. The observance or recognition of seniority has nothing to do with the rules of the Senate. Seniority is a matter that is observed and controlled by each party within its caucus.

Mr. METCALF. Correct.

Mr. GRIFFIN. We have observed the truth of that statement in the other body. As I recall, the majority party in the other party saw fit to take away—or refuse to recognize—the seniority of a particular Member who needed to be disciplined—or so a majority of the caucus concluded. Seniority is nothing more or less than a tradition which each party is free to observe or ignore.

Now, I realize that this amendment may be hailed in the press and elsewhere, as an amendment which would do away with seniority. Of course, it would not, even if it were adopted because seniority is observed in many ways other than in the selection of the chairman of a committee.

For instance, where Senators sit in this Chamber has been determined on the basis of seniority. The location of our offices in the office building has been determined on the basis of seniority. There are other matters which are resolved now on a seniority basis. If we should conclude that it would be desirable to do away with seniority as the basis for selecting the chairman of a committee, I am not at all sure that the method selected by the Senator from Oregon is the best one. There is a good case to be made that, in order to reinforce party strength and discipline, it would be well to have the majority leader designate the chairman of each committee and the minority to designate the ranking member of each committee. Another method which I would favor over the proposal set forth in this amendment would be to have committee chairmen elected by all the members of the majority party, while ranking committee members are elected by all the minority members.

I would call the attention of the Senate to the fact that on the other side of the Capitol, House Republicans have a task force charged with the responsibility of recommending appropriate changes in the seniority system. I understand it is more than just another study committee; it is actually making headway toward sensible and reasonable reforms in the seniority system. I believe it would be appropriate now for the Senate to move in that way.

Mr. PACKWOOD. Well, there are studies and there are studies. Next to the method by which we select the President, I can think of no topic that has been studied more, in and out of Congress, than the seniority system. One more study, if done objectively, would only reveal that there is a better method of selecting the chairman of a committee than by the seniority system.

The Senator from Michigan refers to the selection of our desks on the basis of seniority, as well as office space. I would be perfectly willing to make an arrangement and would go even further, if he is ready to concede my point on committee chairmen, that I will concede his point on desks and office space, and even throw in parking space, to be selected on the basis of seniority. That might be a fair apportionment of the way in which seniority should operate. I would be willing to meet with the Senator from Michigan to find a method that might be better than that which I have proposed to pick a committee chairman.

I am merely saying that selection of a chairman by the committee is better than the seniority process. I am not saying my method is the be-all and the end-all of civilized government, because throughout the world there are two principles by which a committee chairman is selected—maybe three: First, is by election by a committee; second, is by election of the entire body; and third, is by appointment of the majority leader, the prime minister, or whoever is the head of the government in the different nations.

I seriously toyed with the idea of having my amendment provide that the majority and minority leaders make the committee appointments. But I knew that if I did, there would be allegations of bossism and favoritism which would be so rampant that it would be argued, in and of itself, it would be giving Senators MANSFIELD and SCOTT the power to appoint committee chairmen and committee members, possibly, and that would be giving two men too much power.

Thus, I chose the method of electing the chairman by the majority of committee members, because all of us cannot serve on a committee of 15 or 16 members for 2, 4, or 6 years without getting an accurate, honest idea in our minds of who the best man is on the committee to be its chairman.

Mr. GRIFFIN. May I ask the Senator, What is the Senator going to do if his amendment is agreed to and it becomes a part of the rules of the Senate, and then the rule is not observed, as the present rule is not observed, and the Senate goes on making its decisions on the basis of seniority?

Mr. PACKWOOD. We would have a tough time not observing it because it would be individual law as opposed to rules. As the Senator from Michigan indicates, the present rules are not disobeyed, but there is that little clause which says, "as otherwise ordered," and that is what we have done, to come in with a prepared list and in theory observing rule 15, that a body shall elect its chairman on a separate ballot and elect its members on another ballot.

Mr. METCALF. Does the Senator have any illusions, if we adopt his rule or proposal, that there would be a different committee chairman on any committee in the next Congress?

Mr. PACKWOOD. Yes. I mean, maybe—I am not sure. I think it would be a——

Mr. METCALF. I would be willing to wager—if it is proper to make a wager on the floor of the Senate—that if we elect the committee chairmen by the method the Senator proposes, we would have exactly the same committee chairmen in the new Congress that we had before. It we are the majority party, we would have the same committee chairmen next year. If the Senator's party is in the majority, then the senior members will be elected members of the committee.

Mr. PACKWOOD. The Senator's wager is interesting enough. We should get it going and see what happens. If it does not work out, then——

Mr. METCALF. Maybe we should give it a try, but I agree with the Senator from Michigan, I am not sure, even if we wanted to abandon this system that has grown up, that the proposal of the Senator from Oregon is the best way to do it.

He said that this has been studied to death but I feel that, here in a reorganization bill, I would not want to take on what I feel would be a step backward so far as the rules are concerned.

Maybe, as the Senator from Michigan has pointed out, we should try to do what has been done in the other body, have some one come in and make recommendations. If someone does come in and make recommendations to change our designation of a committee chairman, perhaps the rule would be observed or perhaps instead the system would be at-

tacked. They remove committee chairmen in the other body under the rule we have here. Neither the Senator from Michigan nor I was there at the time. However, we know what happened.

Mr. GRIFFIN. Mr. President, to carry the point a step further, I would suggest that the appropriate way to enforce the existing rules would be for a Senator, in the majority caucus at the beginning of a new Congress, to nominate someone for chairman of a committee—someone other than the person who would ordinarily attain that position by virtue of his seniority. If such a nomination were made, there could be a vote—a choice could be made.

There is nothing to prevent that course of action at the present time.

Mr. METCALF. Not a thing.

Mr. GRIFFIN. The rule of seniority is not a rule at all. It can be observed or ignored by each party at will.

Mr. PACKWOOD. Mr. President, I am aware that it can be overcome. I am not very optimistic that it will be overcome. We need something in the law that gives some impetus to make us do it. Because we have followed the same rule for 140 years, we are not optimistic that lightning will strike next January.

Mr. GRIFFIN. Mr. President, I thank the Senator for yielding.

Mr. METCALF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METCALF. Mr. President, can the pending amendment be set aside until 2:30?

The PRESIDING OFFICER. That can be done by unanimous consent.

Mr. METCALF. And can we then present another amendment and vote on the pending amendment at 2:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. That would be agreeable. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PACKWOOD. Mr. President, did we not have an order to vote at 2:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. METCALF. Mr. President, I do not want to lock out anyone who may have an amendment to this amendment and prevent him from bringing the amendment up between now and the time set for a vote.

Mr. ALLEN. Mr. President, I have no objection.

Mr. METCALF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METCALF. Mr. President, may I offer another amendment at this time?

The PRESIDING OFFICER. That may be done by unanimous consent.

Mr. METCALF. And that would not foreclose the Senator from Maryland or anyone else from offering an amendment to the amendment of the Senator from Oregon or a qualifying or modifying amendment after the action on my amendment was completed?

The PRESIDING OFFICER. After his amendment is disposed of, then the Packwood amendment would come back before the Senate again.

Mr. PACKWOOD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PACKWOOD. Mr. President, if we go ahead until 2:30, when the time to vote on my amendment arrives, and someone offers a substitute amendment, what are the time limitations on debate at that time?

The PRESIDING OFFICER. There can be no further debate.

Mr. PACKWOOD. Mr. President, I thank the Chair.

Mr. METCALF. Mr. President, I ask unanimous consent that I be permitted to proceed to the consideration of another amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. METCALF. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. METCALF) proposes an amendment: on page 140, line 12, after the word "convening", insert "or reconvening".

Mr. METCALF. Mr. President, this is a technical amendment. We have already had the debate and discussion about the pages. We have put in the bill a provision for a long August recess—at least in nonelection years.

This amendment would make sure that the pages continue on the payroll and be on the payroll during the recess.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

Mr. METCALF. Mr. President, I ask unanimous consent that I may proceed to the consideration of another amendment.

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

Mr. METCALF. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. METCALF) proposes an amendment:

On page 55, between lines 3 and 4, insert the following new section:

JURISDICTION OF STANDING COMMITTEES OF THE SENATE

SEC. 130. Paragraph 1 of Rule XXV of the Standing Rules of the Senate is amended—

(1) by striking out in subparagraph (e)—"Committee on Banking and Currency," and inserting in lieu thereof—"Committee on Banking, Housing and Urban Affairs,"; and

(2) by adding at the end of subparagraph (e) the following item:

"10. Urban affairs generally.".

On page 2, in the table of contents, immediately after the item relating to section 129 of title I of the bill, insert the following new item:

SEC. 130. Jurisdiction of standing committees of the Senate.

Mr. METCALF. Mr. President, the House bill did not include any provisions for Senate Committee jurisdiction for reasons of comity. Thus, it is necessary to add those provisions to H.R. 17654, to bring the bill in line with previous Senate action.

The proposed amendment would adopt the provisions of S. 844 as reported by the Senate Government Operations Committee in 1969. These provisions were also adopted by the Senate in 1967 by a vote of 75–9 as a part of S. 355.

This amendment would redesignate the Senate Committee on Banking and Currency as the Senate Committee on Banking, Housing, and Urban Affairs and would add "urban affairs generally" to the committee's jurisdiction. This is a long overdue recognition of the committee's role in the housing area and its paramount responsibility for burgeoning urban problems. I am not aware of any controversy over this redesignation when it was adopted in 1967 and ask that the Senate reaffirm this action by including it in the House bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MATHIAS. Mr. President, I have an amendment to the amendment at the desk. I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an amendment to the Packwood amendment:

On lines 4 and 5, strike the words "the members thereof who are", and on lines 7 and 8, strike the words "thereof who are members".

Mr. MATHIAS. Mr. President, I have offered this amendment in an attempt to be helpful in achieving the goal that the proponent of the original amendment had in mind—or which I believe he had in mind—which is to mitigate the unfortunate aspects of the seniority rule which have prevailed in both Houses of Congress, which I have observed in operation in both Houses of Congress, and which I think are questioned and questioned very seriously by most of the American people.

I was interested a few moments ago when the distinguished Senator from Montana was commenting on the original Packwood amendment, he pointed out that the existing rule of the Senate that the chairmen of the committees are to be elected by the full Senate is, in itself, the most democratic rule we could have. I agree with him. I do not think a Member of the Senate could disagree with that. It is the perfect way to do it: to have all the

Senate elect the chief officers of the Senate. Certainly, the chairmen of the committees should be numbered among the chief officers of the Senate. It is the perfect way to do it and it is the most democratic way to do it.

The only problem is that it does not work. It has not been done that way for years. The rule book says it, but we all know there is an unwritten law that operates otherwise. It just does not work the way it is written. So while I agree with the distinguished Senator, I believe we have to move in some direction which will give life, vitality, and meaning to the rules of the Senate.

First of all I wish to express my appreciation to the committee which has brought this bill to the floor of the Senate. I think they have done something more significant in the bill than this amendment would ever do—whether in its original form or as I have proposed it be altered—because more important than the personality of the man who sits at the head of the table is the question of the determination of the agenda of the committee.

For example, if a strong chairman chooses to prevent the committee from considering some measure that a majority of the committee wants to discuss and act upon, that control of the agenda is the most significant power that a chairman chosen by any system can have. Under the bill the rights of committee members are very clearly defined. It is my understanding that the bill is intended to give to committee members, as opposed to the committee chairman, the prerogative of determining the agenda of the committee. This is an essential right and I think that if we did nothing else in this bill than to make the matter of determination of committee agendas the function of the majority of each committee, we would have come a long way toward reform of Congress. I do, therefore, congratulate the distinguished Senator and his colleagues on the committee for their achievement in that respect.

But getting back to the question of the selection of committee chairmen, the present system is more honored in the breach than in the observance. The unwritten rules prevail over the written rules. I think that what Thomas Jefferson called a decent respect for the opinion of mankind demands that we make some change.

I have no real objection to the proposal of the distinguished Senator from Oregon except that I think it limits the arena very narrowly. Those on one side of the committee table choose up sides to pick the chairman and those on the other side of the committee table choose up sides to pick the ranking minority member. This is not just a case of musical chairs. There is a lot of power which goes with the committee chairmanship. The temptation to have the potential of that power within reach and to have, in effect, the operation of the committee throughout the year prostituted to the day of reorganization would be very great. I think it could disrupt the normally amiable relationships within a committee without achieving the purpose of advancing to the chair the most able and most effective member of the committee to preside over the legislative function of the committee.

I believe that we could achieve the goals of the Senator from Oregon, that we could revitalize the system by seeking a departure from the existing rule, but in a somewhat larger arena than the single side of a committee table, and that larger arena which seems to be appropriate in the party caucus. After all, Members of the Senate have broad interests in the work of the various committees that bring bills to the floor of the Senate. The committees are not the parochial preserve of the members; the committees are the responsibility, as well as the interest of the entire Senate.

It seems to me that the chairman and the ranking minority member should be chosen by a caucus of the respective party of each. This would be simple; it would be direct. I think the arena of the party caucus is small enough that it would arouse some competitive spirit and that the rule would have vitality, and that there would be competition, and yet it would not be so small that petty cabals within a committee would be constantly under way in an effort to unseat one chairman or to seat another.

So I have proposed this amendment, which I believe, as I have said, accomplishes the purpose of reforming the seniority system but does so more realistically and more pragmatically.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

Mr. MATHIAS. I am glad to yield to the distinguished Senator from Oregon.

Mr. PACKWOOD. Under the Senator's amendment to my amendment, does the Senator envision that when the majority and minority parties meet in January to organize in their caucuses, anyone in either party who wishes to seek the chairmanship or the ranking minority position on particular committees he is assigned to may have his name placed in nomination, regardless of his position in the Senate, and that the caucus will then vote in secret as to who is to have that position?

Mr. MATHIAS. As the Senator from Oregon knows, the present practice in the minority party is that a secret ballot is available in the election of officials in the Republican caucus. Perhaps the Senator from Montana (Mr. METCALF) can enlighten us as to the practice in the majority party, but it certainly would be my feeling that the caucus would have a secret ballot available if that were decided by the caucus, but that would be determined by the caucus itself.

Mr. METCALF. Mr. President, since the Senator from Maryland mentioned me, let me say I have grave misgivings about this sort of amendment, because the committees are an official part and children of the Senate itself, and the present rule is that the committee chairmen shall be selected by the Senate itself. The Senator from Oregon would have the official bodies of the Senate functioning within the committees themselves. The misgiving I have about the approach of the Senator from Maryland is that the conferences, the caucuses, and so forth, are not official agencies of the Senate. For example, to refer a bill to the Republican caucus or conference is just ridiculous——

Mr. MATHIAS. Mr. President, if the Senator will yield just for an observation, it is not as farfetched as the Senator would have it appear.

Mr. METCALF. The whole point is that we are departing from the concept of a Senate that functions and operates through the committee system, and the chairmen are selected either by the committees themselves, as the official bodies of the Senate, or the Members of the Senate themselves within the Senate.

Mr. MATHIAS. I appreciate the point of view of the distinguished Senator. As I said earlier, I agree with him entirely on the theory that he advances. I agree with him entirely on the theory that the Senate should have the operational control of the committees. But the point I share with the Senator from Oregon is the fact that, correct and accurate as the theory may be, it is not working out in practice. I believe what he wants to do, and what I would like to see done, with only a small difference of opinion with reference to the size of the electorate we are discussing, is to breathe some life into this theory which, for all intents and purposes, is a dead letter today.

Mr. PACKWOOD. Mr. President, will the Senator from Montana yield? Does he have the floor?

Mr. METCALF. I think the Senator from Maryland has the floor.

Mr. MATHIAS. I yield.

Mr. PACKWOOD. Is the only objection to the suggestion of the Senator from Maryland that it is putting the power in the hands of the caucus?

Mr. METCALF. No. I object to the amendment of the Senator from Oregon, and I also object to the amendment offered by the Senator from Maryland to the amendment of the Senator from Oregon. I see no reason why the goal of the Senator from Maryland cannot be accomplished under the present rules of the caucus, of going into the caucus and having the Senator from Maryland or the Senator from Oregon make a nomination and have it voted up or down.

Mr. PACKWOOD. Is it not a fact that the Senate today acquiesces to what the caucus has determined? How long has it been since the Senate has exercised its right as a body to act independently on what the caucus has done?

Mr. METCALF. The Senator from Oregon has made a more thorough research than I have on it, and if he has anything to say on that, I will accept it.

Mr. PACKWOOD. Then why does the

Senator object to the proposal of the Senator from Maryland, which is simply that the caucus will determine how to pick the chairman and ranking members of a committee?

Mr. METCALF. I object to it because it brings into the actual rules of the Senate an outside body, and under the research of the Senator from Oregon, that is exactly what happens today. A Senator goes to the caucus or the conference. They select the members of the committee and determine which Member of the Senate is going to be chairman. They bring a resolution to the Senate floor. The majority leader stands up and offers a resolution. It is adopted without objection, and the Senate selects the members of the committees and the chairmen.

There is not any reason why, under the present rules of the Senate, without a single change, the Senator from Oregon cannot stand up in his party caucus and nominate anyone he wants to for ranking minority leader or chairman, depending on which party he represents, and if he can get enough votes, that man, under the present rules, will be elected. Why change the rules at all?

Mr. PACKWOOD. Because it will take an outside spur to cause this body to change its practice of 125 years.

Mr. METCALF. I do not like to have an outside spur by bringing into the Senate coterie some outside agency.

Mr. MATHIAS. Mr. President, if the Senator will change the metaphor a little bit, let us say that, instead of a spur, we just need to light a very small firecracker.

A very small firecracker; that is all this is, because, as the distinguished Senator said himself, in theory what is proposed here could be done today.

I think what is needed is to show, by the affirmative vote of the Senate, that it is the will of the Senate that this change be made. Because, as the Senator has pointed out, it is such a small change, I call it a small firecracker.

Mr. METCALF. A short spur.

Mr. MATHIAS. But I think it is one that would have echoes that would reverberate around Capitol Hill for some time.

Mr. METCALF. I still feel that we should try to make the most democratic rule, which is the present rule, work. There is the machinery at present to make it work as the Senator from Maryland wishes to have it work, and I would regret it if we change the rules to some less democratic procedure, and bring in some outside agency to participate in the organization of the Senate before some of the leaders on the minority side, and maybe some on my side, and assert that the senatorial custom and tradition—not the rules, but the system—should be abandoned.

Mr. MATHIAS. Mr. President, let me say to the Senator that I am not insensitive to the point that he raises that the committees are the creatures of the Senate, for which the Senate has responsibility. I might have considered suggesting that the caucus nominate a chairman and a ranking minority member, which the Senate would then proceed to elect. But when I was a Member of the other body in years gone by, we had that system over there, as the Senator well knows, and it is really just as much of a dead letter as our broader and more democratic rule in the Senate.

Perhaps what we are all groping for is that we are not changing words, letters, commas, and paragraphs, we are trying to change the spirit of this institution, and it is that spirit that we are appealing to. I think I share this view with the Senator from Oregon. I feel sure that I do. We are appealing to the spirit here, and we need this symbolic change to make it clear that there is a new spirit of participation alive here on Capitol Hill.

Mr. METCALF. Mr. President, if the Senator will yield, I think the discussion has been a useful one, no matter what the final result of the rollcall vote. I think all of us are groping, as the Senator suggests, for some answer to this problem that there should be a better way to elect competent, trained, skilled, and experienced men as chairmen of committees.

Mr. MATHIAS. I am about to yield the floor, Mr. President, but before I do, I would just like to repeat what I said earlier, that I think we are indebted to the Senator from Montana and his colleagues on the committee for the fact that they have undertaken to give the control of the committee agenda to the members of the committee. I hope that this legislative history on this bill will make that abundantly clear, because, as dedicated as I am to my own amendment and the goals that are embodied in the amendment of the Senator from Oregon, I think this question of control of the agenda is paramount to every other consideration of committee procedure.

Mr. President, I yield the floor.

Mr. ALLEN. Mr. President, I oppose the amendment offered by the distinguished Senator from Oregon (Mr. PACKWOOD).

As the junior Senator from Alabama, having taken office in January 1969, I do not anticipate that under the present seniority system I shall occupy an important chairmanship during my service in the Senate. But at the same time, I believe that the seniority system for choosing the chairmen of the Senate committees is the best system that we could possibly devise.

Certainly we should not, at every new session of Congress, throw the committees into the confusion of electing a new chairman, or having the position up for grabs, subject to log-rolling inside the committee, and having the various candidates for chairman politic and campaign among the membership of the committee.

With long years of service in the Senate and on the various committees, through the seniority system, the chairmen have great knowledge of the business coming before the Senate, and while they may not be the best politicians on the committee, they certainly have as great or greater knowledge of the work of the committee than could a new chairman, coming up and being elected at each new session of Congress.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I am glad to yield to the distinguished Senator from North Carolina.

Mr. ERVIN. Am I to assume, from what the Senator from Alabama has said, that the Senator from Alabama does not think the newest recruit ought to be made the Commander in Chief of the Armed Forces?

Mr. ALLEN. Yes, sir; that would be a good way to put it.

Mr. ERVIN. The Senator from Alabama has not reached the point, being quite a young fellow himself, that the Senator from North Carolina has reached; but does not the Senator from Alabama agree with the Senator from North Carolina that if we are going to give what is equivalent to seniority to young people, we ought to do something practical about the propensity of the Almighty to give all of youth to young people? Does not the Senator from Alabama think we ought to require the Almighty to give a little bit of youth to old people, too?

Mr. ALLEN. Yes. I might say, in that connection, that George Bernard Shaw once said youth is such a wonderful thing, it is a shame it is wasted on young people.

Mr. ERVIN. I think that is a very sage observation. I could do so much more with youth now than I could do with it when I had it.

Mr. ALLEN. I thank the Senator from North Carolina.

Mr. President, I have sought the floor at this time for the purpose of stating that I shall not be in the Senate Chamber at 2:30, when the vote is taken on the amendment of the distinguished Senator from Oregon, but I do want to go on record as expressing my views with respect to the amendment.

From what I have understood from talking with a number of other Senators, the amendment does not stand a great deal of chance of being agreed to.

Mr. President, it will be necessary that I be absent from the Senate at 2:30 this afternoon, because at that time the Honorable Armistead I. Selden, Jr., former Member of Congress from Alabama, will be sworn in at the Pentagon as principal Deputy Assistant Secretary of Defense for International Security Affairs. As the junior Senator from Alabama, I want to be on hand at the time of this swearing in, and unfortunately I will not be able to cast my vote on the pending amendment.

Mr. Selden served for 16 years in the U.S. Congress from Alabama. He served with ability and distinction. He was a member of the Foreign Relations Committee of the House and was chairman of the Subcommittee on Inter-American Affairs. In the 1968 Democratic primary in Alabama, Mr. Selden and I were candidates for the Democratic nomination for the office of U.S. Senator, and he was an able, a fair, and an honorable opponent.

I am delighted that the President of the United States has seen fit to offer Mr. Selden this position in the sub-Cabinet. I wish Mr. Selden well. I know that he will perform outstanding service in this capacity.

So, Mr. President, in order that I might be on hand at the time of Mr. Selden's swearing in, inasmuch as we have been friends through the years and did not lose that friendship even though we were candidates for the same office, I ask unanimous consent that I may absent myself from the proceedings of the Senate during that time.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. METCALF. Mr. President, I ask unanimous consent that the pending amendment be set aside and that I be permitted to submit an amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment of the Senator from Montana will be stated.

The legislative clerk proceeded to read the amendment.

Mr. METCALF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 55, between lines 3 and 4, insert the following new section:

MEMBERSHIP OF STANDING COMMITTEES OF THE SENATE

SEC. 130. (a) Paragraph 1 of rule XXV of the Standing Rules of the Senate, as such paragraph existed on the day preceding the effective date of this section is amended—

(1) by striking out in subparagraph (a) the words "to consist of fifteen Senators,";

(2) by striking out in subparagraph (b) the words "to consist of thirteen Senators,";

(3) by striking out in subparagraph (c) the words "to consist of twenty-four Senators,";

(4) by striking out in subparagraph (d) the words "to consist of eighteen Senators,";

(5) by striking out in subparagraph (e) the words "to consist of fifteen Senators,";

(6) by striking out in subparagraph (f) the words "to consist of nineteen Senators,";

(7) by striking out in subparagraph (g) the words "to consist of seven Senators,";

(8) by striking out in subparagraph (h) the words "to consist of seventeen Senators,";

(9) by striking out in subparagraph (i) the words "to consist of fifteen Senators,";

(10) by striking out in subparagraph (j) (1) the words "to consist of fifteen Senators,";

(11) by striking out in subparagraph (k) the words "to consist of seventeen Senators,";

(12) by striking out in subparagraph (l) the words "to consist of seventeen Senators,";

(13) by striking out in subparagraph (m) the words "to consist of seventeen Senators,";

(14) by striking out in subparagraph (n) the words "to consist of twelve Senators,";

(15) by striking out in subparagraph (o) the words "to consist of fifteen Senators,"; and

(16) by striking out in subparagraph (p) (1) the words "to consist of nine Senators,".

(b) Paragraphs 2, 3, 4, and 5 of rule XXV of the Standing Rules of the Senate are redesignated as paragraphs 4, 5, 6, and 7 thereof, respectively.

(c) Rule XXV of the Standing Rules of the Senate is amended by inserting therein, immediately after paragraph 1, the following new paragraphs:

"2. Except as otherwise provided by paragraph 6 of this rule, each of the following standing committees shall consist of the numbers of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee	*Members*
"Aeronautical and Space Sciences	14
"Agriculture and Forestry	13
"Appropriations	24
"Armed Services	15
"Banking, Housing, and Urban Affairs	15
"Commerce	17
"Finance	15
"Foreign Relations	15
"Government Operations	14
"Interior and Insular Affairs	14
"Judiciary	15
"Labor and Public Welfare	15
"Public Works	14,

"3. Except as otherwise provided by paragraph 6 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee	*Members*
"District of Columbia	7
"Post Office and Civil Service	9
"Rules and Administration	9.".

(d) Paragraph 6 of rule XXV of the Standing Rules of the Senate (as redesignated) is amended to read as follows:

"6. (a) Except as otherwise provided by this paragraph, each Senator shall serve on two and no more of the standing committees named in paragraph 2. Except as otherwise provided by this paragraph, no Senator shall serve on more than one committee included within the following classes: standing committees named in paragraph 3; select and special committees of the Senate; and joint committees of the Congress.

"(b) Each Senator who on the day preceding the effective date of section 130 of the Legislative Reorganization Act of 1970 was serving as a member of any standing committee shall be entitled to continue to serve on each such committee of which he was a member on that day as long as his service as a member of such committee remains continuous after that day. Each Senator who (1) on that day was serving as a member of the Committee on Aeronautical and Space Sciences or the Committee on Government Operations, (2) on that date was entitled, under the proviso contained in the first sentence of paragraph 4 of this rule as such rule existed on that day, to serve on three committees named in that sentence, and (3) on June 30, 1971, is serving on three such committees, of which at least one is the Committee on Aeronautical and Space Sciences or the Committee on Government Operations, shall be entitled to continue to serve on each of the committees of which he is a member on June 30, 1971, so long as his service as a member of each such committee remains continuous thereafter. Each Senator who, on the day preceding the effective date of section 130 of the Legislative Reorganization Act of 1970, was a member of more than one committee of the classes described in the second sentence of subparagraph (a) shall be entitled to serve on each such committee of which he was a member on that day as long as his service as a member of that committee remains continuous after that day. Notwithstanding the provisions of paragraphs 2 and 3, each committee of the Senate shall be temporarily increased in membership by such number as may be required to carry into effect the provisions of this subparagraph.

"(c) By agreement entered into by the majority leader and the minority leader, the membership of one or more of the standing committees named in paragraph 2 or paragraph 3 of this rule may be increased temporarily from time to time by such number or numbers as may be required to accord to the majority party a majority of the membership of all standing committees. When any such temporary increase is necessary to accord to the majority party a majority of the membership of all standing committees, members of the majority party in such number as may be required for that purpose may serve as members of three standing committees named in paragraph 2. No such temporary increase in the membership of one or more standing committees under this subparagraph or subparagraph (a) shall be continued in effect after the need therefor has ended. No standing committee may be increased in membership under this subparagraph or subparagraph (a) by more than four members in excess of the number prescribed for that committee by paragraph 2 or paragraph 3 of this rule.

"(d) Notwithstanding the limitations contained in subparagraph (a), a Senator may serve at any time on one additional committee included within the following classes: a temporary committee of the Senate or a temporary joint committee of the Congress which, by the terms of the measure by which it was established as initially agreed to, will not continue in existence for more than one Congress; or a joint committee of the Congress having jurisdiction with respect to a subject matter which is directly related to the jurisdiction of a committee named in paragraph 3 of which that Senator is a member.

"(e) No Senator shall serve at any time on more than one of the following committees: Committee on Appropriations, Committee on Armed Services, Committee on Finance, and Committee on Foreign Relations. Notwithstanding the limitation contained in this subparagraph, a Senator who on the day preceding the effective date of section 130 of the Legislative Reorganization Act of 1970 was a member of more than one such committee may continue to serve as a member of each such committee of which he was a member on that day as long as his service on that committee remains continuous after that day.

"(f) No Senator shall serve at any time as chairman of more than one committee included within the following classes: standing, select, and special committees of the Senate; and joint committees of the Congress except that—

"(1) A Senator may serve as chairman of a joint committee of the Congress having jurisdiction with respect to a subject matter which is directly related to the jurisdiction of a committee named in paragraph 2 or paragraph 3 of which that Senator is the chairman;

"(2) A Senator who on the day preceding the effective date of section 130 of the Legislative Reorganization Act of 1970 was serving as chairman of more than one committee included within the classes described in this subparagraph may continue to serve as chairman of each such committee of which he was chairman on that day as long as his service as chairman of that committee remains continuous after that day; and

"(3) A Senator who is serving at any time as chairman of a committee included within the classes described in this subparagraph may at the same time serve also as chairman

of one temporary committee of the Senate or temporary joint committtee of the Congress which, by the terms of the measure by which it was established as originally agreed to, will not continue in existence for more than one Congress.

"(g) No Senator shall serve at any time as chairman of more than one subcommittee of the same committee if that committee is named in paragraph 2. Notwithstanding the limitation contained in this subparagraph, a Senator who on the day preceding the effective date of section 130 of the Legislative Reorganization Act of 1970 was serving as chairman of more than one such subcommittee may continue to serve as chairman of each such subcommittee of which he was chairman on that day as long as his service as chairman of that subcommittee remains continuous after that day.".

On page 2, in the table of contents, immediately after the item relating to section 129 of title I of the bill, insert the following new item:

SEC. 130. Membership of standing committees of the Senate.

Mr. METCALF. Mr. President, this amendment would do something for the seniority system that is meaningful and appropriate. By operation of the seniority system, Senate committee assignments have gravitated to the senior Members. For example, one Senator in the previous Congress had 39 separate committee assignments. The workload of the Senate has become proportionately greater and greater. It is not who is going to be chairman of the committee but who is going to be on the subcommittees and who is going to participate in the responsibilities.

This amendment would limit and would give further spread of the various responsibilities of the subcommittees and responsibilities of the major committees.

TITLE I.—SENATE COMMITTEE MEMBERSHIPS AND CHAIRMANSHIPS

The House bill did not include any provision for Senate committee memberships and chairmanships for reasons of comity. Thus, it is necessary to add those provisions to H.R. 17654 to bring the bill in line with previous Senate action.

The proposed amendment would adopt the provisions of S. 844 as reported by the Senate Government Operations Committee in 1969. These provisions were also adopted by the Senate in 1967 by a vote of 75 to 9 as a part of S. 355.

The studies of the Joint Committee on the Organization of Congress indicated that one of the most serious problems facing Congress as an institution was a better division of its overwhelming workload. The Joint Committee found that more senior Members of Congress tend to have workload burdens of such magnitude that it is difficult or impossible for them to give adequate consideration to all matters placed before them. To alleviate this situation, the following provisions were adopted:

First. Senators should be limited to service on two major committees and one minor, joint or select committee.

Second. Senators should be limited to service on one of the following committees: Appropriations, Armed Services, Finance, and Foreign Relations.

Third. Senators should be limited to the chairmanship of only one full committee and only one subcommittee of a major committee.

It should be stressed that these provisions do not affect present committee assignments.

The amendment has been very carefully drawn to provide that no Senator will be deprived of any committee or any subcommittee or any chairmanship that he now holds. The Senate should not be deprived of existing experience and leadership on these committees and committee work should not be interrupted by an abrupt adjustment in assignments. However, adoption of these provisions will pave the way for a better allocation of workload in the future and will, in particular, give more junior Senators an opportunity to develop expertise and hold leadership positions at a relatively early time.

Mr. BOGGS. Mr. President, I urge the adoption of this amendment, also. I want to stress that these provisions do not affect the present committee assignments. As the distinguished floor manager of the bill has mentioned, I believe the adoption of these provisions will pave the way for a better allocation of the workload in the future and will in particular give more junior Senators an opportunity to develop expertise and to hold leadership positions at a relatively early time, which I think is a very good and effectual provision of this amendment.

I also want to stress that it is my belief that in practice, at the present time, both parties, in their caucuses and in their efforts, are working in this direction. So this would make it a matter of record and a guideline to follow.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS

Mr. METCALF. Mr. President, so far as I know, after disposition of the pending amendment, there are only two major amendments to the bill, both of which require a rollcall vote.

One is the proposal to create a Veterans Affairs Committee, and the other is to continue a provision for equal pay for professional staff officers which was suspended last night.

I do not feel that either of these amendments can be disposed of before the pending vote that has been agreed to at 2:30 p.m., today; therefore, Mr. President, I ask unanimous consent that the Senate stand in recess until 2:25 p.m. today.

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

Thereupon, at 2:02 p.m., the Senate took a recess until 2:25 p.m.

On the expiration of the recess, the Senate was called to order by the Presiding Officer (Mr. HATFIELD).

MESSAGES FROM THE PRESIDENT— APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of the secretaries, and he announced that on September 26, 1970, the President had approved and signed the following acts:

S. 406. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the rotation of certain property whenever its remaining storage or shelf life is too short to justify its retention, and for other purposes;

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

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

S. 2565. An act to amend the act fixing the boundary of Everglades National Park, Florida, and authorizing the acquisition of land therein, in order to increase the authorization of such acquisitions;

S. 2763. An act to allow the purchase of additional systems and equipment for passenger motor vehicle over and above the statutory price limitation;

S. 3153. An act to authorize the Secretaries of Interior and the Smithsonian Institution to expend certain sums, in cooperation with the territory of Guam, the territory of American Samoa, the Trust Territory of the Pacific Islands, other U.S. territories in the Pacific Ocean, and the State of Hawaii, for the conservation of their protective and productive coral reefs; and

S. 3777. An act to authorize the Secretary of the Interior to enter into contracts for the protection of public lands from fires, in advance of appropriations therefor, and to twice renew such contracts.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. EAGLETON) laid before the Senate a message from the President of the United States submitting the nomination of David Ogden Maxwell, of Pennsylvania, to be General Counsel of the Department of Housing and Urban Development, which was referred to the Committee on Banking and Currency.

LEGISLATIVE REORGANIZATION ACT OF 1970

The Senate continued with the consideration of the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes.

Mr. MATHIAS. Mr. President, I ask for the yeas and nays on my amendment to the amendment of the Senator from Oregon.

The yeas and nays were ordered.

Mr. METCALF. Mr. President, I ask unanimous consent that we vote now on the Mathias amendment to the Packwood amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

The question is on agreeing to Mr. MATHIAS' amendment to Mr. PACKWOOD'S amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished senior Senator from Massachusetts (Mr. KENNEDY). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore I withdraw my vote.

Mr. BYRD of Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS), 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), and the Senator from Alabama (Mr. SPARKMAN) are officially absent.

I further announce that, if present and voting, the senator from Rhode Island (Mr. PASTORE) and the Senator from Missouri (Mr. SYMINGTON) would each vote "nay."

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS) would vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from California (Mr. MURPHY) and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from New York (Mr. JAVITS) and the Senator from Oklahoma (Mr. BELLMON) are absent on official business.

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 Illinois (Mr. SMITH) would each vote "nay."

On this vote, the Senator from New York (Mr. GOODELL) is paired with the Senator from California (Mr. MURPHY). If present and voting, the Senator from New York would vote "yea" and the Senator from California would vote "nay."

The result was announced—yeas 23, nays 44, as follows:

[No. 353 Leg.]

YEAS—23

Baker	Eagleton	Mondale
Brooke	Fulbright	Packwood
Burdick	Griffin	Randolph
Byrd, W. Va.	Hart	Saxbe
Case	Hatfield	Schweiker
Cook	Hughes	Scott
Cranston	Inouye	Stevens
Dole	Mathias	

NAYS—44

Allott	Hansen	Proxmire
Anderson	Holland	Ribicoff
Bayh	Hollings	Russell
Bennett	Hruska	Smith, Maine
Bible	Jackson	Spong
Boggs	Jordan, Idaho	Stennis
Byrd, Va.	Magnuson	Talmadge
Cooper	McClellan	Thurmond
Cotton	McGovern	Tower
Curtis	McIntyre	Williams, N.J.
Dominick	Metcalf	Williams, Del.
Eastland	Miller	Yarborough
Ellender	Nelson	Young, N. Dak.
Ervin	Pearson	Young, Ohio
Gurney	Percy	

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—32

Aiken	Gravel	Mundt
Allen	Harris	Murphy
Bellmon	Hartke	Muskie
Cannon	Javits	Pastore
Church	Jordan, N.C.	Pell
Dodd	Kennedy	Prouty
Fannin	Long	Smith, Ill.
Fong	McCarthy	Sparkman
Goldwater	McGee	Symington
Goodell	Montoya	Tydings
Gore	Moss	

So Mr. MATHIAS' amendment to Mr. PACKWOOD'S amendment was rejected.

Mr. BAKER. Mr. President, I call up my amendment at the desk, and ask that it be stated.

Mr. METCALF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. MATHIAS). Will the Senator withhold his inquiry so that the amendment may be reported?

Mr. MANSFIELD. Mr. President, is this an amendment to the pending amendment?

Mr. BAKER. Yes, Mr. President, this is a perfecting amendment to the Packwood amendment. As I understand, the time has expired and there is no time to do anything except have the amendment reported and ask for the yeas and nays, which I shall do as soon as the amendment is reported.

The PRESIDING OFFICER. The Senator is correct. The amendment will be stated.

The assistant legislative clerk read as follows: At the end of the pending amendment add the following:

"The provision of this section shall not be applicable to any current chairman or current ranking minority member."

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. MATHIAS). The question is on agreeing to the amendment of the Senator from Tennessee (Mr. BAKER) to the amendment of the Senator from Oregon. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) 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) and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Missouri (Mr. SYMINGTON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from California (Mr. MURPHY), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from New York (Mr. JAVITS), and the Senator from Oklahoma (Mr. BELLMON) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from California (Mr. MURPHY) is paired with the Senator from Illinois (Mr. SMITH). If present and voting, the Senator from California would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 21, nays 48, as follows:

[No. 354 Leg.]

YEAS—21

Allott	Dominick	Pearson
Baker	Eagleton	Percy
Bennett	Hatfield	Saxbe
Boggs	Hruska	Schweiker
Cook	Inouye	Stevens
Cranston	McClellan	Thurmond
Curtis	Packwood	Tower

NAYS—48

Anderson	Byrd, Va.	Dole
Bayh	Byrd, W. Va.	Eastland
Bible	Case	Ellender
Brooke	Cooper	Ervin
Burdick	Cotton	Fulbright

Goldwater	Mansfield	Russell
Griffin	Mathias	Scott
Gurney	McGovern	Smith, Maine
Hansen	McIntyre	Spong
Hart	Metcalf	Stennis
Holland	Miller	Talmadge
Hollings	Mondale	Williams, N.J.
Hughes	Nelson	Williams, Del.
Jackson	Proxmire	Yarborough
Jordan, Idaho	Randolph	Young, N. Dak.
Magnuson	Ribicoff	Young, Ohio

NOT VOTING—31

Aiken	Harris	Murphy
Allen	Hartke	Muskie
Bellmon	Javits	Pastore
Cannon	Jordan, N.C.	Pell
Church	Kennedy	Prouty
Dodd	Long	Smith, Ill.
Fannin	McCarthy	Sparkman
Fong	McGee	Symington
Goodell	Montoya	Tydings
Gore	Moss	
Gravel	Mundt	

So Mr. BAKER's amendment was rejected.

The PRESIDING OFFICER. (Mr. CASE). The vote now occurs on the amendment of the Senator from Oregon. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. RUSSELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The vote now occurs on the amendment of the Senator from Oregon.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. HOLLINGS (when his name was called). On this vote I have a pair with the Senator from Massachusetts (Mr. KENNEDY). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I, therefore, withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) 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), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Missouri (Mr. SYMINGTON) would each vote "nay."

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS) would vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from California (Mr. MURPHY), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from New York (Mr. JAVITS) and the Senator from Oklahoma (Mr. BELLMON) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from New York (Mr. GOODELL) is paired with the Senator from South Dakota (Mr. MUNDT). If present and voting, the Senator from New York would vote "yea" and the Senator from South Dakota would vote "nay."

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from California (Mr. MURPHY). If present and voting, the Senator from Illinois would vote "yea" and the Senator from California would vote "nay."

The result was announced—yeas 22, nays 46, as follows:

[No. 355 Leg.]

YEAS—22

Bayh	Hughes	Percy
Brooke	Inouye	Randolph
Case	Mansfield	Saxbe
Cook	Mathias	Schweiker
Cranston	McGovern	Stevens
Eagleton	Mondale	Williams, N.J.
Goldwater	Nelson	
Hatfield	Packwood	

NAYS—46

Allott	Ervin	Proxmire
Anderson	Fulbright	Ribicoff
Baker	Griffin	Russell
Bennett	Gurney	Scott
Bible	Hansen	Smith, Maine
Boggs	Hart	Spong
Burdick	Holland	Stennis
Byrd, Va.	Hruska	Talmadge
Byrd, W. Va.	Jackson	Thurmond
Cooper	Jordan, Idaho	Tower
Cotton	Magnuson	Williams, Del.
Curtis	McClellan	Yarborough
Dole	McIntyre	Young, N. Dak.
Dominick	Metcalf	Young, Ohio
Eastland	Miller	
Ellender	Pearson	

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED—1

Hollings, against.

NOT VOTING—31

Aiken	Harris	Murphy
Allen	Hartke	Muskie
Bellmon	Javits	Pastore
Cannon	Jordan, N.C.	Pell
Church	Kennedy	Prouty
Dodd	Long	Smith, Ill.
Fannin	McCarthy	Sparkman
Fong	McGee	Symington
Goodell	Montoya	Tydings
Gore	Moss	
Gravel	Mundt	

So Mr. PACKWOOD's amendment was rejected.

Mr. METCALF. Mr. President, so far as I know, there are only two amendments left to be proposed to the bill. One amendment that I am going to offer would create a separate Committee on Veterans Affairs and the other amendment which we debated last night, would equalize professional committee staff pay between Senate and House.

Now, Mr. President, I want to accommodate the distinguished Senator from Louisiana (Mr. ELLENDER). I will bring up the amendments in whichever order will be easier for the Senator.

Mr. ELLENDER. Mr. President, a meeting of the Appropriations Committee is taking place now. I am informed it will take about 5 or 10 minutes. If it is in order to do so, I propose to strike out section 305 of the pending bill.

The PRESIDING OFFICER (Mr. DOLE). The amendment will be stated.

The legislative clerk read as follows:

Beginning on page 91, strike out section 305.

The language sought to be stricken is as follows:

COMPENSATION OF PROFESSIONAL AND CLERICAL STAFFS OF SENATE STANDING COMMITTEES

SEC. 305. Subsections (e) and (f) of section 105 of the Legislative Branch Appropriation Act, 1968 (81 Stat. 142–143; Public Law 90–57), as amended (2 U.S.C. 61–1), are amended to read as follows:

"(e) (1) Subject to the provisions of paragraph (3), the professional staff members of standing committees of the Senate shall receive gross annual compensation to be fixed by the chairman ranging from $17,301 to $30,879.

"(2) The rates of gross compensation of the clerical staff of each standing committee of the Senate shall be fixed by the chairman as follows:

"(A) for each committee (other than the Committee on Appropriations), one chief clerk and one assistant chief clerk at $7,446 to $30,879, and not to exceed four other clerical assistants at $7,446 to $12,921; and

"(B) for the Committee on Appropriations, one chief clerk and one assistant chief clerk and two assistant clerks at $19,272 to $30,879; such assistant clerks as may be necessary at $13,140 to $19,053; and such other clerical assistants as may be necessary at $7,446 to $12,921.

"(3) No employee of any standing or select committee of the Senate (including the majority and minority policy committees and the conference majority and conference minority of the Senate), or of any joint committee the expenses of which are paid from the contingent fund of the Senate, shall be paid at a gross rate in excess of $30,879 per annum, except that—

"(A) four employees of any such committee (other than the Committee on Appropriations), who are otherwise authorized to be paid at such rate, may be paid at gross rates not in excess of $32,193 per annum, and two such employees may be paid at gross rates not in excess of $33,507 per annum; and

"(B) sixteen employees of the Committee on Appropriations who are otherwise authorized to be paid at such rate, may be paid at gross rates not in excess of $32,193 per annum, and two such employees may be paid at gross rates not in excess of $33,507 per annum.

For the purpose of this paragraph, an employee of a subcommittee shall be considered to be an employee of the full committee.

"(f) No officer or employee whose compensation is disbursed by the Secretary of the Senate shall be paid gross compensation at a rate less than $1,095 or in excess of $33,507, unless expressly authorized by law.".

Mr. ELLENDER. Mr. President, as I suggested yesterday, it is my sincere belief that if we choose to increase the salaries of all of the employees of the standing committees of the Senate, we will be confronted with requests and demands to increase the salaries of all the other employees of the Senate, including the professional staffs in our own offices.

If the amendment proposed by the

Senator from Montana is agreed to, it will mean that the top pay for every professional on the standing committees will be increased. The employees at the head of those standing committees now receive up to $33,176.

Under this proposed amendment, two employees would receive $35,496—only $7,000 less than Senators get now.

Employees who are now receiving $31,784 with the Senate Appropriations Committee, 17 are receiving that would receive $34,104, if this amendment goes through as proposed by my friend from Montana.

As to the Appropriations Committee, the proposal will provide that 16 members of that committee will receive $34,104 instead of $31,784 which they are now receiving.

I think that is unconscionable. If the House desires to be spendthrift and pay these high salaries, there is no reason why the Senate should follow suit.

Under the proposed amendment, three employees on the 16 standing committees now receiving $30,392 apiece would receive $32,712. So far as the Appropriations Committee is concerned, an unlimited number could be employed at the rate of $32,712.

Under present law, there would be no change as to the four employees on the standing committees who now receive $13,688.

But, just as certain as we increase the pay of the employees of the standing committees, the next move will be to increase the pay of all employees of the Senate, including our own staff employees.

As it now stands, Senators can pay one employee not to exceed $33,176; two employees not to exceed $31,784; one employee not to exceed $30,392; two employees not to exceed $25,056; and all others not to exceed $18,560 each.

The effect of my amendment would be simply to strike the schedule put in the pending bill and let the law now in force remain. The law would provide the figures that I have just indicated.

Mr. President, I hope that the Senate will agree to the amendment to leave the salary matter for the future.

I am sure the bill is an improvement on our present rules. Let us pass this revised bill. But let us leave the salaries alone.

As I pointed out on yesterday, there have been 12 increases in salaries from the year 1951, ranging from 2.9 percent to as much as 10 percent each year in that period of time. Salaries have been increased by a fair amount each and every year since 1964.

Mr. President, I think that we have been very liberal with our Senate employees. Let us not try to ape the House because, if we do, we will have to change the whole schedule. Not only will the schedule of the committees be affected but also the schedule of all Senate staff positions.

It strikes me that each House should act on its own as to this matter. I therefore ask that this section, which deals only with the salaries, be stricken. Let the law remain as it is.

Mr. President, we are appropriating each year now better than $60 million of the taxpayers money to operate this Senate. That compares to a figure of about $22 million only 15 years ago, and $28.9 million in fiscal 1961. Actual expenditures have increased from $18.6 million in fiscal 1956, to $26.9 million in 1961 and to $43.7 million in fiscal 1968, the last year for which complete figures are available.

By far the largest part of this money goes for salaries for the committees, subcommittees, and personal staff of Senators. There is a spirit of unrest abroad in the land—among our youth, and among the citizens old enough to pay for the activities of their government. As I observe the situation that has come up around us within the last 10 years, it is easy for me to understand the resentment that many feel toward their government, and I cannot say I blame them.

From the year 1956, appropriations necessary to fund the supposed legislative activities of our Senate have increased by 182.2 percent. Actual expenditures from that base year to fiscal 1968, the last period for which complete figures are available have increased by 134.9 percent. I think it is time that we asked ourselves what improvements have come about because of these increases, and what the taxpayers have gotten for their money.

Mr. President, I have directed my staff to prepare two tables indicating the absolute and percentage increases to which I have been referring. I ask unanimous consent that those two tables appear in the RECORD at this point.

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

SENATE APPROPRIATIONS, AMOUNTS RETURNED TO TREASURY, AND EXPENDITURES

Fiscal year	Amount appropriated	Returned to Treasury[1]	Expenditures
1956	$21,992,759	$3,356,380	$18,636,379
1957	22,839,115	2,925,747	19,913,368
1958	23,156,255	946,915	22,209,340
1959	26,257,815	1,985,602	24,272,213
1960	27,548,985	1,762,969	25,786,016
1961	28,917,185	2,005,301	26,911,884
1962	28,844,470	1,651,651	27,192,819
1963	31,052,550	1,800,596	29,251,954
1964	31,689,230	1,508,732	30,180,498
1965	35,904,170	1,488,452	34,415,718
1966	38,533,400	1,789,892	36,743,508
1967	41,285,075	2,165,581	39,119,494
1968	46,252,989	2,472,034	43,780,955
1969	51,341,289		
1970	60,792,725		
1971	[2]62,057,614		

[1] Balances remain on hand for two fiscal years before return to Treasury.
[2] Figure for fiscal year 1971 is incomplete.

PERCENTAGE INCREASES IN SENATE APPROPRIATIONS AND EXPENDITURES, FISCAL YEARS 1956-71

[In percent]

Fiscal year	Appropriation increase	Expenditure increase
1956 (base)		
1957	3.8	6.9
1958	5.3	19.2
1959	19.4	30.2
1960	25.3	38.4
1961	31.5	44.4
1962	31.2	45.9
1963	41.2	57.0
1964	44.1	61.9
1965	63.3	84.7
1966	75.2	97.2
1967	87.7	109.9
1968	110.3	134.9
1969	133.4	
1970	176.4	
1971	182.2	

Mr. ELLENDER. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

AMENDMENT NO. 952

Mr. METCALF. Mr. President, I call up amendment No. 952 which is a perfecting amendment to the language proposed to be stricken by the amendment of the Senator from Louisiana.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

Mr. METCALF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 952) reads as follows:

On page 91, line 14, strike out "$17,301 to $30,879" and insert in lieu thereof "$18,328 to $32,712".

On page 91, line 20, strike out "$7,446 to $30,879" and insert in lieu thereof "$7,888 to $32,712".

On page 91, line 21, strike out "$7,446 to $12,921" and insert in lieu thereof "$7,888 to $13,688".

On page 91, line 25, strike out "$19,272 to $30,879" and insert in lieu thereof "$20,416 to $32,712".

On page 92, line 1, strike out "13,140 to $19,053" and insert in lieu thereof "$13,920 to $20,184".

On page 92, lines 2 and 3, strike out "$7,446 to $12,921" and insert in lieu thereof "$7,888 to $13,688".

On page 92, line 9, strike out "$30,879" and insert in lieu thereof "$32,712".

On page 92, line 14, strike out "$32,193" and insert in lieu thereof "$34,104".

On page 92, line 16, strike out "$33,507" and insert in lieu thereof "$35,496".

On page 92, line 20, strike out "$32,193" and insert in lieu thereof "$34,104".

On page 92, line 21, strike out "$33,507" and insert in lieu thereof "$35,496".

On page 93, line 2, strike out "$1,095 or in excess of $33,507" and insert in lieu thereof "$1,160 or in excess of $35,496".

Mr. METCALF. Mr. President, this is a new schedule on section 305. The principle is exactly the same as would be voted upon if we vote on the amendment to strike, except that if this amendment is agreed to, the motion would be to strike the perfecting amendment with a schedule that has been brought up to date as a result of the pay raise of 1969.

Mr. President, this is only an authorizing amendment. This authorizes the chairmen to pay Senate committee staff a salary equal to that paid by the chairmen to committee staff on the House side.

This amendment was agreed to on two votes in 1967 and has been a part of S. 844.

In the debate last night on the amendment that we set aside, I stated that we brought out the real essence of the controversy. The controversy is whether the profesional staff of the Senate of the United States shall have an opportunity to earn as much as the professional staff of the House of Representatives.

As pointed out, this does not take care of the personal staffs of Senators. Nor does it take care of such officers as are seated at the desk in front of me. It does not take care of the Parliamentarian, the

Clerk of the House, the Doorkeeper, the Chaplain, the Postmaster. They are taken care of under a separate provision of the law.

Under the ground rules laid down for the consideration of this bill, we agreed that we would try to support and maintain a bill that was the same as the bill that passed the Senate in 1967 and as the bill reported from the Government Operations Committee early last year.

Therefore, Mr. President, much as I agree that we should have a conforming amendment to take care of the salaries of the clerk of the House, with the high regard that I have for the Parliamentarian, whose salary should be exactly equal to that of the Parliamentarian of the House, this was left out because it was not a part of the original legislation.

So whether we vote the measure up or down and strike out section 305, in order to take care of certain changes that have been made as a result of this bill and changes that have been made in the pay increase bills, it is necessary to have a perfecting amendment such as I have submitted in this proposal.

I presented my case last night. The only question is whether the Senate is going to permit its people to have a salary equal to the salary of like officers of the other body.

Mr. President, I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Louisiana. 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 Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) 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), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Rhode Island (Mr. PASTORE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from California (Mr. MURPHY), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from New York (Mr. JAVITS) and the Senator from Oklahoma (Mr. BELLMON) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is detained on official business.

On this vote, the Senator from California (Mr. MURPHY) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from California would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from South Dakota (Mr. MUNDT). If present and voting, the Senator from Illinois would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 32, nays 34, as follows:

[No. 356 Leg.]

YEAS—32

Allen	Goldwater	Russell
Allott	Gurney	Schweiker
Burdick	Hansen	Spong
Byrd, W. Va.	Hatfield	Stevens
Cook	Holland	Talmadge
Cooper	Hollings	Thurmond
Curtis	Hruska	Tower
Dole	Mansfield	Williams, Del.
Dominick	McClellan	Young, N. Dak.
Ellender	Miller	Young, Ohio
Ervin	Pearson	

NAYS—34

Anderson	Griffin	Packwood
Baker	Hart	Percy
Bayh	Hughes	Proxmire
Bennett	Jackson	Randolph
Bible	Jordan, Idaho	Ribicoff
Boggs	Magnuson	Scott
Brooke	Mathias	Smith, Maine
Case	McGovern	Stennis
Cotton	McIntyre	Williams, N.J.
Cranston	Metcalf	Yarborough
Eagleton	Mondale	
Eastland	Nelson	

NOT VOTING—34

Aiken	Harris	Murphy
Bellmon	Hartke	Muskie
Byrd, Va.	Inouye	Pastore
Cannon	Javits	Pell
Church	Jordan, N.C.	Prouty
Dodd	Kennedy	Saxbe
Fannin	Long	Smith, Ill.
Fong	McCarthy	Sparkman
Fulbright	McGee	Symington
Goodell	Montoya	Tydings
Gore	Moss	
Gravel	Mundt	

So Mr. ELLENDER's amendment was rejected.

Mr. METCALF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BOGGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METCALF obtained the floor.

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

Mr. METCALF. I am delighted to yield.

Mr. MANSFIELD. Mr. President, for the information of the Senate—and I stand ready to be corrected if I am wrong—I understand there is one more amendment, that amendment having to do with the establishment of a Committee on Veterans' Affairs, which, pending the arrival of the distinguished Senator from Louisiana (Mr. LONG), who is officially delayed at the moment, will be presented on behalf of the committee by my distinguished colleague, the Senator from Montana (Mr. METCALF). It would be my guess that the amendment would take the better part of an hour, anyway, and it is impossible at this time to limit the debate. I simply wish to advise the Senate that I understand there is only one more matter to be considered before the vote on final passage.

Mr. CRANSTON. Mr. President, if the Senator will yield, may I say as an explanatory remark to what the distinguished majority leader has said, there may be one more amendment that will not take a significant amount of time.

Mr. METCALF. Mr. President, I have a perfecting amendment, which I send to the desk and ask to have read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 154, line 21, after "this Act" the first time it appears, insert a comma and the following: "and section 105 (e) and (f) of the Legislative Branch Appropriation Act, 1968, as amended by section 305 of this Act".

At the end of the bill, add the following:

"(6) Section 105 (e) and (f) of the Legislative Branch Appropriation Act, 1968, as amended by section 305 of this Act, shall become effective on January 1, 1971."

Mr. METCALF. Mr. President, the amendment merely changes the effective date of the act for the last amendment, so that the Disbursing Office will not have to put out one schedule for disbursement from January 1 to January 3 and another schedule from January 3 on. This amendment makes the effective date of that amendment go into effect on the first day of January.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

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

Mr. METCALF. I yield to the Senator from Oregon.

Mr. PACKWOOD. I am intrigued. I might ask the Senator if he can explain the words which appear on page 47 of the bill, starting on line 3, where, relating to conference reports in the House, it states:

It shall not be in order to consider the report of a committee of conference unless such report and the accompanying statement shall have been printed in the Record, at least 3 calendar days prior to the consideration of such report by the House . . .

I understand that, but then it goes on to say:

but this provision does not apply during the last six days of the session.

I appreciate the wisdom of the House, but I am at a loss to know how they will know when the last 6 days of the session are coming upon us.

Mr. METCALF. As a former Member of the House, I will say to the distinguished Senator from Oregon that they

do not know. This is one of those things that is after the fact. This provision, however, is in several of the standing rules of the House. Finally, the leadership arrived at some way to have a suspension of the calendar. The leadership has a crystal ball by which they can foresee the last 6 days of the session.

Mr. PACKWOOD. Having said that and wondering about the wisdom of the House, which I wish we had in the Senate, I have prepared a poem, which I should now like to read:

It is often said of Congress
that we govern with God's will,
that His wisdom and His counsel
affects our every bill.

Of course there are detractors
who say we're not doing fine
and who claim our machinations
are without our Lord's divine.

But now we finally have the proof
to fend off each attack.
It's contained in but one tiny clause
of the Reorganization Act.

By virtue of that section
the House is hence precluded
from voting on a conference act
till a notice is included.

Yes, a notice in the Record
for at least three days before
the vote is finally taken
on that august body's floor.

Now you say that seems but only fair
to give that timely tip
so a vote is made with warning
by the House's membership.

Ah, but wait, there is a hooker
in this provisions secret ways.
It shall never, never be required
In the session's last six days.

So at last we do admit it,
the future will be ours.
We can divine six days ahead
the session's closing hours.

We can tell it will be Tuesday
or Friday just at nine,
Or maybe Sunday evening
would be a better time.

Now, members of this Congress,
this knowledge should be shared
With all our fellow citizens
who would like their futures bared.

In marriage and in life itself
to tell what comes tomorrow,
Would give us all a wee small choice
to alleviate much sorrow.

When an overbearing foreman
says mend your working ways,
You can flaunt him with abandon
and say "you've just six days."

When a nagging wife berates you
for your home repair delays,
You can always put her off by saying
"Ah, hon, I've only just six days."

Yes, the options are amazing
with the foresight here displayed.
Wars can be prevented
and tidal waves delayed.

But I'll limit my inquiry
in this blue October haze,
To Mike and Hugh and humbly ask,
When are our last six days?

Mr. METCALF. I thank the Senator from Oregon very much.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. METCALF. I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. METCALF's amendment is as follows:

On page 55, between lines 3 and 4, insert the following new section:

JURISDICTION OF STANDING COMMITTEES OF THE SENATE

SEC. 130. Paragraph 1 of Rule XXV of the Standing Rules of the Senate is amended—

(1) by striking out in subparagraph (h) (relating to the Committee on Finance) the following numbered items—

"10. Veterans' measures generally.

"11. Pensions of all the wars of the United States, general and special.

"12. Life insurance issued by the Government on account of service in the armed forces.

"13. Compensation of veterans.";

(2) by striking out in subparagraph (m) (relating to the Committee on Labor and Public Welfare)—

"16. Vocational rehabilitation and education of veterans.

"17. Veterans' hospitals, medical care and treatment of veterans.

"18. Soldiers' and sailors' civil relief.

"19. Readjustment of servicemen to civil life.";

(3) by adding at the end thereof the following new subparagraph—

"(q) Committee on Veterans' Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Veterans' measures generally.

"2. Pensions of all wars of the United States, general and special.

"3. Life insurance issued by the Government on account of service in the armed forces.

"4. Compensation of veterans.

"5. Vocational rehabilitation and education of veterans.

"6. Veterans' hospitals, medical care and treatment of veterans.

"7. Soldiers' and sailors' civil relief.

"8. Readjustment of servicemen to civil life.

"9. National cemeteries."; and

(4) by striking out in subparagraph (k) (relating to the Committee on Interior and Insular Affairs) the following item—

"5. Military parks and battlefields, and national cemeteries."

and inserting in lieu thereof—

"5. Military parks and battlefields."

On page 2, in the table of contents, immediately after the item relating to section 129 of title I of the bill, insert the following new item:

Sec. 130. Jurisdiction of standing committees of the Senate.

Paragraph 3 of Rule XXV of the Standing Rules of the Senate is amended to add the following:

"Veterans' Affairs ---------- 9"

Mr. METCALF. Mr. President, this is an amendment dealing with the jurisdiction of Senate committees; and, of course, it is one of a series of amendments necessary under the provisions of comity to make the House bill conform to the Senate bill.

This amendment would create a Committee on Veterans' Affairs and would give that committee jurisdiction over veterans' matters presently assigned to other committees. This change has long been proposed by various Members of the Senate and by veterans groups. It was adopted by the Senate in 1967 as a part of S. 355.

I know that there are differing views held by Members of the Senate as to the need for a separate Veterans' Committee.

I have been a member of all three committees which would lose jurisdiction under this amendment: the Finance Committee, the Committee on Interior and Insular Affairs, and the Committee on Labor and Public Welfare. I know the workload of those committees is such that they certainly could well dispense with veterans' affairs.

Every veterans' organization in America has constantly petitioned the Senate to create such a committee; and in this bill we are trying to create parallel committees, so that the subject matter dealt with by House committees will be treated by corresponding committees in the Senate.

Another powerful argument for offering this amendment and raising this question at this time is the fact that one of the two architects of this legislation, the Senator from South Dakota (Mr. MUNDT) has been a strong proponent of a Veterans' Affairs Committee. Had he been here, he would have argued eloquently for the creation of such a committee. It was his leadership that caused it to be put into the Senate bill in 1967.

So, Mr. President, I feel it necessary that there be at least an opportunity to have the Senate vote on the creation of this committee. In view of the sponsorship of this amendment by the Joint Committee on the Organization of the Congress, the particular interest in it expressed by Senator MUNDT, and the previous Senate action adopting the proposal, I feel that the amendment should be placed before the Senate at this time for its consideration.

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

Mr. METCALF. I am delighted to yield.

Mr. BOGGS. Mr. President, I join the distinguished floor manager in support of this amendment. I certainly agree with his statement in regard to Senator MUNDT, with whom we have all had the privilege of serving on the joint committee. Senator MUNDT is indeed, dedicated, not only to bringing out a good bill, but especially to this particular provision for the creation of a Veterans' Affairs Committee.

This amendment would bring the Senate committees in line with the committee arrangement in the House of Representatives, and make, I believe, for a more effective working relationship in regard to these matters. In addition, it would serve the purpose of bringing together under one jurisdiction all the various programs and legislation for the benefit of and concerning veterans. This should provide a more effective consideration by this body for that group of men and women who have sacrificed so much for all of us.

I say this with the greatest esteem, respect, and appreciation for the work of the members of the committees under the present committee structure which now consider veterans legislation. They have done a fine job. But I believe this

measure would further the effort on which they have done such a fine job and, therefore, I support the amendment.

(Mr. GURNEY assumed the chair as Presiding Officer at this point.)

Mr. DOLE. Mr. President, let me say briefly that I support the amendment. Having served in the House of Representatives for 8 years, with all respect to the committees in this body which have jurisdiction of veterans' affairs, I have known the frustrations of the veterans' organizations. This has long been a matter of great interest, I know, to the senior Senator from South Dakota (Mr. MUNDT) and to other Senators.

It occurs to me that since there are more and more problems involved in dealing with veterans, veterans' benefits and veterans' affairs, because regardless of the efforts made, we are involved in one tragic conflict after another. There are, therefore, thousands and thousands of disabled veterans and thousands and thousands of dependents, children and others, who must depend upon Congress for legislation.

I have long been convinced that creation of a Veterans' Committee would be an improvement and a step forward for the Senate, and would be a singular recognition of the great sacrifice and dedication of millions of Americans who have served our country. I support the amendment of the Senator from Montana, recognizing that those committees which now have jurisdiction have been most generous, most attentive, and most helpful to literally millions of American veterans of all wars.

I support the amendment, and share the views expressed by the Senator from Delaware and the Senator from Montana.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

Mr. CRANSTON. Mr. President, I rise in opposition to this amendment, for quite a number of reasons.

First, historically, the general thrust of efforts to reorganize both the Senate and the House of Representatives in ways to make them more effective—a thrust supported by leaders of reorganization in both bodies—has been to reduce the number of committees, to prevent the proliferation of committees, and particularly to do away, as far as possible, with the existence of committees that have narrow interests, committees that look at only one aspect of our society and do not relate to broader aspects.

It seems to me that in the light of this effort, and in the light of the logic behind that general concept of reorganization, we should establish new committees only where clear and convincing need is shown. I do not believe that is the case in the present instance.

Another bit of history relates to that fact that this particular amendment and this particular measure actually were prepared before the current session of Congress, as I understand it, and thus prepared before certain matters occurred this year, and which have changed the situation quite dramatically.

As I understand it, one of the reasons for the advocacy of a separate committee was that the Committee on Finance, in the past, traditionally did not initiate legislation on veterans' matters, but waited for the House of Representatives to act first. That is no longer the situation. When this amendment was prepared and adopted by the committee, there was not in existence a subcommittee in the Finance Committee to do the remarkable and effective things that the subcommittee on veterans' legislation has recently done, under the chairmanship of the able Senator from Georgia (Mr. TALMADGE). That, too, changed the situation.

It is true that most, if not all, the major veterans' organizations in America are generally on record in favor of setting up a separate Veterans' Committee. But I can state from personal experience that representatives of those bodies do not now feel any urgent need for the creation of a separate Veterans' Committee. They recognize that very effective works is now being done by the two subcommittees, one of the Labor and Public Welfare Committee, the other of the Finance Committee, and by Congress generally on behalf of the great needs of veterans; and frankly, some of them are concerned that the sort of change proposed in this amendment would actually, under the new circumstances that now prevail, have adverse effects upon the interests of America's veterans.

Present jurisdictional assignments really best serve the interests of all segments of our society, including veterans.

The Committee on Labor and Public Welfare, of which Veterans' Affairs Subcommittee is a part, considers the needs of veterans in areas of health, education, vocational rehabilitation, employment and training, and overall readjustment to civilian life in relation to the interests and needs of all segments of society. There are on the subcommittee and on the full committee experts in the fields of education and health who know what is being done generally, who know best how to fit veterans' programs and their needs into these overall programs.

Similarly, the Committee on Finance brings its very great and vast experience with social security and public assistance to problems of veterans' pensions and annuities and their effect on the Nation's economy and the necessity for taxes to pay for them. If these matters were isolated in a separate committee, that expertise on these matters would be lost insofar as committee consideration and action are concerned. Each of the present committees is better prepared to balance conflicting interests than an isolated committee concerned only with veterans.

Frankly, I think it should be recognized that a separate special Veterans' Affairs Committee, combined with the proposed limitation on membership on committees that would be put in effect by the adoption of this amendment—saying that one could serve only on two major committees and one other committee—would mean that the Veterans' Affairs Committee would tend to have a changing membership, in constant flux. It would not have the strong membership it draws now from the Committee on Labor and Public Welfare and the Committee on Finance. It would tend to have weaker members who would serve less long, who would not develop expertise, and whose recommendations out of committee to the Senate would have to be taken with many grains of salt and would face far tougher sledding on the floor of the Senate than recommendations that now run the very tough gamut they are required to run through expert members of the present Committees on Finance and Labor and Public Welfare.

Therefore, I think we would see an adverse effect on the ability to pass badly needed legislation for veterans if we make this change.

Another point that should be considered seriously is that a new committee, with new staff, would create additional space problems in a Senate already plagued by space problems. I am speaking from personal experience. I represent what is now the largest State in the Nation, with more mail, more visitors, and probably more problems than any other State. We are sitting on top of each other in the office. We do not have sufficient space. Other Senators face the same problem. If we set up the new committee, where is the space to be found, and who is going to give up space they are presently using productively for what I believe would be an unproductive use?

The expense of a separate staff specializing in veterans' affairs is not justifiable. I do not know what that expense would be, but let us look at the House. The House Veterans' Affairs Committee operates on a budget of $425,000, with a staff of 17 or 18 full-time positions. Are we about to bring that unneeded cost to the Senate, when we have so many other costs that go unmet?

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

Mr. CRANSTON. I am delighted to yield to the Senator from Minnesota.

Mr. MONDALE. I am one of those who have traditionally supported the concept of creating a separate veterans' committee, but I have been in the process of changing my mind in the past 2 years as I have watched the relative product of our Subcommittee on Veterans' Affairs as against the full committee of the House. I do not mean to be critical, because I think they have a very fine committee there. But I think it is fair to say that the Senate Subcommittee on Veterans' Affairs has produced a remarkable array of reforms and improvements over the past 2 years, when one looks at the education improvements, the modernization and broadening of the GI bill in all its aspects—student assistance, vocational training high school assistance—and the rest.

The broad improvement long overdue in health services has been produced almost singlehandedly by the Veterans' Affairs Subcommittee, under the leadership of the Senator from California, to expose the tragic conditions in some of our veterans' hospitals and to urge the

kind of hospital care needed for returning GI's who have been wounded in Vietnam and those who have been in the hospitals over the years.

In these and many other ways, the Veterans' Affairs Subcommittee of the Senate, along with its counterpart, the subcommittee under the chairmanship of the distinguished Senator from Georgia, in the Senate Committee on Finance, has literally led the reforms in the area of veterans' care and veterans' benefits.

So that if the product and the achievements are to be the measure of a committee's or a subcommittee's effort, I think that that by itself proves the value of the present system.

I mean no criticism whatever of the House Veterans' Affairs Committee, because I think it is a fine committee. But I believe that the product and the results of the present system in the Senate are such that I am prepared to change my mind and change my position and support the present system.

Mr. CRANSTON. I thank the Senator from Minnesota. He is a perfect example of one of the major points I am seeking to make. As a member of the Veterans' Affairs Subcommittee, Senator MONDALE has brought great expertise in the areas of health, in education, in job training, and in job opportunities to the Subcommittee on Veterans' Affairs.

If a separate committee were created, it would be most unfortunate if his great expertise were lost.

Mr. MONDALE. Mr. President, will the Senator yield further?

Mr. CRANSTON. I yield.

Mr. MONDALE. Typical of the relationship of the two assignments is the mere matter of student assistance. One of the key elements in the entire GI program has been student assistance for returning GI's. I think it is one of the most exciting programs ever adopted. One of the key responsibilities, as a member of the Subcommittee on Education of the Committee on Labor and Public Welfare, has been the broad problem of student assistance generally. The two problems are exactly related, and to create a separate committee, I think, would actually duplicate the work.

I think, once again, that this shows the parallel responsibilities as to why the present subcommittee, in its present status, makes a great deal of sense.

Mr. CRANSTON. I thank the Senator for his significant contribution to this discussion.

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

Mr. CRANSTON. I yield.

Mr. COOK. I might suggest to the Senator that when I was reading through this page, I came to that section, and I wrote down three things: Does this call for a new staff? Why do we need a new standing committee? How many subcommittees?

I suppose every Senator gets a card in his office each morning. The one I received this morning, for example, shows a meeting of the Committee on Commerce at 9:30 a.m., a meeting of the Nutrition Subcommittee at 10:30 a.m., a meeting of the Subcommittee on Equal Education at 10 a.m., and at 10:30 a.m. a meeting of the Subcommittee on Internal Security.

I do not know in how many places a person can be at one time during the day.

I think we would be fooling ourselves by creating a new committee. We now have 13 standing committees. We now have four that are commonly referred to as minor committees.

It seems that every time in the past when the Senate has had a reorganization bill, one of the nice things it has done is to eliminate some of the subcommittees, so that we can get back to normal for a while, and then we spoil it after a fashion. But this is the first time I know of that we have created a new committee, created the possibility of a $400,000 staff, created the possibility of at least seven or eight subcommittees, which most major committees have; and, I might suggest, creating many more employees for some Members of the Senate who do not show up on their staffs, really and truly. I am being perfectly frank, and I think we all know that.

I just do not see how it is anticipated, at least for the benefit of the American public and the taxpayer, that ultimately we are going to have anything other than committees and subcommittees meeting with one Senator sitting, because none of the other Senators will have time to be there because their services are required at about five or six other places. If I am wrong in stating that, I should like for someone to correct me. It gets tremendously discouraging when one comes to the office in the morning to find out there are five or six places we have to be in all at the same time. I agree with the colloquy that has been going on between the Senator from Minnesota and the major opposition to the amendment because I do not know how we will ever justify not being where we should be. But we obviously cannot be there because there is no way to be in so many different places at the same time.

I wish to thank the Senator for bringing this up because I think it is important. Frankly, I am delighted that the House, in its wisdom, saw fit not to encumber us with one additional responsibility that would almost certainly create a tremendous liability at the same time.

Mr. CRANSTON. I thank the Senator from Kentucky. With his usual approach, he has zeroed in on one of the things the Senator from Minnesota and I had in mind in our discussion of this matter.

Mr. COOK. Rather obviously, when Senators face the choice of where they want to allocate their time, or spend their time, or decide which committee they want to be on, or which committee they will attend, we are, unhappily, going to find out that if this amendment prevails, too many Senators will decide that they do not have enough time for the interest of veterans as against the broader interest that they can relate to or deal with by attending other committees or seeking membership on other committees.

For instance, this morning, there was one committee I wanted to go to, which I felt was extremely important I attend, because it contained a nomination, but I was told by a member of my staff that, Heavens to Betsy, I could not do that, because I have a witness coming before one of the other committees and I would have to be there because the witness is a constituent of mine. Many Senators have faced that situation, of course. I believe it is a good opportunity to have a frank discussion with the American people who come to Washington to see us, only they find out when they walk into our office, they see us on the run, deciding how our time can best be spent, whether in one place or another, because we are really needed in five.

It gets very discouraging, when a Senator gets a hurried call to go over to the New Senate Office Building to meet a quorum, and we go into the room long enough to establish a quorum. That is not the way to conduct the business of the people. We are adding more to it instead of less by this amendment. I am one of those who would like to see a reorganization bill that would specifically limit the number of subcommittees a major committee can have, so that we might be able to spend more time where it is most needed.

It is rather discouraging, for instance, when we go before a committee and a witness tells us, as he did the other day, that a piece of legislation then pending he thought was the worst piece of draftsmanship he had seen since the first draft of the Sherman Antitrust Act in 1899. It is not very nice to have someone say that about modern legislation that comes before a committee, but it is true; due, frankly, to the fact that Senators do not have the time, and do not have the opportunity for that degree of creativity that comes from good draftsmanship in legislation. I would hate to see that problem added to. I would like to see it lessened.

Mr. CRANSTON. I thank the Senator from Kentucky very much for his strong support and for the substantive points he has made in this discussion.

Mr. President, another argument that is being made on behalf of the amendment, that does not hold water and is not related to practices carried on elsewhere in Congress, is that there is need for parallel committees in both Houses. The Finance Committee of the Senate has jurisdiction on State and local taxation of interstate commerce. That is not the situation in the House. That is under their Judiciary Committee.

In the Senate, general health matters handled by the Committee on Labor and Public Welfare are handled in the House by the Interstate and Foreign Commerce Committee. No changes are proposed in either of these matters in the pending legislation. Why not?

The House—if the parallel committee argument is such a valid one, which it is not—did not act to make a parallel Labor and Public Welfare Committee. Yet the House Education and Labor Committee does not have jurisdiction over health as does the Senate Labor and Public Welfare Committee. Nor does the Senate version propose a Senate parallel to the House Committee on Education as it would set up. There are many other examples of this total inconsistency.

I know of no instances wherein Senate split jurisdictions have delayed or denied action on necessary measures for veterans.

Several of the arguments presented for a separate committee by spokesmen in past hearings actually argue against what is now being done. When we analyze the argument being made, at the 1965 hearings, it was suggested that a separate committee would give speed and priority consideration to the interests of veterans.

The last hearings on the proposed legislative Reorganization Act were in 1966 and there have been no hearings since then. Yet much history has passed and the situation is different from what it was when the hearings were held and when this legislation was drafted.

It is clear that veterans' matters have received speedy and effective consideration in the 91st Congress under our present procedures and structures. Any more rapid action might be quite counterproductive, because it would be most likely careless action. We cannot act any faster than we have already acted, and still act wisely.

At the 1965 hearings, it was suggested that such a committee would provide veterans with a chairman who would act as the spokesman for any and all veterans legislation. Actually, there have been several very effective spokesmen for veterans judging by the action taken in the 91st Congress.

Another point that I think should be recognized by Senators is that we have no special Senate committee to handle the automobile industry and focus on those problems, or to focus on health matters—on issues that affect every American—or a separate committee on children's welfare, or on nonveterans matters. We do not even have one committee that handles exclusively labor matters, even though there are about twenty million union members and about 80 million workers, although, unhappily, quite a few of them are presently unemployed.

The Senate Committee on Labor and Public Welfare handles not only labor, veterans, but also health, education, poverty, alcoholism, narcotics, and other matters.

Specifically, in relation to what has been accomplished by the Veterans' Affairs Subcommittee, which I am privileged to chair under the Committee on Labor and Public Welfare, in the 91st Congress, a total of 44 measures have been referred to the subcommittee. This number includes 31 Senate bills and 13 House bills.

The subcommittee has held hearings on 28 of the bills referred to it. The subcommittee has also held oversight hearings on medical care for veterans wounded in Vietnam. These hearings have involved 14 days. The records of the hearings consist of a total of 2,629 pages packed with information.

Of the 44 measures referred to the subcommittee, 27 have been favorably acted upon by the subcommittee, either in the form presented, amended, or incorporated into other measures.

It is a matter of great pride to me and to the other members of the committee, that the actions of the subcommittee have been bipartisan and unanimous. Let me stress that point, Mr. President, that the actions of the subcommittee have been bipartisan and unanimous. All bills reported by the subcommittee—and that covers every bill we have acted on—have, thereafter, been unanimously acted upon by the full committee. And, thereafter, every bill reported by our subcommittee—and some of them have been controversial—has been acted upon and supported unanimously and passed unanimously by the Senate.

The subcommittee has recommended a total of 13 bills, all of which have been passed by the Senate. Six of these bills have been enacted into law. Five of the bills have been passed by the Senate and are now pending action in the House. Two of the bills have been acted upon by the House since Senate passage and are now pending further Senate action.

Mr. President, I shall not dwell upon the substantive matters of what we have accomplished in terms of health care and education for veterans and in job training and job opportunities for veterans.

We have updated it and brought up to date as best we could the sums made available for these purposes, particularly for GI benefits for education in order to catch up with inflation. But we have broken ground in some very significant ways which I think could not have been done had we had the narrow focus of the committee proposed in the amendment.

In the field of medical care of veterans, there were shocking conditions, conditions with which every Member of the Senate and every citizen of this country is now familiar. We revealed the inadequate care and why it occurred. It was because of the inability to keep pace with inflation.

We got a very significant appropriation bill adopted by the Senate, approved by Congress, and sent to the White House.

Unfortunately, the measure was vetoed by the President for other purposes. But I assure the Senate that we will continue to work on the matter and that we will get this matter approved by Congress and signed by the President before this year is over.

I again point out that if the subcommittee had not undertaken this task of bringing to light the state of health care for our Vietnam wounded, I do not believe that the appropropriations would have been so significantly increased. Many veterans would have continued to get deteriorating medical care. That will hopefully be remedied because our subcommittee has acted as it has.

Mr. TALMADGE. Mr. President, on behalf of the Finance Committee of the Senate, I rise to oppose the pending amendment.

The Finance Committee discussed this matter in executive session last week. A quorum was present. Those who were present were unanimous in their opposition to the creation of a separate Veterans' Affairs Committee.

The rules of the Senate, in determining jurisdiction of various Senate committee, delegate to the Committee on Finance the following jurisdiction relating to veterans: veterans' measures generally; pensions of all the wars of the United States, general and special; life insurance issued by the Government on account of service in the Armed Forces; and compensation of veterans.

Those items cost the taxpayers of this country about $5 billion a year.

The Finance Committee has jurisdiction over all payments of benefits to families of deceased veterans, disabled veterans, or orphans of deceased veterans.

In addition to the Senate Committee on Finance, jurisdiction is vested in the Labor and Public Welfare Committee of the Senate for all educational benefits, hospital functions, and taking care of disabled and wounded veterans of our country.

There is another committee of the U.S. Senate that has jurisdiction over a portion of veterans' affairs. That is the Committee on Interior and Insular Affairs of the U.S. Senate. That committee has jurisdiction over veterans' cemeteries.

The pending amendment would cut squarely across the jurisdiction of three of the major committees of the U.S. Senate and would create a new committee, a minor committee, which would have charge of and jurisdiction over all veterans' affairs. Since it would not be a major committee of the United States, since it would be a minor committee, the chances are that most of the members of this new committee would be freshmen Senators that had not had much experience in matters relating to veterans, nor much experience with the Senate committees or Senate procedures.

I believe that that would be rendering a distinct disservice to the veterans of the United States.

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

Mr. TALMADGE. Mr. President, I would be delighted to yield to the Senator from Connecticut, who is a member of the Subcommittee on Veterans' Legislation of the Finance Committee.

Mr. RIBICOFF. Mr. President, first I commend the distinguished Senator from Georgia who serves as chairman of the subcommittee. I know of no other Senator who is more conscientious and is so expeditious in the work that is assigned to the subcommittee.

I wonder if the Senator from Georgia would enlighten the Senate as to the agenda and the accomplishments of his subcommittee during the 18 months of its existence.

Mr. TALMADGE. Mr. President, I would be delighted to do so. I appreciate the Senator's raising that question.

Mr. President, on February 25, 1970, a Subcommittee on Veterans' Legislation was established in the Committee on Finance. That committee has done an outstanding job during the 91st Congress, as the Senator knows.

During the past 18 months, the Subcommittee on Veterans' Legislation has initiated action on six major bills, and has acted on a number of minor bills originating in the House of Representatives. These are the six major bills:

S. 1471, introduced by me with other cosponsors, represented the first major legislation in more than a decade to revise and update benefits for the widows and orphans of servicemen and veterans

whose death was related to their military service that was signed into law by the President on October 27, 1969.

S. 1479, introduced by me and other Senators, increased Servicemen's Group Life Insurance for servicemen on active duty from $10,000 to $15,000, the first time insurance for the servicemen was raised above $10,000 since the first insurance program was established more than 50 years ago; and extended insurance coverage to reservists on active duty for training. That bill was signed into law by the President on June 25, 1970.

S. 3348, introduced by me, increased compensation payments to disabled veterans whose disability was service connected by $220 million; increases ranged from 8 percent for less seriously disabled veterans to 12 percent for veterans with more severe disabilities. That bill was signed into law by the President on August 12, 1970.

In addition thereto, several bills which have been approved by our subcommittee unanimously, approved by the Finance Committee unanimously, and approved by the U.S. Senate unanimously now languish in the Veterans' Affairs Committee of the House, for no action has been taken on these bills.

Mr. RIBICOFF. Mr. President, will the Senator yield at that point?

Mr. TALMADGE. I yield to my friend, the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, when the bills passed the Senate, they went to the other body and were referred to the Standing Committee on Veterans' Affairs of the other body.

Mr. TALMADGE. The Senator is correct.

Mr. RIBICOFF. And the House has failed to act on these 3 major pieces of legislation that have been passed by the Senate.

Mr. TALMADGE. The Senator is correct.

Mr. President, for the information of the Senate, these are the bills I was referring to. S. 1650, introduced by Senator LONG, would provide double indemnity Servicemen's Group Life Insurance coverage for members of the uniformed services assigned to duty in a combat zone, or assigned to extrahazardous duty; thus the bill would provide optional life insurance coverage of up to $30,000 for servicemen on duty in a combat area or assigned to extrahazardous duty. That bill passed the Senate September 18, 1969, and is now pending before the House Veterans' Affairs Committee.

S. 2186, introduced by Senator LONG, would add to Servicemen's Group Life Insurance coverage indemnity payments in the event of dismemberment or loss of use of a hand, foot, or eye. One-half of the face value of the insurance would be paid if the serviceman lost anatomically or lost the use of one hand, one foot, or the sight of one eye; the full face value would be paid in the event of loss or loss of use of two or more such members. That bill passed the Senate on September 18, 1969, and is now pending before the House Veterans' Affairs Committee.

S. 2003, also introduced by the Senator from Louisiana (Mr. LONG) would establish a new program of Vietnam Era Veterans' Life Insurance, with face value as high as the maximum amount under Servicemen's Group Life Insurance; veterans would receive dividends which would automatically be applied against the next year's premium; and optional additional disability insurance could be purchased by the veteran. This bill passed the Senate September 18, 1969, and is now pending before the House Veterans' Affairs Committee.

In addition, the Committee on Finance of the Senate has acted on the following House-passed bills, which have become law:

H.R. 684, made technical corrections in title 38 of the United States Code—Veterans' benefit programs. Signed into law June 11, 1969.

H.R. 4622, preserves disability evaluation in effect for 20 years if disabled veteran has suffered certain anatomical losses or is totally disabled with especially severe disabilities. Signed into law June 23, 1969.

H.R. 10106, revises the definition of a "child" for veterans' benefit purposes to recognize an adopted child as a dependent from the date of issuance of an interlocutory decree. Signed into law May 21, 1970.

H.R. 10912, prohibits recoupment of lump-sum disability severance payment at rate higher than rate based on veteran's initial degree of disability. Signed into law May 7, 1970.

H.R. 16739, extends for 4 years authority of Veterans' Administration to maintain offices in the Republic of the Philippines. Signed into law July 16, 1970.

I yield further to my distinguished friend from Connecticut.

Mr. RIBICOFF. Mr. President, may I ask the distinguished Senator this question. With respect to the major pieces of legislation passed by the Senate affecting veterans, which are now languishing in the Veterans' Committee of the other body, what has been the attitude of the major veterans' organizations?

Mr. TALMADGE. Representatives of veterans' organizations appeared before our subcommittee and testified unanimously in support of that legislation.

I would like to bring up another matter, of which I am sure the Senator is aware. Several years ago I started to receive letters from some of my constituents in Georgia pointing out that they had sons, husbands, and loved ones dying on the battlefields of Vietnam and they did not have any insurance coverage whatever. I was shocked and amazed to learn that was a fact. I offered a bill; the Senator may have been a cosponsor. The bill was cosponsored by several Members of the Senate. I recall that Senator Smathers of Florida was a cosponsor. We held hearings on the bill.

Much to my amazement, representatives at the Pentagon appeared and testified in opposition to that bill. Representatives of the executive branch of Government appeared and testified unanimously in opposition to providing insurance coverage for men fighting and dying on the battlefield for their flag. But notwithstanding the opposition of the administration, the Committee on Finance passed the bill unanimously and the Senate passed the bill unanimously. The Veterans' Committee of the House made some modifications in the bill that I thought were an improvement. That is the origin of insurance coverage for veterans dying on foreign soil at the present time. It originated in the Committee on Finance, not in any committee for veterans.

Mr. RIBICOFF. I am sure that during the 18-month period when the Senator was piloting the major pieces of legislation through the subcommittee and through the full Committee on Finance of the Senate he must have had considerable contact and conferences with representatives of the various veterans' organizations in this country.

Mr. TALMADGE. I have, and I can say to the Senator without fear of contradiction that the veterans' organizations of this country—the American Legion, the Veterans of Foreign Wars, the AMVETS, the Jewish War Veterans, the Disabled War Veterans, and every veterans' organization in America—have been highly pleased with and most complimentary of our Committee on Finance and its subcommittee and what the Senate has done in the way of compensation for them and their loved ones. In almost every publication they are complimentary in the highest terms of the members of our subcommittee who have been so diligent in the performance of duty.

That committee, as the Senator from Connecticut knows, is completely bipartisan. We have some of the most outstanding Members of the Senate on that committee from both parties, Democratic and Republican. We have never had a partisan vote; every vote we have had has been unanimous.

We have reported bills from the subcommittee unanimously, the Committee on Finance has acted unanimously, and the Senate has voted unanimously. I doubt we have had any major legislation in the history of the country that has had such unanimous and bipartisan support as our committee has been able to report.

Mr. RIBICOFF. Speaking candidly, the proposed amendment tries to put into effect a proposal of past years from veterans' organizations, organizations which felt the Senate might not have been giving proper attention to their concerns and the basic and legitimate interests of veterans' organizations and individual veterans. But during the past 18 months, when one considers the record of the Committee on Finance, acting through the subcommittee of which the Senator from Georgia is the chairman, it is a legislative record that has never been exceeded in an 18-month period by the Senate. Is that correct?

Mr. TALMADGE. The Senator is entirely correct.

Supplementary to what the Senator has so ably and correctly stated, I might note that for a number of years the Committee on Finance of the Senate had no subcommittees whatever, and the veterans' organizations of our country thought they should have some committee that they could call peculiarly their own. In their conventions from time to

time they passed resolutions urging the Senate to create such a standing committee with jurisdiction over veterans' affairs. I was pledged to support such a committee when I came to the Senate and to establish a committee with jurisdiction over veterans' affairs in compliance with the resolutions of major veterans' organizations.

But if I correctly read the signs at the present time, they are completely satisfied with the service now being rendered. Their leaders visit my office from time to time and discuss their legislative problems with me. Their representatives visit with me. They have been laudatory in praise of our subcommittee and of the Committee on Finance. They are highly pleased.

It is my judgment that if we had hearings on the pending amendment—and I point out we have had none; this is an amendment the Senate agreed to 3 years ago, but there have been no hearings on this amendment—and if representatives of veterans' organizations in this country appeared before any legislative body today they would state in all honesty and candor that they are highly pleased with what the Veterans' Subcommittee of the Committee on Finance, the Committee on Finance and the Senate have done to look after their welfare.

In that regard I want to say that the Senator from California (Mr. CRANSTON) and his subcommittee of the Committee on Labor and Public Welfare have been most instrumental in trying to improve veterans' hospitals of this country, facilities that have been sadly neglected, understaffed and underfinanced. Through the efforts of the Senator from California and his subcommittee, the Senate voted, I believe, $200 million additional to serve the needs of veterans' hospitals in this country. So it has been the Senate that has taken the lead for at least 18 months in looking after the welfare of our veterans, their widows and orphans.

Mr. RIBICOFF. So the conditions that brought about the amendment offered by the junior Senator from Montana are conditions that existed some 3 years ago and no longer pertain, and are no justification for agreeing to this amendment, when we consider the landmark work done under the leadership of the Senator from Georgia?

Mr. TALMADGE. The Senator is entirely correct. I want to point out and put in the RECORD the fact that the Finance Committee has done outstanding work over the years in looking after the veterans' welfare. Admittedly, we have taken more leadership and done a better job in the last 18 months, since we have had a subcommittee charged with the responsibility of looking after that particular group; but over the years the Finance Committee of the U.S. Senate has been outstanding in what it has done for the veterans.

The committee took jurisdiction at the outset over legislation providing pensions for veterans. The committee handled the War Risk Insurance Act of 1917. The committee provided bonuses for veterans during the depression years. It was in legislation handled by the committee that the National Service Life Insurance program for veterans was established.

The Finance Committee originated the GI bill of rights for veterans back during the dark days of World War II. Its members recognized their responsibility to the 16 million veterans who would be coming home. The Finance Committee of the U.S. Senate originated the education benefits, the housing benefits, loans, training benefits, unemployment and other benefits that made up the GI bill of rights.

The committee also handled legislation providing social security benefits for military personnel. It also handled benefits for veterans' survivors, compensation, pensions, and a multiplicity of other benefits.

Mr. RIBICOFF. Mr. President, I wish to close with this comment. It is my considered judgment that should the jurisdiction of the Finance Committee over the problems and affairs of the veterans of this country be stricken and should the veterans lose the services of the able Senator from Georgia, who chairs the Subcommittee on Veterans' Affairs in the Finance Committee, it would indeed be a great blow to the veterans of this country, because not only is the Senator from Georgia deeply concerned with all the problems of the veterans, but he brings to his task an experienced background, great skill, deep understanding, and a fine stature in this body.

I am sure that there is not a veterans' organization in this Nation that does not recognize this fact and does not fail to understand the meaning of having the Senator from Georgia concerned and exercising leadership in the affairs of the veterans of this country.

In my opinion, it would be a tragedy for the veterans to lose the support and the friendship and the leadership that the Senator from Georgia could give to the important body of laws protecting millions of veterans and their families in the United States.

Mr. TALMADGE. Mr. President, my friend from Connecticut is most generous in his comments, and I deeply appreciate what he has said. I hope I deserve some small measure of his generosity. But let me say that there has been no Member of the Senate who has worked harder, more diligently, with greater dedication, or more effectiveness in behalf of the veterans of the United States than my friend the able Senator from Connecticut.

I also want to say that every member of our Veterans' Subcommittee, on both sides of the aisle, and every member of the Finance Committee, again, on both sides of the aisle, has shown that same sense of dedication.

I agree with the Senator. I think it would be a tragedy for the veterans of our country to have jurisdiction over veterans' affairs stripped away from some of the major committees of the U.S. Senate and vested in a newly created, minor committee that would be largely occupied by freshmen Senators because they could not get the committee assignments of their choice and had to wind up with assignment on a minor committee. Those Members would be without legislative experience, without legislative expertise. I believe it would be a great disservice to the veterans of our country, who are entitled to all the respect, love, dedication, and devotion that our Nation can vest upon them.

Mr. RIBICOFF. One final question: Am I correct in my recollection that every measure the Senator has read from the list which he quoted passed the subcommittee and the full Finance Committee unanimously, with complete support of both the Democratic and Republican members of the committee?

Mr. TALMADGE. The Senator is correct. I point out further that not only did they pass the subcommittee unanimously, and the Finance Committee unanimously, but they also passed the U.S. Senate unanimously. Every bill we have brought to the Senate has been passed by the Senate by a unanimous vote, without a single vote against it. Every measure that the Finance Committee has orignated and that has been reported by the committee of the other body has been signed into law by the President of the United States.

Mr. RIBICOFF. I challenge any other committee of the Senate to compare its record with the record related by the Senator from Georgia.

Mr. TALMADGE. I doubt that any other committee could boast of such a record.

Mr. RIBICOFF. Mr. President, it is unfortunate that, before we vote on this proposal, the entire membership of the Senate has not been made aware of the basic facts surrounding the work of the Finance Committee and the work of the Senator from Georgia.

Mr. TALMADGE. I appreciate the comments of the able Senator from Connecticut.

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

Mr. TALMADGE. I yield.

Mr. CRANSTON. I would like to make that fund totally unanimous by pointing out that the other subcommittee on veterans' affairs, the subcommittee of the Committee on Labor and Public Welfare, likewise has a record of total and unanimous support on such measures, in the subcommittee and the full committee, as well as on the floor of the Senate, and I want to say that that record of unanimous action has been by bipartisan vote.

Mr. RIBICOFF. With such a record as that, I fail to see why a new committee should be created to take care of veterans' affairs.

Mr. TALMADGE. Particularly when it would cost hundreds of thousands of dollars, require a new staff and new housing, when we already have a proliferation of committees and a shortage of space.

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

Mr. TALMADGE. I am delighted to yield to my distinguished Chairman.

Mr. LONG. Mr. President, some years ago we had some representatives from some of the veterans' organizations tell us that they would like to have a special committee so they could be assured of a

place to go where they could present their case and where they could be heard and obtain action on legislation that might win the approval of the Senate. With the appointment of the special subcommittee, they have been accorded that right and they have been accorded a forum.

We in the Senate Finance Committee appointed a committee of Senators who were particularly interested in veterans' matters. The members who serve on that subcommittee, are those who were willing to take on that responsibility and in fact were anxious to participate in legislation that would be of particular interest to veterans.

As the Senator has pointed out, since the appointment of the subcommittee, there has never been a time when the veterans have had to wait or worry about a hearing on any measure they wanted to have action upon or rely upon the committee for action. Furthermore, experience has shown that during the entire period we have had that subcommittee, every recommendation that the committee has made for veterans has been unanimously agreed to by the committee. It is logical that that would be so, because the Senators on the subcommittee, seven in number, are those who have the greatest interest in veterans' matters on the Finance Committee, and when they recommend to the committee that various measures should be enacted for the benefit of veterans, those Senators who recognize the great interest that the Senator from Georgia and his colleagues on the subcommittee have, are persuaded to go along with them.

So there has been no objection to the recommendations of the committee, but, in fact, veterans' legislation has received the unanimous support of the entire committee, and there has been no delay in acting on any of these matters.

In years gone by, even when we were giving the veterans' organizations action on all the bills they requested us to act upon, there was an argument that if they had a separate committee, perhaps the separate committee might initiate more legislation than the Finance Committee would. But under the leadership of the Senator from Georgia, there has been no inclination to wait for the House of Representatives to act, and I ask the Senator from Georgia, is it not a fact that time after time, on first one suggestion and then another, recommended and advocated by veterans organizations, the Senate Committee on Finance, at the instance of the Veterans' Subcommittee, has initiated these measures and sent them to the House of Representatives?

Mr. TALMADGE. As a matter of fact, if the Senator will yield at that point, every major piece of veterans' legislation that has been signed into law in the past 18 months has been intiated by the Senate Finance Committee. I say that with no disrespect to the Veterans' Affairs Committee of the House of Representatives. They have done an outstanding job. I have the greatest respect and admiration for them. They have done a good job; but it has been the Senate Subcommittee on Veterans Legislation that has initiated, sponsored, and secured the adoption into law of the major veterans' legislation in the past 18 months.

Mr. LONG. Mr. President, if the Senator will permit me to trespass on his time only a bit further, if a special committee is to be named dealing only with veterans' affairs, we are going to have grave difficulty getting Senators of the same ability, the same competence, the same seniority, and the same stature in this body to serve on any such committee. The reason is because when they accept appointment to that committee, they foreclose themselves of the opportunity of going on some of the other committees that are available. They therefore must perhaps give up the opportunity to serve on a committee like Small Business, or even perhaps one of the major committees like Finance, Commerce, Appropriations, or Armed Services. The way the matter stands today, we have two well-liked, highly respected subcommittees that command the complete support of their full committees, which are very sought-after committees, and in my judgment have the very best men that can be made available in the Senate to work on that kind of legislation.

No case can be made that veterans' legislation is being neglected. I would think that if anyone wanted to make an across-the-board assessment, he would have to say that perhaps we seem to be moving too rapidly with veterans' legislation compared to the pace of one other body, which has not been able to keep up with what the Senate has done in that regard.

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

Mr. LONG. I yield.

Mr. TALMADGE. Before the Senator arrived in the Chamber, in a colloquy with the able and distinguished Senator from Connecticut (Mr. RIBICOFF), I pointed out that three very important bills that the Senator from Louisiana, the chairman of our committee, introduced, which were passed by our subcommittee, passed by the Committee on Finance unanimously, and passed by this body unanimously, still languish in the Committee on Veterans' Affairs of the House of Representatives. I refer to S. 1650, S. 2186, and S. 2003, introduced by the Senator from Louisiana. They were passed by this body more than a year ago, but they have not seen the light of day in the House of Representatives.

Mr. LONG. Not to be critical—the House Veterans' Affairs Committee, as the Senator has said, is doing a fine job—but if one wanted to prod someone to do something, it should not be the Senate, which has passed these measures, three of which I am very proud to have authored. It is not the Senate that should be prodded, it is the House of Representatives, where they have a special Veterans' Affairs Committee, in which the bills we have passed and sent to them now languish. If someone is to be prodded along, why not go talk to the House that has the special committee, and ask them why they have not acted on these fine bills we have sent them?

Can the Senator tell us what they have sent us, that still remains in the Committee on Finance?

Mr. TALMADGE. Yes. There is a bill relating to the investment of certain G.I. insurance trust funds in the housing area. A similar bill was introduced in the Senate last year by the distinguished senior Senator from Texas (Mr. YARBOROUGH), with myself and other cosponsors. We held hearings before our subcommittee, and there was some violent objection to the bill on the part of the executive branch of the Government; about the same time, the House committee reported out a bill and there was opposition in the House Rules Committee. We made an agreement that we would withhold action and see what the House Rules Committee did on it, and take it up when the House Rules Committee acted. The bill is on our calendar at the present time for action in the Finance Committee.

That is one House-passed bill that is on the calendar of the Senate Finance Committee at the present time relating to veterans' legislation.

Mr. LONG. And that bill has been acted on by the veterans' subcommittee.

Mr. TALMADGE. Yes; the subcommittee referred it to the full committee.

Mr. LONG. The bill has moved. Our record in the past has been that any bill receiving the favorable report of the subcommittee is invariably reported out by the full committee as soon as it is able to act on it.

Mr. TALMADGE. The committee has been extremely fair.

Mr. LONG. So there is no record to support the need or even the desirability of creating a special committee; in fact, the indications are that there would be less attention to veterans' matters if it were created, and we certainly would not get the most capable Senators to serve on it, because they are on other important committees already where they are doing the best job they can of seeing to it that the veterans receive whatever favorable legislation can be accorded.

Mr. TALMADGE. The Senator is correct.

If I might continue, I would add that very recently the House of Representatives has sent over two new bills relating to pension payments and the provision of mortgage insurance for certain disabled veterans. In keeping with our policy in the past, our subcommittee and the full committee will act expeditiously on them, I am sure, at the earliest possible moment. That has been the history of our subcommittee and of the full committee.

Mr. LONG. I can testify to what the Senator has said, because it has been my privilege to serve under his leadership on the Veterans' Subcommittee, and I agree that as soon as possible these matters will be acted on by the committee, and the probabilities are, if they have merit they will be favorably reported to the full committee, and the Senate will have an opportunity to vote on it.

Mr. TALMADGE. The Senator is correct.

Mr. President, I ask unanimous consent to have printed in the RECORD at

this point a document entitled "Historical Development of Veterans' Legislation Under Finance Committee Leadership."

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

HISTORICAL DEVELOPMENT OF VETERANS' LEGISLATION UNDER FINANCE COMMITTEE LEADERSHIP

From the beginning of the committee system in the Senate through the enactment of pensions for Spanish-American War veterans, almost all veterans' benefit measures fell within the jurisdiction of the Senate Committee on Pensions. A turning point in the history of veterans' benefits was reached when the Senate Finance Committee took over responsibility for programs for veterans' benefits.

BENEFITS FOR WORLD WAR I VETERANS

As the Finance Committee assumed jurisdiction for World War I veterans' benefits at the beginning of the war, an effort was made to bring about a change in the nature and philosophy of the whole system of benefits. In its work on the War Risk Insurance Act of 1917, the committee and the Congress attempted to establish a new benefit system which would provide adequate aid to the serviceman and his family both during and after service in order to avoid the necessity for non-service-connected pensions later. Emphasis was placed on the benefits for service-connected disability and death as being "compensation" rather than "gratuities." These compensation benefits were regarded as the basic benefits. To permit the serviceman who felt the need for more adequate protection to supplement the compensation benefits, a system of optional low-cost Government insurance on a term basis was set up. This allowed a maximum of $10,000 insurance against death or permanent total disability. A wartime system of allotments and allowances to dependents of servicemen was instituted so that their dependents would not be in need while they were away. Finally, the act looked toward new benefits in the form of vocational rehabilitation to return disabled veterans to useful employment. Another law, authorizing medical care for veterans with service-connected injuries, was enacted in 1919. This bold new approach represented an innovation in handling the problem of veterans' benefits.

As administration of the various veterans' programs became more complex, a centralized Veterans' Bureau was created and placed in charge of all World War I benefits. Ultimately, in 1930, the pension and domiciliary activities related to earlier wars were also transferred to what became the Veterans' Administration.

As time went on, benefits were expanded in the years following the war. First, provisions governing entitlement to disability compensation were gradually liberalized. Eligibility for benefits was extended to veterans who could establish that certain specified diseases became manifest before January 1, 1925, 7 years beyond the end of the war. The rate of compensation for total disability was increased from the wartime level of $30 a month to $80 a month, and then to $100 a month.

Following the provision of funds for hospital construction and the building of new facilities, there came a major step in the extension of medical care. In 1924 new legislation allowed veterans whose disabilities or ailments were not related to service to obtain treatment in veterans' hospitals.

About the same time, a wholly new benefit entered the picture—adjusted compensation, or "bonus." A Finance Committee matter, it was originally voted by the Congress in 1924, overriding a Presidential veto, on the ground that men in the lower grades had been underpaid during their service as compared with civilians, and were therefore entitled to a bonus from the Government.

As first enacted, the bonus was payable largely in certificates which were to mature in 20 years as endowment insurance, or upon the death of the veteran. After 2 years, loans up to 90 percent of reserve value were authorized. Starting in 1926, a series of liberalizing amendments were enacted. Finally, during the depression, the Congress in 1936 succeeded in overriding a Presidential veto and the payment of the bonus in immediately redeemable 9-year bonds was authorized. Most veterans promptly cashed their bonds.

In 1930, a non-service-connected disability pension was enacted for World War I veterans. This law provided that any veteran who had served 90 days or more during the war, who had a disability which was not the result of service nor of willful misconduct, and who was exempt from payment of Federal income tax during the preceding year would be eligible to receive a pension (designated "disability allowance"). Four degrees of disability were recognized: 25, 50, 75, and 100 percent. The corresponding rates of pension were $12, $18, $24, and $40 monthly.

A pension for World War I widows was not enacted when the disability allowance was authorized, but came in an act passed in 1934, 4 years later. This act required a 30-percent service-connected disability on the part of the veteran for the widow to be entitled to a pension in case of his death from ordinary causes. An income limitation barred from eligibility anyone who had paid Federal income tax for the preceding year, and the marriage had to have taken place before July 3, 1931. Pension for the widow was $22 per month with additional allowances for children.

In summary, under Finance Committee leadership the legislation of this period was a bold effort to revamp the veteran's benefits programs. Timely assistance to service-disabled veterans and to the surviving dependents of the war-dead was provided. A new idea was added in the form of life insurance which was closely related to compensation benefits, and the veterans' vocational rehabilitation program was established. These efforts in the area of readjustment assistance paved the groundwork for the legislation following World War II.

DEVELOPMENTS SINCE WORLD WAR II

The challenge to veterans's programs imposed by World War II was unsurpassed in the Nation's history. Over 16 million servicemen were called to the colors. To meet the needs of these servicemen and future veterans, the Congress early turned to the benefits which had been used in World War I. A Senate amendment to a 1940 revenue bill led to the establishment of a new system of insurance, national service life insurance, similar in purpose to that of World War I but differing in details. Compensation benefits for disability and for death resulting from service were extended to World War II servicemen on the same basis as for World War I veterans, and the rates were gradually raised. Various other benefits, including family allowances and tax exemptions, were likewise enacted, and a disability pension for World War II veterans was enacted in 1944, while the war was still in progress.

Medical and dental care on a broad basis were also provided. Both inpatient and outpatient medical hospital care were extended to World War II veterans with service-connected disabilities. Hospital care for non-service-connected ailments was extended to veterans of World War II who were unable to pay for such care, provided space was available in Veterans' Administration facilities.

The most striking development in veterans' benefits, however, occurred in the readjustment category. For World War I veterans the main readjustment benefit was the vocational rehabilitation provided to 180,000 veterans who had incurred service-connected disabilities. Early in World War II, steps were taken to provide vocational rehabilitation to disabled veterans. But a much more broadly conceived readjustment assistance was established by a bill originating in the Senate Finance Committee. Its official name was the Servicemen's Readjustment Act of 1944, but it was better known as the GI bill of rights.

This act was based on the philosophy that veterans whose lives have been interrupted by military service, or who have been handicapped because of this military service, should be provided assistance for a limited time to aid them in becoming self-supporting and useful members of society. The act provided for unemployment allowances, education and training benefits, and home, farm, and business loan guarantee benefits through the Veterans' Administration. In addition, mustering-out payments were provided through the military departments. The Veterans' Administration has expended almost $20 billion in assisting World War II veterans to return to civilian life in this remarkably successful program.

A second major innovation occurred with the granting of special rights to veterans under the general social security program of old-age and survivors' insurance. All military service between September 16, 1940, and June 30, 1947, was credited under the social security program at no cost to the veterans.

Following the outbreak of the Korean conflict, benefits essentially similar to those established in the World War II program were provided for this group of 6.8 million veterans. Korean conflict veterans received the same compensation, vocational rehabilitation, medical, and pension benefits as World War II veterans. Readjustment benefits, provided by the Veterans' Readjustment Assistance Act of 1952 (known as the Korean GI bill) differed in detail but not greatly in substance from the World War II readjustment benefits. Similarly, social security credits were continued on a gratuitous basis for all service to 1956.

In 1956, the Congress enacted an entirely new system of survivor benefits for widows, children, and dependent parents of persons who died of service-connected causes. The new system, called dependency and indemnity compensation, provided a widow with $112 monthly (subsequently raised to $120) plus 12 percent of the current rate of basic pay for her deceased husband's rank at the time of discharge or death. Thus, whenever military pay rates increase, the widow's benefit rises automatically. Specific dollar rates are set for the children of veterans where there is no widow.

Under the same act, social security coverage was permanently extended to all members of the Armed Forces on a contributory basis. It was specifically provided that survivors of veterans could receive the new compensation benefits in addition to social security benefits.

In 1966, readjustment benefits, similar to those provided World War II and Korean war veterans, were extended to veterans serving after 1955. The act is referred to as the cold war GI bill. Since there is no limit to the act's duration, it may eventually assist more veterans than any previous legislation. In this way, the precedent set by the original Finance Committee World War II readjustment program has been examined by the Congress to veterans of subsequent conflicts.

Compensation and pension benefits, too, have been expanded by the Congress repeatedly in the period since the Second World War, with landmark legislation enacted in 1968. In that year, the largest single compensation increase ever enacted by the Congress became law, with an annual cost estimated at

close to one-quarter billion dollars. During the same year, another bill was enacted incorporating a thorough revision of the veterans' pension program to relate pension benefits more closely to the veteran's needs. Pension benefits of more than a million veterans were increased by the bill.

VETERANS' BENEFITS TODAY

There are today many different programs under Federal laws which provide special benefits, services, or preferences for veterans and their survivors. Some of the major programs are outlined below.

Disability compensation.—Compensation is paid to veterans who suffer disabling conditions as a result of military service. As the name implies, the purpose of the payments is to compensate the veteran for the average economic loss resulting from the disease or injury sustained during his military service. Thus, compensation payments are based not on need, but on the degree of disability of the veteran. Under present law, monthly compensation rates for disabilities incurred in time of war range from $25 for veterans with a 10-percent disabling condition to $450 for totally disabled veterans, with higher rates provided for certain very serious disabilities. In fiscal year 1969, about $2 billion in compensation benefits will be paid to over 2 million disabled veterans.

Death compensation.—Widows, children, and dependent parents are provided survivor benefits under the dependency and indemnity compensation program. More than one-half billion dollars is being paid to 369,000 families or individuals in fiscal year 1969. Major improvements were made in legislation enacted in 1969.

Insurance.—In June 1968, more than 5.7 million veterans held government insurance policies with total face value of almost $39 billion. In addition, members of the Armed Forces today automatically receive $15,000 in life insurance coverage; for servicemen in combat areas, the premium pays only a small part of the actual cost of coverage.

Pensions.—Pensions, based on a veteran's need (as indicated by his income), are provided aged or disabled veterans of World War I, World War II, the Korean war, and the Vietnam era whose disability is unrelated to their military services, service pensions are paid to Spanish-American War veterans. Pensions are also paid to needy widows and children of veterans who died from conditions not related to their service. In fiscal year 1969, an estimated $2.1 billion will be paid in pensions to 1.1 million veterans and 1.1 million survivors of veterans.

Burial benefits.—Up to $250 of the burial expenses of eligible veterans may be reimbursed by the Federal Government. An American flag is provided to drape the veteran's casket; after burial the flag may be given to the deceased's next of kin or close friend or associate.

Hospital and medical care.—Veterans who have disabilities as a result of service are eligible for medical and hospital care on an inpatient basis in Veterans' Administration hospitals. They are also eligible for outpatient medical treatment. Veterans with an injury or disease that is not service connected are eligible for hospital and medical care only on an inpatient basis, provided beds are available in Veterans' Administration facilities and they are unable to afford private care. Over 800,000 veterans will receive treatment in VA facilities in fiscal year 1969.

Readjustment benefits.—Veterans are eligible for a wide variety of benefits designed to ease the transition from military to civilian life. These include educational and training allowances, home, farm, or business loan guarantees; special unemployment allowances; and vocational rehabilitation.

CREATION OF SUBCOMMITTEE ON VETERANS' LEGISLATION

On February 25, 1970, a Subcommittee on Veterans' Legislation was established in the Committee on Finance under the chairmanship of Senator Herman E. Talmadge of Georgia. That Committee has done an outstanding job during the 91st Congress.

During the past 18 months, the Subcommittee on Veterans' Legislation has initiated action on six major bills, and has acted on a number of minor bills originating in the House of Representatives. These are the six major bills:

1. S. 1471 (introduced by Senator Talmadge)—represented the first major legislation in more than a decade to revise and update benefits for the widows and orphans of servicemen and veterans whose death was related to their military service. Signed into law October 27, 1969.

2. S. 1479 (introduced by Senator Talmadge)—increased Servicemen's Group Life Insurance for servicemen on active duty from $10,000 to $15,000, the first time insurance for servicemen was raised above $10,000 since the first insurance program was established more than 50 years ago; and extended insurance coverage to reservists on active duty for training. Signed into law June 25, 1970.

3. S. 3348 (introduced by Senator Talmadge)—increased compensation payments to disabled veterans whose disability was service-connected by $220 million; increases ranged from 8 percent for less seriously disabled veterans to 12 percent for veterans with more severe disabilities. Signed into law August 12, 1970.

4. S. 1650 (introduced by Senator Long)—would provide double indemnity Servicemen's Group Life Insurance coverage for members of the uniformed services assigned to duty in a combat zone, or assigned to extrahazardous duty; thus the bill would provide optional life insurance coverage of up to $30,000 for servicemen on duty in a combat area or assigned to extrahazardous duty. Passed the Senate September 18, 1969; pending before the House Veterans' Affairs Committee.

5. S. 2186 (introduced by Senator Long)—would add to Servicemen's Group Life Insurance coverage indemnity payments in the event of dismemberment or loss of use of a hand, foot, or eye. One-half of the face value of the insurance would be paid if the serviceman lost anatomically or lost the use of one hand, one foot, or the sight of one eye; the full face value would be paid in the event of loss or loss of use of two or more such members. Passed the Senate September 18, 1969; pending before the House Veterans' Affairs Committee.

6. S. 2003 (introduced by Senator Long)—would establish a new program of Vietnam Era Veterans' Life Insurance, with face value as high as the maximum amount under Servicemen's Group Life Insurance; veterans would receive dividends which would automatically be applied against the next year's premium; and optional additional disability insurance could be purchased by the veteran. Passed the Senate September 18, 1969; pending before the House Veterans' Affairs Committee.

The following House-passed bills have been acted on:

1. H.R. 684—made technical corrections in title 38 of the U.S. Code (Veterans' benefit programs). Signed into law June 11, 1969.

2. H.R. 4622—preserves disability evaluation in effect for 20 years if disabled veteran has suffered certain anatomical losses or is totally disabled with especially severe disabilities. Signed into law June 23, 1969.

3. H.R. 10106—revises the definition of a "child" for veterans' benefit purposes to recognize an adopted child as a dependent from the date of issuance of an interlocutory decree. Signed into law May 21, 1970.

4. H.R. 10912—prohibits recoupment of lump-sum disability severance payment at rate higher than rate based on veteran's initial degree of disability. Signed into law May 7, 1970.

5. H.R. 16739—extends for 4 years authority of Veterans' Administration to maintain offices in the Republic of the Philippines. Signed into law July 16, 1970.

Mr. BENNETT. Mr. President, I am sure that the problems and the values in the proposal to create a new Veterans' Affairs Committee have been thoroughly discussed. They have been presented ably by the chairman and have been discussed by other Senators. So I am not going to go back over the same ground. Two or three other things might be highlighted a little, perhaps.

In the first place, I think it is not necessary even to satisfy the desires of the veterans organizations any longer to consider creating a new subcommittee. It has been pointed out that those of us who serve on the subcommittee in the Finance Committee have substantial seniority which would not be available to members who might serve on the new committee. The creation of a new committee, with a new staff, would be very expensive.

I should like to point out that the volume of veterans legislation is not large enough to justify a full-time committee and staff, and I ask the Senator from Georgia whether he agrees with that.

Mr. TALMADGE. I agree entirely with the distinguished Senator from Utah.

As a matter of fact, the workload on veterans legislation in the Senate Finance Committee has been approximately 25 to 30 veterans bills per Congress, which means about 15 per year, and the same has been true with respect to the Committee on Labor and Public Welfare. I do not think that demonstrates a need for a special committee to handle veterans legislation.

The able Senator from California pointed out earlier that the House standing Committee on Veterans' Affairs spends approximately $400,000 a year. If a new standing committee spent a similar amount, I think that would be $400,000 of the taxpayers' money that would be wasted.

Mr. BENNETT. I agree with the chairman on that. He has made the point very ably that our subcommittee in the Finance Committee has worked entirely on a nonpartisan basis. Our actions have been unanimous and as the ranking member of the minority on that committee, I want to underline and underscore what he says. This is not a problem in which political pressures are involved. I think we have served our responsibility to the veterans very successfully.

I should like to repeat, too, that I think the fact that the proposal is still alive represents a carryover from an earlier time, a time when there was no special subcommittee and when the veterans might have had a right to complain that they had no particular forum in the Senate to which they could go. But, under the leadership of the Senator from Georgia (Mr. TALMADGE), that has been eliminated.

Mr. President, I do not want to keep the Senate longer. I think we are ready to vote but I did want to add my testimony, representing the minority, that what the Senator has said is correct. Veterans associations have not been putting any pressure on those of us who are members of that committee to surrender our responsibility to a new committee. I

have not heard from veterans associations any demands for a new committee for several years, and therefore, Mr. President, I hope that the Senate will reject the proposed amendment and leave the Finance Subcommittee on Veterans' Affairs and the Subcommittee of the Committee on Education of the Committee on Labor and Public Welfare to carry out the responsibilities in the next Congress that we think they have so ably carried on in the present Congress.

Mr. TALMADGE. I thank my distinguished friend from Utah who is the ranking minority member on the subcommittee. I associate myself completely with his remarks. I want only to make one final point, that if we have a new Senate committee to handle one special interest, how are we going to deny any other special interest? If we create a special subcommittee to handle veterans legislation exclusively, how can we deny the right of a new committee to handle urban affairs? How can we deny a Senate committee on consumers? How can we deny a Senate committee on science? How can we deny a Senate committee on women's rights? How can we deny a Senate committee on children?

I can think of a multiplicity of other worthy causes. But the Senate does not legislate one special interest alone. It has jurisdiction over 200 million Americans. It should keep that in mind and I hope it will not create and proliferate Senate committees when Senators do not have the time to attend all the sessions of the committees they already are members of.

A few minutes ago, the Senator from Kentucky (Mr. COOK) said that he was supposed to be in five different places this morning at the same time.

The Senator from Georgia has also been confronted with that problem. In recent weeks, we have been engaging in a hectic agricultural conference which has been going on now for the third week. I have had to absent myself frequently from the meetings of the Committee on Finance. This morning I found it necessary to be in three different places at the same time. That seems to be the order of the day in the Senate for Senators. We should not multiply it any more.

Mr. CRANSTON. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. I yield.

Mr. CRANSTON. I would like to ask the Senator from Georgia, who is chairman of the Veterans' Affairs Subcommittee which has done remarkable work, do I correctly understand that there have been no complaints from any of the veterans organizations about the work of his committee?

Mr. TALMADGE. Not the slightest. On the contrary, we have heard nothing but praise from every major veterans organization in America. I have letters in my files thanking me. I have clippings from all of the veterans publications stating that the Finance Committee has moved rapidly forward to implement their programs. There has been no criticism whatever from any source regarding the Subcommittee on Veterans' Legislation of the Senate Finance Committee.

Mr. CRANSTON. I would like to say that I can say the same thing. Not one word of criticism from any veterans organization has been directed at the work of the Subcommittee on Veterans' Affairs, which I chair, on the Committee of Labor and Public Welfare. We have done our work and brought out legislation that has been creative, constructive, and badly needed.

The fact is that the Senate is at this moment simply going through a pro forma procedure, a sort of ritualistic dance, relating to veterans convention positions of the past. Veterans organizations are stuck with the positions they were placed in at past conventions of their associations. Their leaders are not forcefully advocating this measure at this time. The leaders know it is not needed. The committee has brought in an amendment which is based upon hearings which were held in 1965, and not related to present circumstances. We are grappling with a past situation. The current situation is that veterans know they are best served by the present procedure. They know that a "no" vote against the pending amendment will be a vote that will best serve the interests of the veterans and the Nation.

Mr. STEVENS. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. I yield.

Mr. STEVENS. I heard the comments of the Senator from California. There is no attempt here to have the record imply that veterans organizations of the country are not seriously seeking the creation of an independent committee in this body, is there?

It is my understanding that all veterans organizations are seriously seeking the creation of such a committee. They are on record concerning it. They took that position again this year at their conventions. I do not think, having been a member of those conventions in the past, that they take those positions any easier than we take positions in the Senate. I would not like to see the implication left on the record that their positions are something they got locked into years ago and have no way to get out of. Is that the impression we are supposed to gather from this record, that the veterans do not really want this committee, that we are going through this just as an exercise?

Mr. CRANSTON. The Senator from California chose his words with great care. The Government Operations Committee went on record long ago, and the veterans organizations established positions long ago, which they ratified again this year. The fact is that veterans organizations and their spokesmen have not worked the Senate over on this matter. They are satisfied with the work of the committee. They recognize the validity of the arguments that a new committee would not get things done in the current situation. So it is, indeed, a pro forma position that they have taken.

Mr. METCALF. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. I yield.

Mr. METCALF. Mr. President, in connection with the subject matter the Senator from Alaska has just raised, I am not going into detail, but I would like to place in the RECORD a letter to the majority leader dated October 2, 1970, calling the attention of the Senate to Resolution 10 which was passed on October 14, 1970, by the Veterans of Foreign Wars of the United States, to create a Senate Veterans' Affairs Committee.

I ask unanimous consent to have this letter and the resolution printed in the RECORD.

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

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., October 2, 1970.

Hon. MIKE MANSFIELD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: This is in reference to H.R. 17564, the House approved Legislative Reorganization bill, scheduled for Monday, October 5, for consideration of the full Senate.

This is to let you know that the Veterans of Foreign Wars strongly supported S. 355, 90th Congress, which was approved by the full Senate early in that Congress, but languished in the House where it died when the 90th Congress finally adjourned.

It is noted that S. 844, 91st Congress, is practically identical to S. 355, 90th Congress and includes a provision to establish a Standing Committee on Veterans' Affairs in the U.S. Senate.

This is to let you know and urgently recommend that pursuant to a national mandate unanimously approved by the delegates to our Miami Beach National Convention that the V.F.W. strongly supports the provision in either of these Senate bills to create a Standing Veterans' Affairs Committee. A copy of this resolution (identified as Number 10) entitled "Create A Senate Veterans Affairs Committee" is enclosed.

Pursuant to this national mandate, it is urgently recommended that in your deliberation concerning the reorganization of the Congress that you will approve a provision for a Standing Veterans' Affairs Committee.

Any effort to accomplish this goal will be deeply appreciated by the more than 1,600,000 members of the Veterans of Foreign Wars.

With kind personal regards, I am,

Sincerely,

FRANCIS W. STOVER,
Director, National Legislative Service.

RESOLUTION NO. 10—CREATE A SENATE VETERANS AFFAIRS' COMMITTEE

Whereas, the Veterans of Foreign Wars has been the leader down through the years for the establishment of a single Standing Veterans Affairs Committee in the U.S. Senate to handle all legislation pertaining to veterans programs; and

Whereas, in the previous Congress the Senate through its Select Committee on Reorganization of the Congress and its Committee on Rules and Administration reported and advanced separate Senate Resolutions which proposed to establish a Standing Veterans Affairs Committee in the U.S. Senate; and

Whereas, this 91st Congress has reported a bill, S. 844, which contains a provision to create a Standing Veterans Affairs Committee in the U.S. Senate, which is presently pending on the Senate calendar for consideration of the full Senate; and

Whereas, there were several V.F.W. sponsored Senate resolutions which propose to

create a Standing Veterans Affairs Committee in the U.S. Senate, which are now pending before the Senate Committee on Rules and Administration; now, therefore

Be it resolved, by the 71st National Convention of the Veterans of Foreign Wars of the United States, that the V.F.W. continue every effort to have the Senate act on its own resolutions pending before its Rules and Administration Committee to create a Standing Veterans Committee on its own initiative or, in the alternative, to take up and pass the Legislative Reorganization Bill which contains a provision to create a Veterans Affairs Committee in the U.S. Senate, so that veterans and their families, who now total almost one-half of our population, will have a single Committee in the U.S. Senate similar to the Committee on Veterans' Affairs in the U.S. House of Representatives.

Adopted at the 71st National Convention of the Veterans of Foreign Wars of the United States held in Miami, Florida, August 14 through 22, 1970.

Mr. TALMADGE. Would the Senator from Montana tell me who signed that letter?

Mr. METCALF. Francis W. Stover, director of the National Legislative Service of the Veterans of Foreign Wars. It reiterates their desire to have a Veterans' Affairs Committee.

Mr. TALMADGE. Does the Senator have any other letters like that?

Mr. METCALF. No; I do not have any other letters.

Mr. TALMADGE. I think the Senator is technically correct that the organization is bound by the resolution. Our committee has worked closely with Mr. Stover, the director of the National Legislative Service of the Veterans of Foreign Wars, who signed that letter. I can state with absolute certainty that they are highly pleased with the performance of the Subcommittee on Veterans' Legislation.

Mr. METCALF. The resolution was adopted in August.

Mr. TALMADGE. I am aware of that.

Mr. President, I yield the floor.

Mr. CURTIS. Mr. President——

The PRESIDING OFFICER (Mr. WILLIAMS of New Jersey). The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, in the last Congress, I took an active role in attempting to establish a Veterans' Affairs Committee in the Senate. I did this in the Committee on Rules and Administration as well as in the Senate generally.

Today, I expect to vote the same way but, as a member of the Finance Committee, I want the record clearly to show that I am convinced the Finance Committee and this particular subcommittee have done a thorough, responsible, and a statesmanlike job in handling veterans affairs matters.

I do not believe that any other committee could do a better job. I regard the Finance Committee as an outstanding committee and a committee that is exceptionally well run.

I would like to say something about this problem of so many committees, so many committee meetings, and the necessity for a Senator to be in more than one place at one time. I believe that one of the causes of such a problem is the creation of subcommittees. Most of the work the Finance Committee has done has been done in the full committee. That has always had certain advantages in the opinion of the junior Senator from Nebraska.

So, I do not know that any implication whatever would be made that taking the same position that I have taken for some time implies in any way that the Finance Committee has not done a good job for the veterans of the country. I do think there is an impelling reason for creating a Veterans' Affairs Committee. We have one in the House of Representatives. It is an active committee. I do not say that it has done a better job than the Senate committee has done, but it has done a good job. So there can be no fears expressed with any justification, in my opinion, that a new committee could not handle the work.

I take the position I do because I feel there is no logical reason for the veterans affairs legislation to be lodged in the Finance Committee. I believe that I am correct in suggesting that the reason the veterans legislation was referred to the Finance Committee was because the Finance Committee has jurisdiction and management of the national debt. When the request for a bonus was made, there was a proposal that it be treated as a public debt transaction. From that time on, the Finance Committee has had jurisdiction.

Actually, the Finance Committee's jurisdiction has grown a great deal because of the social security system. The social security system is based upon a tax, and a tax is a very important part of it.

That legislation was, by appropriate action and rule, assigned to the Finance Committee. However, in recent years that jurisdiction has been enlarged. It now includes medicare and medicaid. The committee also has jurisdiction of tariffs and trade agreements. It has jurisdiction of the entire management of the national debt, as well as our tax program and all of its ramifications.

For a committee to do a good job on the tax program was a difficult one back in the days when we had a budget of $15 billion a year or less. Today, when we are trying to levy enough taxes to support a budget of $200 billion a year, more or less, that task alone is a sufficient assignment for any committee.

I do not believe there is a logical reason for uniting veterans legislation with our tax program. Practically all of the rest of the jurisdiction of the Finance Committee is tax-related. Tariffs are taxes. Trade agreements involve taxes. The social security system is basically a tax program.

So, while I will maintain the position that I have taken before, I want the record to clearly show that the Committee on Finance has done a good job on veterans legislation under our distinguished chairman. My friend, the distinguished Senator from Louisiana (Mr. LONG) has done a very outstanding job. He has been interested in all matters relating to veterans, as has the distinguished Senator from Georgia (Mr. TALMADGE), the chairman of the subcommittee, and all other members.

I favor a separate committee because I think it is logical I think it is a better assignment of the workload. I do not do this at all on the basis that an unusually good job is not being done at the present time.

Mr. LONG. Mr. President, I would have hoped that this matter would have been approached by a proposed change of the rules of the Senate. At least the legislative committee would have had an opportunity to consider the matter and make recommendations on it prior to action.

I would still hope that that course could be pursued in the future. That would be the ordinary manner of doing it.

Mr. President, this matter has been debated rather fully. I think it is appropriate at this time that a motion to table be made. I therefore move to table the amendment.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to table the amendment. 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 Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), 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 Oklahoma (Mr. HARRIS), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Missouri (Mr. SYMINGTON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), 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 South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr.

SAXBE), and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), and the Senator from Texas (Mr. TOWER), would each vote "nay."

On this vote, the Senator from Arizona (Mr. FANNIN) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from Arizona would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 29, nays 37, as follows:

[No. 357 Leg.]

YEAS—29

Allen	Eastland	Mondale
Aliott	Ellender	Packwood
Anderson	Ervin	Pell
Bayh	Goldwater	Percy
Bennett	Hughes	Proxmire
Brooke	Inouye	Ribicoff
Cook	Jordan, Idaho	Russell
Cranston	Long	Stennis
Dominick	McClellan	Talmadge
Eagleton	McGovern	

NAYS—37

Baker	Hart	Pearson
Bible	Holland	Randolph
Boggs	Hollings	Schweiker
Burdick	Hruska	Scott
Byrd, W. Va.	Jackson	Smith, Maine
Case	Javits	Spong
Cooper	Magnuson	Stevens
Cotton	Mansfield	Thurmond
Curtis	Mathias	Williams, N.J.
Dole	McIntyre	Williams, Del.
Griffin	Metcalf	Young, N. Dak.
Gurney	Miller	
Hansen	Nelson	

NOT VOTING—34

Aiken	Harris	Pastore
Bellmon	Hartke	Prouty
Byrd, Va.	Hatfield	Saxbe
Cannon	Jordan, N.C.	Smith, Ill.
Church	Kennedy	Sparkman
Dodd	McCarthy	Symington
Fannin	McGee	Tower
Fong	Montoya	Tydings
Fulbright	Moss	Yarborough
Goodell	Mundt	Young, Ohio
Gore	Murphy	
Gravel	Muskie	

So Mr. LONG's motion to lay Mr. METCALF's amendment on the table was rejected.

Mr. METCALF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METCALF. The vote now recurs on the original amendment; is that correct?

The PRESIDING OFFICER. On the amendment of the Senator from Montana (putting the question).

The amendment was agreed to.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, the joint leadership of both Houses met this afternoon to discuss the possibility of an adjournment sine die, a recess, or other action in that connection.

We had a meeting yesterday and we came to no firm conclusion then. Today I met with the Democrats in caucus, and the distinguished minority leader met with the Republicans in caucus. I felt I was under instructions from the Democratic caucus to act as I did, which may I say in passing, was contrary to my own personal feelings on the subject.

Nevertheless, we did have this meeting this afternoon with the Speaker, and have come to a tentative but reasonably firm agreement that Congress would go out of session on a recess basis on the 14th of this month, which would be a week from tomorrow, and would return on the 16th of November, to resume the consideration of measures on the calendar.

Mr. SCOTT. Mr. President, will the distinguished majority leader yield before he discusses the schedule?

Mr. MANSFIELD. I am delighted to yield.

Mr. SCOTT. I should like to say that I did report to the Republican conference at luncheon and that the desire of the minority was to remain in session until we had finished whatever proposed legislation would be presented to us, and there was a unanimous feeling that we should, so far as the minority was concerned, seek to avoid an extra session.

At the joint leadership meeting, I think it was made clear to us that the responsibility of the majority is to determine when a recess should take place, but that both party leaderships, on both sides, should seek to work out something agreeable and amenable and should certainly be consulted as to the return date. Therefore, faced with a situation which is difficult for all of us—and I say it without any criticism implied whatsoever—these dates have been worked out. But I should like to make it clear that I carried out the instructions of the conference, which indicated that they would prefer to remain here.

Mr. MANSFIELD. Mr. President, what the distinguished minority leader has said is correct.

May I say, in my own self-service, that I likewise attempted, to the best of my ability, to carry out what I consider to be the will of the Democrats in caucus assembled this morning.

LEGISLATIVE PROGRAM

Now, as to the schedule: When we complete the present business, it is my intention, hopefully, to be in a position to call up the constitutional amendment guaranteeing equal rights to women, as the unfinished business for the Senate tomorrow; and then tonight turn to the consideration of the drug bill.

I hope that the Senate would agree with the leadership that, if at all possible, we should, until adjournment on Wednesday of next week, work on a two-shift basis, to the end that we can complete as much in the way of legislation as possible before we recess.

I would imagine that the equal rights for women constitutional amendment could take several days.

After the drug bill is completed, there are four crime bills, including the Law Enforcement Assistance Act, which we would hope the Senate would take up in the second session tomorrow night.

Then on subsequent evenings this week there is the Sleeping Bear Dunes bill and the occupational safety bill; after this week is finished, the leadership hopes to reach other matters on the calender such as the joint resolution to establish a Joint Committee on the Environment; a bill to establish a Federal Broker-Dealer Insurance Corporation; an act to authorize U.S. participation in increases in the resources of certain international financial institutions, and so forth; an act to amend the Atomic Energy Act of 1954, as amended; a resolution relating to the creation of a World Environmental Institute.

Then, beginning at the bottom of page 10 and covering all of page 11 and all of page 12 of the calendar for today, there are many bills which can be considered. A good many of them, I assume, are noncontroversial and therefore will not cause too much difficulty. Most of them, I believe, have been reported by the Committee on Interior and Insular Affairs and have to do with situations and programs which are important to the West. Two or three—perhaps four—have been reported by the District of Columbia Committee and are of importance here.

So it is the intention of the joint leadership—the Senate willing and cooperating—to carry out as much of this program as we can, to keep the calendar as clean as possible, and perhaps, if the circumstances are right, even to consider any appropriations bills reported from the committee including possibly the Defense appropriation bill some time next week. That depends on a number of variables. It is a tentative proposal and a flexible proposal, but I think Senators should keep it closely in mind.

As soon as the joint leadership can get together, we will try to set out a schedule which we will begin to meet on the first day of our return in November. It is our present intention that the pending business at that time will be the Social Security Act, which will have been reported by the Committee on Finance.

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

Mr. MANSFIELD. I yield.

Mr. SCOTT. In addition to the Sleeping Bear Dunes bill, there obviously are a number of other "sleeping bears" on the calendar; and I ask the distinguished majority leader whether he will make every effort, in addition to the DOD appropriation, to dispose of other appropriation bills, if at all possible, before adjournment.

Mr. MANSFIELD. Yes, indeed.

May I say, speaking personally, that if the conferees reach an agreement on the military construction bill, it is my intention, as chairman of the Subcommittee on Appropriations for Military Construction, to hold a hearing immediately, to try to report it to the full committee, bring it to the floor, and, if possible, have it passed before we recess on Wednesday night of next week.

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

Mr. MANSFIELD. I yield.

Mr. STENNIS. I am not handling the appropriation bill for the Department of Defense. The Senator from Georgia is not in the Chamber at this time. But I understand that the House is going to pass that bill on Thursday of this week.

Mr. MANSFIELD. That is correct.

Mr. STENNIS. They have been working together with the Senate committee, and I believe it would be possible to bring the bill here early next week.

Mr. MANSFIELD. We will do our best. It is my intention—I should have mentioned it—to discuss the matter with the President pro tempore, the distinguished senior Senator from Georgia (Mr. RUSSELL), and the senior Senator from Louisiana (Mr. ELLENDER), as well as the distinguished senior Senator from North Dakota (Mr. YOUNG), the ranking minority member.

Mr. STENNIS. I have mentioned it because they cannot be in the Chamber at this moment.

Mr. LONG. Mr. President, I have an amendment at the desk which I offer at this time.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk read the amendment, as follows:

On page 55, between lines 3 and 4, insert the following new section:

SEC. —. Rule XII of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"4. When the yeas and nays are ordered upon any measure or matter, and a Senator who is present has entered into a pair upon that measure or matter with a Senator who is absent, the vote of each Senator who is a party to the pair shall be recorded upon request made by the Senator who is present when his name is called. No absent Senator shall be counted as present in determining whether a quorum is present.".

Mr. LONG. Mr. President, what this amendment seeks to bring about is that when a live pair is given by a Senator, he be recorded as voting and that the absent Senator to whom he accords the live pair also be recorded as voting, with the understanding that the RECORD will reflect that permission was gained and that one Senator was present and the other was absent.

The amendment specifically sets forth that the absent Senator shall not be counted for the purpose of achieving a quorum, so that if there are only 51 Senators present, the absent Senator could not be counted for the purpose of a quorum.

It seems to me it is rather ridiculous for us to insist that an absent Senator and the Senator giving him a live pair should not be recorded, which brings about situations that have been required to happen as a result of that circumstance.

For example, I recall that when Matt Neely was on his deathbed he was carried into this Chamber to vote to organize the Senate. That was totally unnecessary, except that it is difficult to obtain a live pair for a Senator on a vote of that importance when the person giving the vote would not be recorded as voting but merely shown in the RECORD as not voting, with the statement that had he voted, he would have voted one way or the other.

I know that when a very important vote was pending, the late Clair Engle was brought into this Chamber, when he certainly was in no condition to be hauled in here, to try to cast the deciding vote.

It seems to me when we know the Senator giving the pair is well aware how the other Senator would have voted, the Senator who would accord a pair to his colleague should not be recorded as not voting when he is present and prepared to vote. Nor should the Senator who is absent, to whom a pair is accorded by a Senator who is present and ready to vote but who withholds his vote when the other Senator is paired with him, be denied that right also.

So I think this is one modification of the rule that would help us to get on with the business. Often I have seen a rollcall held while some Senator was rushed back from the White House, or while we waited until an airplane landed so that a Senator could get back to the Capitol from the airport, when a Senator who was present would gladly have given a pair to the absent Senator if both could have been recorded. This would avoid having a Senator recorded as not voting when he was ready to take a position. A Senator who was present would be willing to respect the wishes of the absent Senator and accord him a pair, and this would give the absent Senator a pair without thereafter being recorded as not voting on a very important, critical vote.

I have been tortured by that situation myself down through the years. I have given many pairs. I do not like to have it shown that I was not voting when I was present but gave a pair.

I hope very much that the manager of the bill would accept what I believe to be a desirable modification of the rule. This amendment would not change the situation with regard to a dead pair of two absent Senators. It would not change the situation with respect to the necessity of a quorum to do business. But I believe it would help us to expedite the business of the Senate. It would stop the practice of delaying a rollcall or calling the roll slowly while a Senator was being rushed to the Capitol, when a Senator who was present would be willing to accord a pair to the absent Senator, when a quorum was present—sometimes as many as 90 Senators present and voting—and one Senator was willing to accord a pair to his colleague, and the leadership on one side of the aisle or the other was urging that that courtesy be shown.

Mr. ERVIN. Mr. President, it is with great reluctance that I oppose the amendment of my good friend the able and distinguished Senator from Louisiana (Mr. LONG). I am constrained to do so, however. I do not believe that a Senator who is not on the floor of the Senate, who has not heard the argument relating to a pending proposition, or even if he has heard the argument some time earlier, should have it within his power to determine basic issues for the American people when he is not even here to vote.

The Constitution, section 5 of article I, provides:

Each House shall be the judge of the elections, returns, and qualifications of its own Members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent Members, in such manner, and under such penalties as each House may provide.

This provision of the Constitution expressly says that we have to have a majority of the Senate here to constitute a quorum to do business. That clearly contemplates not only that no Senator shall be counted for a quorum of the Senate, but that no Senator's vote shall be counted unless he is here on the floor of the Senate.

I am at a total loss to understand why we should permit a Senator who is not here, where he is elected to be by the American people of his State, to cast a vote. I think it would destroy the value of the Senate as a legislative body to have the decisions on vital questions determined by Senators who are not even present when the vote is taken.

That is precisely what this amendment seeks to accomplish. I can understand why, on occasion, some Senators cannot be present. But the truth of the matter is that every Senator is elected by the people of his State to be here when votes are taken, and there ought not to be a rule of the Senate that would permit a Senator to have his vote counted when he will not take the trouble to be here.

For that reason, I oppose the amendment of the Senator from Louisiana, and I ask for the yeas and nays on that proposition

The yeas and nays were ordered.

Mr. LONG. Mr. President, will the Senator yield? Would the Senator point out to me where in the Constitution it states that a Senator who is not present shall not be counted in the tabulation of the vote, to make the total, for example, 41 to 31 instead of 40 to 30?

Mr. ERVIN. It says that by implication in the section I read. It says he cannot be counted for a quorum to do business. We have to have a majority here to do business, and a Senator cannot be counted to make that majority unless he is here. That clearly contemplates that the business of the Senate is to be done only by those of its Members who are present in the Senate when the votes are taken.

Mr. LONG. If the Senator will yield further, would the Senator point out to me the language on which he is relying for that conclusion? I would like to hear him read the language he is relying on to say that the vote cannot be tabulated.

Mr. ERVIN. The provision says it takes a majority to constitute a quorum to do business. That certainly means that the only Senators who can do business in the Senate are the ones who are here. The Senator's amendment would provide that absent Senators can do business here on the floor of the Senate when they are not even here. Under it, the Senator could permit 49 absent Senators to vote if 51 Senators were present. The American people are entitled to a better functioning Senate than that.

Mr. LONG. Mr. President, I regret that my friend is so badly in error, but my amendment clearly spells out that to which he makes reference, that a quorum must be present in order for the Senate to do business, and the amendment clearly states that no absent Senator shall be counted for purposes of arriving at a quorum.

Mr. President, it is so easy to illustrate what makes commonsense just by

the way we do business in the average committee. Take the Committee on Finance, on which I have the honor to serve. We must have a quorum of nine out of 17 Senators present in order to do business.

When we get around to voting, we will sometimes arrive at a tie vote, or sometimes we have found, with as many as 13 or 14 Senators present, that we would like to know how the other Senators would wish to be recorded; so we will call them, or they will come in later and say how they would like to be recorded.

So we show how certain Senators who were not present at the time would like to be recorded, and hopefully, we can thus record how all 17 Senators would have voted.

That is how the record of the vote goes out of committee, and I think that is the case with most committees.

I agree that a quorum must be present to do business. But I submit that when we get around to announcing who voted "yea" and who voted "nay," we could record some absent Senators.

It would be all right with me, Mr. President, that while there must be a quorum present in order to do business, when a Senator stands here and says to the Presiding Officer, "I have given a pair with this man; if he were present and voting, he would vote 'yea'; if I were permitted to vote, I would vote 'nay'; therefore I withhold my vote," he could say instead, "If he were present and voting, he would vote 'yea,' and I would vote 'nay'; I would be required to withdraw my vote otherwise, and I therefore ask that he be recorded 'yea' and I be recorded 'nay.'"

Thus, instead of it being announced as a vote showing 40 yeas and 30 nays, it would be announced as showing 41 yeas and 31 nays.

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

Mr. LONG. I yield.

Mr. McCLELLAN. I am trying to understand this. Does the Senator propose that an absentee can be recorded as voting, and that vote affect the outcome of the issue?

Mr. LONG. Just exactly the same as it does now.

Mr. McCLELLAN. There is a difference now. His vote is not counted. If someone is absent, his vote is not counted in the final result, whether the bill passes or not.

Mr. LONG. His vote is counted if he has a pair, to the extent that the Senator who gives him a pair is not counted, either.

Mr. McCLELLAN. That is right.

Mr. LONG. So we have a situation where one Senator is present and another Senator is not present; and how do we split the difference? We split the difference by not counting the vote of the Senator who was present or the one who was not present. We could split it the other way.

My amendment provides that the Senator who is present will be counted, and we will also count the vote of the one who is not present, with an entry in the RECORD, which should certainly be the case, that the Senator stood and announced for the RECORD. "I have a pair with this Senator. He is absent, and I ask that I be recorded 'No' and he be recorded 'Yes' because that is how the two of us would be recorded if he were here."

I say it is preferable to have them both recorded rather than not recorded, that the Senator is present and recording a pair.

Mr. McCLELLAN. With a quorum present, or whatever the number is, and a close vote, the one vote being recorded might affect the result. Would the Senator change the rules of the Senate so that an absentee vote could affect the outcome of an issue?

Mr. LONG. It would be exactly the same as if that Senator withheld his vote. The only difference would be that in one instance the RECORD would show that 40 Senators voted "yea" and 30 Senators voted "nay," and in the other case it would show that 41 voted "yea" and 31 voted "nay." In either event, the RECORD would show that a Senator stood and made the statement that he was present and that the other Senator was absent, and the RECORD would show it.

Mr. McCLELLAN. We all have plenty of occasions now for absenteeism, with all the demands on us, to be at home or somewhere else. If we are going to open this up so that a Senator can vote by some absentee method, I am persuaded that it is going to be conducive to more absenteeism than we already experience. I am sincere about that.

Mr. LONG. If that is what the Senator is concerned about, I will show him how to improve on attendance.

Mr. McCLELLAN. We all know how to do it.

Mr. LONG. If the Senator wants to do something in the rules to have the attendance improved upon, all he need do is to require that the Secretary of the Senate keep a record of every minute a Senator sat in the Chamber and the time he did not sit in the Chamber; or do as a manufacturing plant does—have the Senators check in and out when they come to work, and leave and find out how much time a Senator is here. Senators who are not here very much will find they should spend more time on the floor. That will do more than declining to record a Senator when he is not present and voting and is not available to vote or declining to record a man when he has recorded a live pair.

Mr. McCLELLAN. Mr. President, will the Senator yield on another point?

Mr. LONG. I yield.

Mr. McCLELLAN. I think that leaves a bad implication, that simply because a Senator is not on the floor all the time the Senate is in session, he is not performing senatorial duties. I think the Senator will agree with me that even if we are in our offices, we are generally performing senatorial duties, even though the Senate may be in session. Many times we are working in committee. So that it would be unfair to cast the reflection that simply because a Senator is not on the floor all the time, he is neglecting his senatorial duties.

Mr. LONG. I do not care to quarrel with that point. I agree with it.

Mr. McCLELLAN. The Senator is insisting that a Senator ought to be present on the floor. What I am trying to determine is whether we are getting ourselves into a situation in which we can all find an excuse to be absent and not be here and yet be recorded in the result of an issue that is determined by a vote of the Senate. I hope we are not doing that. I am trying to understand this matter.

Mr. LONG. So far as this Senator is concerned, I do not want the RECORD to reflect that a Senator is here when he is not here. I would have the RECORD reflect that a request was made that a Senator be recorded because he was given a pair and that the Senator who was given the pair would feel that he, in conscience, could not vote unless he were accorded the privilege.

Mr. McCLELLAN. Suppose a Senator is necessarily absent but is unable to get a pair. The other Senator is here, and everybody wants to go ahead and vote, and the absent Senator is unable to get a pair. Then we deny him the right to vote. One is recorded as voting and the other is not. That seems to me to be getting off at a tangent.

Mr. LONG. That would not change the result a bit from the way it is now. The way it is today, sometimes a Senator cannot get a pair and sometimes he can.

At this time, one-third of the Senators are campaigning for their political lives. I received a call a few minutes ago, during the last rollcall vote, from a Senator who is campaigning for his political life in his home State. He is fighting a tough battle. He talked to me about his difficulties. If that Senator called in and asked for a pair, he would be confronted with the fact that, although he may be the author of a resolution identical to the one on which we are voting, the other Senator might say, "I'm sorry. I would like to accord you that courtesy, but I don't want to be recorded as not voting. Therefore, old friend, I'm sorry. I just can't give you a pair."

The Senator told me he does not think he can come back here between now and the election because it is vital to him that he be with his people.

I think it would be desirable to reflect the Senator as voting rather than not voting, even though it would clearly be shown that he was not in the Chamber. It would be recorded as one more "yes" or one more "no," rather than as neither man voting.

I would not change it for a quorum. It would work the same as if a live pair were given, with the exception that both Senators would be shown as voting, instead of both being recorded as not voting.

In the committee on which I have the honor to serve as chairman, we do it in a similar way. A Senator calls in and wants to be recorded as voting for the amendment, and when we announce the result, he is recorded as voting "yes." If another Senator calls in and wants to be recorded as voting "no," he is recorded as voting "no," and a pair is not even required in that case.

I do not seek to bring that into the Senate. I seek simply to let the vote re-

flect those voting one way or the other and the RECORD to reflect clearly which Senator was present and which was not. By recording a Senator "yea" and recording the other Senator "nay," it would not at all change the requirement that 51 live bodies must be present in the Chamber in order to constitute a quorum.

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

Mr. LONG. I yield.

Mr. ERVIN. Mr. President, the last remark of the Senator shows how this would work. He would have 51 Senators here and the other 49 away, and those 49 would be voting; their votes would be counted.

When I served in the House, one Member went home and stayed there all the time. I could make an agreement with my good friend the Senator from Arkansas that I would stay here half the session and give him a live pair so that he could go about his affairs and pleasures for half the session, and that, to make the thing fair, he could come back and take the other half of the session and I could vote in absentia and go about the practice of law or anything else I wanted to do.

I think the people of the United States are entitled to have Senators who vote and settle issues that are vital to the welfare of this Nation and to have them present in the legislative body that is doing the legislating.

Mr. LONG. Did I hear the Senator say that it would be possible for one Senator to stand here and vote for all the others?

Mr. ERVIN. No, I did not say that. I said 51 could be here and the other 49 could be wandering around anywhere, doing what they pleased, practicing law or medicine or anything else, and the decisions of this country would be made by Senators who are not present to hear the debate and to know what the proposition is.

I said also that Senator A and Senator B could enter into an agreement that Senator A would be absent the first half of the session and Senator B would give him a pair, and Senator A would be voting the same as if he were here, and vice versa as to the rest of it.

I think the American people are entitled to have the votes on vital issues crucial to their welfare cast by the Senators who are present on the floor of the Senate at the time the vote is taken.

Mr. McCLELLAN. They could alternate each week.

Mr. LONG. Many times now we have the outcome of votes decided by the pairs given by Senators to their colleagues. When I promise one of my colleagues that I will give him a pair if he cannot be here, I give him my word. Never in my lifetime, so far as I recall, have I ever retreated from a commitment of that sort. To the best of my recollection, no Senator who has ever accorded me the same consideration has ever failed to fulfill his pledged word that he would stand here and give a live pair to me if I could not be present in order to be recorded.

I do not seek to have the record reflect that a Senator is present when he is absent. I seek quite the contrary, to have the record reflect his absence. It is desirable for Senators that when one is here and the other is absent and the other requests a live pair, that in the vote both be recorded. It is that simple.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana (Mr. LONG).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. McCARTHY), the Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), 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 Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH), the Senator from Ohio (Mr. YOUNG), are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Missouri (Mr. SYMINGTON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), 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 South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from New York (Mr. GOODELL), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 11, nays 54, as follows:

[No. 358 Leg.]

YEAS—11

Bayh	Hughes	Mondale
Cranston	Long	Nelson
Eastland	Magnuson	Pell
Ellender	Mansfield	

NAYS—54

Allen	Ervin	Miller
Allott	Goldwater	Packwood
Anderson	Griffin	Pearson
Baker	Gurney	Percy
Bennett	Hansen	Proxmire
Bible	Hart	Randolph
Boggs	Holland	Ribicoff
Brooke	Hollings	Schweiker
Burdick	Hruska	Scott
Byrd, W. Va.	Inouye	Smith, Maine
Case	Jackson	Spong
Cook	Javits	Stennis
Cooper	Jordan, Idaho	Stevens
Cotton	Kennedy	Talmadge
Curtis	Mathias	Thurmond
Dole	McClellan	Williams, N.J.
Dominick	McIntyre	Williams, Del.
Eagleton	Metcalf	Young, N. Dak.

NOT VOTING—35

Aiken	Harris	Pastore
Bellmon	Hartke	Prouty
Byrd, Va.	Hatfield	Russell
Cannon	Jordan, N.C.	Saxbe
Church	McCarthy	Smith, Ill.
Dodd	McGee	Sparkman
Fannin	McGovern	Symington
Fong	Montoya	Tower
Fulbright	Moss	Tydings
Goodell	Mundt	Yarborough
Gore	Murphy	Young, Ohio
Gravel	Muskie	

So Mr. LONG's amendment was rejected.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BOGGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG subsequently said: The Senate has rejected an amendment which I shall seek to offer in one fashion or another at a later time. I am certain that I am right on the general issue.

Reference has been made to the Constitution. I read from article I, section 3:

> The Senate of the United States shall be composed of two Senators from each State . . . and each Senator shall have one Vote.

In these days of modern communications, it is a denial of equal representation to deny a State the benefit of its two votes merely because one of the Senators cannot be physically present.

Yet, the Senate still insists on a rule which says that even though a Senator well knows how he wants to be recorded, when he is absent from the Chamber for whatever reason he must be recorded as absent and not voting. He can persuade someone to respect his position to the extent that that man would decline to vote in order to give the absent Member a pair. The pair then is the only means we have to reflect what the true will of the Senate would be if all Senators were permitted to vote. The live pair results in a penalty on both the absent Senator and a present one. A Senator may be desperately ill, he may be attending his daughter's wedding. Should his State be penalized for his absence? If his absence is adequately justified, why should both he and a colleague present both be denied the right to have their votes recorded?

The fact that a man giving a pair must also be recorded as not voting, is adequate excuse for declining to give a pair. That in turn puts the minority to work delaying matters until more of their troops are present.

From a reading of the rules of the Senate one can see, beyond any per-

adventure of a doubt, that these rules predate the invention of the telephone. Indeed, they predate the United States. They had their origin in British parliamentary practice. When the rules of the Senate were first written it made sense that a Senator should not vote if he were not present. Any proposed measure might be amended or changed during the consideration of the measure; the Senator might not have heard the arguments, facts may be presented which he had not considered. It may very well be that someone with his interests at heart, such as his clerk, knowing all of these facts would urge him to change his position had he come rushing from his horse up the Senate steps, panting, with hat in hand.

Nowadays we have a telephone. While we have yet to install a loudspeaker or pipe the debate into offices of Senators, as we certainly should do, at least a Senator's administrative assistant can sit in the gallery hearing every word that is said, advise his boss of the arguments and help him decide how he wants to be recorded.

In the committees, we are well aware of the telephones. If I might say a word of pride about the Senate Committee on Finance, long before I became chairman of that very fine committee, it was the practice to break a tie by calling absent Senators over the phone and inquire how they would want to vote. I recall that during the Eisenhower administration I was speaking to a convention of the local governing bodies of Louisiana, which in that State is known as the police juries. During the course of my speech I was called from the speaker's platform and informed that the Committee on Finance had reached a tie vote on the question of whether the Reciprocal Trade Act, recommended by President Eisenhower, was to be a 3-year or a 5-year act. I replied that I would like to be recorded in support of the President for a 5-year act and, thereby, determined the outcome of the decision from 1,100 miles away.

Our current procedure in that same committee is to call a Senator, and when Senators so request, we will permit the Senator on one side of the issue to listen in on an extension and a Senator on another side of the issue to listen in on another extension. Each can explain why they think the Senator should vote on their side and then his vote will be recorded if he wishes it.

In at least one other respect the Senate has learned that there is such a thing as a telephone. Just off this Chamber there is a President's room which is there in order that the President could have it available to consult with legislative leaders on the last day of a session to assure that matters which he deemed vital were not left undecided when the Senate adjourned sine die. Only once in the 20 years I have been a Senator has a President used the room and then only for the ceremonial signing of the Civil Rights Act of 1964. The reason that the room is no longer used for its intended purpose is that Alexander Graham Bell invented the telephone. Nowadays, the leadership on both sides of the aisle go to the office of the Secretary of the Senate and inform the President by telephone that the Senate has concluded its business when we are ready to adjourn sine die.

Mr. CRANSTON. Mr. President, in view of the very close vote that was had on the matter relating to the veterans affairs amendment, in view of the tendency of many Senators to vote against tabling motions, quite apart from the merits, and in view of the fact that only five, six, seven, or eight Senators were present on the floor at one time or another during the discussion on the amendment to create a new Veterans' Affairs Committee and abolish the present subcommittees of the Committee on Finance and the Committee on Labor and Public Welfare, it seems to me that there should be some discussion here and then a record vote. So, before I yield the floor, I will move to reconsider the vote whereby the amendment was adopted by the Senate. I will make that motion, Mr. President, before I yield the floor.

I want to state the reasons for the position that Senators TALMADGE, COOK, LONG, and MONDALE have taken on the floor when few were here to listen to them.

It is an amendment that was adopted and was written some 4 years ago by the committee that handled reorganization.

The hearings that the amendment was based upon were held in 1965 or 1966. There have been no hearings since. There have been no opportunities for new consideration or new facts.

Veterans organizations have traditionally passed resolutions asking for a veterans committee. But the fact is that the veterans leaders are not pushing for this. They have talked to few Senators. I daresay that very few Senators have heard from veterans organizations recently asking for a new veterans committee and to abolish the present subcommittees.

They are very pleased with what is happening through the present committees which have worked diligently in a bipartisan nature.

All of the bills that have gone through the Veterans' Legislation Subcommittee of the Finance Committee, the full Finance Committee, and were passed by the Senate, and all of the bills that have gone through the Veterans' Affairs Subcommittee of the Committee on Labor and Public Welfare, and the full Committee on Labor and Welfare and were passed by the Senate, were adopted unanimously. We have written into law some very substantial legislation that requires some new approaches in this field. It is of great benefit to veterans. It is of great benefit to all the people of the country.

If a new committee is now established, it will not be manned by people who take the broad-gauged approach that Labor and Public Welfare Committee members do to health, education, drugs, and other matters. It will not produce legislation through a major committee that has the available manpower to consider veterans' problems in broad context and that knows how to focus on these problems in the overall context of the problems of our Nation.

I believe that we will assure far more effective representation for veterans and have a far more effective handling of the legislation affecting them if we retain the existing system. I believe that this is recognized by the veterans leaders in this country.

This position is based upon conversations I have had with Senators TALMADGE, COOK, MONDALE, LONG, and others presently responsible for the handling of veterans' legislation.

Mr. President, I enter a motion to reconsider the vote by which the amendment by the Senator from Montana (Mr. METCALF) was adopted, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the motion to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

Mr. METCALF. Mr. President, I move to lay that motion on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the first question? There is.

Mr. METCALF. Mr. President, I renew my motion to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana to table the motion of the Senator from California. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON (when his name was called). Mr. President, on this vote I have a pair with the Senator from South Dakota (Mr. MCGOVERN). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. BYRD of West Virginia (when his name was called). Mr. President, on this vote I have a live pair with the senior Senator from Georgia (Mr. RUSSELL). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), 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 Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), and

the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), 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 Oklahoma (Mr. HARRIS) would vote "nay."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), 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 South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from New York (Mr. GOODELL), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 37, nays 25, as follows:

[No. 359 Leg.]

YEAS—37

Allott	Hansen	Pearson
Baker	Hart	Pell
Bayh	Holland	Randolph
Bible	Hollings	Schweiker
Boggs	Hruska	Scott
Burdick	Jackson	Smith, Maine
Case	Javits	Stevens
Cooper	Magnuson	Thurmond
Cotton	Mansfield	Williams, N.J.
Curtis	Mathias	Williams, Del.
Dole	McIntyre	Young, N. Dak.
Griffin	Metcalf	
Gurney	Miller	

NAYS—25

Allen	Ellender	Packwood
Anderson	Ervin	Percy
Bennett	Hughes	Proxmire
Brooke	Inouye	Ribicoff
Cook	Jordan, Idaho	Spong
Cranston	Kennedy	Stennis
Dominick	Long	Talmadge
Eagleton	McClellan	
Eastland	Mondale	

PRESENT AND GIVING LIVE PAIRS AS PREVIOUSLY RECORDED—2

Nelson, for.
Byrd of West Virginia, for.

NOT VOTING—36

Aiken	Gravel	Muskie
Bellmon	Harris	Pastore
Byrd, Va.	Hartke	Prouty
Cannon	Hatfield	Russell
Church	Jordan, N.C.	Saxbe
Dodd	McCarthy	Smith, Ill.
Fannin	McGee	Sparkman
Fong	McGovern	Symington
Fulbright	Montoya	Tower
Goldwater	Moss	Tydings
Goodell	Mundt	Yarborough
Gore	Murphy	Young, Ohio

So Mr. METCALF's motion to lay on the table Mr. CRANSTON's motion to reconsider the vote by which the Senate agreed to Mr. METCALF's amendment to establish a Committee on Veterans' Affairs was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, if I may have the attention of the manager of the bill, during my absence today the Senate sustained the amendment of the Senator from Montana respecting the salaries of the personnel employed by committees. That is fine, and I am all for it, but it does create a problem for us in the discrepancy between committee top pay and men of our individual staffs. We are entitled to the same grade of personnel as the committees are, and we will also face the competition of the committees for good men.

I was going to offer an amendment to modify that situation, but I gather that the manager of the bill and the ranking minority member of the committee, in view of the controversy that took place on the salary phase, do not feel that is desirable, and I am not going to do it. But I would ask the Senator this question: If it does appear that we have competition, we have the following situation if we simply raise the permissible salary without increasing the overall allowance of the States, especially the very big ones like mine, where we run a constant deficit. It may interest Senators to know—and this is not true only of me—that in all of my congressional service, I have never taken a penny of my salary. Indeed, I have run a deficit over and above my salary, attributable to having to pay the salary of a good number of people. This is an economic problem of no inconsiderable magnitude.

So we could raise the rates without increasing the allowances. On the other hand, it might be that the Senate would see fit to raise the allowances, perhaps the next time it considers the legislative appropriation bill.

The question I would like to ask the manager of the bill and the ranking minority member, since this is an in-house problem, is whether or not, inasmuch as they prefer that I do not seek to offer my amendment—and I shall not in deference to their wishes—they will consider this problem sympathetically either on an appropriation bill or as separate legislation if it turns out that there is unhappy competition for good people, for jobs, because of the disparity of $3,000 which has just now been created.

I would like to say at once that it is not so much a question of the disparity. They are able people. We are remarkably well served considering the frequent frustrations and unbelievably hard work of the job, but there is a question of morale involved. I think our top people have a legitimate complaint in that they are just as good as any committee staff members. I am the ranking member of two committees, and I have contact with both committee staff members and my own staff people, and I affirm for myself what they say. This is the problem, and, as I have said, it is an in-house problem. Before we lock up this bill, I would like to get the views of my colleague.

Mr. PERCY. Mr. President, before the manager of the bill responds, if the Senator from New York will yield to me, I would like to second what he had just said. Illinois is not as large a State as New York, but it has about 11 million people. I find that we have a grossly inadequate staff allowance which does not begin to provide what we need. Like the Senator from New York, I have never accepted a penny of my Senate salary, either. I am happy that I am fortunate enough to be able to do that, but that fact precludes anyone coming to the Senate who must depend on his salary.

Mr. BYRD of West Virginia. Mr. President, will the Senator speak louder so we can hear?

Mr. President, may we have order in the Senate?

Mr. PERCY. Possibly, when we have the audio system installed at some time in the future, we will be able to hear; but I would be happy to repeat what I have said, because this is a matter of the deepest interest to all of us.

I think it is no disgrace to say that the Senate never faces up to the fact that, at least for our large States, the allowances are grossly inadequate. The distinguished Senator from New York says he has never taken a penny of his salary for himself. Nor have I, but I also have to add a considerable amount over that. It may seem imprudent to keep putting in that amount of money. On the other hand, I cannot face the alternative of not answering correspondence or being able to visit with the people who come here. I have 250,000 or 300,000 people from the State of Illinois visit our offices. Every month I send checks to IBM, Xerox Corp., and the General Services Administration. I pay the U.S. Government every month, month after month, bills for telephone calls. We have no allowance for telephone calls to any suburb of the city of Chicago. The Government allows a certain allowance for calls made inside the city, but every time we call a suburb it is a toll call, and there is no Government allowance to Senators for that kind of call.

At the same time I know that we sit here and kid ourselves that we are somehow able to run our Senate offices with what is allowed.

I know that my predecessor had seven or eight staff members working for him who were charged to or buried in assignments to some committee. He could not help it, because he could not pay for those men, but he had staff people serving his office who were charged to committees where the accounting was very poor.

We ought to face up to the facts. We ought to lay it on the line. I have no apology for stating to the people of the State of Illinois that it costs me 2½ to 3 cents per citizen to serve them from this office. I think we ought to be realistic about it. It seems wrong if we cannot have a man of modest means, who has to live on his salary, running for a seat in the Senate of the United States. We ought to face up to the fact that it costs us more than our stipends allow.

I crowded into the same offices occupied by the Senator from Hawaii. I

have one additional room. There are half a million people in Hawaii, and we have about 11 million people in Illinois. Our State is much more accessible, and we have many visitors from the State of Illinois. So I had to rent offices on my own and then pay a salary to the people who work there. I cannot possibly house interns. They do not even feel it is right to get a personal check from me, but I think it is our duty to allow the training of such people here.

So I second what the Senator from New York has said. We have to be realistic about it. I like to run a tight, prudent ship. I think I do run a tight office. My people come to work early in the morning and work late at night. They come in on weekends. They are harder working people than any people I have ever seen. They work far harder than those in industry and far harder than the people on Senate committees. The disparity between the way they work and the way the Senate committee staffs work is like night and day. They see these high salaries and they cannot get them because we do not have the allowance.

We ought to face up to the problem and be realistic. I have not the slightest apology in saying in public it is indecent how we try to run ourselves and pretend we are able to do it. On the allowances we are provided, we are not able to do it.

Mr. JAVITS. I thank the Senator.

Mr. METCALF. Mr. President, I am in complete accord with what the Senator from New York has said. I am grateful for the statement he has made, because it might imperil some of the other important provisions of the bill if he offered his amendment. The reason we supported the amendment is that it was voted on in two separate rollcall votes when the bill was before the Senate before. These other amendments were not adopted. We laid down some groundrules to try to retain the provisions of S. 844 which the Senator knows was reported from the Government Operations Committee.

I share the Senator's concern both about the staff allowances and enough money to pay for the staff.

I agree with the Senator from Maine, who has been having a crusade in trying to get our staff salaries and legislative assistants salaries comparable with those of the executive agencies downtown. Salaries paid to our people are not equal to or comparable with those paid in private business for people with the same qualifications.

So I would certainly join both Senators and would be glad to appear before the appropriate committee both for an increase in the ceilings on the allowances and an increase in the maximum allowances.

Mr. JAVITS. I am grateful to my colleague.

Mr. BOGGS. Mr. President——

Mr. ELLENDER. Mr. President——

Mr. JAVITS. Mr President, who has the floor?

The PRESIDING OFFICER (Mr. MAGNUSON). I thought the Senator had relinquished the floor. The Senator from New York has the floor.

Mr. JAVITS. I yield to the Senator from Delaware.

Mr. BOGGS. I thank the Senator for yielding. I simply want to respond to his question also. First, I commend both the Senator from New York and the Senator from Illinois as well as others who, I imagine, have the same problem and are treating it in such a fine, generous, and gracious way. In my service on the Post Office and Civil Service Committee, and also on the Appropriations Committee, I have been sympathetic to this problem of Senators with larger staffs. As a matter of fact, it has been a matter of great amazement to me how Senators and their staffs handle the volumes of mail they get from their constituents. I have compassion and would, in the future, be sympathetic to the problem which the Senator has expressed.

Mr. JAVITS. I thank my colleague. Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. ELLENDER. Mr. President, I simply wish to remind Senators that what is being echoed now is what I predicted this afternoon, that upon increasing the pay of the staffs of the standing committees, we would be faced with a proposal to increase the pay of all legislative employees including our own.

Mr. President, I bow to no Members of the Senate when it comes to work. I am always busy at my job, and of the allowance that I receive to run my office, I return to the U.S. Treasury almost $100,000 each year. I do not understand how other Senators can claim they can use much more than their respective allowances, unless they engage in work beyond that of representing their constituencies. There must be something wrong somewhere. They must employ incompetents or employees who do not give a full measure of their time.

I serve on the Committee on Agriculture and Forestry. I have been chairman of that committee now longer than any other man in history, and I do not use all the employees I am entitled to hire. I am entitled to employ, under the original act of 1946, four professionals and six clericals. I have never employed more than two professionals and five clericals, and I can assure you that I get as much work out of those employees as some committees with as many as 20 people. They are not overworked. They do the job in their respective field and they cannot pass the buck in my committee. I have one good lawyer and one good economist. If I had two of each, they would pass the buck to each other. A lot of time would be lost. My staff uses the facilities provided for all Senators and committees at the Library of Congress.

There is something wrong in the way many committees are being handled, and I would say the same thing about Senators' own staffs. There must be something wrong somewhere. If an investigation were made as to the work done by some of the committee staffs, I am sure that proof could be secured that many do not work on the committee they are assigned to but they do work for accounts of their sponsor or some do not show up except on payday. I will discuss this situation further if, as, and when efforts are made to increase salaries for other members of our legislative family.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I make inquiry of the Senator from Montana, or perhaps the Senator from Delaware, if he wishes to enter into the colloquy, the following question: If there is an increase allotted to Senate committees, let us say to the chief of staff of a committee, the chief clerk, staff director, or whatever he is called, is it necessary for the chairman of that committee to pay to that staff director a sum greater than he pays to his administrative or executive assistant?

Mr. METCALF. Not at all. It is purely permissive. It is within the jurisdiction of the committee itself.

Mr. RANDOLPH. I thank the able manager of this bill.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, just one observation on what the Senator from Louisiana has said.

This is the kind of situation where the trial lawyer always appeals to the juror in terms of his own reasonable experience.

When the time comes, Mr. President, that this issue is submitted to the Senate, I believe that individual Senators, from their own experience both in the committees and with their personal staffs, will endorse the position which the Senator from Illinois (Mr. PERCY), the Senator from Montana (Mr. METCALF), the Senator from Delaware (Mr. BOGGS), and I have taken, based on their own experience with the volume of work, the kind of strain, and the hours put in by their staffs, and the volume of work which occurs in these great States with huge populations. I am sure that my case can be rested with the greatest confidence in this jury when the times comes.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill (H.R. 17654) was read the third time.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. MAGNUSON). The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr.

HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), 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 Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), 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 Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Maine (Mr. MUSKIE), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), 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 South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from New York (Mr. GOODELL), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 59, nays 5, as follows:

[No. 360 Leg.]

YEAS—59

Allott	Ervin	Metcalf
Anderson	Griffin	Miller
Baker	Gurney	Mondale
Bayh	Hansen	Nelson
Bennett	Hart	Packwood
Bible	Holland	Pearson
Boggs	Hollings	Pell
Brooke	Hruska	Percy
Burdick	Hughes	Proxmire
Byrd, W. Va.	Inouye	Randolph
Case	Jackson	Ribicoff
Cook	Javits	Schweiker
Cooper	Jordan, Idaho	Smith, Maine
Cotton	Kennedy	Spong
Cranston	Long	Stevens
Curtis	Magnuson	Thurmond
Dodd	Mansfield	Williams, N.J.
Dole	Mathias	Williams, Del.
Dominick	McClellan	Young, N. Dak.
Eagleton	McIntyre	

NAYS—5

Allen	Ellender	Talmadge
Eastland	Stennis	

NOT VOTING—36

Aiken	Harris	Pastore
Bellmon	Hartke	Prouty
Byrd, Va.	Hatfield	Russell
Cannon	Jordan, N.C.	Saxbe
Church	McCarthy	Scott
Fannin	McGee	Smith, Ill.
Fong	McGovern	Sparkman
Fulbright	Montoya	Symington
Goldwater	Moss	Tower
Goodell	Mundt	Tydings
Gore	Murphy	Yarborough
Gravel	Muskie	Young, Ohio

So the bill (H.R. 17654) was passed.

Mr. METCALF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BOGGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METCALF. Mr. President, I ask unanimous consent that, in the engrossment of H.R. 17654, the Secretary of the Senate be permitted to make appropriate technical and conforming changes and adjustments with respect to the table of contents, section numbers and references, section headings, punctuation and grammar, the spelling of words, the numbering of the respective parts of titles, references to parts and titles, the consolidation and relocation of sections and amendments, and other technical and conforming changes and adjustments with respect to the format of H.R. 17654.

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

Mr. METCALF. Mr. President, I ask unanimous consent that S. 844 be indefinitely postponed.

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

Mr. MANSFIELD. Mr. President, the reform of Congress, its machinery and the way it operates as an institution of modern society, must be considered an achievement of the highest order. This measure goes a long way toward the realization of that goal. So it is with a great deal of personal pride that I vote that the Senate should honor my colleague, the Senator from Montana (Mr. METCALF) for his leadership on this measure. His handling of the bill was truly outstanding. His deep understanding of its many provisions served immensely to assure its expeditious and overwhelming acceptance by the Senate. His devotion and strong advocacy have helped make the reform of this institution a reality.

I am sure there will be those who say that we have not gone far enough. In many respects they will be correct. But the point is, this proposal, managed so capably by Senator METCALF, goes a long way to assure the continued responsiveness of the Senate and of the Congress in today's changing world. It is a magnificent achievement, indeed; one for which all Senators may be proud. But especially, may I say, do we owe our gratitude this evening to LEE METCALF, the Senator from Montana. I honor him as an able and distinguished Senator, a fine colleague, and a good friend. He richly deserves the highest commendation of the Senate.

Other Senators, of course, must share in this success. Regrettably, the Senator from South Dakota (Mr. MUNDT) could not witness this achievement. It was his bill, the Mundt bill, that served as the basis for the specific reorganization features adopted. Along with Senator METCALF, Senator MUNDT served on the special committee that investigated legislative reform some 3 or 4 years ago.

The Senator is grateful as well to the distinguished Senator from Arkansas (Mr. MCCLELLAN). As the chairman of the Government Operations Committee, Senator MCCLELLAN cooperated splendidly to assure the final disposition of this proposal as efficiently as possible. His support and assistance were indispensable.

The same may be said of the distinguished Senator from Delaware (Mr. BOGGS). He shared the handling of the measure representing those on the minority side. The Senate is grateful for his strong and able advocacy.

Many other Senators joined to make possible this outstanding success. They are too numerous to mention.

I would close only by again expressing my gratitude to my colleagues—LEE METCALF. To him and to the Senate goes my deepest thanks for cooperating to assure this fine accomplishment and for doing so with full regard for the views of each member.

Mr. GRIFFIN. Mr. President, I wish to join the distinguished majority leader in commending the distinguished Senator from Montana (Mr. METCALF) and the distinguished Senator from Delaware (Mr. BOGGS) for their outstanding work on this reorganization bill. Their management and direction has been most impressive.

As one who has long been concerned with the need for improving the Congressional machinery, I am delighted to see that we are moving toward final approval of this bill. It is long overdue.

Aside from the merits of the measure, there is another reason why I am glad to see it approved.

In addition to the former Senator from Oklahoma (Mr. MONRONEY), enactment of this reorganization bill will stand as a very special tribute to the distinguished Senator from South Dakota (Mr. MUNDT) whose unfortunate illness has deprived us of the benefit of his wisdom and counsel on this and other important matters.

The Senator from South Dakota labored long and hard for congressional reorganization and reform. When the House failed to act after the Senate had passed a reform bill in the 90th Congress, Senator MUNDT, in May of 1969, reintroduced a bill, S. 844, which I cosponsored, and which, insofar as it affects the Senate, is essentially the same legislation we are considering today.

I wish also to commend the Senator from New Jersey (Mr. CASE) and the Senator from Alabama (Mr. SPARKMAN) who made outstanding contributions to this legislation as former members of the Joint Committee on the Organization of Congress.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, informed the Senate that,

pursuant to the provisions of section 7(a)(1)(B), Public Law 91-377, the Speaker had appointed Mr. George E. Leighty, of Maryland, as a public member of the Commission on Railroad Retirement, on the part of the House.

The message announced that the House had passed, without amendment, the following bills of the Senate:

S. 378. An act for the relief of Peter Rudolf Gross;

S. 732. An act for the relief of Mrs. Nimet Weiss;

S. 1123. An act for the relief of Ah Mee Locke;

S. 2661. An act for the relief of Kathryn Talbot;

S. 3138. An act for the relief of Ruth E. Calvert;

S. 3167. An act for the relief of Kimoko Ann Duke;

S. 3212. An act for the relief of Curtis Nolan Reed;

S. 3263. An act for the relief of Maria Pierotti Lenci;

S. 3265. An act for the relief of Mrs. Anita Ordillas;

S. 3600. An act for the relief of Kyung Ae Oh;

S. 3675. An act for the relief of Ming Chang;

S. 3813. An act for the relief of Kim Julia and Park Tong Op; and

S. 4073. An act for the relief of Hyun Joo Lee and Myung Joo Lee.

The message also announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 2916. An act to establish the Plymouth-Provincetown Celebration Commission; and

S. 3619. An act to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes.

The message further announced that the House had passed the bill (S. 3116) to authorize each of the Five Civilized Tribes of Oklahoma to popularly elect their principal officer, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H.R. 2043) for the relief of Keum Ja Franks.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15424) to amend the Merchant Marine Act, 1936.

The message further announced that the House had agreed to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17575) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ended June 30, 1971, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 2, 3, 17, and 35 to the bill and concurred therein; and that the House receded from its disagreement to the amendment of the Senate numbered 23 to the bill, and concurred therein, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H.R. 2175. An act to amend title 18 of the United States Code to authorize the Attorney General to admit to residential community treatment centers persons who are placed on probation, released on parole, or mandatorily released;

H.R. 6240. An act to amend the act entitled "An Act authorizing the village of Baudette, State of Minnesota, its public successors or public assigns, to construct, maintain, and operate a toll bridge across the Rainy River at or near Baudette, Minn.", approved December 21, 1950;

H.R. 10482. An act to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes;

H.R. 12061. An act to amend the Federal Food, Drug, and Cosmetic Act, and for other purposes;

H.R. 12650. An act to amend title 10 of the United States Code to allow wounded members of the Armed Forces to inform their families of such injuries by telephone at Government expense;

H.R. 13769. An act to amend the act entitled "An Act to authorize any executive department or independent establishment of the Government, or any bureau or office thereof, to make appropriate accounting adjustment or reimbursement between the respective appropriations available to such departments and establishments, or any bureau or office thereof," approved June 29, 1966, so as to include within its coverage the municipal government of the District of Columbia;

H.R. 15069. An act to authorize the Thousand Islands Bridge Authority to construct, maintain, and operate an additional toll bridge across the Saint Lawrence River at or near Cape Vincent, N.Y.;

H.R. 15216. An act to authorize the Secretary of Defense to lend certain Army, Navy, and Air Force equipment and to provide transportation and other services to the Boy Scouts of America in connection with the World Jamboree of Boy Scouts to be held in Japan in 1971, and for other purposes;

H.R. 15405. An act to render the assertion of land claims by the United States based upon accretion or avulsion subject to legal and equitable defenses to which private persons asserting such claims would be subject;

H.R. 17901. An act to improve judicial machinery by providing for the appointment of a circuit executive for each judicial circuit;

H.R. 18359. An act to authorize the showing in the United States of documentary films depicting the careers of General of the Armies John J. Pershing, General of the Army H. H. Arnold, General of the Army Omar N. Bradley, General of the Army Dwight D. Eisenhower, General of the Army Douglas MacArthur, General of the Army George C. Marshall, Gen. Lyman L. Lemnitzer, Gen. George S. Patton, Jr., Gen. Joseph Stilwell, Gen. Mark W. Clark, and Gen. James A. Van Fleet;

H.R. 19000. An act to amend the act of April 24, 1961, authorizing the use of judgment funds of the Nez Perce Tribe;

H.R. 19172. An act to provide Federal financial assistance to help cities and communities to develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning and local programs to detect and treat incidents of such poisoning, to establish a Federal demonstration and research program to study the extent of the lead-based paint poisoning problem and the methods available for lead-based paint removal, and to prohibit future use of lead-based paint in Federal or federally assisted construction or rehabilitation;

H.R. 19342. An act to establish and develop the Chesapeake and Ohio Canal National Historical Park, and for other purposes;

H.J. Res. 1162. Joint resolution to amend Public Law 403, 80th Congress of January 28, 1948, providing for membership and participation by the United States in the South Pacific Commission; and

H.J. Res. 1388. Joint resolution making further continuing appropriations for the fiscal year 1971, and for other purposes.

HOUSE BILLS AND JOINT RESOLUTIONS REFERRED

The following bills and joint resolutions were severally read twice by their titles and referred, as indicated:

H.R. 2175. An act to amend title 18 of the United States Code to authorize the Attorney General to admit to residential community treatment centers persons who are placed on probation, released on parole, or mandatorily released; to the Committee on the Judiciary.

H.R. 6240. An act to amend the act entitled "An Act authorizing the village of Baudette, State of Minnesota, its public successors or public assigns, to construct, maintain, and operate a toll bridge across the Rainy River at or near Baudette, Minnesota," approved December 21, 1950; and

H.J. Res. 1162. Joint resolution to amend Public Law 403, 80th Congress, of January 28, 1948, providing for membership and participation by the United States in the South Pacific Commission; to the Committee on Foreign Relations.

H.R. 10482. An act to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes;

H.R. 15405. An act to render the assertion of land claims by the United States based upon accretion or avulsion subject to legal and equitable defenses to which private persons asserting such claims would be subject; and

H.R. 19342. An act to establish and develop the Chesapeake and Ohio Canal National Historical Park, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 12061. An act to amend the Federal Food, Drug, and Cosmetic Act, and for other purposes; to the Committee on Labor and Public Welfare.

H.R. 12650. An act to amend title 10 of the United States Code to allow wounded members of the armed forces to inform their families of such injuries by telephone at Government expense; to the Committee on Armed Services.

H.R. 13769. An act to amend the Act entitled "An Act to authorize any executive department or independent establishment of the Government, or any bureau or office thereof, to make appropriate accounting adjustment or reimbursement between the respective appropriations available to such departments and establishments, or any bureau or office thereof," approved June 29, 1966, so as to include within its coverage the municipal government of the District of Columbia; to the Committee on Government Operations.

H.R. 15069. An act to authorize the Thousand Islands Bridge Authority to construct, maintain, and operate an additional toll bridge across the Saint Lawrence River at or near Cape Vincent, N.Y.; and

H.R. 18359. An act to authorize the showing in the United States of documentary films depicting the careers of General of the Armies John J. Pershing, General of the Army H. H. Arnold, General of the Army Omar N. Bradley, General of the Army Dwight D. Eisenhower, General of the Army

Douglas MacArthur, General of the Army George C. Marshall, General Lyman L. Lemnitzer, General George S. Patton, Jr., General Joseph Stilwell, General Mark W. Clark, and General James A. Van Fleet; to the Committee on Foreign Relations.

H.R. 15216. An act to authorize the Secretary of Defense to lend certain Army, Navy, and Air Force equipment and to provide transportation and other services to the Boy Scouts of America in connection with the World Jamboree of Boy Scouts to be held in Japan in 1971, and for other purposes; to the Committee on Armed Services.

H.R. 17901. An act to improve judicial machinery by providing for the appointment of a circuit executive for each judicial circuit; to the Committee on the Judiciary.

H.R. 19000. An act to amend the Act of April 24, 1961, authorizing the use of judgment funds of the Nez Perce Tribe; to the Committee on Interior and Insular Affairs.

H.R. 19172. An act to provide Federal financial assistance to help cities and communities to develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning and local programs to detect and treat incidents of such poisoning, to establish a Federal demonstration and research program to study the extent of the lead-based paint poisoning problem and the methods available for lead-based paint removal, and to prohibit future use of lead-based paint in Federal or federally assisted construction or rehabilitation; to the Committee on Labor and Public Welfare.

H.J. Res. 1388. Joint resolution making further continuing appropriations for the fiscal year 1971, and for other purposes; to the Committee on Appropriations.

EQUAL RIGHTS FOR MEN AND WOMEN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1101, H.J. Res. 264, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women. I do this so that it will become the pending business.

Mr. ERVIN. Mr. President, reserving the right to object, may I ask the majority leader what he proposes to do with respect to that matter tonight.

Mr. MANSFIELD. To lay it aside and then turn to the drug bill, and ask unanimous consent that at the conclusion of the morning business tomorrow the equal rights for men and women measure be laid before the Senate and, at an appropriate time, go back to the drug bill. In other words, get back to the two-shifts-a-day basis.

Mr. ERVIN. In other words, tonight the only thing that will be done is on the drug bill?

Mr. MANSFIELD. That is correct. And there will be no votes.

The PRESIDING OFFICER. The measure will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 264) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

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

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily, that it again become the pending business at the conclusion of the morning business tomorrow, and that in the meantime the Senate proceed to the consideration of Calendar No. 1260, H.R. 18583. I do this so that it will become the pending business, the other business to be laid aside temporarily.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 18583) to amend the Public Health Service Act, and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

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

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

Mr. MANSFIELD. Mr. President, it is my understanding that introductory statements will be made tonight by the distinguished Senator from Nebraska, the distinguished Senator from Connecticut (Mr. DODD), and the distinguished Senator from Iowa (Mr. HUGHES), and that an amendment will be offered before the Senate adjourns tonight. Is that correct?

Mr. HUGHES. Mr. President, I have some concern about the way the business is presently scheduled. Several members of the committee who have worked hard on this legislation will be necessarily absent tomorrow night. As I understand it, we are not scheduled for a vote on this amendment until tomorrow night.

Mr. MANSFIELD. I wish the Senator would not push it that far. We all realize the importance of the bill. We all realize the time we are up against. I point out to the Senator that we do not have to call up this measure now. We can let it go until we return after the recess. But as a favor to people interested, the joint leadership decided to call it up.

I would hope that all Senators would put aside their personal predilections to do the best we can to help the leadership get as much proposed legislation through as possible.

Mr. HUGHES. It is my intent to preserve the prerogatives I have on the amendment, which I feel is of critical importance. It is my intent to help conduct the business of the Senate to the best of my capabilities, also.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

OMNIBUS CRIME CONTROL ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the crime bills on the calendar, and the first one is Calendar No. 1270, H.R. 17825, an act to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

Calendar No. 1270, H.R. 17825, an Act to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.

Mr. MANSFIELD. Mr. President, there will be no further consideration of the drug bill until an appropriate time.

I must admit my disappointment at being faced with a situation of this nature without any forewarning whatsoever. I therefore have no choice but to go forward with the four crime bills which are, in a way, of course, just as important as the drug bill.

I suggest to Senators that they come to the Senate Chamber and attend to their business, so that there will be no more of these shenanigans about someone being here or someone not being here.

Mr. DODD. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. It is the people's business which must come first. I would hope that a situation of this kind would not arise again.

I am discomfited. I am embarrassed. I feel that the word I have given to Senators on both sides of the aisle has not been kept.

Mr. DODD. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. DODD. I thank the majority leader for yielding. I understand his unhappiness about this situation. I am unhappy about it, too. We passed this bill out of the Senate in January. It was in the House 8 months and it has now come over to us. I have been ready at all times to take up the bill and I am ready now, tonight.

Mr. President, I know that the distinguished majority leader does not refer to me. We can handle the bill and go ahead with it. I know the task of the majority leader. He is trying to get our business done. But it is not an impossible task at all. I know that the Senator from Iowa (Mr. HUGHES) wants to do the same thing.

I say to the majority leader, understanding his predicament, that we want to work with him and I believe that we can. We can pass the drug bill. We need to do it. I am ready. I am sure that the Senator from Montana did not refer to me.

Mr. MANSFIELD. No. Everyone is not ready. We have to face up to the realities as they exist and do the best we can within the framework of the legislation before us.

My job is to try to move the calendar. Notice was served that this bill would be taken up today.

That word has been kept. I did not know about the other factors until I queried the distinguished Senator from Iowa. We have to take the situation as it exists. In other words, the ball game was changed. I have no choice but to go to other matters on the calendar at this time.

Mr. HUGHES. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I am delighted to yield.

Mr. HUGHES. I have been trying the best I know how to cope with the changing situation in the past 24 hours in relation to this bill. I apologize to the majority leader——

Mr. MANSFIELD. No apology is needed.

Mr. HUGHES. And to my colleagues if I am delaying action by the Senate. I am ready to go ahead and vote on the amendment tonight, to take up the amendment, discuss it, and debate it.

I am assuming that we could lay the bill before the Senate and go ahead. It is not my intention to delay. If this is a disruption of the business as originally calculated, I am prepared to vote tonight. Therefore, I respectfully ask the majority leader if we could not vacate the previous unanimous consent request and go ahead in the direction he intends.

Mr. MANSFIELD. May I say, I have told too many Senators already that there would be no votes tonight. The Senator may recall, when I laid the bill before the Senate, that I directed a question to him to the effect that it was my understanding the Senator from Iowa would offer an amendment but that there would not be any vote on it tonight.

I was assuming there would not be a vote until some time tomorrow afternoon after the equal rights constitutional amendment had been laid aside. I had no idea there would be no votes tomorrow. That being the case, I certainly would not be a party to holding up legislation on a basis which I had no comprehension of because some Member or some staff member would not be present.

I think that the distinguished Senator from Iowa, who has made a specialty of understanding the drug and other problems, is more capable than any other Member of this body to make his case for the amendment or the amendments which he had intended to offer.

Mr. HRUSKA. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. HRUSKA. The record should be made clear that the Senator from Nebraska did have a visit with the Senator from Iowa on this subject, and it was the suggestion of the Senator from Nebraska that the bill be laid before the Senate and that we make the opening statements, to be followed by a laying down of a proposal of the Senator from Iowa by way of a substitute to title 1, discuss it a little, and then lay it over until tomorrow without any votes tonight, because it is a substantial text, a substantial substitute amendment and, obviously, due to the lateness of the hour, we could not possibly finish it today. So it was not a matter of agreement or any idea that we would vote on the amendment tonight. It is too big an amendment.

Mr. MANSFIELD. This has been too long a day, anyway. People are tired. I am very tired.

Mr. DODD. I want to say to the majority leader, Mr. President, that I am sure he will agree with me when I say that this is a very important piece of legislation. I understand the situation. Why would not the majority leader let us go ahead and make our statements?

Mr. MANSFIELD. I would be delighted to return once again to the drug bill, but not with the idea that if an amendment is laid before the Senate the vote will not be taken until late tomorrow or maybe the day after.

Mr. DODD. I would agree. The country is waiting on us.

Mr. MANSFIELD. The country is waiting for the crime bills, too.

Mr. DODD. I know they are. They are waiting for the drug bill, too. The bill is ready. The floor managers are ready. I do not know what this fuss is all about. We can move on it. We can make the opening statements tonight and continue with it tomorrow.

Mr. MANSFIELD. The fuss is about a misunderstanding. Maybe it is the majority leader's fault.

Mr. DODD. No; I do not think so.

Mr. MANSFIELD. At the time, I thought I was doing the right thing to call up this legislation having to do with drugs.

Mr. DODD. I am sure that the Senator did. We are ready to go ahead now.

Mr. HUGHES. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I am delighted to yield.

Mr. HUGHES. I am prepared, on the basis of whatever circumstances exist, to go ahead and attempt to arrive at a vote on my amendment as soon as possible, if the bill can be laid before the Senate on tomorrow or as the majority leader originally indicated, to follow the schedule he originally laid down.

Mr. MANSFIELD. I shall be delighted to do so and I thank the distinguished Senator from Iowa for bringing us back on an even keel.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside and that the Senate return once again to the consideration of Calendar No. 1260, H.R. 18583, and that it be laid before the Senate and made the pending business under the circumstances previously enunciated.

The PRESIDING OFFICER. Without objection, the bill will be stated by title.

The legislative clerk read as follows:

H.R. 18583, to amend the Public Health Service Act, and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

The PRESIDING OFFICER (Mr. CRANSTON). Is there objection to the present consideration of the bill?

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

PRIVILEGE OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that Mr. William C. Mooney, Jr., be allowed the privilege of the floor during debate on H.R. 18583.

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

Mr. DODD. Mr. President, I should like to comment on the Controlled Dangerous Substances Act, S. 3246, which was passed by unanimous vote of the Senate on January 28, 1970, and the House of Representatives version, H.R. 18583, passed on September 24, 1970.

The House, the same as the Senate, held extensive hearings on the bill, indeed, the very fact that the House bill was passed 8 months after it had been passed by the Senate indicates the thorough research and deep investigations that were made in respect to all the aspects of this bill.

There is consequently good cause to rejoice at the imminent passage of this legislation. It will go a long way toward ameliorating the drug problem in the United States; by its rational approach and its system of schedules of various dangerous drugs, it will allow us to look forward to a day when its provisions will help to get some semblence of order into the multitudinous, and often contradictory, laws on this subject.

Perhaps most important of all, the new law will reestablish among adults and young people alike, a sound respect for the rationality of the law.

Under the old approach, there were mandatory sentences for possession of marihuana even if this was only a first offense. Quite apart from the basic irrationality of mandatory sentences which do not give the judge any area for discretion, the mandatory sentence often makes for extraordinary contradictions. Thus in the same week in which a banker was given probation for stealing thousands of dollars from his bank, a young college student was given a 5-year sentence, without the possibility of parole, for having a stick of marihuana on his person.

This does not mean that a young person found with marihuana on him should go scot-free; but it does mean that people, particularly young people, take note of these discrepancies and develop an almost complete contempt for the law.

There can be no doubt that such a contempt for law is perhaps the most dangerous situation of all; perhaps it is even more dangerous to the body politic than the whole drug syndrome which we are trying to fight. Contempt for law is the most destructive the deeper it goes, because by itself it denigrates our entire system of Government; it destroys the very concepts we have developed over hundreds of years preceding the founding of the Republic.

I am particularly grateful that the basic Controlled Dangerous Substances Act was passed in almost its entirety by the House. There were a number of minor disagreements; but more than 90 percent of the law which was reported by the Senate Subcomittee on Juvenile Delinquency will soon become the law of the land.

This is no mean achievement. The Senate legislation passed the very close scrutiny of the House which investigated

the bill for many months. No significant changes were made, a procedure which does not often occur in bills sent over from the Senate.

There was a change which I consider particularly important, which I find in the final House version.

I was surprised and dismayed not to see the two tranquilizers, Librium and Valium, included in the schedule of enumerated drugs which are to come under the jurisdiction of the Department of Justice, through its Bureau of Narcotics and Dangerous Drugs.

I understand that the Department of Justice has given its assurances that they will continue their efforts to bring Librium and Valium under control. I understand that the administrative hearings related to these two drugs will soon be brought to a close and orders controlling the drugs promulgated pursuant to regulation.

And my reading of the House bill and the accompanying committee report reassures me that once control of these drugs becomes final under existing law, they will automatically be controlled under this bill without further proceedings and placed in the appropriate schedule.

There was ample evidence that Librium and Valium should be included among the controlled drugs. Both have been found addictive; both are at least habituating; both react on the central nervous system; indeed, they are intended and advertised for that precise purpose.

It therefore became difficult for me to understand that they were not included in the bill as it came back from the House. We had evidence of heavy diversion of these drugs; and heavy diversion can only mean that they are used for illegal purposes, the same purposes for which amphetamines, barbiturates, and opium are used.

I am satisfied that some steps can still be taken to avert the illegal use of these drugs.

I am convinced that my efforts to see these two drugs brought under control will, in fact, soon be realized.

I do not believe that either the House or the Senate should be deluded into believing that the legislation we are now considering will create a millennium where all drug addiction and drug habitation will disappear in a trice. It would be impossible and indeed irrational to make such a prediction.

But it is possible to predict that finally we may see the light at the end of the tunnel. If this legislation cannot be expected to make a swift end of drug addiction, it can be expected that it will give us a more rational approach to this nationwide scourge. By reducing the penalties to a rational level, by providing help instead of long prison terms for those addicts who are not basically animals; by penalizing those who make profits at the cost of the misery of their fellowmen, both the House and the Senate will have taken a giant step toward the resolution of this dreadful problem.

We shall carefully watch the developments in the months and years to come; we shall watch the impersonal statistics and the personal stories of triumph over tragedy; and we shall not hesitate to offer amendments to the law where we think it can be improved and sharpened.

But as of now, I ask my colleagues to get on with the task of moving this legislation to the President's desk without great delay.

Let me add that I said in the colloquy a moment ago that the country is waiting for this bill and that the country is entitled to have us consider it. There is no more important problem before this country or within its boundaries than the problem of drug abuse and drug addiction. We can talk all we want to about crime and safe streets. But I tell the Senate that the American people want this bill passed. They are tired of the misery and crime that flows from an unabated drug traffic.

I have worked on this bill for over 2 years. The Senator from Nebraska has, as well. We have a good bill here and it ought to be taken up now.

The Judiciary Committee reported this bill to the Senate after extensive debate. The Senate passed it unanimously in January. The House, after 8 months, passed it. Now it is time that we get about our work so that the Federal law enforcement agencies can do something about stopping the dreadful flow of narcotics and drugs. That is what I want to see done.

And I think we can do it. We can discuss these amendments. We can decide on them. We will agree to those that have merit. Those that do not, we will reject.

We debated this bill for some 5 full days in January. We had many votes on many amendments.

Mr. President, there is a powerful lobby opposing this bill. Let us face it. The drug industry has fought this bill every step of the way. At the top of the list is the company pushing Librium and Valium. There are some evil influences that have been at work that have tied this bill up for months. Why else, after all these months, does this bill come here in the twilight of our session?

We had better ask ourselves some questions. These drug lobbyists came to see me to ask special favors, to delay the bill a little longer so they could study it more. I said no.

I do not know who else they saw or where they went.

But I am sick of this hypocrisy. These may be my last moments here, but, by God, I will tell the truth about things.

Let us get on with the people's bill. Let us make a first step toward stamping out the drug traffic, toward knocking out these dope peddlers who make invalids of our young people.

Mr. President, I have no fault to find with those who disagree on the substance of the legislation. But I do not want it tripped up by device.

Mr. HRUSKA. Mr. President, I rise to support the bill and to subscribe to the arguments and to the reasons laid out by the Senator from Connecticut for not only taking favorable action, Mr. President, but for also taking expeditious action on this bill without any amendments.

Last January we had a series of days in which we engaged in debate. I think the debate lasted some 3 or 4 days on the bill which was S. 3246, and which is largely embodied in the bill that is now the pending business in this Chamber. At that time a number of Senators expressed their concern and dismay over the drug abuse problem in America and the lack of expeditious action thereon.

That concern prompted this body to pass S. 3246, the Controlled Dangerous Substances Act, by unanimous vote on January 28.

Over 8 months have now passed, and the drug problem is certainly no better. Our enforcement people have been doing a commendable job, and arrests and seizures during the intervening period have been greater than ever before. Unfortunately, this is as much a measure of the illegal drug traffic as it is of enforcement efficiency. The drug abuse phenomenon is still very much with us—as are the ineffective and outmoded laws we sought to modernize with S. 3246.

Eight months after the Senate action, we finally have before us the action of the House of Representatives on drug control in H.R. 18583, the Comprehensive Drug Abuse Prevention and Control Act of 1970. And although this is not the bill we passed last January, one need not look too closely at titles II and III of this measure to detect the clear and unmistakable influence of S. 3246 upon its provisions. We need no further corroboration beyond the fact that the administration, which supported S. 3246, now supports H.R. 18583 and urges its enactment without further delay or amendment.

Mr. President, H.R. 18583 is by no means a perfect bill, but it is a vast improvement over existing law. While it does not represent an immediate resolution of the drug problem, its passage will undoubtedly mark the beginning of the end. Virtually all the concepts we approved of in S. 3246 are present in this measure, with some modification perhaps, but still in an effective form.

The system of scheduling drugs according to accepted medical use and potential for abuse is present in H.R. 18583, as is the machinery giving the Attorney General the means to administratively reschedule drugs.

The basic reforms in offenses and penalties relating to drug control which this body accomplished in S. 3246 are also present in H.R. 18583. For the most part, the same flexibility exists which will permit courts more satisfactorily to tailor punishment to fit the offense and the offender. First offenders convicted of simple possession of any drug face misdemeanor penalties, with special authority for a judge to place the first offender on probation with the eventual possibility of expungement of his conviction. On the other hand, persons established as professional traffickers are exposed to appropriately severe penalties with mandatory minimums—the only place in the penalty scheme where these minimums are to be found.

I am not totally satisfied with some of the changes made by the other body in the criminal provisions of this meas-

ure. For example, I believe the Senate provision dealing with distribution to minors was more realistic and logical. However, we can live with the present provision, and it is too late in the day to start over again on provisions like this for the sake of relatively minor changes.

The same basic regulatory systems in S. 3246 relating to the registration of manufacturers and distributors are in H.R. 18583 as well, with some tightening up on registration regarding importers and exporters in title III.

The administrative enforcement tools are here as well, including the authorization for administrative inspection and "no-knock" warrants, increased arrest powers for Federal agents, clarification of conditions of forfeiture of property, grants of immunity in appropriate cases, and the like.

In short, Mr. President, the Senate-passed S. 3246 forms the heart of H.R. 18583. There are differences, to be sure, and we could spend any number of hours debating their merits. I would submit, however, that any excessive time so spent would in large measure be disproportionate to the benefit to be gained in terms of real improvements to the bill.

It appears that some amendments will be proposed. Title I in particular may be singled out for change. This title is new to the Senate, of course, as S. 3246 was primarily a control measure oriented toward enforcement rather than rehabilitation. This body is aware of the need for rehabilitation. We certainly are concerned with that aspect also. In January, however, it was the will of the Senate that any rehabilitation measure should be considered separately from S. 3246.

We now have a bill which could with reasonable accuracy be described as S. 3246 with some amendments and with rehabilitation provisions grafted into the beginning of the legislation as title I. This title I would authorize expenditures of $164 million for community mental health centers, drug abuse education, and special projects under the control of the Secretary of Health, Education, and Welfare. The provisions of this title broaden the application of the Community Mental Health Centers Act to expand construction and staffing of facilities, and to cover other problems of drug abuse and dependence in addition to narcotics addiction. New educational programs are provided for, including preparation, coordination, and dissemination of material. Other reforms in the field of treatment and research are instituted as well.

Mr. President, the provisions of title I as approved in the House may not go as far as some Members of this body would wish. However, I feel they constitute an important beginning—one worked out in conjunction with the administration and which is acceptable to the Department of Health, Education, and Welfare as well as the Justice Department. The provisions of title I have been carefully integrated with the rest of H.R. 18583 so as to eliminate any possible inconsistencies or conflicts. This title represents the well-considered thinking of the other body, which had for its consideration among other things a bill which approximates the amendment to be offered by the Senator from Iowa. While we are by no means bound by what the other body accomplishes, we must consider the practical effect of a major amendment at this late date.

H.R. 18583 is a bill which the Senate can and should accept intact, without further amendment. Its passage is long past due. Ever since the President brought the drug problem to the attention of the Congress on July 14, 1969, by sending his legislative proposal to Congress, this Nation has been waiting with anticipation for Congress to respond to the challenge. It has been the unfortunate lot of the American people, however, to send their children back to school in the fall of both 1969 and 1970 without the benefit of legislative reforms to reduce the supply of dangerous drugs to which schoolchildren are now exposed daily.

Mr. President, we must have this legislation now. To amend the bill further at this point, and force it to a conference, would be a real disservice to the people we represent. This legislation has already profited from the collective thinking of both houses of Congress, and is one of the most thoroughly considered bills we have had before us this Congress. While I have nothing but respect for those who would amend the bill further in a sincere effort to make it still better, I believe such action will accomplish the opposite result. We need this law, and we need it now. Let us not delay further.

Mr. President, I might say that substitute title I which will be proposed contains many conflicts and will cause much confusion and many contradictions with titles II and III of the bill if it is approved. It would cripple law enforcement procedures seriously. Some of them are of a long-standing nature and are of proven necessity and value.

Title I, as presently drafted, is not intended to establish new and expensive programs relating to drug abuse within the Department of Health, Education, and Welfare. It is intended, rather, to increase its efforts in the rehabilitation, treatment, and prevention of drug abuse through existing channels and through increased appropriations.

The Department of Justice strongly urges that any comprehensive legislative measure relating to drug abuse, rehabilitation, education, treatment, and prevention should be considered as a separate piece of legislation rather than as a title to a bill which is primarily oriented toward law enforcement.

Therefore, the Department of Justice recommends against the adoption of this amendment.

Mr. President, I might say that this Senator has been in conference not only with the Department of Justice but also with the Department of Health, Education, and Welfare. They have testified. Their testimony is in the hearings on this bill. That testimony was given before a committee of this body in March of this year. On the basis of my interviews and discussions with the Department of Health, Education, and Welfare, there has been prepared a memorandum of that Department's objection which I ask unanimous consent to have printed in the RECORD at this point—a summary of the objections to the proposed amendment No. 1026, the title I substitute which it is the intention of the Senator from Iowa to introduce.

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

I. MAJOR OBJECTIONS

1. This amendment, in the form of the October 5, 1970 Committee Print, which is the print to which these comments are addressed, is 56 pages long. While hearings have been held before the subcommittee on Alcoholism and Drug Abuse of the Senate Committee on Labor and Public Welfare on certain legislative proposals (such as S. 3562, the Hughes bill, and H.R. 14252, the Meeds bill) from which the present amendment is derived in part, the present amendment has never been the subject of a committee report in its major aspects. It is highly technical and prolix and it would be grossly inappropriate to deal with a proposal such as this on the floor of the Senate without a committee report. This is to be distinguished from the fact that H.R. 18583 has not been referred to committee in the Senate because at least H.R. 18583 is accompanied by a House Committee Report emanating from the House Interstate and Foreign Commerce Committee and Ways and Means Committee and has been before the Senate for a longer period of time. It would be impossible on the floor of the Senate to attempt to analyze the amendment in sufficient detail, remedy the many technical defects and overlaps, etc.

2. While the Administration has taken the view that no additional authority on the subject matter of title I of H.R. 18583 is needed at this time, other than the protection of the privacy of research subjects and with the possible exception also of sec. 4 of the House bill, the Department can live with title I of the House bill which at least is carefully drawn and not subject to technical defects.

3. The Hughes amendment has serious organizational and structural defects with respect to administration of the program.

a. It requires that the Secretary exercise his authority through a new statutory institute for the prevention and treatment of drug abuse and drug dependence. This would deprive the Secretary of needed flexibility in a program in which such flexibility is especially needed. While it has been the policy of the Department to focus responsibilities with respect to drug abuse treatment, education, and the like in the National Institute of Mental Health primarily, it has not been thought advisable to deprive other appropriate units of the Department of desirable authority to be delegated by the Secretary, e.g. certain authority to the Office of Education. It is also desirable that coordinating authority in the drug abuse prevention and rehabilitation program, both within the Department of HEW and between that Department and other agencies, should be vested in the Secretary rather than in a subordinate agency of the Department.

4. The Hughes amendment would create a new National Advisory Council on Drug Abuse and Drug Dependence and would substitute that advisory council for the National Advisory Mental Health Council in the review of projects and policy advice to the Secretary, thus tending to divorce the drug abuse prevention, treatment, and rehabilitation program from the broad framework of the mental health program within which it belongs. This new policy would be applied both under this bill and under the Community Mental Health Centers Act and the Public Health Services Act. However, to require the advisory council to approve every program project, and not only research projects,

would unnecessarily involve the council in the day to day operation of the program.

5. The bill would by statute create an Intergovernmental Coordinating Council on Drug Abuse and Drug Dependence on which the Secretary would be but one of a number of members. While intergovernmental and interagency coordination is of course desirable, and is in fact being pursued among federal agencies and within the Department without statutory directive, it seems undesirable to freeze the mechanism for such coordination in a statutory council and thus deprive the President of flexibility to shape any such mechanism from time to time in accordance with experience. Title I of the *House-passed bill*, in the proposed section 253(b) of the Community Mental Health Centers Act (page 6), directs the Secretary to "coordinate activities carried on by such Departments, agencies, and instrumentalities as he shall designate with respect to health education aspects of drug abuse." This directive should certainly suffice for the purposes of this bill.

6. In administering the provisions of the Community Mental Health Centers Act with respect to grants for construction and staffing of facilities for the treatment and rehabilitation of narcotic addicts, the National Institute of Mental Health has insisted on the basic principle that such projects should either be established within the framework of a Community Mental Health Center or that at least there should be arrangements whereby comprehensive services would be provided by the grantee or would be made available under arrangements between the grantee and others. This principle would be destroyed by the amendment (see sec. 147(b) on page 41 of the October 5 print and subsection (g) on page 5 of the print).

7. The amendment would, in addition to establishing a project grant program (subpart III of part E of the Hughes substitute) for title I, establish a formula grant program (subpart II of part E) based on an allotment formula. The project grant provisions of existing law and of title I of the House version of the bill are entirely adequate for the purpose. The formula grant mechanism established by the Hughes substitute is inappropriate especially in view of the fact that the formula prescribes factors besides greatest need as being determinative of the allocation of grant funds and who the recipient will be.

8. The authority for grants and contracts for construction and treatment provided in the amendment parallels authority already established in the Community Mental Health Centers Act and in title I of the bill and is outside the framework of the Community Mental Health Centers Act, which we believe is inappropriate.

9. While the Hughes amendment follows title I of the House version in broadening the narcotic addict provisions of the Community Mental Health Centers Act so as to apply to other persons who are drug abusers and drug dependent persons, it does not, unlike the House version, take account of this enlargement of scope by amending the appropriation ceiling in sec. 261 of that Act.

10. Not only does the Hughes amendment establish a separate project grant program entirely outside the framework of the Community Mental Health Centers Act (subpart III of part E of the amendment), but it also provides for a federal percentage of the cost of projects which in most cases provides for 90% federal grants and in some cases 100% grants, whereas the highest federal percentage under the Community Mental Health Centers Act is limited to 90% and then permitted only in the case of projects in urban or rural poverty areas.

II. OTHER OBJECTIONS

1. Section 141 of the Hughes amendment (page 28) would amend section 314(a)(2) of the Public Health Service Act to require a state plan under that subsection to provide for services for the prevention and treatment of drug abuse and drug dependence in certain detail. This provision is inappropriate to section 314(*a*) of the Public Health Service Act because the purpose of that subsection is not to provide for a State health *service* plan but rather for grants for *planning*. The requirements of section 314(a)(2) relate to the required contents of a State plan for comprehensive State *planning*, and not to the contents of the State plan for public health services which is provided for in section 314(*d*)(2) of the Public Health Service Act. Moreover, even if the amendment were to sec. 314(d)(2), it would contradict the basic approach of sec. 314(d) which was to do away with imposing requirements as to specific disease categories on States, although section 314(d) provides broadly that 15% of a State's allotment shall be allocated to the field of mental health services, which includes drug abuse prevention and treatment.

2. Section 3(a) of the House version of title I empowers the Secretary to give broad protection to researchers against being compelled to disclose the identity of individuals who are the subjects of research, regardless of whether the research project is one supported under title I of the bill. On the other hand, section 126(b) of the Hughes amendment (page 19) limits this protection to research conducted pursuant to title I. Moreover, section 132 of the Hughes amendment (pages 27, 28) in part would destroy this protection by authorizing courts to compel disclosure. Also, subsections (a) and (b) of section 132 of the Hughes amendment seem inconsistent with one another, and section 132(b) raises the question whether it is within the constitutional powers of the Congress.

3. With respect to the statistical functions provided for in section 125 of the Hughes amendment (pages 16 and 17), the Department's report on the original Hughes drug bill, S. 3562, pointed out that the Department of HEW already has general authority under sections 301, 305, and 315 of the Public Health Service Act to gather and publish statistics on drug related problems, and that the nonmandatory requirement that all agencies, practitioners, and other persons involved in the drug abuse field keep uniform statistics and records and submit uniform reports would not sufficiently supplement the Department's present statistical efforts to justify the great expenditures of time, energy, and expense that would result from such a requirement.

Mr. HRUSKA. Mr. President, I also ask unanimous consent that a second summary and memorandum, a summary of objections to the proposed title I substitute prepared by my office be printed in the RECORD.

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

OBJECTIONS TO AMENDMENT BY WAY OF SUBSTITUTE FOR TITLE I

The amendment offered by Senator Hughes to H.R. 18583 will strike all of title I, which relates to rehabilitation programs for drug abuse, and substitute new language in its place. The provisions of the amendment are quite similar to those contained in S. 3562, the Federal Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation Act of 1970, which was introduced by Senator Hughes on March 9, 1970.

During the course of hearings relating to S. 3562 before the Subcommittee on Alcoholism and Narcotics of the Senate Committee on Labor and Welfare, representatives of both the Departments of Justice and Health, Education, and Welfare expressed objections to a number of provisions in the bill. The Department of Justice felt that certain portions of the bill conflicted with the language of S. 3246, the Senate-passed Controlled Dangerous Substances Act. Other portions would create an overlapping of functions between a new administration established within the Department of Health, Education, and Welfare and the Law Enforcement Assistance Administration and the Bureau of Narcotics and Dangerous Drugs, both within the Department of Justice.

Many of the objections the Department raised to S. 3562 are equally applicable to the proposed amendment to H.R. 18583. Certain new provisions of the amendment are also considered objectionable by the Department. For example, the statement in the Congressional findings of both the amendment and S. 3562 that "drug dependence is an illness or disease" raises the spector that the allegation of drug dependence could be asserted as an affirmative defense in any criminal prosecution, which is contrary to existing Federal law.

The word "classification" in subsection 112(k) of the amendment, defining the term "prevention and treatment," gives implied authority to the Secretary of Health, Education, and Welfare to classify controlled substances for rehabilitation and treatment purposes in a manner similar to that provided for in section 309 of S. 3562. The Department would object to any additional drug classification as being unnecessary in light of the classification scheme contained in title II of H.R. 18583.

Possible conflicts may arise between the statistical functions of the Secretary of HEW set out in section 125 of the amendment and the statistical functions of the Department of Justice contained in subsection 503(a)(4) of title II. On the one hand, statistics gathered by public agencies pursuant to regulations promulgated under section 125 may not reveal the identity of drug dependent persons. On the other hand, subsection 503(a)(4) authorizes the Department of Justice to catalog information and statistics, including records of controlled substance abusers and offenders, and make such information available for Federal, State, and local law enforcement purposes. Making records of controlled substance abusers available for enforcement purposes obviously necessitates revealing their identities.

The Department further objects to the provisions of subsection 126(a)(6) of the amendment, which requires all Federal agencies to submit to the Department of Health, Education, and Welfare all unpublished data pertinent to the toxicology, pharmacology and epidemiology of drug abuse and the dangers to public health posed by controlled substances. All such information is to be made "widely available." This provision is much too broad and will require Federal agencies to submit information for publication which is not intended for public consumption. The Department of Justice, for example, would be required to submit all data pertaining to a drug which is being considered for control, long before a determination is made to initiate control proceedings. This type of information is not of any interest or benefit to the public, and its publication would serve only to complicate drug control procedures.

The confidentiality provisions of subsection 126(b) of the amendment are also much too broad and possibly in conflict with the recordkeeping provisions of section 307 of title II, which are applicable to researchers as well as the legitimate pharmaceutical industry. Subsection 126(b) provides that any information obtained through research shall be used in such a way that no name or identifying characteristic of a research subject shall be divulged without the approval of the Secretary and the consent of the research subject. This section does not take into account research conducted pursuant to the investigational new drug procedures of

the Federal Food, Drug, and Cosmetic Act, which may require that the identity of research subjects be made known in order to establish that they are, in fact, subjects of legitimate research. Provisions of subsection 307(e) of title II, relating to the regulations promulgated by the Secretary for researchers using controlled substances under the IND procedures of the Food, Drug, and Cosmetic Act, require the Secretary to consult with the Attorney General in promulgating regulations deemed necessary to insure the security and accountability of controlled substances used in research. Quite conceivably, these regulations could require that the identity of a research subject be made known for the purpose of ascertaining whether or not he is a subject of legitimate research.

The provisions of title I, as presently drafted, relating to confidentiality of records were worked out between members of the House Interstate and Foreign Commerce Committee and representatives of the Departments of Justice and Health, Education, and Welfare. All agree that they are more than adequate to insure the privacy of research subjects.

Subsection 126(a)(4) of the amendment, which requires the Secretary of HEW to establish the criteria pursuant to which a registered researcher is to be authorized to manufacture or acquire controlled substances for research, clearly conflicts with the regulatory provisions of title II of the bill. These provisions are applicable to the manufacture and handling of controlled substances by researchers, as well as by the legitimate pharmaceutical industry, and are adequate to insure that there will be adequate supplies of controlled substances available for legitimate research.

Title I, as presently drafted, is not intended to establish new and expansive programs and functions relating to drug abuse within the Department of Health, Education, and Welfare, but rather, is intended to increase its efforts in the rehabilitation, treatment, and prevention of drug abuse through existing channels and modalities through the use of increased appropriations. The Department of Justice strongly urges that any comprehensive legislative measure relating to drug abuse rehabilitation, treatment, education, and prevention should be considered as a separate piece of legislation rather than as a title to a bill which is primarily law enforcement oriented. Therefore, the Department of Justice recommends against adoption of this amendment.

Mr. HRUSKA. Mr. President, this ground was plowed last January. There was thoroughly discussed in this Chamber at that time the matter of having an adequate, proper, and suitable bill for drug abuse rehabilitation, research, prevention, and education. It was pointed out at that time that this bill, being oriented toward law enforcement, is no place to get into that field, and the Senate approved that policy. There were assurances from the Senator from Connecticut, from this Senator, and from other Senators that when that bill was properly recommended by the committee that we would support that type measure as a separate bill.

The urgency of expeditious action on the House bill in substance is this. There would be a delay of enactment if we get into so vast a change as would result from the adoption of the substitute title I.

Let us consider that it is 15 months since the bill was introduced last July. There were extensive hearings and a unanimous vote in January, but that did not complete action on the bill. There was much to be said for enactment of this bill prior to the time that the current academic year started. It would have had a tremendous psychological effect on the situation that converges on the campuses of this Nation. But there was another compelling and persuasive argument, for speedy approval and that is that a model bill for the States to adopt in their respective legislatures is prepared, ready to go, and the legislatures, the bulk of them, which will start to convene in January will want to adopt that model bill. That model bill is pretty much contingent upon and dependent upon the enactment of an overall law enforcement measure in this field by Congress bringing up to date those provisions in our general statutes which bear on this subject, and the new approach by way of establishing a schedule, the administrative way in which those schedules will be modified, a revision of penalties and so forth.

If we are to have an advantageous and expeditious followup in the State legislatures, which is where the actual local and field police work must be done, it is well that we enact this bill and soon. If we do not get to it until next November, there will not be the necessary paperwork, the necessary promulgation of the Federal act, and all the other details that are necessary in order for the State legislatures to take prompt action.

Therefore, it would be my hope that we would turn back any amendments here in the interest of going forward with a measure which has been thoroughly, completely, and well processed in committee, in the other body, in debate in this body once, and now for the second time.

There are things about the House-passed bill that we probably would not have there or which we would have in a different form if we had our choice. But the Senator from Connecticut indicated he is willing and this Senator is willing to forgo those relatively minor matters in order that we might make progress quickly and it is my hope that is what will be done. I urge that H.R. 18583 be approved by the Senate without amendment.

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

Mr. HRUSKA. I am glad to yield.

Mr. DODD. I commend the Senator from Nebraska for his statement. It is in keeping with his attitude and record here of many years. He has been a strong voice in calling for the control of the epidemic of drug addiction in this country. I am proud to say so on the Senate floor.

He has said that we have been at it for 14 months struggling to put this measure through. There has been one delay after another. In that period of time 12,000 youngsters under 21 years of age have been arrested for narcotics and narcotic-related offenses. I think we could have saved some of them if we had passed this bill long ago with its enlightened sentencing structure.

The Senator from Nebraska knows I do not refer to him, because I have already said he helped tremendously in trying to get this legislation before the full Congress.

I tell you, Mr. President, there is a powerful lobby in this country, trying to beat this bill. It hides behind different facades—parliamentary debate, this kind of amendment and that kind of amendment.

Why do they cause this trouble? There is a lot of money involved. They have had the effrontery to tell me this. While thousands of American children go down the drain, they are worried about profits. I do not care who likes or dislikes what I am saying—I am sick of it. The American people should know what we are up against. I know who these "white collar" drug peddlers are. They came to see me, as I said, a few minutes ago, and I said "no."

I know these drugs are addictive, habituating, and when they are criminally abused, are bad for this country. And these drug lobbyists are still working. They have hired all the high powered machinery they can get in Washington, and maybe in a day or so I will name them. If they think this is a patsy performance, they are going to be disappointed.

I say to the Senator from Nebraska, let us get this job done. Let us do something about the dreadful drug addiction problem in this country. I know the Senator from Nebraska wants to see it done. I know it very well. He is not one of those who has been trying to delay it. I do not charge anyone in this body, but I was compelled to point out that there is this great influence trying to delay this bill. That is why I brought it up.

Mr. HUGHES. Mr. President, I want to say to the distinguished Senator from Connecticut and the distinguished Senator from Nebraska that when their bill came out of the Juvenile Delinquency Subcommittee last spring and was debated on the floor, it eventually passed unanimously. It could hardly be said that anyone in this body voted against the bill or to delay it. There was not a single vote, as I recall, against the bill.

In all probability, when we get through with this piece of legislation, there will not be a single vote against this particular bill. It would be very doubtful that there would be. But to say that we should not take the time at this particular moment to examine carefully—and I mean very carefully—the contents of this bill, which deals with very sensitive areas of humanity that must be dealt with, is absolutely ridiculous. The bill will be debated, it will be voted on, it will be passed on, in all probability, in the next couple of days.

To say we cannot take the time to debate it and debate it sensibly is to not give appropriate credit to the Members of this body who should have such credit and have an opportunity to consider their alternatives.

Mr. President, it is my intention, at the proper moment, to call up a substitute amendment, No. 1026, cosponsored by the entire membership of the Committee on Labor and Public Welfare—the entire membership of that committee—to title

I of H.R. 18583, the Comprehensive Drug Abuse and Control Act which was recently passed by the House and is now subject to our action.

This includes the entire membership of the minority party on the committee as well as the majority party—the education subcommittee and the health subcommittee—all of the members of those committees who deal with this subject.

For well over a year we have probed and held hearings on this subject. It is not as though we are unfamiliar with what we will be coping with in the next couple of days, and are coping with now. This proposal, representing long study and carefully thought-out provisions, would pull together under a single agency the fragmented and insufficient Federal health and education programs for dealing with the drug epidemic.

In view of the national crisis we face as a result of the dangerous rise of drug abuse and narcotic addiction in the United States, I believe this to be one of the most urgent items to come before the Senate in the present session.

Believe me, I have a good deal of concern about our doing something about this and I am keenly aware and familiar with the problems that exist in this country.

The amendment would replace title I only of the House bill—the title dealing with the health and education aspects of the drug problem. Both the Senator from Nebraska and the Senator from Connecticut indicated last summer, that should this committee bring out their recommendations, they intended to support them. These are the committee recommendations. Every member of the committee is sponsoring the amendment.

It would not affect title II or III which contain the provisions for enforcing drug control laws, regulating the manufacture and sale of dangerous drugs, and controlling drug imports and exports.

The key provisions in this amendment are contained in Senate amendment 1003, filed by me on October 1, 1970.

The amendment I offer today is Senate amendment 1026—a revised version that also incorporates the basic features of H.R. 14252, the Drug Abuse Education Act, and of an amendment to H.R. 14252, proposed by the Senator from Massachusetts (Mr. KENNEDY), dealing with community-based, peer-group-oriented programs of drug abuse education. The Kennedy amendment was also adopted by the Committee on Labor and Public Welfare. H.R. 14252 is pending on the Senate calendar.

At this point, I want to pay tribute to our colleagues in the House and particularly the Committee on Interstate and Foreign Commerce under the able chairmanship of the gentleman from West Virginia (Mr. STAGGERS) and to the Subcommittee on Public Health and Welfare chaired by the respected gentleman from Oklahoma (Mr. JARMAN).

H.R. 18583 is an example of competent, conscientious, and courageous legislation in an extremely difficult field.

The thrust of our amendment today is in the nature of extending the provisions of H.R. 18583 relating to health and education programs for dealing with the drug program and in consolidating kindred legislative proposals rather than in changing the basic intent of the House-passed drug bill.

This amendment, as I have suggested, is not hastily contrived legislation, as has been contended here, but is the fruit of many months of hearings and study by the Subcommittee on Alcoholism and Narcotics and of the parent Labor and Public Welfare Committee under the concerned leadership of the Senator from Texas (Mr. YARBOROUGH).

Structurally, the amendment is patterned along the lines of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act (S. 3835) which was passed unanimously by the Senate on August 10, 1970.

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

Mr. HUGHES. I yield.

Mr. KENNEDY. As I understand the thrust of the amendment of the distinguished Senator from Iowa, as he has pointed out in his explanation, it is to do for the drug bill what was done on the alcoholism legislation. What he is attempting is not really any new kind of concept or new idea. Not only does his amendment incorporate the experience and the judgment and the deep analysis of the hearings that he conducted, and the combined judgment of the members of the Committee on Labor and Public Walfare, but, as I understand, its thrust is to proceed in a similar way to the bill that passed the Senate on alcoholism, as the Senator mentioned, in August of this year. Am I correct in that understanding?

Mr. HUGHES. The Senator makes an absolutely correct statement. The Senate passed unanimously, on August 10, a bill relating to the disease of alcoholism in this country, a bill having identical structure with this amendment, dealing with another great area of human misery in this country, and dealing with the most dangerous drug of all—alcohol.

Mr. KENNEDY. But, as the Senator has said most compellingly, we are not, as some have suggested, considering a new kind of program or new recommendation.

As I understand the amendment, as the Senator put it forth, in terms of the intent of the Labor Committee, upon which I serve, it is that this is something that has been considered in concept by the full membership of the Senate. It is something which is significant and important for its own sake. It is something which the members of that committee, of which I am one, feel will obviously strengthen dramatically the whole drug program in whatever form it may pass the Senate this year.

Mr. HUGHES. The Senator is absolutely correct. The amendment is patterned directly along the same lines, incorporating the same principles, and it is not new at all.

Mr. KENNEDY. I commend again my friend and distinguished colleague from Iowa.

I have the rather unique opportunity to serve on both the Committee on Labor and Public Welfare and the Committee on the Judiciary. I serve on both the Judiciary Subcommittee on Juvenile Delinquency, with my good friend and distinguished colleague, the chairman of that subcommittee (Mr. DODD), and also on the Subcommittee on Alcoholism and Narcotics of the Committee on Labor and Public Welfare.

I have seen very well the splendid work that has been done by both committees on drug abuse problems.

I would say, having had the chance to attend the hearings and to review the records and reports, that the work that is being done by each of those committees strongly complements that of the other, and that the kind of approach that is being suggested in the amendment of the distinguished Senator from Iowa is absolutely essential if we are going to put our names and our votes and the imprint of the Senate of the United States on a worthwhile drug program.

I share the feeling of the distinguished Senator from Iowa that what we need, in terms of a drug abuse prevention and control act, is strong law enforcement, rehabilitation, research, and education. We would be doing a complete disservice to the American people and to those who have been afflicted with this disease if we were to permit a half-way measure to pass this body.

I feel, however, that important as it is for the strong law enforcement provisions to be included in the measure that we currently have before us—and I strongly support almost all of those provisions—I echo what I think are the eloquent sentiments of my good friend from Iowa, that we must provide this kind of balanced program, including research, rehabilitation, and education. And if it is going to take us days or weeks to do that, we will serve our constituents and our country in a much more responsible way by providing the kind of approach that is included in the amendment offered by the distinguished Senator from Iowa. I commend him for his work and his tireless efforts in this undertaking, and say that I am proud to be associated with this amendment. I can remember the comments on the importance of education, rehabilitation, and research—and the support for legislative action on that front—that were made by my good friend from Connecticut and my good friend from Nebraska when we debated this issue last spring. I am certainly hopeful that those who have stressed the importance of law enforcement and have expressed it full well will embrace also the concepts of education, rehabilitation, and research.

We have the opportunity to do it now. We are in a changed position from that which we were in last spring, because we have behind us hours and days of testimony and deliberations by the Committee on Labor and Public Welfare, and we have the results of the work and the thoughtful comments that have been made by experts, as well as by those who have been most afflicted by this disease. It is a record which I feel is unequaled in its persuasiveness, and I rise, at this early moment in the introductory remarks of the Senator from Iowa, to com-

mend him and state that I am extremely hopeful that Senators will have a chance to read, tomorrow morning, his extensive comments on this matter, wherein he explains it and wherein he makes this record. I think it will be enormously illuminating, and I am sure that, if Senators do have the chance to study it in detail, his amendment will be successful.

I thank the Senator from Iowa.

Mr. HUGHES. Mr. President, I thank the distinguished Senator from Massachusetts for his great contribution. As usual, I think he has focused on a matter that is absolutely essential. This subject matter that we are discussing here tonight is similar in structure to the legislation we acted on earlier, that dealt with the most widely abused drug of all, alcohol; and I think it is very logical that the approach to developing a comprehensive and coordinated Federal program for dealing with the health and education aspects of controlling drug abuse and narcotic addiction would be similar to and parallel to that on alcoholism.

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

Mr. HUGHES. I yield.

Mr. JAVITS. I do not wish to interrupt the Senator's discourse, but I would just like to serve notice that I, too, as the ranking minority member of the Alcoholism and Narcotics Subcommittee, which the Senator heads so effectively, would like to make an opening statement in support of the Senator's amendment. If he will be kind enough to yield to me at the end of his discourse, I will appreciate it.

Mr. HUGHES. I shall be happy to yield to the distinguished Senator from New York, and I wish, at this point, to state again that any implication by any Member of this body that there is any intent to delay action on this bill or any other bill would be, in my opinion, the height of ridiculousness, after we have spent nearly 21 months in digging, determining, trying, and endeavoring in every way possible to bring good legislation before this body. There is certainly no intent on our part of delaying a matter of this importance.

At this point, I ask unanimous consent that a summary of the amendment be printed in the RECORD.

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

SUMMARY OF SENATOR HUGHES' SUBSTITUTE AMENDMENT TO TITLE I OF H.R. 18583

Senator Hughes' substitute amendment to H.R. 18583 establishes the administrative structure necessary to mandate and carry out effective, coordinated and broadly based attack upon the drug epidemic in this country. It deals with the prevention, treatment, and rehabilitation side of the drug problem. (Titles II and III of H.R. 18583 deal with the law enforcement aspects of the problem, and the substitute amendment does not affect or change those two titles.) The substitute amendment, which is modeled after the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, which passed the Senate unanimously earlier this year, would:

1. Establish a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence within the Public Health Service of the Department of Health, Education, and Welfare. The Secretary of HEW, acting through the Institute, would have a comprehensive range of responsibilities with respect to the prevention, treatment, and rehabilitation of drug abuse and drug dependence problems. Those responsibilities include administrative, educational, training, research, planning, coordinating, statistical, and reporting functions, all of which are spelled out in the amendment. These powers would be utilized and directed in accordance with a specific and comprehensive national drug abuse and drug dependence prevention, treatment, and rehabilitation plan, which would be designed and implemented by the Secretary, acting through the Institute, and which would be submitted annually to Congress for review.

(An Institute will have a stature commensurate with the magnitude of the health problem with which it will deal; the visibility necessary to attract strong financial support and to provide an effective program of public education and to develop public attention to and concern about this important problem; and a permanent status which will assist the development of the most qualified staff possible. In addition, it will provide the structure necessary to administer a state formula grant program, a community-based project grant program, and to attract a broad cross section of individuals who are able to assist in solving problems of drug abuse and drug dependence. Such a cross section would necessarily include persons interested in the medical, sociological, and biological aspects of drug abuse and drug dependence, as well as persons interested in practical and creative programs for education, training, and treatment.)

2. Authorize a formula grant program and a project grant program to assist states and communities in dealing with drug problems:

(a) *Formula Grants:* Authorizations in the amounts of $10 million for fiscal 1971, $20 million for fiscal 1972, and $25 million for fiscal 1973, are made for grants to states to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with drug abuse and drug dependence. A minimum of $200,000 would be allocated to each state for each fiscal year.

(b) *Project Grants:* Authorizations in the amounts of $20 million for fiscal 1971, $45 million for fiscal 1972, and $70 million for fiscal 1973, are made for grants to and contracts with state and local community organizations, agencies, institutions, and individuals to carry out a comprehensive range of activities in the drug education, prevention, treatment, and rehabilitation fields. These would include but would not be limited to: development and evaluation of curricula and curricula dissemination programs; training and education programs for medical schools, outreach workers, and other professional and para-professional persons; support of community planning and educational programs; organization of community personnel; support of services to juveniles and young adults; development of programs for correctional institutions; support of local initiative programs, such as peer group leadership programs, crisis intervention centers, clinics, etc.; and support of research, demonstration, and evaluation projects.

3. Establish an Intergovernmental Coordinating Council on Drug Abuse and Drug Dependence consisting of Federal, state, and local governmental officials, to assist the Secretary in achieving broad governmental coordination of and comment on prevention, treatment, and rehabilitation programs; and establish an independent National Advisory Council on Drug Abuse and Drug Dependence, consisting of 15 highly qualified persons, to advise and consult with the Secretary and to assist in carrying out the purposes of this title.

4. Require the establishment of programs of prevention and the recognition and encouragement of treatment and rehabilitation programs for all Federal civilian employees.

5. Retain (at various locations in the amendment), with minor modification, the provisions contained in Title I of H.R. 18583, as sent to the Senate by the House. These provisions broaden certain authorities under the Public Health Service Act, which now relate only to narcotic addiction, so that they relate to drug abuse and drug dependence generally; establish educational and special project programs; protect the privacy of individuals who are the subject of research; and authorize the Secretary to report to Congress on appropriate methods of professional practice in the medical treatment of narcotic addiction.

Mr. HUGHES. In brief, these are the highlights of what this amendment would accomplish. It would establish a national health institute for dealing specifically with drug dependence—the National Institute for the Prevention and Control of Drug Abuse and Drug Dependence.

The amendment establishes a structure that is substantially broader in scope than the programs which the House bill establishes or augments.

It is the opinion of the Labor and Public Welfare Committee that only an agency of Institute status would have the prestige and status to carry out and coordinate effectively the vast and diverse range of responsibilities called for by this legislation.

The amendment would also:

Require the U.S. Civil Service Commission to guarantee to Federal employees with a drug dependence the same employment conditions and benefits as persons who are ill from other causes;

Require Federal agencies to establish programs for dealing with drug dependence among Federal employees;

Authorize formula grants totaling $55 million over the next 3 years to help State governments develop and administer programs for dealing with drug dependence;

Authorize grants totaling $135 million over the next 3 years to State and local agencies, both public and private, to help finance specific projects; and

Establish an independent National Advisory Council on Drug Abuse and Drug Dependence and an Intergovernmental Coordinating Council on Drug Abuse and Drug Dependence to insure coordination of Federal efforts.

The 3-year authorization of $190 million under this amendment compares with the $164 million authorized by the House-passed bill for similar purposes. But as I have stated, the scope of the amendment is more comprehensive than that of title I of H.R. 18583.

Title I of the House bill does make some much needed improvements in existing programs.

For example, it expands the authority of the Public Health Service to treating persons who have become dependent on any one of a variety of drugs, not just those who are already addicted to a narcotic drug.

However, I believe it is also essential to the success of our effort to bring these

programs together under one prestigious Federal agency, where they will command the attention, the dedication, and the financial support deserving of one of our most dangerous and critical national problems, on which we can all agree, regardless of our position in the matter now before the Senate.

At the present time, the authority for dealing with drug abuse at the Federal level is scattered through the statutes in the Community Mental Health Centers Act, the Public Health Services Act, and the general powers of the Department of Education and the Office of Economic Opportunity.

It would be unrealistic to believe that such fragmented authority, however well administered, could mount the massive, coordinated Federal attack that the "Drug Problem, U.S.A.," so obviously requires.

Mr. President, I know that every Senator in this Chamber regards effective action against the drug plague as one of his most solemn responsibilities in this session.

We may disagree on minor details, but on the central objectives we are as one.

The amendment under consideration represents the first Federal effort on a massive, realistic scale to get at the drug problem from the health and preventive-education angles.

President Nixon, on March 11, 1970, stated:

> One of the great tragedies of the past decade has been that our schools, where our children should learn about the wonder of life, have often been the places where they learn the living—and sometimes actual death—of drug abuse. There is no priority higher in this administration than to see that children—and the public—learn the facts about drugs in the right way and for the right purpose through education.

The Director of the Bureau of Narcotics and Dangerous Drugs has recently stated, in a widely publicized speech, that an effective program to control drug abuse and drug dependence in this country must rely strongly on methods of prevention and rehabilitation.

We know that we must have strong laws and strong enforcement of those laws.

But enforcement, by itself, is inadequate to do the entire job.

As I have stated, this amendment does not disturb the provisions of the House bill dealing with the enforcing of drug control laws, regulating the manufacture and sale of dangerous drugs, and controlling drug imports and exports.

But it does—for the first time on an appropriate scale—get at the source of the drug problem, the addiction.

Those who have witnessed addiction at first hand know what a terrible, deadly sickness it is.

As long as addicts are punished and released uncured, the drug problem will grow in our society.

As long as children in our schoolyards are inadequately informed as to the deadly consequences of drug abuse and narcotic addiction, they will continue to experiment.

We need a national mobilization of all of our resources that can be focused on this problem.

Not next week or next year—but now.

We need to pull together all of the resources for prevention and rehabilitation our society possesses to focus on this urgent need.

We need to shake the yoke and prejudice of the past and use the modern techniques available for prevention and rehabilitation, combining the knowledge of the professional disciplines—medical, social, educational, psychological, and all the rest.

And we need a deep civic commitment in every community of the land.

In order to bring this about, the Federal Government must lead the way, bespeaking our national determination that the drug problem must, can, and will be stemmed in this powerful and affluent society.

The statistics on drug abuse and drug dependence in this country today are appalling.

No State, no region, no city is untouched.

Despite the diligent efforts of our Federal enforcement people, the Nation's top narcotics officer tells us that the Government has not yet been able to reduce the amount of heroin available in this country.

The head of the Food and Drug Administration alerts us to the dangers in the growing illegal and unhealthy use of amphetamines—or pep pills.

A detective in a Midwestern city states that drug addicts need an average of $50 to $60 a day to support the habit—some from $100 to $125—and to get this kind of money illegally he must steal as much as $200 daily.

We know that this is the source of a big percentage of crime in the country today.

A State toxicologist, in a Southeastern State reports:

> In years past, a death caused by heroin overdose was an oddity in this State. In the first six months of 1970, at least nine young persons died in this fashion.

A recent headline in one of our large city newspapers reads: "Hard Drug Use in City Out of Control, Rising." The headline would apply with equal truth to other cities across the country.

In a hearing of our Subcommittee on Alcoholism and Narcotics in a Western city, we heard testimony from a 15-year-old boy who had been hooked on drugs of various kinds since age 10.

This is not, I regret to say, unique in America today.

Throughout the United States, there are stirrings of people in concerned communities, eager to do something about education programs, treatment centers, and rehabilitation houses to counter the drug problem.

The long-needed determination to get at the drug problem at its source—the addiction—through health programs and preventive education is developing in various ways throughout the communities of our land.

But national leadership and coordination is needed.

The amendment we are offering today is not a cure-all, by any stretch of the imagination.

But it is a big step in the right direction.

Its enactment—and the enactment of H.R. 18583—will thus be keeping faith with millions of Americans who are now looking at the future with deep anxiety.

Mr. President, I offer and ask unanimous consent to have printed at this point in the RECORD the text of amendment No. 1026, which the Senator from California (Mr. CRANSTON) was kind enough to file for me when I could not be here because of an illness in my family.

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

AMENDMENT No. 1026

In the table of contents of the bill, strike out all that part pertaining to title I and insert in lieu thereof the following:

"TITLE I—PREVENTION AND REHABILITATION PROGRAMS RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"PART A—FINDINGS AND DECLARATION OF PURPOSES

"Sec. 101A. Findings.
"Sec. 102A. Declarations.

"PART B—DEFINITIONS

"Sec. 111. Definitions.
"Sec. 112. Additional definitions.

"PART C—NATIONAL INSTITUTE FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"Sec. 121. Establishment of the Institute.
"Sec. 122. Administrative functions of the Secretary.
"Sec. 123. Planning functions of the Secretary.
"Sec. 124. Coordination functions of the Secretary.
"Sec. 125. Statistical functions of the Secretary.
"Sec. 126. Research functions of the Secretary.
"Sec. 127. Training functions of the Secretary.
"Sec. 128. Educational functions of the Secretary.
"Sec. 129. Reporting functions of the Secretary.

"PART D—PREVENTION AND TREATMENT FOR FEDERAL EMPLOYEES

"Sec. 131. Drug abuse and drug dependence among Federal Government employees.
"Sec. 132. Confidentiality of records.

"PART E—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

"Subpart I—Comprehensive State Plans

"Sec. 141. Comprehensive State plans.

"Subpart II—Formula Grants

"Sec. 142. Authorization.
"Sec. 143. State allotment.
"Sec. 144. State plans.
"Sec. 145. Applications and conditions.

"Subpart III—Project Grants

"Sec. 146. Authorizations.
"Sec. 147. Grants and contracts for the prevention and treatment of drug abuse and drug dependence.
"Sec. 148. Application for financial assistance from units of local government and private organizations.
"Sec. 149. Approval by National Advisory Council on Drug Abuse and Drug Dependence.

"Subpart IV—General

"Sec. 150. General.
"Sec. 150A. Admission of drug abusers and drug dependent persons to private and public hospitals.

"PART F—THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"Sec. 151. Establishment of Council.

"Sec. 152. Approval by Council of certain grants under Community Mental Health Centers Act.

"PART G—INTERGOVERNMENT COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"Sec. 161. Establishment of Council.
"Sec. 162. Functions of Council.

"PART H—PROGRAMS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT RELATING TO DRUG ABUSE AND DRUG DEPENDENCY

"Sec. 171. Broader authority under Community Mental Health Centers Act.
"Sec. 172. Broader treatment authority in Public Health Service hospitals for persons with drug abuse and drug dependency problems.
"Sec. 173. Research under the Public Health Service Act in drug abuse and drug dependency.

"PART I—GENERAL

"Sec. 181. Saving provision.
"Sec. 182. Records.
"Sec. 183. Payments."

In the text of the bill, strike out all of title I and insert in lieu thereof the following:

"TITLE I—PREVENTION AND REHABILITATION PROGRAMS RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"PART A—FINDINGS AND DECLARATION OF PURPOSES

"FINDINGS

"SEC. 101A. The Congress finds that—

"(a) Drug abuse and drug dependence are rapidly increasing throughout the country. Drug abuse can seriously impair health, and can lead to drug dependence. Drug dependence is an illness or disease, which requires a broad range of health and rehabilitation services for treatment.

"(b) Existing laws and their implementation have not been effective to prevent drug abuse and drug dependence or to provide sufficent education, treatment, and rehabilitation of drug abusers and drug dependent persons. Increasing education, treatment, and rehabilitation services, and coordination of effort, offer the best possibility of reducing drug abuse and drug dependence. A major commitment of health and social resources and Government funds is required to institute an adequate and effective Federal program for the prevention and treatment of drug abuse and drug dependence.

"(c) There is a lack of authoritative information and creative projects designed to educate students and others about drugs and their abuse. High priority should be given to the development, evaluation, and dissemination of educational and informational materials.

"(d) Drug dependent persons commit a high percentage of the serious crime in many cities in order to secure funds with which to satisfy their habit. Criminal incarceration without appropriate treatment has proved ineffective to deter drug related crime. Effective treatment services and successful rehabilitation offer the best possibility of avoiding a high rate of recidivism.

"(e) Present Federal programs for drug abuse and drug dependence should have a high level of priority and should be closely coordinated within the Government. If Federal research, social, health, and rehabilitation laws are adequately used to attack drug abuse and drug dependence, this will contribute to the recognition of responsibility for meeting these problems by public and private State and local agencies.

"(f) Federal officials must effectively handle drug abuse and drug dependence among those for whom the Government has special responsibilities—civilian employees, military personnel, veterans, Federal offenders, American Indians and Alaskan Natives.

"(g) Drug abusers and drug dependent persons can be best treated and rehabilitated through effective community-based programs, some of which provide a comprehensive range of services and which are integrated with and involve the active participation of a wide range of public and nongovernmental agencies, and some of which provide a more selective range of services arising from local initiative, educational, and peer group assistance programs. Existing treatment and rehabilitation programs are now inadequate to meet the growing demands for such services.

"(h) There is a critical shortage of professional, scientific, educational, and other personnel trained to deal effectively with drug abuse and drug dependence.

"DECLARATIONS

"SEC. 102A. The Congress declares—

"(a) There shall be established and maintained in the Public Health Service, a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence through which the Secretary shall coordinate all Federal health, rehabilitation, and other social programs related to the prevention and treatment of drug abuse and drug dependence and administer the programs and authorities established by this title.

"(b) An increased effort should be made to encourage the development of new and improved curriculums on the problems of drug abuse; to demonstrate the use of such curriculums in model educational programs, and to evaluate the effectiveness thereof; to disseminate curricular materials and significant information for use in educational programs throughout the Nation; to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; and to offer community education programs for parents and other adults on drug use and abuse.

"(c) Major Federal action and Federal assistance to State and local programs shall be undertaken to engage in and encourage planning, coordination, statistics, research, training, education, and reporting with respect to drug abuse and drug dependence, and to provide equal access to humane care, effective treatment, and rehabilitation for all drug abusers and drug dependent persons regardless of their circumstances.

"(d) Research relating to drug abuse and drug dependence and to controlled substances shall be fostered and assisted, and medical practitioners and other qualified investigators shall be encouraged and protected in their research efforts.

"(e) In addition to the provisions of this title, all other Federal legislation providing for Federal or federally assisted State research, prevention, treatment, or rehabilitation programs in the fields of health, education, welfare, and rehabilitation shall be utilized to reduce drug abuse, drug dependence, and drug-related crime.

"PART B—DEFINITIONS

"DEFINITIONS

"SEC. 111. The definitions in title II of this Act shall also apply for purposes of this title.

"ADDITIONAL DEFINITIONS

"SEC. 112. As used in this title:

"(a) 'Court' includes all Federal courts, including any United States magistrate.

"(b) 'Department' means the Department of Health, Education, and Welfare.

"(c) 'Director' means the Director of the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence.

"(d) 'Drug abuser' means any person who uses any controlled substance under circumstances that constitute a violation of law.

"(e) 'Drug dependent person' means a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on a continuing basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"(f) 'Emergency care service' includes all appropriate short-term services for the acute effects of drug abuse and drug dependence, which (1) are available twenty-four hours a day, (2) are community based and located so as to be quickly and easily accessible to patients, and (3) provide drug withdrawal and other appropriate medical care and treatment, professional examination, diagnosis, and counseling with respect to possible drug dependence, and referral for other treatment and rehabilitation.

"(g) 'Inpatient services' includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends full time in a treatment institution.

"(h) 'Institute' means the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence in the Public Health Service.

"(i) 'Intermediate care services' includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends part time in a treatment facility (including but not limited to a therapeutic community or halfway house which is community based and located so as to be quickly and easily accessible to patients.

"(j) 'Outpatient services' includes all treatment and rehabilitation services (including but not limited to clinics, social centers, vocational rehabilitation services, welfare centers, and job referral services) for drug abuse and drug dependence provided while the patient is not a resident of a treatment facility which are community based and located so as to be quickly and easily accessible to patients.

"(k) 'Peer group assistance' includes all prevention, treatment, and rehabilitation services (including but not limited to telephone counseling and information services, informal, open-admission facilities for support, guidance, referral, and temporary residence and therapeutic, self-help, residential facilities) for drug abuse and drug dependence primarily organized and operated by persons from similar social, cultural, and age backgrounds as those of the persons served under any such program, in facilities which are community based and located so as to be quickly and easily accessible to the persons served.

"(l) 'Prevention and treatment' includes all appropriate forms of educational programs and services (including but not limited to radio, television, films, books, pamphlets, lectures, adult education, and school courses); planning, coordinating, statistical, research, training, evaluation, reporting, classification, and other administrative, scientific, or technical programs or services; and screening, diagnosis, treatment (emergency care services, inpatient services, intermediate care services, and outpatient services), vocational rehabilitation care services, and outpatient services, vocational rehabilitation, job training and referral, and other rehabilitation programs or services; but does not include law enforcement activities.

"(m) 'Secretary' means the Secretary of Health, Education, and Welfare.

"PART C—NATIONAL INSTITUTE FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF THE INSTITUTE

"SEC. 121. (a) There is hereby established within the Public Health Service a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence to administer the programs and authorities assigned to the Secretary by this title. The

Secretary, acting through the Institute, shall develop and conduct a comprehensive health, education, research, and rehabilitation program for the prevention and treatment of drug abuse and drug dependence.

"(b) The Institute shall be under the direction of a Director, who shall be appointed by the Secretary.

"(c) The Institute and its programs and services shall be staffed with an adequate number of personnel, who shall possess appropriate qualifications and competence, and some of whom may formerly have been drug abusers or drug dependent persons. Prior drug related criminal arrests or convictions shall not be a bar to such employment.

"ADMINISTRATIVE FUNCTIONS OF THE SECRETARY

"SEC. 122. It shall be the duty of the Secretary, acting through the Institute, with respect to his administrative functions to—

"(a) assist Federal departments and agencies in the development and maintenance of appropriate prevention, treatment, and rehabilitation programs and services in accordance with section 124(a) of this title;

"(b) review and provide in writing an evaluation of the adequacy and appropriateness of the provisions relating to the prevention and treatment of drug abuse and drug dependence of all comprehensive State health, welfare, and rehabilitation plans submitted to the Federal Government pursuant to Federal law, including but not limited to those submitted pursuant to section 5(a) of the Vocational Rehabilitation Act, section 141 of this title, section 604 of the Public Health Service Act, section 1902 of title XIX of the Social Security Act, and section 204 of part A of the Community Mental Health Centers Act;

"(c) administer the grants and contracts authorized under part E of this title; and

"(d) provide assistance to any other service or program, or take any other action, consistent with the intent and objectives of this title.

"PLANNING FUNCTIONS OF THE SECRETARY

"SEC. 123. It shall be the duty of the Secretary, acting through the Institute, with respect to his planning functions to—

"(a) develop a detailed and comprehensive Federal drug abuse and drug dependence prevention and treatment plan to implement the objectives and policies of this title. The plan shall be submitted to Congress as soon as practicable, but not later than one year after the enactment date of this title. Other responsibilities of the Secretary, as set out in this title, shall not be interrupted or delayed pending the initial development of such a plan. It shall be reviewed annually and submitted to Congress with any appropriate revisions as part of the Secretary's annual report. The Secretary shall, in developing the comprehensive Federal plan, consult and collaborate with all appropriate public and private departments, agencies, institutions, organizations, and individuals. The plan shall specify how all available health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal legislation, are to be utilized;

"(b) develop model drug abuse and drug dependence prevention and treatment plans for State and local governments, reflecting the social, geographic, and economic variables of drug and drug dependence problems, and utilizing the concepts incorporated in the comprehensive Federal plan. The model plans shall be reviewed on a periodic basis and revised to keep them current. They shall specify how all types of community resources and existing Federal legislation may be utilized;

"(c) provide assistance and consultation to State and local governments, public and private agencies, institutions, organizations, and individuals with respect to the prevention and treatment of drug abuse and drug dependence; and

"(d) develop models of drug abuse and drug dependence treatment and rehabilitation legislation for State and local governments, which utilize the concepts incorporated in this title.

"COORDINATION FUNCTIONS OF THE SECRETARY

"SEC. 124. It shall be the duty of the Secretary, acting through the Institute, with respect to his coordinating functions to—

"(a) upon request, assist the Civil Service Commission, the Department of Defense, the Veterans Administration, and other Federal departments and agencies in the development and maintenance of appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and drug dependence pursuant to part D of this title;

"(b) serve in a consulting capacity to all Federal courts, departments, and agencies, and to be responsible for assisting in the development and coordination of a full range of programs, facilities, and services available to them for education, diagnosis, planning, counseling treatment, and rehabilitation with respect to the drug abuse and drug dependence problems they encounter;

"(c) coordinate all Federal social, rehabilitation, and other efforts to deal with the problem of drug abuse and drug dependence;

"(d) encourage and assist State and local government programs and services, and programs and services of public and private agencies, institutions, and organizations, for the prevention and treatment of drug abuse and drug dependence;

"(e) stimulate more effective use of existing resources and available services for the prevention and treatment of drug abuse and drug dependence;

"(f) cooperate with the National Advisory Council on Drug Abuse and Drug Dependence, the Civil Service Commission, and other appropriate Federal departments and agencies, to develop a policy consistent with this title with regard to Federal employees who are drug abusers or drug dependent persons, involving appropriate programs and services for the prevention and treatment of drug abuse and drug dependence among such employees;

"(g) assist State and local governments in coordinating programs among themselves for the prevention and treatment of drug abuse and drug dependence; and

"(h) after consulting with national organizations representative of persons with knowledge and experience in the treatment of drug dependence, report from time to time to the Congress on appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of drug dependent persons.

"STATISTICAL FUNCTIONS OF THE SECRETARY

"SEC. 125. It shall be the duty of the Secretary, acting through the Institute, with respect to his statistical functions to—

"(a) gather and publish statistics pertaining to drug abuse, drug dependence, and drug related problems; and

"(b) promulgate regulations specifying uniform statistics to be obtained, records to be maintained, and reports to be submitted, on a voluntary basis by public and private departments, agencies, organizations, practitioners, and other persons with respect to drug abuse, drug dependence, and drug related problems. Such statistics and reports shall not reveal the identity of any patient or drug dependent person or other confidential information.

"RESEARCH FUNCTIONS OF THE SECRETARY

"SEC. 126. (a) It shall be the duty of the Secretary, acting through the Institute, with respect to his research functions to—

"(1) conduct and encourage all forms of research, investigations, experiments, and studies relating to the cause, epidemiology, sociological aspects, prevention, diagnosis, and treatment of drug abuse and drug dependence;

"(2) conduct, and encourage and assist others to conduct, all forms of research, investigations, experiments, and studies relating to the toxicology, pharmacology, chemistry, effects on the health of drug abusers, and danger to the public health, of controlled substances;

"(3) coordinate such research with research conducted by the Institute and with research conducted by other Federal, State, and local public and private non-profit agencies, institutions, organizations, and individuals. To facilitate this activity, the Secretary shall establish and maintain a complete and current register of all medical practitioners and other qualified investigators engaged in any form of or research on controlled substances;

"(4) make available research facilities and resources of the Administration to appropriate authorities, health officials, and individuals engaged in investigations or research related to the purposes of this title. Such resources shall include the maintenance of an adequate supply of controlled substances for investigational and research purposes, and the establishment of criteria pursuant to which any registered investigator is to be authorized to manufacture or otherwise acquire sufficient controlled substances for his legitimate investigational and research needs;

"(5) make grants to public and private nonprofit agencies, organizations, and institutions, and contracts with public and private agencies, institutions, and organizations, and individuals for such research;

"(6) establish an information center on such research, which will gather and contain all available published and unpublished data and information. All Federal departments and agencies shall send to the Institute any unpublished data and information pertinent to the cause, prevention, diagnosis, and treatment of drug abuse and drug dependence, and the toxicology, pharmacology, epidemiology, incidence of drug abuse and drug dependence, effects on the health of drug abusers, and danger to the public health of controlled substances, and the Institute shall make such data and information widely available;

"(7) establish and maintain research fellowships in the Institute and elsewhere, and provide for such fellowships through grants to public and private nonprofit agencies, institutions, and organizations;

"(8) investigate methods for determining more rapid and precise methods for determining the extent of drug use by an individual in a given time period and the effects which individuals are likely to experience from such use, and publish on a current basis information concerning uniform methodology and technology for making such determinations;

"(9) evaluate existing and proposed new programs and services for the prevention and treatment of drug abuse and drug dependence.

"(b) Any information obtained through investigation or research conducted pursuant to this title shall be used in ways so that no name or identifying characteristics of any person shall be divulged without the approval of the Secretary and the consent of the person concerned. Persons engaged in research pursuant to this section shall protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons engaged in such research shall protect the

privacy of such individuals and may not be compelled in any Federal, State, civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

"TRAINING FUNCTIONS OF THE SECRETARY

"SEC. 127. It shall be the duty of the Secretary, acting through the Institute, with respect to his training functions to—

"(a) establish interdisciplinary and bilingual training programs for professional and paraprofessional personnel with respect to drug abuse and drug dependence;

"(b) encourage the establishment of training programs, including interdisciplinary and bilingual training programs, for professional and paraprofessional personnel, including peer group assistance personnel, by State and local governments and by public and private educational institutions and agencies with respect to drug abuse and drug dependence; and

"(c) establish and maintain training fellowships in the Institute and elsewhere, and provide for such fellowships through grants to public and private nonprofit agencies, institutions, and organizations.

"EDUCATIONAL FUNCTIONS OF THE SECRETARY

"SEC. 128. It shall be the duty of the Secretary, acting through the Institute, with respect to his educational functions to—

"(a) develop, assist others to develop, and encourage the development, of curricula on the use and abuse of drugs for utilization in elementary, secondary, adult and community education programs. Such curricula should reflect the social, geographical, and economic variables of drug usage and abuse, include relevant data and other information, and include bilingual curricula;

"(b) develop, assist others to develop, and encourage the development of curricula on the use and abuse of drugs for utilization by parent-teachers associations, adult education centers, private citizen groups, community leaders and other parents and adults. Such curricula should reflect the social, geographical, and economic variables of drug usage and abuse, include relevant data and other information, and include bilingual curricula;

"(c) develop, assist others to develop, and encourage the development of a broad variety of informational and educational materials for use in all media to reach all segments of the population that can be utilized by public and private agencies, institutions, and organizations in informational and educational programs relating to drug use and abuse. Such information and materials should reflect the social, geographical, and economic variables of drug usage and abuse, include relevant data and other information, and include bilingual curricula;

"(d) establish educational courses, guides and units on the causes of, effects of, and treatment for, drug abuse and drug dependence, for Federal law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officers, and other law enforcement personnel), Federal welfare, vocational rehabilitation, military, and veterans personnel, and other Federal officials who come in contact with drug abuse and drug dependence problems. Such courses, guides, and units should reflect the social, geographical, and economic variables of drug usage and abuse;

"(e) develop, assist others to develop, and encourage the development of educational courses, guides, and units on the causes of, effects of, and treatment for, drug abuse and drug dependence for use by appropriate State and local government and private agencies, institutions, and organizations, for State and local law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officials, and other law enforcement personnel), State and local welfare, vocational rehabilitation, and veterans personnel, and other State and local officials and community leaders. Such courses, guides, and units should reflect the social, geographical, and economic variables of drug usage and abuse;

"(f) develop, assist others to develop, and encourage the development of a broad range of community-oriented education programs on drug abuse and drug dependence for all segments of the population, including interested and concerned parents, young persons, community leaders, drug abusers and drug dependents, and other individuals and groups within a community. Such programs shall include peer group assistance programs and utilization of former drug abusers, drug dependent persons, and persons with relevant backgrounds similar to those of the persons to be educated;

"(g) evaluate, assist others in evaluating, and encourage the evaluation of curricula, guidelines, units, and other informational and educational materials relating to the use and abuse of drugs. Such evaluations should include an examination of intended and actual impact of such informational and educational materials and the identification of strengths and weaknesses in the information and educational materials;

"(h) conduct, assist others in conducting, and encourage the conducting of preservice and inservice training programs on drug use and abuse for teachers, counselors, other educational personnel, law enforcement officials, and other public service and community leaders and personnel;

"(i) recruit, train, organize, and employ professional and other persons, including former drug abusers, and drug dependent persons, to organize and participate in programs of public education about drug usage and abuse;

"(j) serve as a clearinghouse for the collection, preparation, and dissemination of all information relating to drug abuse and drug dependence, including State and local drug abuse and drug dependence treatment plans, availability of treatment resources, training and educational programs, statistics, research, and other pertinent data and information;

"(k) coordinate activities carried on by all departments, agencies, and instrumentalities of the Federal government with respect to health and other educational aspects of usage and abuse; and

"(l) undertake such other activities as the Secretary may consider important to a national program of education relating to drug usage and abuse.

"REPORTING FUNCTIONS OF THE SECRETARY

"SEC. 129. It shall be the duty of the Secretary, acting through the Institute, with respect to his reporting functions to—

"(a) submit an annual report to Congress, which shall specify the actions taken and services provided and funds expended under each provision of this title and an evaluation of their effectiveness, and which shall contain the current Federal drug abuse and drug dependence prevention and treatment plan;

"(b) submit such additional reports as may be requested by the President or by Congress; and

"(c) submit to the President and to Congress such recommendations as will further the prevention and treatment of drug abuse and drug dependence.

"PART D—PREVENTION AND TREATMENT FOR FEDERAL EMPLOYEES

"DRUG ABUSE AND DRUG DEPENDENCE AMONG FEDERAL GOVERNMENT EMPLOYEES

"SEC. 131. (a) The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Secretary and other Federal agencies and departments, appropriate policies and services for the prevention and treatment of drug abuse and drug dependence among Federal civilian employees, consistent with the purposes and intent of this title. Such policies and services shall make optimal use of existing governmental facilities, services, and skills. Federal civilian employees who are drug abusers or who are drug dependent shall retain the same employment and other benefits as other persons afflicted with serious health problems and illnesses, and shall not lose, solely because they are drug abuses or drug dependent persons, pension, retirement, medical, or other rights. A good faith attempt shall be made to find appropriate work within the Government which does not involve the national security during the employee's rehabilitative treatment, rather than placing him on sick leave.

"(b) The Secretary, acting through the Institute, shall be responsible for fostering similar drug abuse prevention, treatment, and rehabilitation services in State and local governments and in private industry.

"(c) No person may be denied or deprived of Federal employment or a Federal professional or other license or right solely on the ground of prior drug abuse or prior drug dependence, except with regard to positions involving national security as specified in regulations promulgated by the department or agency in which he is employed.

"(d) Nothing herein shall prohibit the dismissal from employment of a Federal civilian employee who, as a result of drug abuse or drug dependence and failure to accept appropriate treatment, cannot properly function in his employment.

"CONFIDENTIALITY OF RECORDS

"SEC. 132. (a) All patient records prepared or obtained pursuant to this title, and all information contained therein, shall remain confidential and may be disclosed, with the patient's consent, only to medical personnel and only for purposes of diagnosis and treatment of the patient, or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug dependence or, for research purposes, to public or private research organizations, agencies, institutions, or individuals whose competence and research programs have been approved by the Secretary. Disclosure may be made for purposes unrelated to such treatment, benefits, or research upon an order of a court after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information sought to be disclosed against the possible harm of disclosure to the person to whom such information pertains, to the physician-patient relationship, and to the treatment services, and may condition disclosure of the information upon any appropriate safeguards. No such records or information may be used to initiate criminal charges against a patient under any circumstances.

"(b) All patient records and all information contained therein relating to drug abuse or drug dependence prepared or obtained by a private practitioner shall remain confidential, and may be disclosed only with the patient's consent and only to medical personnel for purposes of diagnosis and treatment of the patient or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug dependence.

"PART E—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

"Subpart I—Comprehensive State Plans

"COMPREHENSIVE STATE PLANS

"SEC. 141. Section 314(a)(2) of the Public Health Service Act is amended to add:

"'(L) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent

of the problem, such plan to (i) estimate the number of drug abusers and drug dependent persons within the various areas within the State and the extent of the health problem caused, (ii) establish priorities for the improvement of the capabilities of State and local governments and public and private nonprofit agencies, institutions, and organizations with respect to prevention and treatment of drug abuse and drug dependence, and (iii) specify how all available community health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal and State legislation, are to be used for these purposes.'

"Subpart II—Formula Grants

"AUTHORIZATION

"SEC. 142. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1971, the sum of $10,000,000; for the fiscal year ending June 30, 1972, the sum of $20,000,000; for the fiscal year ending June 30, 1973, the sum of $25,000,000; for grants to States to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with drug abuse and drug dependence.

"STATE ALLOTMENT

"SEC. 143. (a) For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 142 among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment and rehabilitation of drug abuse and drug dependence; except that no such allotment to any State (other than the Canal Zone and the Trust Territory of the Pacific Islands) for any fiscal year shall be less than $200,000.

"(b) Any amount so allotted to a State (other than the Canal Zone and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year may be reallotted by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this title, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) to the Canal Zone or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such two additional years, which the Secretary determines will remain unobligated at the close of the second of such additional years may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such additional years, to any other of such four States which have need therefor, of such basis as the Secretary deems equitable and consistent with the purposes of this subpart, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

"(c) At the request of any State, a portion of any allotment or allotments of such State under this subpart shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this subpart, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is greater, shall be available for such purpose for such year.

"STATE PLANS

"SEC. 144. (a) Any State desiring to participate in this subpart shall submit a State plan for carrying out its purposes. Such plan must—

"(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) will have authority to carry out such plan in conformity with this subpart;

"(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, to consult with the State agency in carrying out the plan;

"(4) set forth, in accordance with criteria established by the Secretary, a survey of need for the prevention and treatment of drug abuse and drug dependence, including a survey of the health facilities needed to provide services for drug abuse and drug dependence and a plan for the development and distribution of such facilities and programs throughout the State;

"(5) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

"(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

"(7) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (6);

"(8) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

"(9) provide reasonable assurance that Federal funds made available under this subpart for any period may be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the programs described in this subpart, and will in no event supplant such State, local, and other non-Federal funds; and

"(10) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this subpart.

"(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

"APPLICATIONS AND CONDITIONS

"SEC. 145. (a) For each project pursuant to a State plan approved under this subpart for which a grant is sought from an allotment under section 143, there shall be submitted to the Secretary, through the State agency designated in accordance with section 144, an application by the State or a political subdivision thereof or by a public or other nonprofit agency, institution or organization.

"(b) The Secretary shall approve such application if (1) there remains sufficient balance in the allotment (available for the purpose) determined for such State; (2) the application is in conformity with the State plan approved under section 144; (3) he obtains assurances that any facility or portion thereof to be constructed or modernized and any program to be carried out will be available to all persons residing in the territorial area of the applicant; and (4) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require. The Secretary may to the extent he determines it would not interfere with the objectives of this subpart, base his findings and determinations under this subsection on certifications by the State agency.

"(c) No application under this section shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

"(d) Amendment of an approved application shall be subject to approval in the same manner as an original application.

"Subpart III—Project Grants

"AUTHORIZATIONS

"SEC. 146. There are hereby authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1971; $45,000,000 for the fiscal year ending June 30, 1972; and $70,000,000 for the fiscal year ending June 30, 1973, to carry out the provisions of this subpart. Any appropriated funds shall remain available until expended.

"GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 147. (a) The Secretary, acting through the Institute, is authorized to make grants to public and private nonprofit agencies, organizations, and institutions and enter into contracts with agencies, organizations, institutions, and individuals for the prevention and treatment of drug abuse and drug dependence to assist State and local governments and public and private agencies, institutions, organizations, and individuals to—

"(1)(a) meet the costs of constructing, equipping, and operating treatment and rehabilitation facilities, including but not limited to emergency medical, inpatient, intermediate care, outpatient, and peer group assistance facilities for drug abusers and drug dependent persons, and (b) to assist them to meet, for the temporary periods specified in subsection (c) of this section, a portion of the costs of compensation of personnel for the initial operation of such facilities, and of new services in existing facilities for drug abusers and drug dependent persons;

"(2) Carry out prevention and education projects and services, including:

"(a) projects for the development of curricula on the use and abuse of drugs including the evaluation and selection of exemplary existing materials and the preparation of new and improved curricular materials for use in elementary, secondary, adult, and community education programs and conduct projects designed to demonstrate, and test the effectiveness of such curricula;

"(b) projects for the dissemination of curricular materials and other significant information regarding the use and abuse of drugs to public and private elementary, secondary, adult, and community education programs;

"(c) evaluations of the effectiveness of curricula tested in use in elementary, secondary, and adult and community education programs;

"(d) projects for the development, evaluation, and dissemination of a variety of informational and educational materials for use in all media to reach various segments of the population that can be utilized by public and private agencies, organizations and institutions in informational and educational programs relating to drug use and abuse;

"(e) preservice and inservice training programs on drug abuse (including courses of study, institutes, seminars, workshops, and conferences) for teachers, counselors, and other educational personnel, law enforcement officials, and other public service and community leaders and personnel;

"(f) community education programs on drug abuse (including seminars, workshops, and conferences) especially for parents and other adults in the community;

"(g) evaluations of the training and community education programs described in clauses (e) and (f), including the examination of the intended and actual impact of such programs, the identification of strengths and weaknesses in such programs, and the evaluation of materials used in such programs; and

"(h) community-oriented education programs on drug abuse and drug dependence, including development of a broad range of community-oriented education programs on drug abuse and drug dependence for all segments of the population, including interested and concerned parents, young persons, community leaders, drug abusers and drug dependents, and other individuals and groups within a community. Such programs shall include peer group assistance programs and utilization of former drug abusers, drug dependent persons, and persons with relevant backgrounds similar to those of the persons to be educated.

"(3) conduct research, demonstration, and evaluation projects, including surveys and field trials, looking toward the development of improved, expanded, and more effective methods of prevention and treatment of drug abuse and drug dependence;

"(4) provide education and training for professional personnel, including medical, psychiatric, vocational rehabilitation, and social welfare personnel, in academic and professional institutions and in postgraduate courses about the prevention and treatment of drug abuse and drug dependence, and provide training for such personnel in the administration, operation, and supervision of programs and services for the prevention and treatment of drug abuse and drug dependence;

"(5) recruit, educate, train, organize, and employ community drug abuse and drug dependence prevention and treatment personnel to serve with and under the direction of professional medical, psychiatric, vocational rehabilitation, and social welfare personnel in drug abuse and drug dependence prevention, treatment, and rehabilitation programs. Prior drug abuse or drug dependence and prior criminal arrests or convictions shall not be a bar to such recruitment, education, training, organization, and employment;

"(6) provide services in correctional and penal institutions for the prevention and treatment of drug abuse and drug dependence;

"(7) provide services, in cooperation with schools, law enforcement agencies, courts, and other public and private nonprofit agencies, institutions, and organizations, for the prevention and treatment of drug abuse and drug dependence among juveniles and young adults. These services, where feasible, shall include curricula for drug abuse education in elementary and secondary schools, and among parents and other adults;

"(8) provide programs and services in cooperation with local law enforcement agencies, the courts, and other public and private nonprofit agencies, institutions, and organizations, for the instruction of law enforcement officers, prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officials and legal aid, public defender, and neighborhood legal services attorneys with respect to the causes, effects, prevention, and treatment of drug abuse and drug dependence. Such programs and services shall include, where possible, a full range of services available to State and local courts for diagnosis, counseling, and treatment for drug abuse and drug dependence for persons coming before the courts; and

"(9) provide services for outpatient counseling of drug abusers and drug dependent persons to include employment, welfare, legal, education, and other assistance, in cooperation with welfare and rehabilitation personnel.

"(b) Projects for which grants and contracts are made under this subpart shall be community based, and shall include both those that provide a comprehensive range of services and are integrated with and involve the active participation of a wide range of public and nongovernmental agencies, organizations, institutions, and individuals, and those that provide a more selective range of services arising from local initiative, educational and peer group assistance programs.

"(c) The amount of any Federal grant made under subsection (a) of this section, except with regard to certain grants made under paragraph (1) of subsection (a), shall not exceed 100 per centum of the cost of the program or project specified in the application for such grant. The amount of any Federal grant made under paragraph (1)(a) of subsection (a) of this section to meet costs of constructing and equipping the facilities referred to in such paragraph shall not exceed 90 per centum of the cost of the program or project specified in the application for such grant. The amount of any Federal grant made under paragraph (1)(b) of subsection (a) of this section to meet the costs of compensation of personnel and other operating costs may be made only for the period beginning with the first day for which such a grant is made and ending with the close of eight years after such first day; and such grants may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

"(d) An amount, not to exceed 5 per centum of the amount appropriated pursuant to the provisions of this part for any fiscal year, shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $100,000) of projects for assessing local needs for programs of services for drug abusers and drug dependents, designing such programs, obtaining local financial and professional assistance and support for such programs in the community, and fostering community involvements in initiating and developing such programs in the community. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project.

"APPLICATION FOR FINANCIAL ASSISTANCE FROM UNITS OF LOCAL GOVERNMENT AND PRIVATE ORGANIZATIONS

"SEC. 148 (a) In administering the provisions of this subpart, the Secretary shall require coordination of all applications for programs in a State and, in view of the local nature of the drug abuse problem, shall not give precedence to public agencies over private nonprofit agencies, institutions, and organizations, or to State agencies over local agencies.

"(b) Each applicant from within a State, upon filing its application with the Secretary, shall submit a copy of its application for review by the State agency designated in accordance with section 144, if such an agency exists, and if no such agency exists, by the State agency responsible for administering the State comprehensive plan for treatment and prevention of drug abuse and drug dependence, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation may include comments on the relationship of the project to other projects pending and approved and to the State comprehensive plan for treatment and prevention of drug abuse. The State shall furnish the applicant a copy of any such evaluation. A State, if it so desires, may, in writing, waive its rights under this section.

"(c) Approval of any application by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

"(1) provide that the activities and services for which assistance under this subpart is sought will be substantially administered by or under the supervision of the applicant;

"(2) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

"(3) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

"(4) provide reasonable assurance that Federal funds made available under this subpart for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the program described in this subpart, and will in no event supplant such State, local, and other non-Federal funds.

"APPROVAL BY NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 149. The Secretary, upon the recommendation of the National Advisory Council on Drug Abuse and Drug Dependence, is authorized to make grants under subpart III of this part.

"Subpart IV—General

"GENERAL

"SEC. 150. (a) Whenever the Secretary finds a failure to comply with the terms of a grant or contract made or entered into under this part, he shall, after reasonable notice and opportunity for a hearing, terminate payments until he is satisfied that there will no longer be any failure to comply.

"(b) The exclusive remedy of anyone adversely affected by a final action of the Secretary under subsection (a) of this section is to appeal to the United States court of appeals for the circuit in which it is located by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith trans-

mitted by the clerk of the court to the Secretary. The Secretary thereupon shall file with the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or set it aside, in whole or in part, temporarily or permanently. Until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts shall be conclusive if supported by substantial evidence, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

"ADMISSION OF DRUG ABUSERS AND DRUG DEPENDENT PERSONS TO PRIVATE AND PUBLIC HOSPITALS

"SEC. 150A. (a) Drug abusers and drug dependent persons shall be admitted to and treated in private and public general hospitals on the basis of medical need and shall not be discriminated against solely because of their drug abuse or drug dependence. No hospital that violates this section shall receive Federal financial assistance under the provisions of this Act or any other Federal law administered by the Secretary. No such action shall be taken until the Secretary has advised the appropriate person or persons of the failure to comply with this section, and provided an opportunity for correction or a hearing.

"(b) Any action taken by the Secretary pursuant to this section shall be subject to such judicial review as is provided by subsection 150(b) of this title.

"PART F—THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF COUNCIL

"SEC. 151. (a) Section 217(a) of the Public Health Service Act is amended—

"(1) in the first sentence thereof, by inserting 'the National Advisory Council on Drug Abuse and Drug Dependence,' immediately after 'the National Advisory Mental Health Council,'; and

"(2) in the second sentence thereof, by inserting 'the National Advisory Council on Drug Abuse and Drug Dependence,' immediately after 'the National Advisory Mental Health Council,', and by inserting 'drug abuse and drug dependence,' immediately after 'psychiatric disorders.'.

"(b) Section 217(b) of such Act is amended, in the second sentence thereof, by inserting 'drug abuse and drug dependence,' immediately after 'mental health,'.

"(c) Section 217 of such Act is further amended by adding at the end thereof the following new subsection:

"'(d) The National Advisory Council on Drug Abuse and Drug Dependence shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Service in the field of drug abuse and drug dependence. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of drug abuse and drug dependence and recommend to the Secretary, for prosecution under this Act, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of drug abuse and drug dependence, and (2) to collect information as to studies being carried on in the field of drug abuse and drug dependence and, with the approval of the Secretary, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public or private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to commend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of drug abuse and drug dependence; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council.'

"APPROVAL BY COUNCIL OF CERTAIN GRANTS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT

"SEC. 152. Section 266 of part E of the Community Mental Health Centers Act is amended—

"(1) by striking out "Grants" and inserting in lieu thereof:

"'(a) Except as otherwise provided in subsection (b), grants'; and

'(2) by adding at the end thereof the following new subsection:

"'(b) Grants made under this title which are primarily intended for use in the prevention or treatment of drug abuse and drug dependence may be made only upon recommendation of the National Advisory Council on Drug Abuse and Drug Dependence established by section 217(a) of the Public Health Service Act.'

"PART G—INTERGOVERNMENT COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF COUNCIL

"SEC. 161. (a) For the purpose of coordinating all Federal Government prevention, treatment, and rehabilitation efforts with respect to drug abuse and drug dependence, of coordinating such Federal efforts with State and local government efforts, and of developing an enlightened policy and appropriate programs for Federal employees for the prevention and treatment of drug abuse and the rehabilitation of drug dependent persons, there is hereby established an Intergovernment Coordinating Council on Drug Abuse Control consisting of the Secretary who shall serve as Chairman, the Attorney General of the United States, the United States Commissioner of Education, the Director of the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence, the Director of the National Institute of Mental Health, four representatives of State and local government departments or agencies.

"(b) The President shall designate the four representatives of Federal departments or agencies who shall serve on the Coordinating Council, and shall appoint the four representatives of State and local government departments or agencies. The State and local government representatives shall serve for terms of four years, staggered so that one vacancy occurs each year. A State or local government representative may be reappointed immediately after serving less than a full term, and may be reappointed after a four-year hiatus after serving a full term.

"(c) The Coordinating Council may appoint such technical consultants as are deemed appropriate for advising the Council in carrying out its functions. The services of consultants obtained under this section may be obtained in accordance with section 3109 of title 5, United States Code, at rates for individuals not in excess of the daily equivalent paid for positions in GS–18 of the General Schedule in section 5332 of title 5, United States Code.

"FUNCTIONS OF COUNCIL

"SEC. 162. The Coordinating Council is authorized and directed to—

"(a) assist the Secretary in carrying out its function of coordinating all Federal prevention, treatment, and rehabilitation efforts to deal with the problems of drug abuse and drug dependence;

"(b) assist the Secretary in carrying out its function of coordinating such Federal efforts with State and local governments;

"(c) engage in educational programs among Federal employees, and in other appropriate activities, designed to prevent drug abuse and drug dependence;

"(d) implement programs for the rehabilitation of Federal employees who are drug dependent persons; and

"(e) develop and maintain any other appropriate activities consistent with the purposes of this title.

"PART H—PROGRAMS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"BROADER AUTHORITY UNDER COMMUNITY MENTAL HEALTH CENTERS ACT

"SEC. 171. (a) Part D of the Community Mental Health Centers Act is amended as follows:

"(1) Sections 251, 252, and 253 of such part (42 U.S.C. 2688k, 2688l, and 2688m) are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts' each place those words appear in those sections.

"(2) Clauses (A) and (C) of section 252 of such part are each amended by inserting 'drug abuse and drug dependence' in lieu of 'narcotic addiction'.

"(3) The heading of such part is amended to read as follows:

"'PART D—DRUG ABUSE AND DRUG DEPENDENCE PREVENTION AND REHABILITATION'

"(b) Part 7 of such Act is amended as follows:

"(1) Section 261(a) of such part is amended by inserting 'drug abuse and drug dependence' in lieu of 'narcotic addiction'.

"(2) Sections 261(c) and 264 are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts'.

"(3) The section headings for sections 261 and 263 are each amended by striking out 'AND NARCOTIC ADDICTS' and inserting in lieu thereof ', DRUG ABUSERS AND DRUG DEPENDENT PERSONS'.

"BROADER TREATMENT AUTHORITY IN PUBLIC HEALTH SERVICE HOSPITALS FOR PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS

"SEC. 172. (a) Part E of title III of the Public Health Service Act is amended as follows:

"(1) Section 341(a) of such part is amended by striking 'addicts' the second time it appears and inserting the following: 'drug abusers and drug dependent persons'.

"(2) (A) Section 342, 343, 344, and 346 of such part are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts' or 'addicts' each place they appear in those sections.

"(B) The section heading of section 342 of such part is amended by inserting 'DRUG ABUSERS AND DRUG DEPENDENT PERSONS' in lieu of 'ADDICTS'.

"(3) Sections 342, 343, and 344 and of such part are each amended by inserting 'drug abuser or drug dependent person' in lieu of 'narcotic addict' and 'addict' each place they appear in those sections.

"(4) Sections 343, 344, and 347 of such part are each amended by inserting 'drug abuse or drug dependence' in lieu of 'addiction' each place it appears in those sections.

"(5) Section 346 of such part is amended by inserting 'or substance controlled under the Controlled Substances Act' immediately after 'habit-forming narcotic drug'.

"(6) The heading for such part is amended to read as follows:

"'PART E—DRUG ABUSERS AND DRUG DEPENDENT PERSONS'

"RESEARCH UNDER THE PUBLIC HEALTH SERVICE ACT IN DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 173. (a) Section 507 of the Public Health Service Act (42 U.S.C. 225a) is amended by striking out 'available for research, training, or demonstration project grants pursuant to this Act' and inserting in lieu thereof 'available under this Act for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcohol abuse, alcoholism, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcohol abuse, alcoholism, drug abuse, and drug dependence facilities'.

"(b) By inserting immediately before the period at the end thereof the following: ', except that grants to such Federal institutions may be funded at 100 per centum of the costs'.

"PART I—GENERAL

"SAVING PROVISION

"SEC. 181. If any section, provision, or term of this title is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this title, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

"RECORDS

"SEC. 182. (a) Each recipient of assistance under this title pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and 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 such recipients that are pertinent to the grants or contracts entered into under the provisions of this title under other than competitive bidding procedures.

"PAYMENTS

"SEC. 183. Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine."

Mr. HUGHES. Mr. President, I also ask unanimous consent to have printed in the RECORD an excerpt from a document entitled "Review of Substitute Amendment to Title I of H.R. 18583." The document will indicate the amount of work and consideration which has been put into the amendment which I am proposing.

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

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

* * * * *

BACKGROUND

The need for comprehensive Federal legislation

No one can any longer question the deep and pervasive seriousness of the drug abuse problem in this country. It has progressed from a smaller matter of law enforcement to a massive problem that requires a concerted and coordinated national effort combining all of our resources for prevention, education, research, treatment, and rehabilitation.

The statistics on drug abuse and drug dependence in this country today are appalling. And virtually everyone agrees that they understate the nature and extent of the problem.

There are at least 150,000 to 250,000 heroin addicts in the United States. Some authorities have estimated that the true number of addicts in this country is closer to 600,000. In addition, a large number of persons use heroin periodically, either by itself or in combination with other illegal drugs, but have not yet become addicted. There is no reliable estimate of the total number of people who have tried heroin at least once, but it has been suggested that up to 7 percent of the school children in the New York public schools have experimented with it. Whereas formally it was only a ghetto drug, it has been increasingly used in suburban areas and in our colleges and universities.

It is impossible to estimate the social damage resulting from heroin. The full extent of its contribution to deterioration of individuals, families, our inner cities, and the very fabric of society, are not yet completely known. In some of our major cities, it is estimated that heroin users are responsible for well over 50 percent of all crime against property, which represents a staggering load for our economic and social institutions to bear.

The abuse of depressant and stimulant drugs is more widespread than the abuse of heroin. On the basis of present information, however, estimates on the amount of these drugs used illegally, or on the amount of persons who have become dependent upon them, are impossible. A recent survey of 200 college campuses showed, however, that 18 percent of the college student bodies have tried amphetamines, and 15 percent have tried barbiturates. Information on the rest of the population is yet to be obtained.

The hallucinogens are undoubtedly the most widely used of the illegal drugs. The National Institute of Mental Health estimates that at least 15 million people have smoked marihuana at least once. The recent survey of college campuses showed that 47 percent of the college student body had used marihuana at least once, and another survey of a medical school showed that 44 percent of the student body presently smoke marihuana.

Another hallucinogen, LSD, is used far less widely. Whereas its use appeared to be disappearing a few years ago because of widespread reports of its dangers, there is some evidence that its use is again increasing. The recent college survey showed that 11 percent of the students had tried LSD.

There is no evidence that the enormous amount of drug abuse in this country is decreasing, or even leveling off. Authorities in the field indicate that it continues to increase. It has been pointed out that surveys show an even greater prevalence of drug abuse in many high schools than in our colleges. The problem, in short, is not only self-perpetuating, but because of peer-group pressure within our youth appears to be growing in geometrical proportion.

Increasing public concern

Until quite recently, both Federal and State efforts at controlling drug abuse and drug dependence concentrated on law enforcement techniques. Indeed, the law enforcement efforts aimed at drug abuse during the past 2 years have been the most concerted in our history. More man-hours, and more trained personnel, have been devoted to enforcing our laws against illegal drugs than ever before. Yet, as the statistics quoted above show, these efforts have not begun to contain the problem. In spite of the best law enforcement we can muster, illegal drugs are available in every city, in greater quantities than ever before, and at the same or even decreased prices. The Director of the Bureau of Narcotics and Dangrous Drugs has recently stated, in a widely publicized speech, that an effective program to control drug abuse and drug dependence in this country must rely strongly on methods of prevention and rehabilitation. Law enforcement, by itself, is inadequate to do the entire job.

Prevention and rehabilitation techniques, utilizing medical, social welfare, and other community resources, must therefore be mobilized to deal with these problems. In many communities, this job has not yet been started, or is in a most rudimentary stage.

Use of the same type of medical and rehabilitation techniques for drug abuse and drug dependence as are used for other public health problems has long been recognized as necessary to any effective control of drug abuse. Because drug abuse has represented a relatively insignificant problem in this country until the past few years, however, we have delayed in developing a public commitment to mount an effective program.

Throughout its history, the American Medical Association has characterized drug dependence as a disease that properly is handled through medical treatment. As early as 1925, in *Linder v. United States*, 268 U.S. 5 (1925), the Supreme Court recognized that narcotic addicts "are diseased and proper subjects for such treatment." In a 1950 report, the World Health Organization described the characteristics of this disease as "an overpowering desire or need (compulsion) to continue taking the drug and to obtain it by any means." In 1957, the American Medical Association issued a report describing dependence as "the development of an altered physiological state which is brought about by the repeated administration of the drug and which necessitates continued administration of the drug to prevent the appearance of the characteristic illness which is termed an abstinence syndrome," as well as a "psychological dependence" which is "related to the effects opiates create within the central nervous system," which "forces the addict to seek his drugs by any and all means. The first concern of many addicts becomes obtaining and maintaining an adequate supply of drugs."

In September 1962, the Supreme Court handed down its decision in *Robinson v. California*, 370 U.S. 660 (1962), which struck down as unconstitutional on its face a statute making narcotic addiction criminal. The Supreme Court again recognized narcotic addiction as a disease, which cannot constitutionally be punished under the criminal law.

During the same month, the White House Conference on Narcotics and Drug Abuse considered the future of this country's drug abuse policy. As a result of this Conference, the President established an Advisory Commission on Narcotic and Drug Abuse, which issued its report in November 1963. The final report of the advisory commission concluded that there had never been a sustained, organized attack on drug abuse in this country. It made some 25 general recommendations, including the following: revision of the Federal narcotic laws, recognition that the legitimate medical use of narcotic drugs and medical treatment of drug dependents is primarily to be determined by the medical profession, Federal assistance to State and local governments for the establishment, maintenance and expansion of broad treatment and rehabilitation programs, and enactment of Federal treatment legislation.

Some 3 years later, the District of Columbia and U.S. Crime Commissions also reviewed the problems of drug abuse and drug dependence, although not in as great detail as the Advisory Commission. Both Commissions urged comprehensive treatment programs and facilities, on both a voluntary and

involuntary basis, for drug dependent persons. The U.S. Crime Commission particularly recommended clarification of the status of medical treatment of addicts using narcotic drugs, and abolition of all obstacles in the way of medical and scientific research in this field.

More recently, the judiciary has again pressed for increased recognition that, as a disease, drug dependence is properly handled under medical and rehabilitation techniques. In *Powell* v. *Texas*, 392 U.S. 514 (1968), rehearing denied, 393 U.S. 898 (1968), five of the nine Justices indicated that the earlier case of *Robinson* v. *California* must properly be interpreted to mean that an addict cannot be punished under the criminal law for possession and use of narcotics, since this necessarily results from the addiction itself. And in *Watson* v. *United States*, 408 F. 2d 1290 (D.C. Cir. 1968), rehearing granted en banc,—F. 2d—(D.C. Cir. 1970) (en banc), eight of nine judges indicated that, in future cases, narcotic addicts could not properly be punished under the criminal law for possession of the drugs they must necessarily use to satisfy their addiction.

Yet Congress has only recently begun to recognize the urgency of the unique health and rehabilitation problems created by drug abuse and drug dependence, and to address itself to providing appropriate legislative remedies for it.

Congressional dissatisfaction with the results of reliance primarily upon law enforcement in controlling drug abuse and drug dependence led to enactment of the Narcotic Addict Rehabilitation Act of 1966. Because that act relies primarily upon outmoded inpatient treatment, because only a limited number of persons can obtain treatment under the act, and because it has not been properly funded, the potential of this statute remains largely unrealized to date. In the recent past the rate of rehabilitation has been among the lowest of any drug dependence treatment program in the country. It is hoped that recent program modifications will change that fact.

The Comprehensive Health Planning and Public Health Service Amendments of 1966, and the Partnership for Health Amendments of 1967 were intended to require the States to develop comprehensive health plans for purposes of Federal funding. But drug abuse and drug dependence have been sadly neglected in these plans. This generalized legislation has proved to be inadequate as a means of combating a problem that now blankets our country.

Congress made an important initial response by enacting the Narcotic Addict Rehabilitation Amendments of 1968, which were subsequently expanded by the Community Mental Health Centers Amendments of 1970. That legislation recognized the necessity of treatment and rehabilitation for drug dependence. Although the legislation was a significant step forward, it was recognized at the time to represent only the beginning of a truly adequate legislative program which would insure comprehensive and effective community-based treatment programs at both State and local levels.

In 1968, when criminal penalties were first added to the Drug Abuse Control Amendments of 1965 for possession of barbiturates, depressants, amphetamines, and hallucinogenic drugs, the Labor and Public Welfare Committee expressed strong concern about imposition of such penalties on casual distributors or youthful experimenters. In Senate Report No. 1609 (1968), for example, the committee emphasized the availability of alternatives to imprisonment, such as probation and juvenile handling, and pointed out that "indiscriminate enforcement of excessively severe drug laws increases disrespect for the law on the part of young people and tends to alienate them from society." The committee spells out its intention that the criminal laws be used sparingly, and be reserved particularly for the large wholesalers who profit from the trafficking of dangerous drugs.

TITLE I OF H.R. 18583

The Labor and Public Welfare Committee has not previously had the privilege of considering the provisions contained in title I of H.R. 18583 relating to rehabilitation, prevention, and treatment for drug abuse and drug dependence. The four sections comprising this title contain the following programs:

Section 1 broadens the provisions of the Community Health Centers Act relating to drug dependence, by increasing the appropriation authorizations, including drug abuse and drug dependence as well as narcotic addiction, authorizing grants and projects relating to educational programs, and authorizing special projects.

Section 2 expands the direct patient care authority of the Department of Health, Education, and Welfare to include drug abuse and drug dependence as well as narcotic addiction.

Section 3 authorizes researchers to protect the confidentiality of information obtained from patients, and authorities 100-percent grants to Federal agencies.

Section 4 authorizes the Secretary of Health, Education, and Welfare, after consultation with the Attorney General and organizations representative of persons who are knowledgeable and experienced in the treatment of narcotic addicts, to determine and report to Congress on appropriate methods of professional practice in the medical treatment of narcotic addicts.

These provisions are, in general, useful and should, with minor modification, be retained. Because their scope is limited, however, it is necessary to expand significantly title I to include a far wider range of activities, a far more prominent leadership role for the Federal Government, and a far more comprehensive approach than contemplated by title I of H.R. 18583.

The substitute amendment represents the type of comprehensive program necessary to begin to bring the Nation's drug abuse and drug dependence problems under control. An adequate response to a problem of this magnitude requires a massive Federal approach. Drug abuse is a problem of our entire society. It will take a total effort of the entire Nation, at all levels of Government, to make significant progress in controlling it. The substitute amendment establishes a framework within which, for the first time, Federal, State, and local governments can effectively utilize their health and rehabilitation resources to bring the problem under control. Prevention and treatment facilities will be fostered throughout the Nation. The remedy mandated by this bill is long overdue and urgently needed.

Contemporary medical and scientific expertise has not provided the ultimate solution to all of the problems posed by drug abuse and drug dependence. But only through the energetic implementation of the kind of massive and all-encompassing Federal programs here envisaged will answers ever be found.

HEARINGS

General hearings on the extent and character of the drug abuse and drug dependence problem in the United States were held by the Alcoholism and Narcotic Subcommittee of the Labor and Public Welfare Committee on August 6, 7, and 8, 1969, in Washington, D.C.; on September 26, 1969, in Los Angeles, Calif.; on September 29, 1969, in Denver, Colo.; on October 2 and 4, 1969, in New York, N.Y.; and on February 14, 1970, in Des Moines, Iowa. Hearings on S. 1816 and S. 2608 were held in Washington, D.C., on September 18 and 19, 1969, and November 3, 1969; and in Cherry Hill, N.J., on January 26, 1970. Hearings on S. 3562 were held in Washington, D.C., on March 16, 17, 23, 24, 25, and 26, 1970, and on April 13, 14, and 15, 1970; in Winchester, Mass., on April 10, 1970; and in Lynn, Mass., on April 11, 1970. Hearings on S. 3015 and H.R. 14252 were held in Washington, D.C., on August 27, 1970.

There was unanimous support in the hearings for the objectives of the provisions contained in the substitute amendment. These provisions, which were incorporated in the various bills that were the subject of the hearings, were strongly endorsed by both national organizations and individual citizens interested in the prevention and treatment of drug abuse and drug dependence.

PROVISIONS OF THE SUBSTITUTE AMENDMENT

Findings and declarations of purposes

Drug dependence is properly regarded as an illness or disease, which requires a broad range of health and rehabilitation services for treatment. Existing laws and their implementation have not effectively prevented drug abuse and drug dependence, or rehabilitated drug abusers and drug dependent persons. There is a lack of authoritative information and creative projects designed to educate students and others about drugs and their abuse. A major Federal commitment is required to attack this problem.

Different types of prevention and treatment programs are required. While community mental health programs are important, other programs are equally important. Many "street" programs arising from local initiative to deal with specific aspects of drug abuse and drug dependence problems now offer the best possibility of reaching youthful experimenters. The substitute amendment is intended to offer maximum flexibility in dealing with community problems at the local neighborhood level.

An effective program can be maintained only with the assistance of significant financial support from the Federal Government. Present Federal programs for the control and treatment of drug abuse and drug dependence have been assigned low priority and have consequently suffered from a significant lack of funding. For fiscal year 1970, drug abuse and drug dependence received far less Federal funding than other diseases that have a much smaller impact on the Nation.

Federal funding commitments by categorical area—fiscal year 1970 [1]

[In millions of dollars]

Category:	
Child health	1,443
Mental health (exclusive of alcoholism and drug abuse)	306
Cancer	195
Heart and lung disease	174
Neurological diseases and stroke	108
Arthritis and metabolic disease	147
Allergy and infectious diseases	104
Drug abuse	70

[1] It is not possible to include all Federal funds for the categories listed. For example, the regional medical programs include $78.5 million for heart disease, cancer, and stroke, but this amount is not susceptible to a breakdown for each of these diseases. Therefore this program is not included in the figures given. Health-care costs under medicare and medicaid cannot be identified on a categorical basis, and no estimates for these programs are included. Figures for narcotic addiction, drug abuses, and alcoholism include estimates for the Justice Department, Office of Education, Office of Economic Opportunity, and the National Institute of Mental Health.

The solution is not to neglect these other diseases, but to fund drug abuse and drug dependence programs at a level commensurate with the seriousness of the problems they cause.

Insufficient Federal leadership and funding has been a significant element in the inability of State and local agencies to meet their responsibilities in the prevention and treatment of drug abuse and drug dependence. Federal efforts have concentrated primarily on basic research without significant emphasis on badly needed service and training programs. The new Institute will be very active in developing and encouraging service and training programs, as well as in conducting and encouraging a broad range of basic research. It seems clear that the place to begin is within the Federal Government itself. Until the Government establishes strong personnel programs for its own employees who are drug abusers or drug dependent persons, it will be hard pressed to retain its credibility in encouraging programs on the State and local levels.

Federal departments and agencies have failed to use existing legislative authority to combat drug abuse and drug dependence. It is obvious that drug abuse and drug dependence are properly regarded as a health problem, disorder, sickness, illness, disease, disability, or other similar term, for purposes of all Federal legislation relating to health, welfare, rehabilitation, and highway safety programs providing for services, funds, and other benefits. All Federal legislation providing for services such as medical assistance, medical care, treatment, or rehabilitation should be regarded as including programs and services for the prevention and treatment of drug abuse and drug dependence. Some examples of existing Federal legislation under which these problems can be assisted include the Vocational Rehabilitation Act, Manpower Development and Training Act, Older Americans Act of 1965, Law Enforcement Assistance Act of 1965, Health Research Facilities Act of 1956, Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, Heart Disease, Cancer, and Stroke Amendments of 1965, Health Professions Educational Assistance Act of 1963, Hospital and Medical Facilities Amendments of 1964, Social Security Act, Community Health Services Extension Amendments of 1965, Economic Opportunity Act of 1964, Comprehensive Health Planning and Public Health Services Amendments of 1966, civil service laws, and laws providing for the treatment and discharge of members of the Armed Forces and the support and treatment of veterans of the Armed Forces.

After consideration of whether some of these statutes should be amended to make specific reference to drug abuse and drug dependence, it has been concluded that such a drastic step is not yet necessary. One of the functions of the new Institute will be to specify how all existing laws should be effectively utilized to combat drug abuse and drug dependence. For the moment, therefore, it is sufficient that Congress again spell out its mandate that existing statutory law must and shall be used to control drug abuse and drug dependence in this country.

DEFINITIONS

The substitute amendment adopts the definitions contained in title II of the bill, and adds several additional important definitions.

"Drug abuser" is defined to mean any person who uses any controlled substance under circumstances that constitute a violation of law. "Drug dependent person" is defined, as suggested by the World Health Organization, the AMA, and the BNDD Advisory Committee, to mean a person using a controlled substance who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on a continuing basis.

"Emergency care services" include all immediate medical and psychological care attendant to the detoxification process. The facilities which provide these services must be in a position to accept patients at all hours. They should utilize the services of physicians, nurses, and other professional and paraprofessional personnel in order that they not become merely another form of "junkie tank." Such facilities need not, of course, be physically attached to a hospital. It may, in fact, be preferable that a detoxification center be separate from a hospital. Accessibility to patients is of particular importance if these centers are to perform their function successfully.

"Inpatient services" may be necessary during the early stages of a treatment program, but should be given a very low priority since it is generally recognized that they are the least effective means of combating the long-range effects of drug abuse and drug dependence upon institutional care, thus destroying self-reliance and further reducing the possibility of recovery. The drug abuser or drug dependent person cannot be expected to adapt successfully to a normal existence as a result of spending full time in a treatment institution. It is felt that community-based treatment, through intermediate care or outpatient services, represents the best possibility of returning to a productive life.

"Intermediate care services," such as therapeutic communities or halfway houses are of prime importance to the ultimate success of the rehabilitation process. Since there is a great scarcity of such services throughout the country, it is anticipated that the Institute will place their development as a very high priority item in the near future. Such residential facilities are essential to provide the needed support during the transitional period back to a productive role in society. The repeated failure of full-time inpatient treatment to make any substantial impact readily demonstrates the need for this form of community-based intermediate care. Facilities, when possible, should provide the services of psychiatrists, psychologists, and social workers as well as job training, job referral, and, perhaps most importantly, transportation to and from work.

"Outpatient services" should be geared to the task of assisting the potential, recovered, or other drug abuser or drug dependent person out of the state of emotional, social, physical, or other deterioration which contributes to his illness.

"Prevention and treatment" is intended to encompass every form of educational technique which might be expected to assist in informing the public of the nature and consequences of drug abuse and drug dependence as well as every form of treatment and rehabilitation for the illness. It is intended that this phrase be given the widest possible interpretation and include all methods of effectively studying and handling drug abuse and drug dependence.

NATIONAL INSTITUTE FOR THE PREVENTION AND CONTROL OF DRUG ABUSE AND DRUG DEPENDENCE

Establishment of the institute

The legislation calls for the creation of an institute through which a broad range of prevention, training, rehabilitation and research programs will be developed. It is absolutely essential that the entity established by this legislation be given institute status. An institute will have a stature commensurate with the magnitude of the health problem with which the new entity will deal. Consequently the likelihood of obtaining the funding necessary to effectively attack drug abuse and drug dependence problems will be immeasurably increased. An institute will also have the visibility necessary to provide a strong program of public education and to develop public attention to and concern about this important health area. In addition, it will have a permanent status which will assist the development of the most qualified staff possible in the Federal Government in this area. It will provide the structure necessary to administer broad formula and project grant programs and to attract a broad cross section of individuals who are able to assist in solving problems of drug abuse and drug dependence.

An effective program must attempt to attract a broad cross section of individuals who are able to contribute to solving the problem. Such a cross section would include members of the medical professions, individuals interested in the sociological, organic, and chemical causes and ramifications, persons interested in practical programs of training and delivery of services, and persons skilled in research. Such a program must be directed and staffed by individuals who have the creativity and initiative to develop the widest range of activities possible; to foster and encourage Federal, State, and local initiative; and to dramatize the extraordinarily serious nature of the problems in this country. Such actions can do much to insure the delivery of prevention and rehabilitation services to those who most need them and can, in addition, greatly assist in relieving the serious funding problems which have plagued this health field. Such a program must concentrate on the delivery of prevention and rehabilitation services to the millions of Americans who are suffering or are likely to suffer from drug abuse or drug dependence.

Prior drug related criminal arrests or convictions may not be a bar to employment by the Institute or the programs and services which it operates or funds. It is necessary to single out drug-related offenses because of information that drug abusers and drug dependent persons have, in the past, been excluded from such employment because of their record offenses. This should not be interpreted to mean that a record of conviction for any other offense cannot properly be a bar to such employment.

The Institute will be responsible for coordinating all Federal efforts in the area of drug abuse and drug dependence. It will be expected to foster effective State and local programs through its review authority over State health, welfare, and rehabilitation plans submitted to the Federal Government and through the grants authorized by this bill.

Planning functions

One of the Institute's most important responsibilities is the development of a comprehensive and detailed drug abuse and drug dependence prevention and treatment plan, to serve as a blueprint for a national attack on these problems.

The plan must specify, among other things, how existing Federal health, rehabilitation, and welfare legislation can and should be utilized in fostering prevention and treatment programs. It will show how all components of the Federal Government can contribute to a coordinated national approach.

The motivating objective of the Institute's planning function will be the institution of modern public health, education, and rehabilitation procedures to handle drug abuse and drug dependence throughout the country.

Coordination functions

The Institute will serve in a coordinating and consulting capacity to assist other Federal departments and agencies in their efforts to prevent and treat drug abuse and drug dependence. This will, of necessity, include active consultation and work in a wide variety of areas, including vocational training, rehabilitation, manpower development and training, law enforcement assistance, highway safety, economic opportunity, health research facilities, mental retardation facilities, community mental health centers, juvenile delinquency, health professions educational assistance, hospital and medical facilities, community health services, edu-

cation professions development, higher education, Federal employee health benefits, comprehensive health planning, elementary and secondary education, civil service laws, and laws providing for the treatment and discharge of the members of the Armed Forces and support and treatment of veterans of the Armed Forces. It would, indeed, not be possible to predict in advance all of the areas to which the Institute should properly devote its efforts.

Programs of non-Federal public and private organizations should be encouraged and assisted. Nongovernmental organizations should not be discriminated against in any manner with respect to the availability of help.

The 1963 Presidential Advisory Committee and the 1967 U.S. Crime Commission Report concluded that the methods to be used in treating narcotic addiction are properly determined by the medical and scientific professions, and recommended that unnecessary restrictions on treatment and research be removed and that the parameters of proper treatment be clarified. The Government should not place arbitrary limitation on treatment or research, which may result in needed progress in the field. Careful use of narcotic drugs is essential, to avoid creating an even worse problem than exists now. On balance, therefore, it has been concluded that the Secretary of Health, Education, and Welfare should report to Congress from time to time, after consultation with national organizations representative of persons with knowledge and experience in the treatment of drug dependence, report on the current state of professional practice in the medical treatment of narcotic addiction. Practitioners who prescribe, administer, or dispose a controlled substance in bad faith not within the scope of the patient relationship, or not in accordance with principles of medical care and treatment and not for bona fide research purposes, will clearly be outside the course of professional practice; and should be forced to discontinue it. The possible wrongful conduct of a few, however, should not lead to draconian measures that would inhibit future research and medical practice in this field.

Statistical functions

Statistics must be accumulated in order accurately to ascertain the true scope of the problems associated with drug abuse and drug dependence. Such statistics will serve to highlight the urgency of the problem and facilitate the initiation of meaningful research.

Research functions

There is a lack of meaningful basic or applied research on the problems of drug abuse and drug dependence. One reason this illness has reached epidemic proportions is because so little is known about it. The situation must be remedied immediately by the initiation of a comprehensive research program to investigate both the physical, psychological, and sociological aspects of the disease and the best possible prevention and treatment procedures for it.

The Institute will also maintain an adequate supply of all controlled substances, and shall make certain that adequate sources of these substances are available, for valid investigational and research purposes, so that bona fide investigation and research with these drugs will not be inhibited or impeded with unnecessary red tape, restrictions, and delays.

It is especially important that a quick and reliable method for a more precise detection and determination of drug levels in urine, or in the blood, or by breath, or by other means, be perfected as soon as possible. The Institute will publish significant results of this experimentation regularly.

It, of course, essential that the confidentiality of a patient's records, whether obtained by the Institute or by individuals or organizations using funds contributed by the Institute, be honored at all times. It takes little imagination to realize that patients will be far more hesitant to consider treatment if they will be in danger of public ridicule by exposure of their illness. This factor is of particular significance because a treatment program's success is dependent upon the voluntary cooperation of the patient. Disclosure of an individual's name is of no value for research purposes and should be avoided in all situations.

Training functions

A most critical need for successful rehabilitation is the establishment of effective training programs for all those who come into contact with the patient during the course of the rehabilitation process. The Institute will meet this need by developing training programs and fellowships of its own and encouraging the establishment of similar programs at the State and local levels.

Educational functions

Develop, assist others to develop, and encourage the development of curricula on the use and abuse of drugs at the high school, college, and adult education levels as preventive measures. Instructional programs and guidelines will also be created for Federal law enforcement officials. Develop, assist others to develop, and encourage the development of informational and educational materials for use by the mass media. Educational materials must, above all else, be straightforward and factual, and not simply attempts to scare the public.

The Institute will ultimately become a clearinghouse for the maintenance and distribution of all relevant information dealing with the problems of drug abuse and drug dependence. Field workers as well as research investigators should be able to locate at the Institute whatever educational material is applicable to their particular interests.

Reporting functions

The Institute must submit an annual report to Congress detailing the progress of its programs. The report will candidly relate what has and has not been accomplished and indicate how improvements can be made in the future. It is likely that practical experience with the program will suggest significant legislative proposals which can thus be relayed to Congress.

PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE FOR FEDERAL EMPLOYEES

No Federal employee (not engaged in a position involving the national security) should be discriminated against with regard to any facet of his employment solely because he has a drug abuse problem. Government employees with drug abuse problems should be dismissed only if they have refused to accept adequate and appropriate treatment offered to them, and have subsequently failed to function properly in their positions.

CONFIDENTIALITY OF RECORDS

The importance of maintaining confidential records, mentioned earlier in this report in connection with the research undertaken or funded by the Institute, applies equally to all other patient records prepared or obtained pursuant to the prevention and treatment provisions of the bill.

FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

Comprehensive State plans

Section 141 amends the Public Health Service Act to require the inclusion of drug abuse and drug dependence programs in comprehensive State health plans submitted pursuant to the Partnership for Health Amendments of 1967. This requirement permits substantial flexibility in the formulation of appropriate services and programs. This should be adequate to assure that every State faces up to these problems in a manner which is appropriate for the magnitude and characteristics of its particular situation.

Formula grants

Drug abuse is a national problem which does not recognize regional boundaries. The formula grant program will make it possible for all States to stimulate programs and share in Federal financial assistance. Each State must develop a drug abuse and drug dependence prevention and treatment plan in order to be eligible for these Federal funds. A single agency in each State will be assigned responsibility for the administration of the State drug abuse and drug dependence program. This agency will work in conjunction with an advisory council which will serve as a consulting body for purposes of policy formulation. The money which is made available by formula grants will be used to supplement rather than replace funds which the States would otherwise have devoted to such programs.

Applications for financial assistance will be approved whenever the other requirements have been satisfactorily complied with and funds remain available in the allotment determined for the applying State. Any facilities which are established through the assistance of Federal funding will be available to all citizens of the State regardless of sex, race, color, creed, or national origin. Hearings for States whose applications have been denied will comply with the Administrative Procedure Act.

Project grants

This provision will make it possible for the Institute to make grants to public and private nonprofit agencies, organizations, and institutions and enter into contracts with public or private agencies to develop programs for the prevention and treatment of drug abuse and drug dependence. It is vitally important for these programs to be community based, and to utilize public health rather than criminal measures, in order to provide the most effective treatment possible. The development of curricula, informational, and other educational materials which can be used in preventive efforts should have the highest possible priority. All organizations within the community which are attempting to combat drug abuse and drug dependence should be coordinated whenever possible so as to provide readily accessible services to all persons at all hours of the day. It is also important that innovation with unstructured street programs, crisis intervention centers, therapeutic communities, peer group leadership programs, telephone counseling, workshops, seminars, informal discussion and information centers and sanctuaries, be encouraged. Such programs should, to the extent feasible, provide for the use of adequate personnel from similar social, cultural, age, ethnic, and racial backgrounds as those of the individuals served. Funds will also be made available to defray the total costs of community projects which are designed to assess deficiencies and promote public interest in a local attack upon the drug abuse and drug dependence problem.

Emphasis on public health measures will result in no improvement unless there are sufficient funds, trained personnel, and facilities for an effective program, backed by a broad-based desire to implement such a program. All too often in the past, civil commitment has been used to mask inadequate and inappropriate treatment. Large numbers of patients have been committed to institutions without a specific treatment plan being formulated and adopted for the individual needs of the patient, and without sufficient medical or judicial inquiry into the adequacy and appropriateness of the treatment that is in fact available or provided. This bill is intended to require respect for the basic human dignity of drug abusers and drug-

dependent persons, and not to contribute to the use of civil punishment as a replacement for criminal punishment. Federal funding and assistance should not be made available for the establishment or maintenance of overcrowded and understaffed institutions, indiscriminate civil commitment procedures, disregard of fundamental human rights, or other forms of inadequate or inappropriate treatment.

Section 148 provides a mechanism for processing applications for financial assistance made by units of local government and private organizations. Applications will be channeled through the agency designated to administer the program within the State. The State agency will have an opportunity to comment upon the propriety of the particular plan under consideration, but may not prevent it from being sent to the Institute for review. The Institute will take the evaluation of the State agency into consideration, but may not discriminate in favor of a State over a local, or a public over a private applicant. Local organizations of both a public and a private character are recognized as vital for a successful rehabilitation effort. As with formula grants, the money which is made available through project grants will be used to supplement rather than replace funds which the States or localities would otherwise have devoted to such programs.

The Secretary is authorized to make the project grants authorized by this legislation upon the recommendation of the National Advisory Council on Drug Abuse and Drug Dependence.

General

Any organization or agency which has had its payments under part E terminated may obtain judicial review of the administrative action of the Secretary by filing a petition in a U.S. court of appeals within 60 days after such action has been taken.

Section 150A provides that public and private general hospitals will forfeit all Federal financial assistance under this title or any Federal law administered by the Secretary of Health, Education, and Welfare, if they discriminate against drug abusers or drug-dependent persons by virtue of their admission procedures and practices.

THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

Establishment of council

Section 151 establishes a National Advisory Council on Drug Abuse and Drug Dependence within the Public Health Service.

The Advisory Council will be responsible for reviewing research projects, making suggestions for future improvements, and collecting and publishing relevant information.

Grant approval by council

Grants made under the Community Mental Health Centers Act which are primarily intended for use in the prevention or treatment of drug abusers or drug dependence may be made upon the recommendation of the National Advisory Council.

INTERGOVERNMENT COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

Section 161 establishes an Intergovernment Coordinating Council on Drug Abuse and Drug Dependence. The Coordinating Council will be composed of 13 members, including the Secretary of HEW who shall be the Chairman, the Attorney General, the Commissioner of Education, the Director of the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence, the Director of the National Institute of Mental Health, four representatives of Federal Government, and four representatives of State government.

This body will be comprised exclusively of governmental personnel and will be responsible for assisting the Institute in coordinating Federal efforts, promoting cooperation between State and Federal agencies, instituting educational programs for Federal employees, and facilitating the rehabilitation of Federal employees who are drug abusers or drug-dependent persons. The Federal Government owes a special responsibility to all of its own employees and should, therefore, set an example of sensitivity to the problems of the drug abuser, which will hopefully be followed by the States, municipalities, and private enterprise.

PROGRAMS UNDER COMMUNITY HEALTH CENTERS AND PUBLIC HEALTH SERVICE HOSPITALS

Section 171 broadens the provisions of the Community Mental Health Centers Act relating to grants for construction and staffing of facilities for treatment of narcotic addiction, to cover problems of drug abuse and drug dependence. The obsolete term "narcotic addiction," which has been discarded by the medical and scientific professions, is replaced by "drug dependence."

Section 172 expands the direct patient care authorities of the Department of Health, Education, and Welfare under part E of title III of the Public Health Service Act to include all persons with drug abuse and drug dependence problems. The Federal direct patient care activities should be broadened to include not only those physically addicted but those who have psychological problems related to their repetitive use or desire to use drugs of abuse. This does not, however, expand authority under other laws to commit persons for treatment.

Section 173 amends section 507 of the Public Health Service Act to permit funds that are available (1) under the Public Health Service Act or (2) under the Community Mental Health Centers Act, for programs relating to drug dependence, drug abuse, and alcoholism, to be used for 100-percent grants to Veterans' Administration hospitals, Saint Elizabeths Hospital, and hospitals of the Public Health Service and the Bureau of Prisons, for such purposes.

General

All regulations issued pursuant to this substitute amendment are intended to be subject to the provisions of the Administrative Procedure Act. After considering whether it was necessary to explicitly include this in the bill itself it was concluded that under the APA this would be the result even if the bill were silent on the matter.

Conclusion

A new approach to the problems arising from drug abuse and drug dependence is urgently needed. The substitute amendment for title I of H.R. 18583 will enable the Nation to embark on a broad program of prevention and rehabilitation that will offer a productive life to those who have suffered so long without hope and will prevent the continued tragic waste of human lives in the future.

It is recommended that the Senate adopt the substitute amendment and enact H.R. 18583, as amended, at the earliest opportunity.

SECTION-BY-SECTION ANALYSIS

PART A—FINDINGS AND DECLARATIONS OF PURPOSE

Section 101.—Finds that drug abuse and drug dependence are increasing throughout the country; that drug dependence is an illness or disease that requires treatment through health and rehabilitation services; that existing laws have not been effective to prevent drug abuse and drug dependence or to provide adequate education, treatment, and rehabilitation of drug abusers and drug dependent persons and that a major Federal commitment is needed in these areas; that there is a lack of authoritative information and creative projects designed to educate students and others about drugs and their abuse; that effective treatment services and successful rehabilitation offer the best possibility of avoiding a high rate of recidivism among those persons incarcerated in Government institutions; that Federal programs for drug abuse and drug dependence should have a high priority and be closely coordinated within the Government; that the Federal Government must effectively handle drug abuse and drug dependence among those for whom the Government has special responsibilities—civilian employees, military personnel, and veterans; and that drug abusers and drug dependent persons can be best treated and rehabilitated through effective community-based programs.

Section 102.—Declares that a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence will be established and maintained within the Public Health Service to coordinate all Federal social programs related to the prevention of drug abuse and drug dependence; that an increased effort should be made to encourage the development of new and improved curricula on the problems of drug abuse, to demonstrate the use of such curricula in model educational programs and to evaluate the effectiveness thereof, to disseminate curricular materials and significant information for use in educational programs throughout the Nation; to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; and to offer community education programs, for parents and others, on drug abuse problems; that major Federal action and assistance shall be undertaken to encourage a broad range of State and local programs in this area, and to assure equal access to humane care, treatment, and rehabilitation for all drug abusers and drug dependent persons; that research relating to drug abuse and drug dependence shall be fostered and assisted; and that all present Federal or federally assisted research, prevention, treatment, or rehabilitation programs in the fields of health, education, welfare, and rehabilitation shall be utilized to reduce drug abuse, drug dependence, and drug related crime.

PART B—DEFINITIONS

Section 111.—Provide that the definitions set out in title II of the Act shall also apply to this title.

Section 112.—Sets out additional definitions which apply throughout title I.

"Prevention and treatment" is defined to include all appropriate forms of educational programs and services (including but not limited to radio, television, films, books, pamphlets, lectures, adult education, and school courses); planning, coordinating, statistical, research, training, evaluation, reporting, classification, and other administrative, scientific, or technical programs or services; and screening, diagnosis, treatment (emergency medical care, inpatient, intermediate care, and outpatient), vocational rehabilitation, job training and referral, and other rehabilitation programs or services.

Other definitions include those for the terms "drug abuser," "drug dependent person," "emergency medical care services," "inpatient services," "intermediate care services," and "outpatient services."

The remaining definitions are routine.

PART C—NATIONAL INSTITUTE FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

Section 121.—Establishes a National Institute for the Prevention and Control of Drug Abuse and Drug Dependence within the Public Health Service. Remaining sections of this part prescribe the responsibilities of the Institute and the qualifications of its personnel.

Section 122.—Sets out the administrative functions of the Institute, which include providing assistance to all Federal departments and agencies to establish and maintain programs for the prevention and treatment of drug abuse and drug dependence;

evaluating the drug abuse and drug dependence prevention and treatment provisions of all State health, welfare, and rehabilitation plans submitted to the Federal Government; administering grants and contracts authorized by the bill; and taking other action consistent with the intent and objectives of the bill.

Section 123.—Sets out the planning functions of the Institute, which include development of a comprehensive Federal drugs abuse and drug dependence prevention and treatment plan; development of model State and local drug abuse and drug dependence prevention and treatment plans; providing assistance and consultation to all interested agencies and persons with respect to the prevention and treatment of drug abuse and drug dependence; and carrying out a complete evaluation of existing and ongoing drug education materials and programs.

Section 124.—Sets out the coordination functions of the Institute, which include assisting all Federal departments and agencies in the development and maintenance of drug abuse and drug dependence prevention, treatment, and rehabilitation programs; serving as consultants to Federal courts, departments, and agencies; coordinating all Federal health and rehabilitation efforts to deal with drug abuse and drug dependence; encouraging State and local public and private programs and services and stimulating more effective and coordinated use of all existing resources and services; and cooperation with Federal departments and agencies to develop an appropriate policy with regard to Federal civilian employees who are drug addicts or drug dependents.

Section 125.—Sets out the statistical functions of the Institute, which include gathering and publishing statistics pertaining to drug abuse and drug dependence—statistics, records, and reports.

Section 126.—Sets out the research functions of the Institute, which include conducting research of all kinds relating to drug abuse and drug dependence; encouraging and assisting others in conducting such research and assuring its confidentiality; coordinating research conducted by the Institute with that done by other agencies and persons; establishing a research register and a research information center; making research facilities of the Institute available to other researchers; making research grants and contracts with other agencies and individuals; maintaining a research fellowship program; investigating methods for measuring drug consumption; and evaluating existing and proposed drug abuse and drug dependence prevention and treatment programs.

Section 127.—Sets out the training functions of the Institute, which include establishment of training programs for professionals and paraprofessionals; encouragement of such programs by State and local governments; and establishment of training fellowships.

Section 128.—Sets out the educational functions of the Institute, which include developing and assisting and encouraging the development of model curricula for use at all educational levels; developing and assisting and encouraging the development of a broad variety of educational material for use in all media; establishing and assisting and encouraging the establishment of educational courses for use by all Federal, State, and local agencies and private groups on the causes of, and treatment for, drug abuse and drug dependence; acting as a clearinghouse for all information relating to drug abuse and drug dependence; recruitment, training, organization, and employment of personnel for public education programs in relation to drug abuse and drug dependence; coordination of all Federal educational activities regarding drug abuse and drug dependence; and undertaking, assisting, and encouraging all activities relating to a national drug abuse and drug dependence education program.

Section 129.—Sets out the reporting functions of the Institute, which include making an annual report to Congress, specifying actions taken and services provided under each provision of this act as required; and making such additional reports as are requested by the President or Congress.

PART D—PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE FOR FEDERAL EMPLOYEES

Section 131.—Sets out procedures for prevention and treatment of drug abuse and drug dependence among all Federal Government employees. It provides that the Civil Service Commission, in cooperation with the administration and other Federal agencies, shall be responsible for developing and maintaining appropriate policies and services for the prevention and treatment of drug abuse and drug dependence among all Federal civilian employees. All Federal civilian employees will retain the same employment and benefits as those suffering from other illnesses and shall not lose pension, retirement or medical rights. The Institute will be responsible for encouraging similar drug abuse and drug dependence prevention, treatment and rehabilitation services in State and local governments and private industry. No person may be denied Federal civilian employment or a Federal license or right solely on the ground of prior drug abuse or drug dependence except in regard to extremely sensitive positions. This section will not prohibit the dismissal of a Federal civilian employee who refuses to accept appropriate treatment offered to him and subsequently does not function properly in his employment.

Section 132.—Provides that all patient records prepared or obtained pursuant to this act and their contents shall remain confidential, and may be disclosed with the patient's consent only to proper persons for purposes of medical treatment, research, or the obtaining of benefits relating to the patient's drug dependence. Any other disclosure must be by court order based on a showing of good cause. No such records or information may be used to initiate charges against a patient under any circumstances. Similar provisions apply to private medical records.

PART E—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

Subpart I—Comprehensive State plans

Section 141.—Provides that section 314(a)(2) of the Public Health Service Act is amended to require all State plans for comprehensive public health services to provide for services for the prevention and treatment of drug abuse and drug dependence commensurate with the extent of the problem in the particular State.

Subpart II—Formula grants

Section 142.—Provides that $10 million will be authorized to be appropriated for the fiscal year ending June 30, 1971, for the purpose of providing formula grants to States to aid in the development and maintenance of their treatment and rehabilitation programs. An additional $20 million will be added to this base amount in fiscal 1972, and $25 million will be added to this base amount for fiscal 1973.

Section 143.—Provides for the allotment of grants to all States regardless of their size, such allotment to be made on the basis of relative population, financial need, and need for more effective prevention, treatment, and rehabilitation programs. The allotment procedure is that generally followed for formula grants.

Section 144.—Requires States wishing to participate in the formula grant program to develop State plans meeting certain basic requirements. The plans must designate a single State agency to administer the plan; provide for a State advisory council to oversee the plan; specify the needs of the State and its existing health facilities; meet certain standards of administration; provide required reports and information; and assure that Federal funds will be used to supplement rather than supplant non-Federal funds. The Secretary shall approve any State plan meeting the statutory requirements.

Section 145.—Provides an application procedure for submission of grant applications to the Secretary through the designated single State agency and requires the Secretary to approve any plan for which an allotment remains available and which meets the requirement of section 144.

Subpart III—Project grants

Section 146.—Authorizes appropriations of $20 million for fiscal 1971, $45 million for fiscal 1972, and $70 million for fiscal 1973, for the project grants authorized by the act.

Section 147.—Authorizes the Secretary to make grants to and contracts with public and private agencies to assist State and local public and private organizations, agencies, institutions, and individuals to carry out the following activities for a prevention and treatment of drug abuse and drug dependence; to construct and operate treatment and rehabilitation facilities; to develop curricula, informational and other educational materials for use in preventive efforts; to conduct research and demonstration projects; to educate and train professional and paraprofessional personnel; and to provide drug abuse and drug dependence prevention and treatment services in correctional and penal institutions and among juveniles and young adults. All of the grants and contracts under this title will be community based whenever possible.

Section 148.—Requires the Secretary to assure coordination of all grant applications for programs in a State, and not to give precedence to public agencies over private agencies or to State agencies over local agencies. It provides that all applications from within a State shall first be submitted by the applicant for review and comment to the State agency responsible for administering the State comprehensive plan for treatment and prevention of drug abuse and drug dependence if such an agency exists. Applications are then to be forwarded to the Secretary for approval. It also establishes the administrative and budgetary criteria which must be met by those seeking funds under this title. A State may waive its rights to review applications under this section if it so desires.

Section 149.—Provides that the Secretary of Health, Education, and Welfare is authorized to make grants under this part upon the recommendation of the National Advisory Council on Drug Abuse and Drug Dependence.

Subpart IV—General

Section 150.—Provides that the Secretary may terminate payment to any program not in compliance with the terms of its grant or contract until the program complies. Anyone adversely affected by such an action of the Secretary may appeal to the U.S. court of appeals for the circuit in which he is located by filing a petition with such court within 60 days after such final action. The procedures and conditions of filing such a petition are set out in the remainder of this section.

Section 150A.—Provides that no private or public general hospital which discriminates against drug abuse and drug dependence because of their drug abuse or drug dependence will receive Federal financial assistance under the provisions of this title or any other Federal law administered by the Secretary. Termination of aid will occur only after the Secretary gives notice of the failure to comply with this section and provides an opportunity for correction or hearing. All action taken by the Secretary pursuant to this section is subject to judicial review pursuant to section 150(b) of this title.

PART F—THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

Section 151.—Establishes a National Advisory Council on Drug Abuse and Drug Dependence within the Public Health Service. The Advisory Council will be composed of 15 members, including the Secretary of HEW, who shall serve as chairman, the chief medical officer of the Veterans' Administration or his representative, a medical officer designated by the Secretary of Defense, and 12 appointed members. The Advisory Council will be responsible for reviewing research projects and making suggestions for future improvements, collecting and publishing relevant information, and recommending grants in accordance with section 149 of Part E of this title.

Section 152 amends section 266 of part E of the Community Mental Health Centers Act to provide that grants under that act which are primarily intended for use in the prevention and treatment of drug abuse or drug dependence may be made only upon the recommendation of the National Advisory Council on Drug Abuse and Drug Dependence.

PART G—INTERGOVERNMENT COORDINATING COUNCIL OF DRUG ABUSE AND DRUG DEPENDENCE

Section 161.—Establishes an Intergovernment Coordinating Council on Drug Abuse and Drug Dependence consisting of the Secretary who shall serve as chairman, the Attorney General of the United States, the U.S. Commissioner of Education, the chairman of the National Advisory Council on Drug Abuse and Drug Dependence, the Director of the National Institute of Mental Health, four representatives of Federal departments or agencies, and four representatives of State and local government departments or agencies. The Council will be responsible for coordinating all Federal drug abuse and drug dependence prevention and treatment activities with each other and with similar State and local activities and for developing an enlightened approach to the problems with respect to Federal civilian employees.

Section 162.—Directs the Coordinating Council to assist the Secretary in his coordinating functions; to engage in educational and rehabilitation programs directed at Federal civilian employees; and to carry on other appropriate activities.

PART H—PROGRAMS UNDER PUBLIC HEALTH SERVICE ACT RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

Section 171.—Broadens the present provisions of the Community Mental Health Center Act relating to grants for construction and staffing of facilities for treatment of narcotics addiction, special projects in the field of narcotics addiction, and special staffing grants for consultation services. These authorities, which now relate only to narcotic addiction are broadened so as to relate to drug abuse and drug dependence generally.

Section 172.—Expands the direct patient care authorities of the Department of HEW under part E of title III of the Public Health Service Act to include, instead of just narcotics adidcts, all persons who are drug abusers and drug dependents.

Section 173.—Amends section 507 of the Public Health Service Act to permit funds that are available under the Public Health Service Act or under the Community Mental Health Centers Act, for programs relating to drug dependence, drug abuse, and alcoholism, to be used for 100 percent grants to Veterans' Administration hospitals, St. Elizabeths Hospital, and hospitals of the Public Health Service and the Bureau of Prisons, for such purposes.

PART I—GENERAL

Section 181.—Is a severability provision.

Section 182.—Requires recipients of grants to make whatever reports are required by the Secretary.

Section 183.—Provides that payments under this title may be made in advance or by way of reimbursements, and in such manner as the Secretary may determine.

CHANGES IN EXISTING LAW

Changes in existing law made by the proposed amendment are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT

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PUBLIC HEALTH SERVICE ACT, AS AMENDED

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TITLE II—ADMINISTRATION

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NATIONAL ADVISORY COUNCILS

SEC. 217. (a) The National Advisory Health Council, the National Advisory Cancer Council, the National Advisory Mental Health Council, *the National Advisory Council on Drug Abuse and Drug Dependence*, the National Advisory Heart Council and the National Advisory Dental Research Council shall each consist of the Secretary, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members; and twelve members appointed without regard to the civil service laws by the Secretary with the approval of the Secretary of Health, Education, and Welfare. The twelve appointed members of each such council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs, and six of such twelve shall be selected from among the leading medical or scientific authorities who, in the case of the National Advisory Health Council, are skilled in the sciences related to health, and in the case of the National Advisory Cancer Council, the National Advisory Mental Health Council, *the National Advisory Council on Drug Abuse and Drug Dependence*, the National Advisory Heart Council, and the National Advisory Dental Research Council, are outstanding in the study, diagnosis, or treatment of cancer, psychiatric disorders, *drug abuse and drug dependence*, heart diseases, and dental diseases and conditions, respectively. In the case of the National Advisory Dental Research Council, four of such six shall be dentists. Each appointed member of each such council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the terms for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of the members first taking office after September 30, 1950, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term, but terms expiring prior to October 1, 1950, shall not be deemed "preceding terms" for the purposes of this sentence.

(b) The National Advisory Health Council shall advise, consult with, and make recommendations to, the Secretary on matters relating to health activities and functions of the Service. The Secretary is authorized to utilize the services of any member or members of the Council, and where appropriate, any member or members of the national advisory councils established under this Act on cancer, mental health, *drug abuse and drug dependence*, heart, dental, rheumatism, arthritis, and metabolic diseases, neurological diseases and blindness, and other diseases, in connection with matters related to the work of the Service, for such periods, in addition to conference periods, as he may determine.

(c) The National Advisory Mental Health Council shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Service in the field of mental health. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of mental health and recommended to the Secretary, for prosecution under this Act, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of psychiatric disorders; and (2) to collect information as to studies being carried on in the field of mental health and, with the approval of the Secretary, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public or private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of mental health; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council.

(d) The National Advisory Council on Drug Abuse and Drug Dependence shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Service in the field of alcohol abuse and alcoholism. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of alcohol abuse and alcoholism and recommend to the Secretary, for prosecution under this Act, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of alcohol abuse and alcoholism, and (2) to collect information as to studies being carried on in the field of alcohol abuse and alcoholism and, with the approval of the Secretary, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public or private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of alcohol abuse and alcoholism; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council.

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TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

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PART B—FEDERAL-STATE COOPERATION

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GRANTS TO STATES FOR COMPREHENSIVE STATE HEALTH PLANNING

SEC. 314. (a) (1) AUTHORIZATION.—In order to assist the States in comprehensive and continuing planning for their current and future health needs, the Secretary is authorized during the period beginning July 1, 1966, and ending June 30, 1970, to make grants to States which have submitted and had approved by the Secretary, State plans for comprehensive State health planning. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1967, $7,000,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, and $15,000,000 for the fiscal year ending June 30, 1970.

(2) STATE PLANS FOR COMPREHENSIVE STATE HEALTH PLANNING.—In order to be approved

for purposes of this subsection, a State plan for comprehensive State health planning must—

(A) designate, or provide for the establishment of, a single State agency, which may be an interdepartmental agency, as the sole agency for administering or supervising the administration of the State's health planning functions under the plan;

(B) provide for the establishment of a State health planning council, which shall include representatives of State and local agencies and nongovernmental organizations and groups concerned with health, and of consumers of health services to advise such State agency in carrying out its functions under the plan, and a majority of the membership of such council shall consist of representatives of consumers of health service;

(C) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Surgeon General, are designed to provide for comprehensive State planning for health services (both public and private), including the facilities and persons required for the provision of such services, to meet the health needs of the people of the State;

(D) provide for encouraging cooperative efforts among governmental or nongovernmental agencies, organizations and groups concerned with health services, facilities, or manpower, and for cooperative efforts between such agencies, organizations, and groups and similar agencies, organizations, and groups in the fields of education, welfare, and rehabilitation;

(E) contain or be supported by assurances satisfactory to the Secretary that the funds paid under this subsection will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available by the State for the purpose of comprehensive health planning and not to supplant such non-Federal funds;

(F) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(G) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(H) provide that the State agency will from time to time, but not less often than annually, review its State plan approved under this subsection and submit to the Secretary appropriate modifications thereof;

(I) effective July 1, 1968, (i) provide for assisting each health care facility in the State to develop a program for captial expenditures for replacement, modernization, and expansion which is consistent with an overall State plan developed in accordance with criteria established by the Secretary after consultation with the State which will meet the needs of the State for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner, and (ii) provide that the State agency furnishing such assistance will periodically review the program (developed pursuant to clause (i)) of each health care facility in the State and recommended appropriate modification thereof;

(J) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subsection; [and]

(K) contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection; *and*

(L) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent of the problem, such plan to (i) estimate the number of drug abusers and drug dependent persons within the various areas within the State and the extent of the health problem caused, (ii) establish priorities for the improvement of the capabilities of State and local governments and public and private agencies, institutions, and organizations with respect to prevention and treatment of drug abuse and drug dependence, and (iii) specify how all available community health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal and State legislation, are to be used for these purposes.

(3)(A) STATE ALLOTMENTS.—From the sums appropriated for such purpose for each fiscal year, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of the population and the per capita income of the respective States; except that no such allotment to any State for any fiscal year shall be less than 1 per centum of the sum appropriated for such fiscal year pursuant to paragraph (1). Any such allotment to a State for a fiscal year shall remain available for obligation by the State, in accordance with the provisions of this subsection and the State's plan approved thereunder, until the close of the succeeding fiscal year.

(B) The amount of any allotment to a State under subparagraph (A) for any fiscal year which the Secretary determines will not be required by the State, during the period for which it is available, for the purposes for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments to such States under subparagraph (A) for such fiscal year, but with such proportionate amount of any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly realloted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State from fund appropriated pursuant to its allotment under subparagraph (A) for such fiscal year.

(4) PAYMENTS TO STATES.—From each State's allotment for a fiscal year under this subsection, the State shall from time to time be paid the Federal share of the expenditures incurred during that year or the succeeding year pursuant to its State plan approved under this subsection. Such payments shall be made on the basis of estimates by the Secretary of the sums the State will need in order to perform the planning under its approved State plan under this subsection, but with such adjustments as may be necessary to take account of previously made underpayments or overpayments. The "Federal share" for any State for purposes of this subsection shall be all, or such part as the Secretary may determine, of the cost of such planning, except that in the case of the allotments for the fiscal year ending June 30, 1970, it shall not exceed 75 per centum, of such cost.

PROTECT GRANTS FOR AREAWIDE HEALTH PLANNING

(b) The Secretary is authorized, during the period beginning July 1, 1966, and ending June 30, 1970, to make, with the approval of the State agency administering or supervising the administration of the State plan approved under subsection (a), project grants to any other public or nonprofit agency or organization (but with appropriate representation of the interests of local government where the recipient of the grant is not a local government or combination thereof or an agency of such government or combination) to cover not to exceed 75 per centum of the costs of projects for developing (and from time to time revising) comprehensive regional, metropolitan area, or other local area plans for coordination of existing and planned health services, including the facilities and persons required for provision of such services; except that in the case of project grants made in any State prior to July 1, 1968, approval of such State agency shall be required only if such State has such a State plan in effect at the time of such grants. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1960, $7,500,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, and $15,000,000 for the fiscal year ending June 30, 1970.

PROJECT GRANTS FOR TRAINING, STUDIES, AND DEMONSTRATIONS

(c) The Secretary is also authorized, during the period beginning July 1, 1966, and ending June 30, 1970, to make grants to any public or nonprofit private agency, institution, or other organization to cover all or any part of the cost of projects for training, studies, or demonstrations looking toward the development of improved or more effective comprehensive health planning throughout the Nation. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1967, $2,500,000 for the fiscal year ending June 30, 1968, $5,000,000 for the fiscal year ending June 30, 1969, and $7,500,000 for the fiscal year ending June 30, 1970.

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PART E—[NARCOTICS ADDICTS] *Drug Abusers and Drug Dependent Persons*

CARE AND TREATMENT

SEC. 341. (a) The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who are civilly committed to treatment or convicted of offenses against the United States and sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts who are committed to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code) [addicts] *drug abusers and drug dependent persons* who voluntarily submit themselves for treatment, and addicts convicted of offenses against the United States and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, including persons convicted by general courts-martial and consular courts. Such care and treatment shall be provided at hospitals of the Service especially equipped for the accommodation of such patients or elsewhere where authorized under other provisions of law, and shall be designed to rehabilitate such persons, to restore them to health, and where necessary, to train them to be self-supporting and self-reliant; but nothing in this section or in this part shall be construed to limit the authority of the Surgeon General under other provisions of law to provide for the conditional release of patients and for aftercare under supervision.

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Employment of addicts drug abusers or drug dependent persons

SEC. 342. [Narcotic addicts] *Drug abusers and drug dependent persons* in hospitals of the Service designated for their care shall be employed in such manner and under

such conditions as the Surgeon General may direct. In such hospitals the Surgeon General may, in his discretion, establish industries, plants, factories, or shops for the production and manufacture of articles, commodities, and supplies for the United States Government. The Secretary of the Treasury may require any Government department, establishment, or other institution, for whom appropriations are made directly or indirectly by the Congress of the United States, to purchase at current market prices, as determined by him or his authorized representative, such of the articles, commodities, or supplies so produced or manufactured as meet their specifications; and the Surgeon General shall provide for payments to the inmates or their dependents of such pecuniary earnings as he may deem proper. The Secretary shall establish a working-capital fund for such industries, plants, factories, and shops out of any funds appropriated for Public Health Service hospitals at which [addicts] *drug abusers and drug dependent persons* are treated and cared for; and such fund shall be available for the purchase, repair, or replacement of machinery or equipment, for the purchase of raw materials and supplies, for the purchase of uniforms and other distinctive wearing apparel of employees in the performance of their official duties, and for the employment of necessary civilian officers and employees. The Surgeon General may provide for the disposal of products of the industrial activities conducted pursuant to this section, and the proceeds of any sales thereof shall be covered into the Treasury of the United States to the credit of the working-capital fund.

CONVICTS

SEC. 343. (a) The authority vested with the power to designate the place of confinement of a prisoner shall transfer to hospitals of the Service especially equipped for the accommodation of [addicts] *drug abusers and drug dependent persons* if accommodations are available, all [addicts] *drug abusers and drug dependent persons* who have been or are hereafter sentenced to confinement, or who are now or shall hereafter be confined, in any penal, correctional, disciplinary, or reformatory institutions of the United States, including those [addicts] *drug abusers and drug dependent persons* convicted of offenses against the United States who are confined in State and Territorial prisons, penitentiaries, and reformatories, except that no [addict] *drug abuser or drug dependent person* shall be transferred to a hospital of the Service who, in the opinion of the officer authorized to direct the transfer, is not a proper subject for confinement in such an institution either because of the nature of the crime he has committed or because of his apparent incorrigibility. The authority vested with the power to designate the place of confinement of a prisoner shall transfer from a hospital of the Service to the institution from which he was received, or to such other institution as may be designated by the proper authority, any [addict] *drug abuser or drug dependent person* whose presence at a hospital of the Service is detrimental to the well-being of the hospital or who does not continue to be a [narcotic addict] *drug abuser or drug dependent person*. All transfers of such prisoners to or from a hospital of the Service shall be accompanied by necessary attendants as directed by the officer in charge of such hospital and the actual and necessary expenses incident to such transfers shall be paid from the appropriation for the maintenance of such Service hospital except to the extent that other Federal agencies are authorized or required by law to pay expenses incident to such transfers. When sentence is pronounced against any person whom the prosecuting officer believes to be an [addict] *drug abuser or drug dependent person*, such officer shall report to the authority vested with the power to designate the place of confinement, the name of such person, the reasons for his belief, all pertinent facts bearing on such [addiction] *drug abuse or drug dependence*, and the nature of the offense committed. Whenever an alien [addict] *drug abuser or drug dependent person* transferred to a Service hospital pursuant to this subsection is entitled to his discharge but is subject to deportation, in lieu of being returned to the penal institution from which he came he shall be deported by the authority vested by law with power over deportation.

(b) The provisions of the Act of June 21, 1902, as amended (U.S.C., 1940 edition, title 18, secs. 710–712a), regulating commutation of sentence for good conduct of United States prisoners, section 8 of the Act of May 27, 1930 (U.S.C., 1940 edition, title 18, sec. 744h), regulating commutation of sentence for employment in industry, and the Act of June 25, 1910, as amended (U.S.C., 1940 edition, title 18, secs. 714–723c), relating to parole, shall be applicable to any [narcotic addict] *drug abuser or drug dependent person* confined in any institution in execution of a judgment or sentence upon conviction of an offense against the United States; except that no [narcotic addict] *drug abuser or drug dependent person* confined in any institution, whether or not an institution of the Public Health Service, shall be released by reason of commutation of sentence or parole until the Surgeon General shall have certified that such individual is no longer an [addict] *drug abuser or drug dependent person*.

(c) Not later than one month prior to the expiration of the sentence of any [addict] *drug abuser or drug dependent person* confined in a Service hospital, he shall be examined by the Surgeon General or his authorized representative. If the Surgeon General believes the person to be discharged is still an [addict] *drug abuser or drug dependent person* and that he may by further treatment in a Service hospital be cured of his [addiction,] *drug abuse or drug dependence*, the [addict] *drug abuser or drug dependent person* shall be informed, in accordance with regulations, of the advisability of his submitting himself to further treatment. The [addict] *drug abuser or drug dependent person* may then apply in writing to the Surgeon General for further treatment in a Service hospital for a period not exceeding the maximum length of time considered necessary by the Surgeon General. Upon approval of the application by the Surgeon General or his authorized agent, the [addict] *drug abuser or drug dependent person* may be given such further treatment as is necessary to cure him of his [addiction,] *drug abuse or drug dependence*.

(d) Every person convicted of an offense against the United States, upon discharge, or upon release on parole from a hospital of the Service, shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution.

(e) Any court of the United States having the power to suspend the imposition or execution of sentence and to place a defendant on probation under any existing laws may impose as one of the conditions of such probation that the defendant, if an [addict] *drug abuser or drug dependent person* shall submit himself for treatment at a hospital of the Service especially equipped for the accommodation of [addicts] *drug abusers and drug dependent persons* until discharged therefrom as cured and that he shall be admitted thereto for such purpose. Upon the discharge of any such probationer from a hospital of the Service, he shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution. The actual and necessary expense incident to transporting such probationer to such hospital and to furnishing such transportation and gratuities shall be paid from the appropriation for the maintenance of such hospital except to the extent that other Federal agencies are authorized or required by law to pay the cost of such transportation: *Provided*, That where existing law vests a discretion in any officer as to the place to which transportation shall be furnished or as to the amount of clothing and gratuities to be furnished, such discretion shall be exercised by the Surgeon General with respect to [addicts] *drug abusers and drug dependent persons* discharged from hospitals of the Service.

VOLUNTARY PATIENTS

SEC. 344. (a) Any [addict] *drug abuser or drug dependent person*, whether or not he shall have been convicted of an offense against the United States, may apply to the Surgeon General for admission to a hospital of the Service especially equipped for the accommodation of [addicts] *drug abusers and drug dependent persons*.

(b) Any applicant shall be examined by the Surgeon General who shall determine whether the applicant is an [addict] *drug abuser or drug dependent person*, whether by treatment in a hospital of the Service he may probably be cured of his [addiction,] *drug abuse or drug dependence*, and the estimated length of time necessary to effect his cure. The Surgeon General may, in his discretion, admit the applicant to a Service hospital. No such [addict] *drug abuser or drug dependent person*, shall be admitted unless he agrees to submit to treatment for the maximum amount of time estimated by the Surgeon General to be necessary to effect a cure, and unless suitable accommodations are available after all eligible [addicts] *drug abusers and drug dependent persons* convicted of offenses against the United States have been admitted. Any such [addict] *drug abuser or drug dependent person* may be required to pay for his subsistence, care, and treatment at rates fixed by the Surgeon General and amounts so paid shall be covered into the Treasury of the United States to the credit of the appropriation from which the expenditure for his subsistence, care, and treatment was made. Appropriations available for the care and treatment of [addicts] *drug abusers and drug dependent persons* admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to any place within the continental United States, including subsistence allowance while traveling, for any indigent [addict] *drug abuser or drug dependent person* who is discharged as cured.

(c) Any [addict] *drug abuser or drug dependent person* admitted for treatment under this section, including any [addict] *drug abuser or drug dependent person*, not convicted of an offense, who voluntarily submits himself for treatment, may be confined in a hospital of the Service for a period not exceeding the maximum amount of time estimated by the Surgeon General as necessary to effect a cure of the [addiction] *drug abuse or drug dependence* or until such time as he ceases to be an [addict] *drug abuser or drug dependent person*.

(d) Any [addict] *drug abuser or drug dependent person* admitted for treatment under this section shall not thereby forfeit or abridge any of his rights as a citizen of the United States; nor shall such admission or treatment be used against him in any proceeding in any court; and the record of his voluntary commitment shall, except as otherwise provided by this Act, be confidential and shall not be divulged.

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PENALTIES

SEC. 346. (a) Any person not authorized by law or by the Surgeon General who intro-

duces or attempts to introduce into or upon the grounds of any hospital of the Service at which [addicts] *drug abusers and drug dependent persons* are treated and cared for, any habit-forming narcotic drug *or substance controlled under the Controlled Substances Act*, weapon, or any other contraband article or thing, or any contraband letter or message intended to be received by an inmate thereof, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than ten years.

(b) It shall be unlawful for any person properly committed thereto to escape or attempt to escape from a hospital of the Service at which [addicts] *drug abusers and drug dependent persons* are treated and cared for, and any such person upon apprehension and conviction in a United States court shall be punished by imprisonment for not more than five years, such sentence to begin upon the expiration of the sentence for which such person was originally confined.

(c) Any person who procures the escape of any person admitted to a hospital of the Service at which addicts are treated and cared for, or who advises, connives at, aids, or assists in such escape, or who conceals any such inmate after such escape, shall be punished upon conviction in a United States court by imprisonment in the penitentiary for not more than three years.

RELEASE OF PATIENTS

SEC. 347. For purposes of this Act, an individual shall be deemed cured of his [addiction,] *drug abuse or drug dependence* and rehabilitated if the Surgeon General determines that he has received the maximum benefits of treatment and care by the Service for his [addiction,] *drug abuse, or drug dependence* or if the Surgeon General determines that his further treatment and care for such purpose would be detrimental to the interests of the Service.

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TITLE V—MISCELLANEOUS

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GRANTS TO FEDERAL INSTITUTIONS

SEC. 507. Appropriations to the Public Health Service [available for research, training, or demonstration project grants pursuant to this Act] *available under this Act for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence, and appropriations available to the Secretary under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities* shall also be available, on the same terms and conditions as apply to non-Federal institutions, for grants for the same purpose to hospitals of the Service, of the Veterans' Administration, or of the Bureau of Prisons of the Department of Justice, and to Saint Elizabeths Hospital, *except that grants to such Federal institutions may be funded at 100 per centum of the costs.*

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PARTS D AND E OF THE COMMUNITY MENTAL HEALTH CENTERS ACT

[PART D—NARCOTIC ADDICT REHABILITATION]

Part D—Drug Abuse, and Drug Dependence Prevention and Rehabilitation

GRANTS FOR TREATMENT FACILITIES

SEC. 251. (a) Grants from appropriations under section 261 may be made to public and nonprofit private agencies and organizations to assist them in meeting the costs of construction of treatment facilities (including posthospitalization treatment facilities) for [narcotic addicts] *drug abusers and drug dependent persons* within the States, and to assist them in meeting the costs, determined pursuant to regulations of the Secretary, of compensation of professional and technical personnel for the initial operation of such facilities constructed with grants made under part A of this part or of new services in existing treatment facilities for [narcotic addicts] *drug abusers and drug dependent persons.*

(b) The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part (A) except to the extent, in the judgment of the Secretary, special considerations make differences appropriate; but (1) before the Secretary may make a grant under such subsection for the construction of a treatment facility for [narcotic addicts] *drug abusers and drug dependent persons* he must find that the application for such grant meets the requirement of section 205(a)(5) (relating to the payment of prevailing wages), and (2) the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area) as the Secretary may determine.

(c) Grants made under subsection (a) for the costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 242.

DIRECT GRANTS FOR SPECIAL PROJECTS

SEC. 252. The Secretary is authorized, during the period beginning July 1, 1968, and ending with the close of June 30, 1973, to make grants to any public or nonprofit private agencies and organizations to cover part of all of the cost of (A) developing specialized trainings programs or materials relating to the provision of public health services for the prevention and treatment of [narcotic addiction,] *drug abuse and drug dependence,* or developing in-service training or short-term or refresher courses with respect to the provision of such services; (B) training personnel to operate, supervise, and administer such services; (C) conducting surveys and field trials to evaluate the adequacy of the programs for the prevention and treatment of [narcotic addition,] *drug abuse, and drug dependence,* within the several States with a view to determining ways and means of improving, extending, and expanding such programs; and (D) programs for treatment and rehabilitation of narcotic addicts which the Secretary determines are of special significance because they demonstrate new or relatively effective or efficient methods of delivery of services to such [narcotic addicts] *drug abusers and drug dependent persons.*

PROJECTS ELIGIBLE UNDER REGULAR PROGRAM

SEC. 253. Nothing in this part shall be construed to preclude approval under part A or B of a grant for a project for the construction or initial staffing of a facility for the treatment of [narcotic addicts] *drug abuses and drug dependent persons.*

PART E—GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS FOR REHABILITATION OF ALCOHOLICS [AND NARCOTIC ADDICTS], *drug abuses and drug dependent persons*

SEC. 261. (a) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $30,000,000 for the fiscal year ending June 30, 1971, $35,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973, for project grants for construction and staffing of facilities for the preventiton and treatment of alcoholism under part C or the prevention and treatment of [narcotic addiction], *drug abuse and drug dependence* under part D and for grants under section 242 and section 256. Sums so appropriated for any fiscal year shall remain available for obligation until the close of the next fiscal year.

(b) There are also authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the next nine fiscal years such sums as may be necessary to continue to make grants for staffing with respect to any project under part C or D for which a staffing grant was made from appropriations under subsection (a) of this section for any fiscal year ending before July 1, 1973.

(c) Not to exceed 5 per centum of the amount appropriated pursuant to the preceding provisions of this section for any fiscal year shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $50,000) of the projects for assessing local needs for programs of services for alcoholics or [narcotic addicts], *drug abusers and drug dependent persons,* designing such programs, obtaining local financial and professional assistance and support for such programs in the community, and fostering community involvement in initiating and developing such programs in the community. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project.

PROGRAM EVALUATION

SEC. 262. Such portion (as the Secretary may determine) of any appropriation under this title for any fiscal year ending after June 30, 1968, but not exceeding 1 per centum thereof, shall be available to the Secretary for evaluation (directly or by grants or contracts) of the programs authorized by this title.

PROTECTION OF PERSONAL RIGHTS OF ALCOHOLICS [AND NARCOTIC ADDICTS], *drug abusers and drug dependent persons*

SEC. 263. In making grants to carry out the purposes of parts C and D, the Secretary shall take such steps as may be necessary to assure that no individual shall be made the subject of any research which is carried out (in whole or in part) with funds provided from appropriations under this part unless such individual explicitly agrees to become a subject of such research.

GRANTS FOR CONSULTATION SERVICES

SEC. 264. (a) In the case of any community mental health center, alcoholism prevention and treatment facility, specialized facility for alcoholics, treatment facility for [narcotic addicts] *drug abusers and drug dependent persons,* or facility for mental health of children, to which a grant under part B, C, D, or F, as the case may be, is made from appropriations for any fiscal year beginning after June 30, 1970, to assist it in meeting a portion of the costs of compensation of professional and technical personnel who provide consultation services, the Secretary may, with respect to such center or facility, make a grant under this section in addition to such other staffing grant for such center or facility.

(b) A grant under subsection (a) with respect to a center or facility referred to in that subsection—

(1) may be made only for the period applicable to the staffing grant made under part B, C, D, or F, as the case may be, with respect to such center or facility, and

(2) may not exceed whichever of the following is the lower: (A) 15 per centum of the costs with respect to which such other staffing grant is made, or (B) that percentage of such costs which when added to the percentage of such costs covered by such other staffing grant equals 100 per centum.

(c) For purposes of making initial grants under this section, there are authorized to be appropriated $5,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. There are also authorized to be appropriated for the fiscal year ending June 30, 1972, and for each of the next eight fiscal years such sums as may be necessary to continue to make grants under this section for projects which receive initial grants under this section from appropriations authorized for any fiscal year ending before July 1, 1973.

DEFINITION OF TECHNICAL PERSONNEL

SEC. 265. For purposes of this title, the term "technical personnel" includes accountants, financial counselors, medical transcribers, allied health professions personnel, dietary and culinary personnel, and any other personnel whose background and education would indicate that they are to perform technical functions in the operation of centers or facilities for which assistance is provided under this title; but such term does not include minor clerical personnel or maintenance or housekeeping personnel.

APPROVAL BY THE NATIONAL ADVISORY MENTAL HEALTH COUNCIL

SEC. 266. [Grants] (a) *Except as otherwise provided in subsection (b), grants* made under this title for the cost of construction and for the cost of compensation of professional and technical personnel may be made only upon recommendation of the National Advisory Mental Health Council established by section 217(a) of the Public Health Service Act.

(b) *Grants made under this title which are primarily intended for use in the prevention or treatment of alcohol abuse or alcoholism may be made only upon recommendation of the National Advisory Council on Drug Abuse and Drug Dependence established by section 217(a) of the Public Health Service Act.*

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

Mr. HUGHES. I yield to the distinguished Senator from Connecticut.

AMENDMENT NO. 1034

Mr. DODD. Mr. President, I submit an amendment and ask that it be printed.

The PRESIDING OFFICER. The amendment will be received, printed, and will lie at the desk.

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

Mr. HUGHES. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I shall not detain the Senate very long.

I am the ranking minority member of the Alcoholism and Narcotics Subcommittee headed by Senator HUGHES. We have worked very closely together. I support his amendment, as does each and every member of the Committee on Labor and Public Welfare. Indeed, it is the creation of all of us, under the very gifted and very effective leadership of Senator HUGHES.

I, too, as has Senator KENNEDY, have served on the Committee on the Judiciary. I have the highest regard for everything that Senator Dodd has done in the Judiciary Subcommittee on Juvenile Delinquency, including his work on narcotics.

I wish to recall to the Senate, to the eternal credit of the Senator from Connecticut (Mr. DODD) and his committee, that the first program inaugurated with any money was incorporated in a bill which did not cover narcotics and which the Senator from Arkansas (Mr. MCCLELLAN) actually sponsored, but was the result of Senator DODD's subcommittee which provided $15 million, as I recall it, and was the first financed program in this field. So that I should like to assure the Senator from Connecticut that there is not the remotest lack of understanding, appreciation, or even gratitude, in respect to the work already done. I do not believe that the amendment of the Senator from Iowa (Mr. HUGHES) would stand a chance were it not for the record which not only Senator DODD has made in the committee but which Senator DODD's subcommittee made for so many years in respect to this problem.

Mr. President, I am a cosponsor and strongly support amendment No. 1026 to strike title I of the Comprehensive Drug Abuse Prevention and Control Act of 1970—the drug abuse rehabilitation and prevention provisions—and substitute in lieu thereof a more comprehensive approach which would establish a major Federal commitment to promote effective narcotics addiction and drug abuse prevention, treatment, and rehabilitation programs.

In the sea of controversy over the deadly manmade plague—the narcotics addiction and drug abuse epidemic afflicting America and its young people—I believe this amendment stands out as an island of clarity. For the first time we would establish a massive, major national commitment to deter drug-related crime through prevention, treatment and rehabilitation rather than merely relying upon—to date—ineffective criminal incarceration. We search through and utilize the complex of social, psychological, cultural, and medical forces to understand why too many of our sons and daughters want to know no higher exhilaration than the synthetic kick at the end of a needle; rather than have the problem of narcotics addiction and drug abuse represent the end product of a purely criminal phenomenon.

There are, unfortunately, no totally reliable data on the prevalence of narcotics addiction and drug abuse. The National Institute of Mental Health estimates there are 100,000 to 125,000 active narcotic abusers in the United States. However, New York City alone has records of more than 40,000 heroin addicts, exclusive of addicts in prison or voluntary treatment, and John V. Lindsay, mayor of New York City, has testified that there are 100,000 addicts living in our city. The total number of nonnarcotic drug abusers, including those addicted or habituated to marihuana, LSD, sedatives, stimulants, and related drugs, and certain tranquilizers is estimated at between 250,000 and 500,000 persons nationally.

The number of juveniles and adults who have used marihuana at least once is conservatively estimated between 8 and 12 million.

The toll in economic terms has been set by the former Director of the National Institute of Mental Health, Dr. Yolles, in the range of $2 to $3 billion yearly.

In New York City alone, in the age group between 16 and 35, addiction is the largest single cause of accidental death and the total number of addicts who died last year is more than 1,000. The city's medical examiner's records indicate that 224 teenagers died of problems caused by heroin in 1969 and of these, 55 were less than 16 years old. In the first 8 months of 1970 there were 582 heroin deaths and of these, 149 were teenagers.

We cannot continue to quote the sad statistics and turn our backs on their substantive implications.

It would be ideal if treatment and rehabilitation for narcotics addiction and drug abuse could be handled through community mental health centers or in an institutional setting provided for by title I of the House bill. However, these establishment-oriented treatment and rehabilitation programs are but one facet of the urgently needed all-out effort. All the various types of prevention, treatment and rehabilitation programs are required to combat narcotics addiction and drug abuse. To date, the best possibility of reaching youthful addicts, abusers, and experimenters appears to be found in programs arising from community local initiative in response to specific aspects of narcotics addiction, drug abuse, and drug dependence problems. This amendment will offer maximum flexibility in dealing with narcotics addiction and drug abuse community problems at the local neighborhood and grassroots levels.

We are deeply concerned in New York City, in addition to our concern with people who use heroin, with the young people of our city who are experimenting with all kinds of drugs in all kinds of neighborhoods. I do not believe that anywhere in this Nation there are very many parents, regardless of their economic condition or their cultural backgrounds, who are not concerned that their own children, when they reach the age of 12—or perhaps even younger—might become involved with that kind of drug experimentation that would lead them into vicious and destructive drug scenes.

One of the more important prevention facilities that we have to deal directly with this problem are youth centers, located, for example in New York, throughout the city to deal with youngsters who are experimenting with drugs, who are "acting out" so we can get to them before they become deeply involved in the drug scene.

We have parent and citizens groups and offer orientation programs throughout New York City to show all citizens what can be done in terms of community involvement and to stop the spread of drug abuse.

We also have community orientation centers throughout the city where we have several hundred addicts in outpatient treatment, in addition to those in our Phoenix program, which I will describe shortly.

In addition, we have gone into more than 100 of my city's high schools and grammar schools in order to deal with the drug problem which exists there.

What we are attempting to do in our schools is, first, to bring to the teachers a sufficient knowledge of drugs so that they can begin at least to relate to the

students meaningfully on that level. Once they have acquired this knowledge of drugs, they then must acquire some degree of expertise in dealing with the kinds of problems that youngsters have in leaving drugs, to be able to help them to identify with youngsters leaving drugs and to refer them to our youth centers.

A program that we think will lead the way for the rest of the country is the Phoenix House program, which is considered to be the very finest rehabilitation program for drug addicts in the world. Phoenix Houses provide the setting for an addict to look into himself, to begin to deal with the problems and attitudes that have led him to use drugs and to behave in ways which are detrimental to society. In Phoenix Houses under the direction of professionals and trained ex-addicts and with the cooperation of other residents and former users in treatment, in these self-contained drug-free communities there quickly develops a sense of responsibility to himself, to his fellows and to the larger society around him—and drugs no longer play a role in his life.

There are but some of the narcotics addiction and drug abuse programs utilized in New York—there are many, many other street-front programs that play a vital role in the war against narcotics addiction and drug abuse. There are methadone maintenance programs, crisis intervention centers, 24-hour telephone counseling services, free clinic, peer group leadership programs; and various other excellent therapeutic communities such as Odyssey House. These individualized, highly structured—and all too often unstructured—programs are all, in their own way—making a significant contribution to the prevention, treatment, and rehabilitation of young people regrettably involved in the drug scene.

The extensive hearings, conducted by the Alcoholism and Narcotics Subcommittee—of which I am ranking minority member—on the extent and character of the narcotics addiction and drug abuse problem in the United States made one thing abundantly clear: Narcotics addiction and drug abuse is a national problem which does not recognize regional boundaries.

To make it possible for all States to stimulate prevention, treatment, and rehabilitation programs and share in Federal financial assistance, the amendment—in addition to the project grant program carrying authorizations for 3 years of $135 million—the annual establishes a formula grant program of $55,000,000 for 3 years. I might note that the substantial minimum State allotment, $200,000, is recognition of the deep and pervasive seriousness of the narcotics addiction and drug abuse problem, which is a blight upon all America, tragically afflicting our young people. It touches every sector of our society, from the dimly lit corridors of the urban slums to the shopping center parking lots of affluent suburban communities and rural America. It strikes at those in poverty, our middle class and the wealthy and has taken on the proportions of a national epidemic.

To be eligible for these Federal funds under the formula grant provisions of the amendment—whereby such allotment is to be made on the basis of relative population, financial need, and need for more effective prevention, treatment, and rehabilitation programs—each State must develop a drug abuse and drug dependence prevention, treatment and rehabilitation plan meeting certain basic requirements. The plans must designate a single State agency to administer the plan; provide for a State advisory council to oversee the plan; specify the needs of the State and its existing health facilities; meet certain standards of administration; provide required reports and information; and assure that Federal funds will be used to supplement rather than supplant non-Federal funds. The Secretary shall approve any State plan meeting the statutory requirements.

The substitute amendment for title I of H.R. 18583 will enable the Nation to embark on a broad program of prevention, treatment and rehabilitation and I urge all my colleagues to support its passage.

Mr. DODD. Mr. President, I thank the Senator from Iowa and the Senator from New York for their generous remarks about the small part I may have played. I want it to be understood by the Senator from New York, and certainly by the Senator from Iowa as well, that I am not opposed to the amendment. I have not taken a position with respect to it yet. But this is primarily a law enforcement bill.

Much remains to be done in the field of rehabilitation, research and reform—a vast amount of it.

Last January, when we debated the bill, I stated we should do that after we do this. Let us first get after the peddlers, those who are in the business of making addicts out of human beings. Come out with your bill on rehabilitation and I will support it. But let us give the Attorney General the weapon he needs most, the ability to strike down these opium peddlers, these drug peddlers who are international in character. That is what this bill is about. I have no argument with the Senator from Iowa. I understand very well, perhaps better than most, the need for rehabilitation and research, but this bill is not the place to accomplish those goals.

I tell you, the first thing to do, is to knock out those peddlers, those vicious criminals who prey upon society. Then we can turn our attention to the problems your bill embraces. I do not know why we did not get at it while my bill was being discussed in the House. As I told you in January and I meant every word of it. I will support you 100,000 percent. I want it to be understood that it is not the amendment I am against. The Senator from Iowa knows me better than that. I am not against the premise of the bill, but I am afraid this will kill the narcotics law enforcement bill in this Congress.

Mr. HUGHES. If I may speak here, let me say that it has already been put in the bill. It was placed in there by the House. All we are trying to do is to place in perspective, what is already in the bill.

Mr. DODD. My answer to that is, why did you not go about it in your own committee?

Mr. HUGHES. It is in the bill, as the distinguished Senator well knows.

Mr. DODD. You have your own committee.

Mr. HUGHES. The thesis of putting this in there is wrong, that it would be killed.

Mr. DODD. Why does the Senator object? Surely, it is not for the sake of argument. I have no victory to win.

Mr. HUGHES. Why does the Senator object?

Mr. DODD. Because we are throwing it into a law enforcement bill.

Mr. HUGHES. It is already in the bill, Senator.

Mr. DODD. The differences between what is in the bill now and what you want to put in are monumental.

Mr. HUGHES. Mr. President, the Senator from Connecticut is not trying to strike that, is he?

Mr. DODD. I will get to that when we get to the debate on the bill. However, I want to discuss the amendment of the Senator from Iowa.

Mr. HUGHES. I intend to support basically the Senator's section of it. I invite him to support mine.

Mr. DODD. Mr. President, I know that the Senator does. But let us talk about it as reasonable men.

Mr. HUGHES. I thought that was what we were doing. We are only reasonable when I agree with the Senator from Connecticut.

Mr. DODD. Generally. What are we arguing about? What are the basic questions here.

Mr. HUGHES. We are arguing about a year and a quarter of study by the Subcommittee of the Committee on Labor and Public Welfare of the U.S. Senate which unanimously supported the amendment offered by the Senator from New York (Mr. JAVITS), the junior Senator from Iowa, and all members of the committee.

Mr. DODD. Mr. President, I understand that. I think that the Senator from Iowa has done tremendous work. But does not the Senator from Iowa understand that we also hammered our bill out. We began on this 10 years ago. Ten years ago I introduced my first drug bill on the floor of the Senate. I have had three passed since then. I am no Johnny-come-lately to this business. I think that with respect to every drug amendment or law that has been passed during my time in Congress I have been either an author or a sponsor.

Mr. HUGHES. The Senator deserves great credit.

Mr. DODD. Mr. President, I am not asking for credit. But I thought, and I think now, that the first great problem was to strike at the peddling of drugs going on in our country and across the world. We can then turn to the problem of getting the victims straightened out. If we have a fire, we first put the fire out and then rebuild the structure.

That is what this is all about. The Senator refers to alcohol addicts. He is right. He knows how I feel about this matter. But there is no international peddling of alcohol. It does not come out

of Turkey. It is not shipped to Marseilles and made into something else and smuggled into this country. Alcohol is a terrible scourge. But it is not the same problem as drugs.

Let us get on to the business at hand. And then let us get at this equally primary problem of rehabilitation.

My affection for the Senator is well known. I almost called the Senator by his first name.

Mr. HUGHES. Mr. President, I think the Senator agrees with my amendment. I think that the Senator agrees basically with almost everything I intend to do.

Mr. DODD. I do. But this is the wrong place in which to do it.

Mr. HUGHES. Mr. President, it is already in the bill.

Mr. DODD. That is not a fair statement. I think it is wrong. I do not want to say tonight what my position will be. I am going to study it some more.

I must say that I commend the Senator from Iowa for his work in this field. It has been tremendous.

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

Mr. DODD. Mr. President, I want to say first to the Senator from New York that he is very generous, as always. He is a great figure in this battle.

I am not trying to compliment the Senator. I mean it.

Mr. JAVITS. Mr. President, I thank the Senator. He is very kind.

Mr. President, I want to make this observation. The Senator knows that we have really gone the route of seeking to catch and punish pushers and peddlers—the criminals who control the drug traffic. I learned, even when I was a Member of the other body, that this was so. We passed a bill called the Boggs bill, sponsored by Representative HALE BOGGS, which had a most severe penalty—life imprisonment. That did not seem to dam up the flow of narcotics nor the fast-spreading abuse of drugs.

The United States is engaged in diplomatic negotiations to curb international drug production, processing, transportation, and distribution. I was at the U.N. today at a luncheon given for the Senator from Rhode Island (Mr. PELL) and me. The discussion turned to the matter of the usefulness of the United Nations in respect to the control of international narcotics traffic.

We are talking about two things. We are talking about the customer of the pusher but more important than that, we are talking about an effort to rehabilitate the individual guilty of crime not because there are pushers around, but because the individual demands the services of the pushers.

It seems to me that there is complete consistency in going at this matter from both ends and that we have been much longer in pursuing the pusher and the dealer aspect and the punishment aspect than we have the rehabilitation aspect. In view of the fact that we made such relatively little progress with the former, perhaps, as I said when I was speaking to the Senator, he should prayerfully consider that there is a chance of one massive bill to do what needs to be done on both counts. Perhaps he should join with us in a magnificent effort to do it—to provide a Federal commitment—adequately funded—to the establishment and support of prevention, treatment, and rehabilitation programs, programs that foster the development of local initiative at the community level to respond to the problem and which to date appear to be successful in reaching out young people.

Mr. HUGHES. Mr. President, I should like to reply to the distinguished Senator from New York. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUGHES. Mr. President, I still have the floor, do I not?

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HUGHES. Mr. President, I agree entirely with what the distinguished Senator from New York has said. If we do not, in the proper fashion, begin to stop the input into the drug scene of America, we could have 20,000 narcotics agents and we would still have a geometric progression of this problem in the country.

Mr. JAVITS. Mr. President, does the Senator know what a friend of mine told me the other day? He said, "I do not know where narcotics are available. However, my 12-year-old son can lead me to where narcotics are available."

The kids are buying it every day in the streets.

Mr. DODD. That is what we are trying to stop.

Mr. JAVITS. But the Senator has been working admirably for years trying to stop the buyers and the pushers in the national and international trade. Here is a chance to do something in an impressive way. I think the country is ready to tackle it at the user's end, which has such a proliferating effect on this country. Public school children are involved.

Mr. DODD. Mr. President, the Senator knows that we passed the Narcotic Addict Rehabilitation Act.

Mr. JAVITS. We did not give it any money.

Mr. DODD. We did not give it enough money, and I have been fighting to change that. But the point is we passed bills out of our subcommittee, and the Senator from New York was a member of it. They had to do with rehabilitation. We have never just been hardheaded law-enforcement people.

I would like to see both things done, better treatment and better law enforcement. Certainly both need to be done.

Mr. HUGHES. Mr. President, as I understand, the Senator from Connecticut last July took the precise position that we were going to take tonight.

Mr. DODD. It was last January.

Mr. HUGHES. It was a long time ago.

Mr. President, I ask unanimous consent that at the conclusion of this colloquy a statement that would have been given by the chairman of the Labor and Public Welfare Committee had he been able to be present tonight be printed in the RECORD. He is necessarily absent from the floor of the Senate. He supports the amendment.

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

The statement of Senator YARBOROUGH was ordered to be printed in the RECORD, as follows:

HUGHES-DOMINICK AMENDMENT NEEDED IMPROVEMENT IN DRUG BILL

Mr. YARBOROUGH. Mr. President, I rise in support of the amendment sponsored by Senators Hughes and Dominick of which I am a cosponsor.

This amendment is a badly needed addition to the arsenal of weapons which are established by H.R. 18583 to combat drug abuse in the United States. While the amendment is long and appears complex, its purposes are clear and simple.

It would establish a National Institute for the Prevention and Treatment of Drug Abuse to center educational, research, and training activities in the health area of drug control.

It would provide formula grants for fiscal years 1971, 1972, and 1973, in the amount of $10 million, $20 million, and $25 million with no state to receive less than $200,000 for each fiscal year and project grants of $20 million, $45 million, and $70 million.

It would establish a coordinating council of Federal, state and local officials to insure broad governmental coordination of drug prevention, treatment and rehabilitation programs.

It would require that the federal government establish prevention and treatment programs for all of its own civilian employees.

And finally, it would retain all of the provisions presently in title I of the House bill as well as H.R. 14252 which passed the House of Representatives and was favorably reported by the Committee on Labor and Public Welfare on September 28, and is presently on the Senate Calendar.

Today the United States is a drug culture. All advertising media almost constantly tell us that to solve any problem just take a pill. They cure headaches, depression, overweight, underweight, and to use the huckster phrase, "when used under proper medical supervision," will make you feel either high or low. Is it any wonder that the illegal use of drugs especially those which make people feel "high," has become a national problem?

Our present statistics on drug abuse, as frightening as they are—and they include estimates of as high as 600,000 heroin users who are responsible for over 50% of all crimes against property—are really just the tip of the iceburg which is visible. The National Institute of Mental Health has estimated that at least 15 million people have smoked marihuana at least once. There must be thousands of at least occasional users of drugs who are never discovered. A recent survey of 200 college campuses indicated that 18 percent of the college population surveyed had tried amphetamines and 15 percent had tried barbiturates.

The problem is spreading. It is not confined to one region of the country or to one economic or social group. None of us who has children or grandchildren can be sure that they too are not experimenters in these dangerous drugs. And penalties, while they may be helpful, are not enough. Education in the potential dangers of drug use and assistance to individuals who are taking drugs but want to stop must also be part of the package. The Hughes-Dominick amendment attempts to allow local communities to provide that assistance. It attempts to give local communities which want to solve their drug problems, not only the financial assistance which federal government has traditionally given in the health area, but also the technical assistance and expertise which is needed to stop the spread of drugs throughout our society.

Mr. HUGHES. Mr. President, as I previously advised the Senate, on August 27–28 three members of the Special Subcommittee on Alcoholism and Narcotics—the Senator from Colorado (Mr. DOMINICK), the Senator from Pennsylvania (Mr. SCHWEIKER), and I—visited Fort Bragg, N.C., to observe firsthand the Army's only project for the treatment and rehabilitation of so-called hard-core drug addicts among its ranks. Our informal report on this visit—together with ensuing colloquy with the distinguished chairman of the Armed Services Committee, Mr. STENNIS; with the ranking minority members of our subcommittee, the distinguished senior Senator from New York (Mr. JAVITS); and with the distinguished senior Senator from Illinois Mr. PERCY—appears at page 30565 of the RECORD for Tuesday, September 1.

As was noted then, this treatment-rehabilitation project is part of a multi-sided program to deal with the drug abuse problem at Fort Bragg, called "Operation Awareness." It is staffed by Army professional personnel at Fort Bragg who took on the job as extra duty. It is housed in two abandoned barracks buildings, and to date its total fund of maintenance and operating capital has consisted of about $2,000 contributed by the Fort Bragg Officers' Wives Club and an on-post service organization known as the Thrift Shop.

Senators will recall that I urged the Congress at that time to provide the commanding general of Fort Bragg, Lt. Gen. John J. Tolson, Jr., with the funds and personnel he needs to put this experimental project on a sound footing in the hope that it may show the Army, and ultimately the country, a way whereby seemingly hopeless drug addicts may be restored to a useful life. Accordingly, I requested the Department of the Army to provide an estimate of these costs for the remainder of fiscal year 1971.

General Tolson estimated that it would take $101,390, including onetime engineering, equipment, and improvement costs totaling $45,000; operating costs for the maintenance of wards totaling $2,790; supplies costing $12,000, and $41,600 in salaries for six civilian personnel. He also requested 51 additional military personnel for this phase of "Operation Awareness."

Mr. President, the Department of the Army has advised me that it has made this sum of $101,390 available to General Tolson for the purposes outlined, and has authorized him to draw the additional military personnel he needs from various individual units at Fort Bragg.

This is good news. It means not only that the good work inspired by General Tolson and being carried out by the dedicated men under his command will continue. But also that the Department of the Army has come forward with the kind of support that counts—with money. I commend the Army for the progressive, enlightened position it has taken, and I am very hopeful that this investment, small though it may seem, will return dividends in lives salvaged many times over.

The Fort Bragg experiment is receiving due recognition from other than the Senate, Mr. President. On September 21, the Washington Post published an article by Staff Writer Bernard D. Nossiter which, in my opinion, accurately describes "Operation Awareness," why it came about and how it works. I ask unanimous consent that it be placed in the RECORD at this point.

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

"OPERATION AWARENESS" AT FORT BRAGG: ARMY TRYING TO RECLAIM GI ADDICTS

(By Bernard D. Nossiter)

FORT BRAGG, N.C.—Eight GIs, in T-shirts and denims slipped into the darkened room and slumped down on mattresses. Acid rock poured from a tape recorder. A revolving, stroboscopic light played on the psychedelic designs in luminous paint on the walls.

The GIs, mostly around 20 years old, joshed back and forth. "Man, you gonna get stoned." Each took a hypodermic needle and inserted it in a vein on his arm. For the first few minutes, a glazed and ecstatic look shone on their faces. Then, one by one, they reached for plastic bags and spasmodically vomited into them.

This scene did not take place in one of the hundreds of "pads" or rented rooms where off-duty soldiers gather in nearby Fayetteville. It was staged in Ward 29 of Ft. Bragg's old Army hospital and under the eyes of a Medical Corps major, a male nurse who prepared the injections and a visiting reporter.

The strange room, not to be found in any military manual, is the "Shooting Gallery" of "Operation Awareness," a bold experiment by the military here to reclaim rather than punish soldiers addicted to hard drugs.

The patients, all volunteers, are going through a course of undetermined length and uncertain outcome. Similar "shoot up" sessions are held in the "gallery" every Tuesday and Friday afternoon.

The young soldiers inject themselves with a short acting barbiturate, Brevital, to induce a euphoric state of "high." Their nausea is created by another drug, Ipecac, which they take in a soft drink along with the injection.

The designer of this routine is an earnest, 33-year-old Army psychiatrist, Maj. Richard Crews of Scarsdale, N.Y. He hopes that his heroic technique will create a response like that achieved by Pavlov and his salvating dogs. In time, Crews thinks, his addict-patients will associate the hypodermic needle with acute discomfort rather than extreme pleasure.

The injection session is only one element—albeit the most dramatic—of an elaborate rehabilitation program linked to an intricate system of penalties and rewards. In turn, the reclamation scheme is just part of a much broader and path-breaking course of education aimed at all the 38,000 soldiers American Army base.

Nobody here pretends to know whether any of it will work. Col. Charles K. Nulsen, a decorated West Pointer, Ranger and airborne soldier, the ranking officer on the "Ft. Bragg Drug Abuse Committee," says frankly: "We haven't made a dent in the drug scene yet."

Some 52 soldiers, for example, have turned themselves in for varying periods to Major Crews' rehabilitation course. If all goes well, the first 'graduate,' a 19-year-old who began shooting heroin three years ago in Baltimore, will return to regular duty just this week.

ABOUT-FACE BY ARMY

But the effort being made here represents an astonishing about-face by the Army, a recognition that the drug culture is so pervasive among young soldiers that the traditional reliance on threat and punishment can't cope with it.

The largest unit here is the 82d Airborne Division. Last April, its commanding officer, Maj. Gen. John R. Deane, Jr., wrote:

"The use of drugs is accepted by the average soldier; thus at the present time there is little or no self-policing in the units . . . Rightly or wrongly, marijuana has been put in the same class as alcohol and cigarettes. Efforts to change this attitude in the civilian community have met with little success. Efforts to change this attitude in the Division have not been successful to date and even with an improved educational program it is highly doubtful that any significant attitude change would result."

In effect, Fort Bragg is tacitly tolerating the soft drug, marijuana, and aiming its campaign at hard drugs, like LSD and heroin.

DRUG USE ESTIMATES

Nobody here has any firm figures on the use of drugs but all authorities agree that it is widespread. Col. Nulsen hazards a guess that from 50 to 70 per cent of Bragg's soldiers have at least taken a marijuana cigarette, that perhaps 10 per cent smoke as freely as an older generation drinks a highball or cocktail and—the statistic that deeply concerns the command here—two or three per cent are "strung out" on heroin, amphetamines and other hard drugs. That means 800 to 1,000 addicts on this one post.

This is not a uniquely military phenomenon and no clear line can be drawn between the drug scene at Fort Bragg and at Fayetteville. GIs and civilian youngsters gather every evening in Rowan Park. There, drug use is so prevalent that the few pine-shaded acres are popularly known as "Skag Park." "Skag" is the current argot for heroin.

Cumberland County, which embraces Fayetteville and Fort Bragg, has a population of about 225,000. County authorities have officially calculated the number of "drug abusers" at 25,000. Of ths group, it is estimated that 10,000 are using hallucinogens, up to 300 are addicted to heroin and another 700 are "on the road to addiction."

These figures are not drawn from a metropolis, Fayetteville, with a population of 65,000, is Cumberland County's biggest town by far.

Doran Berry, who was Cumberland County's chief prosecuting attorney until two weeks ago and now heads its Narcotics Commission, says that the penetration of drugs in the area is "fantastic." "What is frightening," he says, "is that it is now easier to obtain heroin than marijuana."

Narcotics of one kind or another, he says, have turned up in junior high schools. Some 10-year-olds have been found drinking a patent medicine for asthma sufferers that contains opiates

According to Berry and Bragg's Provost Marshal, Col. Hervey Keator, the drugs flow in from a bewildering number of sources. Heroin comes from Richmond, Washington, Atlanta and New York; cocaine is imported from Miami; marijuana comes from "everywhere," in the mail, even in cookies sent to soldiers from home.

The flow is beyond the resources of any organized ring. As former prosector Berry says: "Everybody says, 'get the pusher.' But they're a dime a dozen. It's the box next to you in the barracks."

PROFITS CITED

The hard drugs can yield enormous profits. In "Skag Park," a 23-year-old airman from New York tells a properly vouched for reporter that he used to make week-end trips

home to buy half a "brick" of heroin for $600. He could, he said, divide this into 750 "caps" and sell them to fellow GIs for $8 to $10 each.

It is against this background that Bragg's commander, Lt. Gen. John J. Tolson, determined to launch a new attack last spring.

The precipitating factors were these: three GIs had died from overdoses of heroin; the post hospital in March reported an eight-fold increase in infectious hepatitis, from three cases to 25, probably caused by dirty hypodermic needles.

Tolson, another heavily decorated airborne officer, is a soft-spoken man of 54 who makes it a practice to speak privately with every soldier in his command about to receive a dishonorable, undesirable or bad conduct discharge. From these talks, he said, he began to realize the breadth of the drug milieu. For confirmation, he turned to Pat Reese, a reporter for the Fayetteville Observer. Reese is a former drug user who has played a central role here as a channel between the drug world and the community's military and civilian leaders.

From all this, Tolson concluded:

"It doesn't make sense. A guy who's an addict wants help. But we discharge him into a community that's less equipped to take care of him than we are. I felt like there's something we should do besides giving him an undesirable discharge."

Tolson did not ask the Pentagon for permission to launch a rehabilitation scheme, although he informally advised the Army's Surgeon General of his plan. "I've spent most of my service doing something I wasn't supposed to," he acknowledged with a faint smile.

He first ordered a change in Bragg's "education" program, an affair that consisted largely of military police officers lecturing soldiers on the punishments that lay in store for drug users and sellers. "Fear is the one thing you don't want with young people," Tolson observed.

SHAPING NEW PROGRAM

He and his staff are still shaping a new program aimed at two distinct audiences. One consists of the senior unit commanders and non-commissioned officers whose experience sanctions alcohol but is totally devoid of either sympathy or knowledge about drugs.

Tolson regards their education as a necessary component of leadership and says: "You'll get better morale, respect from your troops if they feel you're trying to do something for them, if your men know that you're interested in their welfare."

The second audience embraces the young soldiers in his command.

To reach these groups, Tolson's staff has staged "rap sessions," open-ended discussions, conducted not only by medical officers and academic experts but also by ex-addicts.

In addition, the command here is turning another unused ward into a "rap house" where soldiers troubled about their use of drugs can find coffee, companionship and sympathetic listeners. In time, Tolston's aides hope to create local "rap houses" in perhaps a dozen locations on this huge base, performing similar services.

This past week, the principal units here were instructed to nominate "Awareness Counselors," young men outside the chain of command, with some formal background in the social sciences, enjoying the trust of their peers and capable of advising soldiers caught in the drug maelstrom.

By far the most radical feature of "Operation Awareness" is the reclamation scheme in Ward 29.

MOST PATIENTS DESPERATE

Typically, a patient chooses this course in desperation. Paul M., a 22-year-old from Boston, came in four weeks ago because, "Man, I was dead—really dead." Paul had suffered a cardiac arrest, a heart stoppage, in "Skag Park" from a heroin overdose. He had been barely saved by mouth-to-mouth resuscitation.

Joe D., the first scheduled 'graduate,' had been absent without leave for 24 days, when he looked into his future and "I saw nothing." At his parents' urging, he came back and turned himself in to the course.

The first three or four days, a new patient is detoxified or rid of the harmful chemicals in his blood stream. He is given doses of methadone to relieve his withdrawal stress (a drug whose use is still forbidden in North Carolina's civilian world) and allowed to do largely as he pleases.

Thereafter, he is offered a regimen that amounts to an elaborately calibrated carrot and stick. He is awarded "points" for a wide range of military and non-military activities: making his bed, keeping his bed area neat, washing an ambulance, helping at clerical chores, painting a picture, making a model, attending a "shooting" session, passing a high school or college course and watching television, playing cards, receiving a visitor, making a telephone call.

As a patient "earns" points, he passes on to more demanding tasks and wins a corresponding measure of greater freedom and responsibility. No punishment is visited on those who drop out, and most of the 52 have as the program increased in rigor. Col. Keator, the Provost Marshal, says he and his men scrupulously stay way from the ward, although arrested drug users are a major source of leads to drug sellers.

No one knows whether this technique will free an addict from his addiction. Maj. Crews, psychiatrist in charge, says that at least four former patients have gone back to the hard drugs that brought them to his ward.

MAJOR DEFENDS TECHNIQUE

However, he dismisses any suggestion that his Pavlovian "shooting session" reflects an over-simple, mechanistic model of human life. He cites the literature of behaviorist psychology to support his view.

Crews is equally unsympathetic to the notion that his system of gains and losses simply substitutes one form of dependency for another.

He argues that drug users are essentially immature. "We are dealing with adolescent patterns. It is most important for children and adults to have clear limits. You make their world safe for them with limits. There is nothing compulsory in this. But we do make clear the costs and rewards for acts. The clearer this is, the more effectively you'll reorganize behavior."

Beyond questions of technique lie a larger question, whether a military establishment is the proper institution to attempt sensitive social, psychological and medical change.

The patients in Ward 29 express few doubts. Joe D., there since July 14, says flatly: "It's damn good." Paul M., the inmate of four weeks, says: "I had to do this. It's a fine program—if it doesn't become too commercialized or militarized."

Gen. Tolson is equally emphatic. "Civilian society," he says, "isn't equipped to take care of this. The soldier is here and there's a big taxpayer investment in him. Rather than send him outside, let's take that man so he can perform."

Outside the Fort, Berry of the Narcotics Commission, agrees.

"I'm delighted to see this," he says. "For too long, there has been a curtain between the military and the civilians. We couldn't get doctors to staff a program like this. The advantages far outweigh the disadvantages."

At a hangout for drug scene participants near Skag Park, 23-year-old Bill, a soldier from Camden, N.J. and a sometime user of both hard and soft drugs, says:

"Sure this is a good thing. There'll be some con artists in it and the word has spread you can get drugs out of it. But anything's better than being busted (arrested) and it might help some guys who are strung out."

AMENDMENT NO. 1026

Mr. HUGHES. Mr. President, on behalf of the Senator from California (Mr. CRANSTON), myself, and all the members of the Committee on Labor and Public Welfare, I would like to lay before the Senate amendment No. 1026 and make it the pending business.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. HUGHES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

Amendment No. 1026 is as follows:

In the table of contents of the bill, strike out all that part pertaining to title I and insert in lieu thereof the following:

"TITLE I—PREVENTION AND REHABILITATION PROGRAMS RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"PART A—FINDINGS AND DECLARATION OF PURPOSES

"Sec. 101A. Findings.
"Sec. 102A. Declarations.

"PART B—DEFINITIONS

"Sec. 111. Definitions.
"Sec. 112. Additional definitions.

"PART C—NATIONAL INSTITUTE FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"Sec. 121. Establishment of the Institute.
"Sec. 122. Administrative functions of the Secretary.
"Sec. 123. Planning functions of the Secretary.
"Sec. 124. Coordination functions of the Secretary.
"Sec. 125. Statistical functions of the Secretary.
"Sec. 126. Research functions of the Secretary.
"Sec. 127. Training functions of the Secretary.
"Sec. 128. Educational functions of the Secretary.
"Sec. 129. Reporting functions of the Secretary.

"PART D—PREVENTION AND TREATMENT FOR FEDERAL EMPLOYEES

"Sec. 131. Drug abuse and drug dependence among Federal Government employees.
"Sec. 132. Confidentiality of records.

"PART E—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

"Subpart I—Comprehensive State Plans

"Sec. 141. Comprehensive State plans.

"Subpart II—Formula Grants

"Sec. 142. Authorization.
"Sec. 143. State allotment.
"Sec. 144. State plans.
"Sec. 145. Applications and conditions.

"Subpart III—Project Grants

"Sec. 146. Authorizations.
"Sec. 147. Grants and contracts for the prevention and treatment of drug abuse and drug dependence.
"Sec. 148. Application for financial assistance from units of local government and private organizations.
"Sec. 149. Approval by National Advisory Council on Drug Abuse and Drug Dependence.

"Subpart IV—General

"Sec. 150. General.
"Sec. 150A. Admission of drug abusers and drug dependent persons to private and public hospitals.

PART F—THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE
"Sec. 151. Establishment of Council.
"Sec. 152. Approval by Council of certain grants under Community Mental Health Centers Act.
"PART G—INTERGOVERNMENT COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE
"Sec. 161. Establishment of Council.
"Sec. 162. Functions of Council.
"PART H—PROGRAMS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT RELATING TO DRUG ABUSE AND DRUG DEPENDENCY
"Sec. 171. Broader authority under Community Mental Health Centers Act.
"Sec. 172. Broader treatment authority in Public Health Service hospitals for persons with drug abuse and drug dependency problems.
"Sec. 173. Research under the Public Health Service Act in drug abuse and drug dependency.
"PART I—GENERAL
"Sec. 181. Saving provision.
"Sec. 182. Records.
"Sec. 183. Payments."

In the text of the bill, strike out all of title I and insert in lieu thereof the following:

"TITLE I—PREVENTION AND REHABILITATION PROGRAMS RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"PART A—FINDINGS AND DECLARATION OF PURPOSES

"FINDINGS

"SEC. 101A. The Congress finds that—

"(a) Drug abuse and drug dependence are rapidly increasing throughout the country. Drug abuse can seriously impair health, and can lead to drug dependence. Drug dependence is an illness or disease, which requires a broad range of health and rehabilitation services for treatment.

"(b) Existing laws and their implementation have not been effective to prevent drug abuse and drug dependence or to provide sufficient education, treatment, and rehabilitation of drug abusers and drug dependent persons. Increasing education, treatment, and rehabilitation services, and coordination of efforts, offer the best possibility of reducing drug abuse and drug dependence. A major commitment of health and social resources and Government funds is required to institute an adequate and effective Federal program for the prevention and treatment of drug abuse and drug dependence.

"(c) There is a lack of authoritative information and creative projects designed to educate students and others about drugs and their abuse. High priority should be given to the development, evaluation, and dissemination of educational and informational materials.

"(d) Drug dependent persons commit a high percentage of the serious crime in many cities in order to secure funds with which to satisfy their habit. Criminal incarceration without appropriate treatment has proved ineffective to deter drug related crime. Effective treatment services and successful rehabilitation offer the best possibility of avoiding a high rate of recidivism.

"(e) Present Federal programs for drug abuse and drug dependence should have a high level of priority and should be closely coordinated within the Government. If Federal research, social, health, and rehabilitation laws are adequately used to attack drug abuse and drug dependence, this will contribute to the recognition of responsibility for meeting these problems by public and private State and local agencies.

"(f) Federal officials must effectively handle drug abuse and drug dependence among those for whom the Government has special responsibilities—civilian employees, military personnel, veterans, Federal offenders, American Indians, and Alaskan Natives.

"(g) Drug abusers and drug dependent persons can be best treated and rehabilitated through effective community-based programs, some of which provide a comprehensive range of services and which are integrated with and involve the active participation of a wide range of public and nongovernmental agencies, and some of which provide a more selective range of services arising from local initiative, educational, and peer group assistance programs. Existing treatment and rehabilitation programs are now inadequate to meet the growing demands for such services.

"(h) There is a critical shortage of professional, scientific, educational, and other personnel trained to deal effectively with drug abuse and drug dependence.

"DECLARATIONS

"SEC. 102A. The Congress declares—

"(a) There shall be established and maintained in the Public Health Service, a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence through which the Secretary shall coordinate all Federal health, rehabilitation, and other social programs related to the prevention and treatment of drug abuse and drug dependence and administer the programs and authorities established by this title.

"(b) An increased effort should be made to encourage the development of new and improved curriculums on the problems of drug abuse; to demonstrate the use of such curriculums in model educational programs, and to evaluate the effectiveness thereof; to disseminate curricular materials and significant information for use in educational programs throughout the Nation; to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; and to offer community education programs for parents and other adults on drug use and abuse.

"(c) Major Federal action and Federal assistance to State and local programs shall be undertaken to engage in and encourage planning, coordination, statistics, research, training, education, and reporting with respect to drug abuse and drug dependence, and to provide equal access to humane care, effective treatment, and rehabilitation for all drug abusers and drug dependent persons regardless of their circumstances.

"(d) Research relating to drug abuse and drug dependence and to controlled substances shall be fostered and assisted, and medical practitioners and other qualified investigators shall be encouraged and protected in their research efforts.

"(e) In addition to the provisions of this title, all other Federal legislation providing for Federal or federally assisted State research, prevention, treatment, or rehabilitation programs in the fields of health, education, welfare, and rehabilitation shall be utilized to reduce drug abuse, drug dependence, and drug-related crime.

"PART B—DEFINITIONS

"DEFINITIONS

"SEC. 111. The definitions in title II of this Act shall also apply for purposes of this title.

"ADDITIONAL DEFINITIONS

"SEC. 112. As used in this title:

"(a) 'Court' includes all Federal courts, including any United States magistrate.

"(b) 'Department' means the Department of Health, Education, and Welfare.

"(c) 'Director' means the Director of the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence.

"(d) 'Drug abuser' means any person who uses any controlled substance under circumstances that constitute a violation of law.

"(e) 'Drug dependent person' means a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on a continuing basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"(f) 'Emergency care service' includes all appropriate short-term services for the acute effects of drug abuse and drug dependence, which (1) are available twenty-four hours a day, (2) are community based and located so as to be quickly and easily accessible to patients, and (3) provide drug withdrawal and other appropriate medical care and treatment, professional examination, diagnosis, and counseling with respect to possible drug dependence, and referral for other treatment and rehabilitation.

"(g) 'Inpatient services' includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends full time in a treatment institution.

"(h) 'Institute' means the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence in the Public Health Service.

"(i) 'Intermediate care services' includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends part time in a treatment facility (including but not limited to a therapeutic community or halfway house which is community based and located so as to be quickly and easily accessible to patients.

"(j) 'Outpatient services' includes all treatment and rehabilitation services (including but not limited to clinics, social centers, vocational rehabilitation services, welfare centers, and job referral services) for drug abuse and drug dependence provided while the patient is not a resident of a treatment facility which are community based and located so as to be quickly and easily accessible to patients.

"(k) 'Peer group assistance' includes all prevention, treatment, and rehabilitation services (including but not limited to telephone counseling and information services, informal, open-admission facilities for support, guidance, referral, and temporary residence and therapeutic, self-help, residential facilities) for drug abuse and drug dependence primarily organized and operated by persons from similar social, cultural, and age backgrounds as those of the persons served under any such program, in facilities which are community based and located so as to be quickly and easily accessible to the persons served.

"(l) 'Prevention and treatment' includes all appropriate forms of educational programs and services (including but not limited to radio, television, films, books, pamphlets, lectures, adult education, and school courses); planning, coordinating, statistical, research, training, evaluation, reporting, classification, and other administrative, scientific, or technical programs or services; and screening, diagnosis, treatment (emergency care services, inpatient services, intermediate care services, and outpatient services, vocational rehabilitation care services, and outpatient services), vocational rehabilitation, job training and referral, and other rehabilitation programs or services; but does not include law enforcement activities.

"(m) 'Secretary' means the Secretary of Health, Education, and Welfare.

"PART C—NATIONAL INSTITUTE FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF THE INSTITUTE

"SEC. 121. (a) There is hereby established within the Public Health Service a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence to administer the programs and authorities assigned to the Secretary by this title. The Secretary, acting through the Institute, shall develop and conduct a comprehensive health, education, research, and rehabilitation program for the prevention and treatment of drug abuse and drug dependence.

"(b) The Institute shall be under the direction of a Director, who shall be appointed by the Secretary.

"(c) The Institute and its programs and services shall be staffed with an adequate number of personnel, who shall possess appropriate qualifications and competence, and some of whom may formerly have been drug abusers or drug dependent persons. Prior drug related criminal arrests or convictions shall not be a bar to such employment.

"ADMINISTRATIVE FUNCTIONS OF THE SECRETARY

"SEC. 122. It shall be the duty of the Secretary, acting through the Institute, with respect to his administrative functions to—

"(a) assist Federal departments and agencies in the development and maintenance of appropriate prevention, treatment, and rehabilitation programs and services in accordance with section 124(a) of this title;

"(b) review and provide in writing an evaluation of the adequacy and appropriateness of the provisions relating to the prevention and treatment of drug abuse and drug dependence of all comprehensive State health, welfare, and rehabilitation plans submitted to the Federal Government pursuant to Federal law, including but not limited to those submitted pursuant to section 5(a) of the Vocational Rehabilitation Act, section 141 of this title, section 604 of the Public Health Service Act, section 1902 of title XIX of the Social Security Act, and section 204 of part A of the Community Mental Health Centers Act;

"(c) administer the grants and contracts authorized under part E of this title; and

"(d) provide assistance to any other service or program, or take any other action, consistent with the intent and objectives of this title.

"PLANNING FUNCTIONS OF THE SECRETARY

"SEC. 123. It shall be the duty of the Secretary, acting through the Institute, with respect to his planning functions to—

"(a) develop a detailed and comprehensive Federal drug abuse and drug dependence prevention and treatment plan to implement the objectives and policies of this title. The plan shall be submitted to Congress as soon as practicable, but not later than one year after the enactment date of this title. Other responsibilities of the Secretary, as set out in this title, shall not be interrupted or delayed pending the initial development of such a plan. It shall be reviewed annually and submitted to Congress with any appropriate revisions as part of the Secretary's annual report. The Secretary shall, in developing the comprehensive Federal plan, consult and collaborate with all appropriate public and private departments, agencies, institutions, organizations, and individuals. The plan shall specify how all available health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal legislation, are to be utilized;

"(b) develop model drug abuse and drug dependence prevention and treatment plans for State and local governments, reflecting the social, geographic, and economic variables of drug and drug dependence problems, and utilizing the concepts incorporated in the comprehensive Federal plan. The model plans shall be reviewed on a periodic basis and revised to keep them current. They shall specify how all types of community resources and existing Federal legislation may be utilized;

"(c) provide assistance and consultation to State and local governments, public and private agencies, institutions, organizations, and individuals with respect to the prevention and treatment of drug abuse and drug dependence; and

"(d) develop models of drug abuse and drug dependence treatment and rehabilitation legislation for State and local governments, which utilize the concepts incorporated in this title.

"COORDINATION FUNCTIONS OF THE SECRETARY

"SEC. 124. It shall be the duty of the Secretary, acting through the Institute, with respect to his coordinating functions to—

"(a) upon request, assist the Civil Service Commission, the Department of Defense, the Veterans Administration, and other Federal departments and agencies in the development and maintenance of appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and drug dependence pursuant to part D of this title;

"(b) serve in a consulting capacity to all Federal courts, departments, and agencies, and to be responsible for assisting in the development and coordination of a full range of programs, facilities, and services available to them for education, diagnosis, planning, counseling, treatment, and rehabilitation with respect to the drug abuse and drug dependence problems they encounter;

"(c) coordinate all Federal social, rehabilitation, and other efforts to deal with the problem of drug abuse and drug dependence;

"(d) encourage and assist State and local government programs and services, and programs and services of public and private agencies, institutions, and organizations, for the prevention and treatment of drug abuse and drug dependence;

"(e) stimulate more effective use of existing resources and available services for the prevention and treatment of drug abuse and drug dependence;

"(f) cooperate with the National Advisory Council on Drug Abuse and Drug Dependence, the Civil Service Commission, and other appropriate Federal departments and agencies, to develop a policy consistent with this title with regard to Federal employees who are drug abusers or drug dependent persons, involving appropriate programs and services for the prevention and treatment of drug abuse and drug dependence among such employees;

"(g) assist State and local governments in coordinating programs among themselves for the prevention and treatment of drug abuse and drug dependence; and

"(h) after consulting with national organizations representative of persons with knowledge and experience in the treatment of drug dependence, report from time to time to the Congress on appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of drug dependent persons.

"STATISTICAL FUNCTIONS OF THE SECRETARY

"SEC. 125. It shall be the duty of the Secretary, acting through the Institute, with respect to his statistical functions to—

"(a) gather and publish statistics pertaining to drug abuse, drug dependence, and drug related problems; and

"(b) promulgate regulations specifying uniform statistics to be obtained, records to be maintained, and reports to be submitted, on a voluntary basis by public and private departments, agencies, organizations, practitioners, and other persons with respect to drug abuse, drug dependence, and drug related problems. Such statistics and reports shall not reveal the identity of any patient or drug dependent person or other confidential information.

"RESEARCH FUNCTIONS OF THE SECRETARY

"SEC. 126. (a) It shall be the duty of the Secretary, acting through the Institute, with respect to his research functions to—

"(1) conduct and encourage all forms of research, investigations, experiments, and studies relating to the cause, epidemiology, sociological aspects, prevention, diagnosis, and treatment of drug abuse and drug dependence;

"(2) conduct, and encourage and assist others to conduct, all forms of research, investigations, experiments, and studies relating to the toxicology, pharmacology, chemistry, effects on the health of drug abusers, and danger to the public health, of controlled substances;

"(3) coordinate such research with research conducted by the Institute and with research conducted by other Federal, State, and local public and private nonprofit agencies, institutions, organizations, and individuals. To facilitate this activity, the Secretary shall establish and maintain a complete and current register of all medical practitioners and other qualified investigators engaged in any form of or research on controlled substances;

"(4) make available research facilities and resources of the Administration to appropriate authorities, health officials, and individuals engaged in investigations or research related to the purposes of this title. Such resources shall include the maintenance of an adequate supply of controlled substances for investigational and research purposes, and the establishment of criteria pursuant to which any registered investigator is to be authorized to manufacture or otherwise acquire sufficient controlled substances for his legitimate investigational and research needs;

"(5) make grants to public and private nonprofit agencies, organizations, and institutions, and contracts with public and private agencies, institutions, and organizations, and individuals for such research;

"(6) establish an information center on such research, which will gather and contain all available published and unpublished data and information. All Federal departments and agencies shall send to the Institute any unpublished data and information pertinent to the cause, prevention, diagnosis, and treatment of drug abuse and drug dependence, and the toxicology, pharmacology, epidemiology, incidence of drug abuse and drug dependence, effects on the health of drug abusers, and danger to the public health of controlled substances, and the Institute shall make such data and information widely available;

"(7) establish and maintain research fellowships in the Institute and elsewhere, and provide for such fellowships through grants to public and private nonprofit agencies, institutions, and organizations;

"(8) investigate methods for determining more rapid and precise methods for determining the extent of drug use by an individual in a given time period and the effects which individuals are likely to experience from such use, and publish on a current basis information concerning uniform methodology and technology for making such determinations;

"(9) evaluate existing and proposed new programs and services for the prevention and treatment of drug abuse and drug dependence.

"(b) Any information obtained through investigation or research conducted pursuant to this title shall be used in ways so that no name or identifying characteristics of any person shall be divulged without the approval of the Secretary and the consent of the person concerned. Persons engaged in research pursuant to this section shall protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons engaged in such research shall protect the privacy of such individuals and may not be compelled in any Federal, State, civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

"TRAINING FUNCTIONS OF THE SECRETARY

"SEC. 127. It shall be the duty of the Secretary, acting through the Institute, with respect to his training functions to—

"(a) establish interdisciplinary and bilingual training programs for professional and paraprofessional personnel with respect to drug abuse and drug dependence;

"(b) encourage the establishment of training programs, including interdisciplinary and bilingual training programs, for professional and paraprofessional personnel, including peer group assistance personnel, by State and local governments and by public and private educational institutions and agencies with respect to drug abuse and drug dependence; and

"(c) establish and maintain training fellowships in the Institute and elsewhere, and provide for such fellowships through grants to public and private nonprofit agencies, institutions, and organizations.

"EDUCATIONAL FUNCTIONS OF THE SECRETARY

"SEC. 128. It shall be the duty of the Secretary, acting through the Institute, with respect to his educational functions to—

"(a) develop, assist others to develop, and encourage the development, of curricula on the use and abuse of drugs for utilization in elementary, secondary, adult and community education programs. Such curricula should reflect the social, geographical, and economic variables of drugs usage and abuse, include relevant data and other information, and include bilingual curricula;

"(b) develop, assist others to develop, and encourage the development of curricula on the use and abuse of drugs for utilization by parent-teachers associations, adult education centers, private citizen groups, community leaders and other parents and adults. Such curricula should reflect the social, geographical, and economic variables of drug usage and abuse, include relevent data and other information, and include bilingual curricula;

"(c) develop, assist others to develop, and encourage the development of a broad variety of information and educational materials for use in all media to reach all segments of the population that can be utilized by public and private agencies, institutions, and organizations in informational and educational programs relating to drug use and abuse. Such information and materials should reflect the social, geographical, and economic variables of drug usage and abuse, include relevant data and other information, and include bilingual curricula;

"(d) establish educational courses, guides and units on the causes of, effects of, and treatment for, drug abuse and drug dependence, for Federal law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officers, and other law enforcement personnel), Federal welfare, vocational rehabilitation, military, and veterans personnel, and other Federal officials who come in contact with drug abuse and drug dependence problems. Such courses, guides, and units should reflect the social, geographical, and economic variables of drug usage and abuse;

"(e) develop, assist others to develop, and encourage the development of educational courses, guides, and units on the causes of, effects of, and treatment for, drug abuse and drug dependence for use by appropriate State and local government and private agencies, institutions, and organizations, for State and local law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officials, and other law enforcement personnel), State and local welfare, vocational rehabilitation, and veterans personnel, and other State and local officials and community leaders. Such courses, guides, and units should reflect the social, geographical, and economic variables of drug usage and abuse;

"(f) develop, assist others to develop, and encourage the development of a broad range of community-oriented education programs on drug abuse and drug dependence for all segments of the population, including interested and concerned parents, young persons, community leaders, drug abusers and drug dependents, and other individuals and groups within a community. Such programs shall include peer group assistance programs and utilization of former drug abusers, drug dependent persons, and persons with relevant backgrounds similar to those of the persons to be educated;

"(g) evaluate, assist others in evaluating, and encourage the evaluation of curricula, guidelines, units, and other informational and educational materials relating to the use and abuse of drugs. Such evaluations should include an examination of intended and actual impact of such informational and educational materials and the identification of strengths and weaknesses in the information and educational materials;

"(h) conduct, assist others in conducting, and encourage the conducting of preservice and inservice training programs on drug use and abuse for teachers, counselors, other educational personnel, law enforcement officials, and other public service and community leaders and personnel;

"(i) recruit, train, organize, and employ professional and other persons, including former drug abusers, and drug dependent persons, to organize and participate in programs of public education about drug usage and abuse;

"(j) serve as a clearinghouse for the collection, preparation, and dissemination of all information relating to drug abuse and drug dependence, including State and local drug abuse and dependence treatment plans, availability of treatment resources, training and educational programs, statistics, research, and other pertinent data and information;

"(k) coordinate activities carried on by all departments, agencies, and instrumentalities of the Federal government with respect to health and other educational aspects of usage and abuse; and

"(l) undertake such other activities as the Secretary may consider important to a national program of education relating to drug usage and abuse.

"REPORTING FUNCTIONS OF THE SECRETARY

"SEC. 129. It shall be the duty of the Secretary, acting through the Institute, with respect to his reporting functions to—

"(a) submit an annual report to Congress, which shall specify the actions taken and services provided and funds expended under each provision of this title and an evaluation of their effectiveness, and which shall contain the current Federal drug abuse and drug dependence prevention and treatment plan;

"(b) submit such additional reports as may be requested by the President or by Congress; and

"(c) submit to the President and to Congress such recommendations as will further the prevention and treatment of drug abuse and drug dependence.

"PART D—PREVENTION AND TREATMENT FOR FEDERAL EMPLOYEES

"DRUG ABUSE AND DRUG DEPENDENCE AMONG FEDERAL GOVERNMENT EMPLOYEES

"SEC. 131. (a) The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Secretary and other Federal agencies and departments, appropriate policies and services for the prevention and treatment of drug abuse and drug dependence among Federal civilian employees, consistent with the purposes and intent of this title. Such policies and services shall make optimal use of existing governmental facilities, services, and skills. Federal civilian employees who are drug abusers or who are drug dependent shall retain the same employment and other benefits as other persons afflicted with serious health problems and illnesses, and shall not lose, solely because they are drug abusers or drug dependent persons, pension, retirement, medical, or other rights. A good faith attempt shall be made to find appropriate work within the Government which does not involve the national security during the employee's rehabilitative treatment, rather than placing him on sick leave.

"(b) The Secretary, acting through the Institute, shall be responsible for fostering similar drug abuse prevention, treatment, and rehabilitation services in State and local governments and in private industry.

"(c) No person may be denied or deprived of Federal employment or a Federal professional or other license or right solely on the ground of prior drug abuse or prior drug dependence, except with regard to positions involving national security as specified in regulations promulgated by the department or agency in which he is employed.

"(d) Nothing herein shall prohibit the dismissal from employment of a Federal civilian employee who, as a result of drug abuse or drug dependence and failure to accept appropriate treatment, cannot properly function in his employment.

"CONFIDENTIALITY OF RECORDS

"SEC. 132. (a) All patient records prepared or obtained pursuant to this title, and all information contained therein, shall remain confidential and may be disclosed, with the patient's consent, only to medical personnel and only for purposes of diagnosis and treatment of the patient, or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug dependence or, for research purposes, to public or private research organizations, agencies, institutions, or individuals whose competence and research programs have been approved by the Secretary. Disclosure may be made for purposes unrelated to such treatment, benefits, or research upon an order of a court after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information sought to be disclosed against the possible harm of disclosure to the person to whom such information pertains, to the physician-patient relationship, and to the treatment services, and may condition disclosure of the information upon any appropriate safeguards. No such records or information may be used to initiate criminal charges against a patient under any circumstances.

"(b) All patient records and all information contained therein relating to drug abuse or drug dependence prepared or obtained by a private practitioner shall remain confidential, and may be disclosed only with the patient's consent and only to medical personnel

for purposes of diagnosis and treatment of the patient or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug dependence.

"PART E—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

"Subpart I—Comprehensive State Plans

"COMPREHENSIVE STATE PLANS

"SEC. 141. Section 314(a) (2) of the Public Health Service Act is amended to add:

"'(L) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent of the problem, such plan to (i) estimate the number of drug abusers and drug dependent persons within the various areas within the State and the extent of the health problem caused, (ii) establish priorities for the improvement of the capabilities of State and local governments and public and private nonprofit agencies, institutions, and organizations with respect to prevention and treatment of drug abuse and drug dependence, and (iii) specify how all available community health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal and State legislation, are to be used for these purposes.'

"Subpart II—Formula Grants

"AUTHORIZATION

"SEC. 142. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1971, the sum of $10,000,000; for the fiscal year ending June 30, 1972, the sum of $20,000,000; for the fiscal year ending June 30, 1973, the sum of $25,000,000; for grants to States to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with drug abuse and drug dependence.

"STATE ALLOTMENT

"SEC. 143. (a) For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 142 among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment and rehabilitation of drug abuse and drug dependence; except that no such allotment to any State (other than the Canal Zone and the Trust Territory of the Pacific Islands) for any fiscal year shall be less than $200,000.

"(b) Any amount so allotted to a State (other than the Canal Zone and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year may be reallotted by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this title, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) to the Canal Zone or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such two additional years, which the Secretary determines will remain unobligated at the close of the second of such additional years may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such additional years, to any other of such four States which have need therefor, of such basis as the Secretary deems equitable and consistent with the purposes of this subpart, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

"(c) At the request of any State, a portion of any allotment or allotments of such State under this subpart shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this subpart, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is greater, shall be available for such purpose for such year.

"STATE PLANS

"SEC. 144. (a) Any State desiring to participate in this subpart shall submit a State plan for carrying out its purposes. Such plan must—

"(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) will have authority to carry out such plan in conformity with this subpart;

"(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, to consult with the State agency in carrying out the plan;

"(4) set forth, in accordance with criteria established by the Secretary, a survey of need for the prevention and treatment of drug abuse and drug dependence, including a survey of the health facilities needed to provide services for drug abuse and drug dependence and a plan for the development and distribution of such facilities and programs throughout the State;

"(5) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

"(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

"(7) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (6);

"(8) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

"(9) provide reasonable assurance that Federal funds made available under this subpart for any period may be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the programs described in this subpart, and will in no event supplant such State, local, and other non-Federal funds; and

"(10) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this subpart.

"(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

"APPLICATIONS AND CONDITIONS

"SEC. 145. (a) For each project pursuant to a State plan approved under this subpart for which a grant is sought from an allotment under section 143, there shall be submitted to the Secretary, through the State agency designated in accordance with section 144, an application by the State or a political subdivision thereof or by a public or other nonprofit agency, institution or organization.

"(b) The Secretary shall approve such application if (1) there remains sufficient balance in the allotment (available for the purpose) determined for such State; (2) the application is in conformity with the State plan approved under section 144; (3) he obtains assurances that any facility or portion thereof to be constructed or modernized and any program to be carried out will be available to all persons residing in the territorial area of the applicant; and (4) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require. The Secretary may to the extent he determines it would not interfere with the objectives of this subpart, base his findings and determinations under this subsection on certifications by the State agency.

"(c) No application under this section shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

"(d) Amendment of an approved application shall be subject to approval in the same manner as an original application.

"Subpart III—Project Grants

"AUTHORIZATIONS

"Sec. 146. There are hereby authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1971; $45,000,000 for the fiscal year ending June 30, 1972; and $70,000,000 for the fiscal year ending June 30, 1973, to carry out the provisions of this subpart. Any appropriated funds shall remain available until expended.

"GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 147. (a) The Secretary, acting through the Institute, is authorized to make grants to public and private nonprofit agencies, organizations, and institutions and enter into contracts with agencies, organizations, institutions, and individuals for the prevention and treatment of drug abuse and drug dependence to assist State and local governments and public and private agencies, institutions, organizations, and individuals to—

"(1) (a) meet the costs of constructing, equipping, and operating treatment and rehabilitation facilities, including but not limited to emergency medical, inpatient, intermediate care, outpatient, and peer group assistance facilities for drug abusers and drug dependent persons, and (b) to assist them to meet, for the temporary periods specified in subsection (c) of this section, a portion of the costs of compensation of personnel for

the initial operation of such facilities, and of new services in existing facilities for drug abusers and drug dependent persons;

"(2) Carry out prevention and education projects and services, including:

"(a) projects for the development of curricula on the use and abuse of drugs, including the evaluation and selection of exemplary existing materials and the preparation of new and improved curricular materials for use in elementary, secondary, adult, and community education programs and conduct projects designed to demonstrate, and test the effectiveness of such curricula;

"(b) projects for the dissemination of curricular materials and other significant information regarding the use and abuse of drugs to public and private elementary, secondary, adult, and community education programs;

"(c) evaluations of the effectiveness of curricula tested in use in elementary, secondary, and adult and community education programs;

"(d) projects for the development, evaluation, and dissemination of a variety of informational and educational materials for use in all media to reach various segments of the population that can be utilized by public and private agencies, organizations and institutions in informational and educational programs relating to drug use and abuse;

"(e) preservice and inservice training programs on drug abuse (including courses of study, institutes, seminars, workshops, and conferences) for teachers, counselors, and other educational personnel, law enforcement officials and other public service and community leaders and personnel;

"(f) Community education programs on drug abuse (including seminars, workshops, and conferences) especially for parents and other adults in the community;

"(g) evaluations of the training and community education programs described in clauses (e) and (f), including the examination of the intended and actual impact of such programs, the identification of strengths and weaknesses in such programs, and the evaluation of materials used in such programs; and

"(h) community-oriented education programs on drug abuse and drug dependence, including development of a broad range of community-oriented education programs on drug abuse and drug dependence for all segments of the population, including interested and concerned parents, young persons, community leaders, drug abusers and drug dependents, and other individuals and groups within a community. Such programs shall include peer group assistance programs and utilization of former drug abusers, drug dependent persons, and persons with relevant backgrounds similar to those of the persons to be educated.

"(3) conduct research, demonstration, and evaluation projects, including surveys and field trials, looking toward the development of improved, expanded, and more effective methods of prevention and treatment of drug abuse and drug dependence;

"(4) provide education and training for professional personnel, including medical, psychiatric, vocational rehabilitation, and social welfare personnel, in academic and professional institutions and in postgraduate courses about the prevention and treatment of drug abuse and drug dependence, and provide training for such personnel in the administration, operation, and supervision of programs and services for the prevention and treatment of drug abuse and drug dependence;

"(5) recruit, educate, train, organize, and employ community drug abuse and drug dependence prevention and treatment personnel to serve with and under the direction of professional medical, psychiatric, vocational rehabilitation, and social welfare personnel in drug abuse and drug dependence prevention, treatment, and rehabilitation programs. Prior drug abuse or drug dependence and prior criminal arrests or convictions shall not be a bar to such recruitment, education, training, organization, and employment;

"(6) provide services in correctional and penal institutions for the prevention and treatment of drug abuse and drug dependence;

"(7) provide services, in cooperation with schools, law enforcement agencies, courts, and other public and private nonprofit agencies, institutions, and organizations, for the prevention and treatment of drug abuse and drug dependence among juveniles and young adults. These services, where feasible, shall include curricula for drug abuse education in elementary and secondary schools, and among parents and other adults;

"(8) provide programs and services in cooperation with local law enforcement agencies, the courts, and other public and private nonprofit agencies, institutions and organizations, for the instruction of law enforcement officers, prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officials and legal aid, public defender, and neighborhood legal services attorneys with respect to the causes, effects, prevention, and treatment of drug abuse and drug dependence. Such programs and services shall include, where possible, a full range of services available to State and local courts for diagnosis, counseling, and treatment for drug abuse and drug dependence for persons coming before the courts; and

"(9) provide services for outpatient counseling of drug abusers and drug dependent persons to include employment, welfare, legal, education, and other assistance, in cooperation and coordination with welfare and rehabilitation personnel.

"(b) Projects for which grants and contracts are made under this subpart shall be community based, and shall include both those that provide a comprehensive range of services and are integrated with and involve the active participation of a wide range of public and nongovernmental agencies, organizations, institutions, and individuals, and those that provide a more selective range of services arising from local initiative, educational and peer group assistance programs.

"(c) The amount of any Federal grant made under subsection (a) of this section, except with regard to certain grants made under paragraph (1) of subsection (a), shall not exceed 100 per centum of the cost of the program or project specified in the application for such grant. The amount of any Federal grant made under paragraph (1) (a) of subsection (a) of this section to meet costs of constructing and equipping the facilities referred to in such paragraph shall not exceed 90 per centum of the cost of the program or project specified in the application for such grant. The amount of any Federal grant made under paragraph (1) (b) of subsection (a) of this section to meet the costs of compensation of personnel and other operating costs may be made only for the period beginning with the first day for which such a grant is made and ending with the close of eight years after such first day; and such grants may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

"(d) An amount, not to exceed 5 per centum of the amount appropriated pursuant to the provisions of this part for any fiscal year, shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $100,000) of projects for assessing local needs for programs of services for drug abusers and drug dependents, designing such programs, obtaining local financial and professional assistance and support for such programs in the community, and fostering community involvements in initiating and developing such programs in the community. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project.

"APPLICATION FOR FINANCIAL ASSISTANCE FROM UNITS OF LOCAL GOVERNMENT AND PRIVATE ORGANIZATIONS

"SEC. 148. (a) In administering the provisions of this subpart, the Secretary shall require coordination of all applications for programs in a State and, in view of the local nature of the drug abuse problem, shall not give precedence to public agencies over private nonprofit agencies, institutions, and organizations, or to State agencies over local agencies.

"(b) Each applicant from within a State, upon filing its application with the Secretary, shall submit a copy of its application for review by the State agency designated in accordance with section 144, if such an agency exists, and if no such agency exists, by the State agency responsible for administering the State comprehensive plan for treatment and prevention of drug abuse and drug dependence, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation may include comments on the relationship of the project to other projects pending and approved and to the State comprehensive plan for treatment and prevention of drug abuse. The State shall furnish the applicant a copy of any such evaluation. A State, if it so desires, may, in writing, waive its rights under this section.

"(c) Approval of any application by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

"(1) provide that the activities and services for which assistance under this subpart is sought will be substantially administered by or under the supervision of the applicant;

"(2) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

"(3) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

"(4) provide reasonable assurance that Federal funds made available under this subpart for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the program described in this subpart, and will in no event supplant such State, local, and other non-Federal funds.

"APPROVAL BY NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 149. The Secretary, upon the recommendation of the National Advisory Council on Drug Abuse and Drug Dependence, is authorized to make grants under subpart III of this part.

"Subpart IV—General

"GENERAL

"SEC. 150 (a) Whenever the Secretary finds a failure to comply with the terms of a grant

or contract made or entered into under this part, he shall, after reasonable notice and opportunity for a hearing, terminate payments until he is satisfied that there will no longer be any failure to comply.

"(b) The exclusive remedy of anyone adversely affected by a final action of the Secretary under subsection (a) of this section is to appeal to the United Sttaes court of appeals for the circuit in which it is located by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file with the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or set it aside, in whole or in part, temporarily or permanently. Until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts shall be conclusive if supported by substantial evidence, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

"ADMISSION OF DRUG ABUSERS AND DRUG DEPENDENT PERSONS TO PRIVATE AND PUBLIC HOSPITALS

"SEC. 150A. (a) Drug abusers and drug dependent persons shall be admitted to and treated in private and public general hospitals on the basis of medical need and shall not be discriminated against solely because of their drug abuse or drug dependence. No hospital that violates this section shall receive Federal financial assistance under the provisions of this Act or any other Federal law administered by the Secretary. No such action shall be taken until the Secretary has advised the appropriate person or persons of the failure to comply with this section, and provided an opportunity for correction or a hearing.

"(b) Any action taken by the Secretary pursuant to this section shall be subject to such judicial review as is provided by subsection 150(b) of this title.

"PART F—THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF COUNCIL

"SEC. 151. (a) Section 217(a) of the Public Health Service Act is amended—

"(1) in the first sentence thereof, by inserting 'the National Advisory Council on Drug Abuse and Drug Dependence,' immediately after 'the National Advisory Mental Health Council,'; and

"(2) in the second sentence thereof, by inserting 'the National Advisory Council on Drug Abuse and Drug Dependence,' immediately after 'the National Advisory Mental Health Council,', and by inserting 'drug abuse and drug dependence,' immediately after 'psychiatric disorders,'.

"(b) Section 217(b) of such Act is amended, in the second sentence thereof, by inserting 'drug abuse and drug dependence,' immediately after 'mental health,'.

"(c) Section 217 of such Act is further amended by adding at the end thereof the following new subsection:

"'(d) The National Advisory Council on Drug Abuse and Drug Dependence shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Service in the field of drug abuse and drug dependence. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of drug abuse and drug dependence and recommend to the Secretary, for prosecution under this Act, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of drug abuse and drug dependence, and (2) to collect information as to studies being carried on in the field of drug abuse and drug dependence and, with the approval of the Secretary, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public or private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of drug abuse and drug dependence; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council.'

"APPROVAL BY COUNCIL OF CERTAIN GRANTS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT

"SEC. 152. Section 266 of part E of the Community Mental Health Centers Act is amended—

"(1) by striking out "Grants" and inserting in lieu thereof:

"'(a) Except as otherwise provided in subsection (b), grants'; and

"(2) by adding at the end thereof the following new subsection:

"'(b) Grants made under this title which are primarily intended for use in the prevention or treatment of drug abuse and drug dependence may be made only upon recommendation of the National Advisory Council on Drug Abuse and Drug Dependence established by section 217(a) of the Public Health Service Act.'

"PART G—INTERGOVERNMENT COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF COUNCIL

"SEC. 161. (a) For the purpose of coordinating all Federal Government prevention, treatment and rehabilitation efforts with respect to drug abuse and drug dependence, of coordinating such Federal efforts with State and local government efforts, and of developing an enlightened policy and appropriate programs for Federal employees for the prevention and treatment of drug abuse and the rehabilitation of drug dependent persons, there is hereby established an Intergovernment Coordinating Council on Drug Abuse Control consisting of the Secretary who shall serve as Chairman, the Attorney General of the United States, the United States Commissioner of Education, the Director of the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence, the Director of the National Institute of Mental Health, four representatives of State and local government departments or agencies.

"(b) The President shall designate the four representatives of Federal departments or agencies who shall serve on the Coordinating Council, and shall appoint the four representatives of State and local government departments or agencies. The State and local government representatives shall serve for terms of four years, staggered so that one vacancy occurs each year. A State or local government representative may be reappointed immediately after serving less than a full term, and may be reappointed after a four-year hiatus after serving a full term.

"(c) The Coordinating Council may appoint such technical consultants as are deemed appropriate for advising the Council in carrying out its functions. The services of consultants obtained under this section may be obtained in accordance with section 3109 of title 5, United States Code, at rates for individuals not in excess of the daily equivalent paid for positons in GS-18 of the General Schedule in section 5332 of title 5, United States Code.

"FUNCTIONS OF COUNCIL

"SEC. 162. The Coordinating Council is authorized and directed to—

"(a) assist the Secretary in carrying out its function of coordinating all Federal prevention, treatment, and rehabilitation efforts to deal with the problems of drug abuse and drug dependence;

"(b) assist the Secretary in carrying out its function of coordinating such Federal efforts with State and local governments;

"(c) engage in educational programs among Federal employees, and in other appropriate activities, designed to prevent drug abuse and drug dependence;

"(d) implement programs for the rehabilitation of Federal employees who are drug dependent persons; and

"(e) develop and maintain any other appropriate activities consistent with the purposes of this title.

"PART H—PROGRAMS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"BROADER AUTHORITY UNDER COMMUNITY MENTAL HEALTH CENTERS ACT

"SEC. 171. (a) Part D of the Community Mental Health Centers Act is amended as follows:

"(1) Sections 251, 252, and 253 of such part (42 U.S.C. 2688k, 2688l, and 2688m) are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts' each place those words appear in those sections.

"(2) Clauses (A) and (C) of section 252 of such part are each amended by inserting 'drug abuse and drug dependence' in lieu of 'narcotic addiction'.

"(3) The heading of such part is amended to read as follows:

"'PART D—DRUG ABUSE AND DRUG DEPENDENCE PREVENTION AND REHABILITATION'

"(b) Part E of such Act is amended as follows:

"(1) Section 261(a) of such part is amended by inserting 'drug abuse and drug dependence' in lieu of 'narcotic addiction'.

"(2) Sections 261(c) and 264 are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts'.

"(3) The section headings for sections 261 and 263 are each amended by striking out 'AND NARCOTIC ADDICTS' and inserting in lieu thereof ', DRUG ABUSERS AND DRUG DEPENDENT PERSONS'.

"BROADER TREATMENT AUTHORITY IN PUBLIC HEALTH SERVICE HOSPITALS FOR PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS

"SEC. 172. (a) Part E of title III of the Public Health Service Act is amended as follows:

"(1) Section 341(a) of such part is amended by striking 'addicts' the second time it appears and inserting the following: 'drug abusers and drug dependent persons'.

"(2)(A) Sections 342, 343, 344, and 346 of such part are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts' or 'addicts' each place they appear in those sections.

"(B) The section heading of section 342 of such part is amended by inserting 'DRUG

ABUSERS AND DRUG DEPENDENT PERSONS' in lieu of 'ADDICTS'.

"(3) Sections 342, 343, and 344 and of such part are each amended by inserting 'drug abuser or drug dependent person' in lieu of 'narcotic addict' or 'addict' each place they appear in those sections.

"(4) Sections 343, 344, and 347 of such part are each amended by inserting 'drug abuse or drug dependence' in lieu of 'addiction' each place it appears in those sections.

"(5) Section 346 of such part is amended by inserting 'or substance controlled under the Controlled Substances Act' immediately after 'habit-forming narcotic drug'.

"(6) The heading for such part is amended to read as follows:

"'PART E—DRUG ABUSERS AND DRUG DEPENDENT PERSONS'

"RESEARCH UNDER THE PUBLIC HEALTH SERVICE ACT IN DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 173. (a) Section 507 of the Public Health Service Act (42 U.S.C. 225a) is amended by striking out 'available for research, training, or demonstration project grants pursuant to this Act' and inserting in lieu thereof 'available under this Act for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcohol abuse, alcoholism, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcohol abuse, alcoholism, drug abuse, and drug dependence facilities'.

"(b) By inserting immediately before the period at the end thereof the following: ', except that grants to such Federal institutions may be funded at 100 per centum of the costs'.

"PART I—GENERAL

"SAVING PROVISION

"SEC. 181. If any section, provision, or term of this title is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this title, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

"RECORDS

"SEC. 182. (a) Each recipient of assistance under this title pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and 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 such recipients that are pertinent to the grants or contracts entered into under the provisions of this title under other than competitive bidding procedures.

"PAYMENTS

"SEC. 183. Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine."

TRANSACTION OF ROUTINE MORNING BUSINESS

By unanimous consent, the following routine morning business was transacted:

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON CONTRACTS FOR MILITARY CONSTRUCTION AWARDED WITHOUT FORMAL ADVERTISEMENT

A letter from the Secretary of the Army, transmitting, pursuant to law, a report on contracts for military construction awarded without formal advertisement, for the period January 1 through June 30, 1970 (with an accompanying report); to the Committee on Armed Services.

PROPOSED AMENDMENT OF THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Defense Production Act of 1950, as amended (with accompanying papers); to the Committee on Banking and Currency.

REPORT ON CONSTRUCTION OF DAM AT CAMP PENDLETON, CALIF.

A letter from the Assistant Secretary of the Navy (Installations and Logistics), reporting, pursuant to law, on the construction of a dam at Camp Pendleton, Calif.; to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION TO AMEND THE REVISED ORGANIC ACT OF THE VIRGIN ISLANDS

A letter from the Attorney General of the United States, transmitting a draft of proposed legislation to amend the Revised Organic Act of the Virgin Islands (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT ON RESEARCH RELATED TO SCHOOL FINANCE

A letter from the Acting U.S. Commissioner of Education, transmitting, pursuant to law, a report on research related to school finance, dated October 8, 1970 (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. YOUNG of Ohio):

A joint resolution adopted by the Congress of Micronesia, declaring that the United States and the United Nations should take no action on any matters relating to the future political status of Micronesia without first obtaining the consent and approval of the Congress of Micronesia; to the Committee on Foreign Relations.

A joint resolution adopted by the Congress of Micronesia, informing the United Nations of the present status of discussions between representatives of the Congress of Micronesia and representatives of the U.S. Government on the future political status of Micronesia; to the Committee on Foreign Relations.

A joint resolution adopted by the Congress of Micronesia, inviting the U.S. Government to continue discussions with representatives of the Congress of Micronesia on the future political status of Micronesia; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. YOUNG of Ohio) announced that on today, October 6, 1970, the President pro tempore signed the following enrolled bills, which had previously been signed by the speaker of the House of Representatives:

S. 1933. An act to provide for Federal railroad safety, hazardous materials control and for other purposes;

H.R. 4599. An act to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments;

H.R. 12943. An act to amend section 3 of the act of November 2, 1966, to extend for 3 years the authority to make appropriations to carry out such act.

H.R. 17123. An act to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize real estate acquisition and construction at certain installations in connection with the Safeguard anti-ballistic-missile system, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes; and

H.R. 18104. An act to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. YARBOROUGH, from the Committee on Labor and Public Welfare, with an amendment:

S. 1591. A bill to establish an American Folklife Foundation, and for other purposes (Rept. No. 91–1274); referred to the Committee on Rules and Administration.

By Mrs. SMITH of Maine, from the Committee on Armed Services, without amendment:

H.R. 11876. An act to amend section 1482 of title 10, United States Code, to authorize the payment of certain expenses incident to the death of members of the Armed Forces in which no remains are recovered (Rept. No. 91–1275);

H.R. 15112. An act to repeal several obsolete sections of title 10, United States Code, and section 208 of title 37, United States Code (Rept. No. 91–1276); and

H.R. 16732. An act to amend title 37, United States Code, to provide that enlisted members of a uniformed service who accept appointments as officers shall not receive less than the pay and allowances to which they were previously entitled by virtue of their enlisted status (Rept. No. 91–1277).

By Mr. BURDICK, from the Committee on Interior and Insular Affairs, without amendment:

S.J. Res. 211. Joint resolution to authorize an ex gratia contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of noncombat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission (Rept. No. 91–1278).

By Mr. BURDICK, from the Committee on Interior and Insular Affairs, with an amendment:

S. 233. A bill to increase the authorization for the appropriation of funds to complete the International Peace Garden, North Dakota (Rept. No. 91–1279).

By Mr. RUSSELL, from the Committee on Appropriations, without amendment:

H.J. Res. 1388. Joint resolution making further continuing appropriations for the fiscal year 1971, and for other purposes (Rept. No. 91-1280).

By Mr. EAGLETON, from the Committee on Labor and Public Welfare, with an amendment:

S. 988. A bill to amend the Railroad Retirement Act of 1937 so as to permit certain individuals retiring thereunder to receive their annuities while serving as an elected public official (Rept. No. 91-1281).

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1969—REPORT OF A COMMITTEE—INCLUDING, SEPARATE, OR MINORITY VIEWS—SETTING OF TIME FOR COMMITTEE TO FILE REPORT (S. REPT. NO. 91-1282)

Mr. WILLIAMS of New Jersey. Mr. President, from the Committee on Labor and Public Welfare, I report favorably, with an amendment, in the nature of a substitute, the bill (S. 2193) to authorize the Secretary of Labor to set standards to assure safe and healthful working conditions for working men and women; to assist and encourage States to participate in efforts to assure such working conditions; to provide for research, information, education, and training in the field of occupational safety and health, and for other purposes.

I ask unanimous consent that the bill in its entirety be printed in the RECORD. I also ask unanimous consent that the committee have until midnight Tuesday, October 6, 1970, to file an accompanying report, together with individual, separate or minority views.

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

The bill is as follows:

S. 2193

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 "Occupational Safety and Health Act of 1970".

CONGRESSIONAL FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that personal injuries and illnesses arising out of work situations which result in death or disability impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of reduced production, wage losses, medical expenses, and disability compensation payments.

(b) The Congress declares that it is the policy of the United States in the exercise of its powers to regulate commerce and to provide for the general welfare, to assure so far as possible every working man and woman in the Nation safe and healthful working conditions—

(1) by providing for the development, promulgation, and effective enforcement of occupational safety and health standards applicable to businesses affecting commerce;

(2) by providing for research relating to occupational safety and health;

(3) by providing for training programs to increase and improve the skills of personnel engaged in the field of occupational safety and health;

(4) by more clearly delineating the responsibilities of the Federal Government and the States in their activities related to occupational safety and health;

(5) by providing grants to the States to assist them in identifying their needs and responsibilities in the area of occupational safety and health, to develop plans in accordance with the provisions of this Act, and to conduct experimental and demonstration projects in connection therewith; and

(6) by providing for appropriate accident and health reporting procedures which will more accurately describe the nature of the problems in the field of occupational safety and health and achieve the objectives of this Act.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) The term "Secretary" means the Secretary of Labor or his authorized representative.

(b) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(c) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(d) The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State.

(e) The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce.

(f) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

(g) The term "national consensus standard" means any occupational safety and health standard or modification thereof which (1) has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the Secretary that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption, (2) was formulated in a manner which afforded an opportunity for diverse views to be considered and (3) has been designated as such a standard by the Secretary, after consultation with other appropriate Federal agencies.

(h) The term "established Federal standard" means any operative occupational safety and health standard established by any agency of the United States and presently in effect, or contained in any Act of Congress in force on the date of enactment of this Act.

APPLICABILITY OF THIS ACT

SEC. 4. (a) This Act shall apply with respect to employment performed in a workplace in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, Wake Island, Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act, Johnston Island, and the Canal Zone. The Secretary of the Interior shall, by regulation, provide for judicial enforcement of this Act by the courts established for areas in which there are no Federal district courts having jurisdiction.

(b)(1) Except as provided in paragraph (2) of this subsection, nothing in this Act shall be deemed to repeal or modify any other Federal law prescribing safety or health requirements or the standards, rules, or regulations promulgated pursuant to such law, nor shall this Act apply to working conditions of employees with respect to which any Federal agency other than the Secretary of Labor exercises statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(2) The safety and health standards promulgated under the Act of June 30, 1936, commonly known as the Walsh-Healey Act (41 U.S.C. 35 et seq.), the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), Public Law 91-54, Act of August 9, 1969 (40 U.S.C. 333), Public Law 85-742, Act of August 23, 1958 (33 U.S.C. 941), and the National Foundation on Arts and Humanities Act (20 U.S.C. 951 et seq.) are superseded on the effective date of corresponding standards, promulgated under this Act, which are determined by the Secretary to be more effective. Standards issued under the laws listed in this paragraph and in effect on or after the effective date of this Act shall be deemed to be occupational safety and health standards issued under this Act.

(3) The Secretary shall, within three years after the effective date of this Act, report to the Congress his recommendations for legislation to avoid unnecessary duplication and to achieve coordination between this Act and other Federal laws relating to occupational safety and health.

(4) Nothing in this Act shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.

DUTIES OF EMPLOYERS AND EMPLOYEES

SEC. 5. (a) Each employer—

(1) shall furnish to each of his employees employment and a place of employment which is free from recognized hazards so as to provide safe and healthful working conditions, and

(2) shall, except as provided in section 16, comply with occupational safety and health standards, and all rules, regulations, and orders issued pursuant to this Act.

(b) Each employee shall, except as provided in section 16, comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

SEC. 6. (a) Without regard to chapter 5 of title 5, United States Code, or to the other subsections of this section, the Secretary shall, as soon as practicable during the period beginning with the effective date of this Act and ending two years after such date, by rule promulgate as an occupational safety or health standard any national consensus standard, and any established Federal standard, unless he determines that the promulgation of such a standard would not result in improved safety or health for specifically designated employees. In the event of conflict among any such standards, the Secretary shall promulgate the standard which assures the greatest protection of the safety or health of the affected employees. During such period he may also by rule, and in accordance with section 553 of title 5, United States Code, promulgate any standard adopted prior to the date of enactment of this Act by a nationally recognized standards-producing organization by other than a consensus method.

(b) The Secretary may by rule promulgate, modify, or revoke any occupational safety or health standard in the following manner:

(1) Whenever the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health, Education, and Welfare, a State or political subdivision, or on the basis of information de-

veloped by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendations of an advisory committee appointed under section 7 of this Act. The Secretary shall provide such an advisory committee with any proposals of his own or of the Secretary of Health, Education, and Welfare, together with all pertinent factual information developed by the Secretary or the Secretary of Health, Education, and Welfare, or otherwise available, including research, demonstrations, and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the rule to be promulgated within ninety days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than two hundred and seventy days.

(2) The Secretary shall publish a proposed rule promulgating, modifying, or revoking an occupational safety or health standard in the Federal Register and shall afford interested persons a period of thirty days after publication to submit written data or comments. Where an advisory committee is appointed and the Secretary determines that a rule should be issued, he shall publish the proposed rule within sixty days after the submission of the advisory committee's recommendations or the expiration of the period prescribed by the Secretary for such submission.

(3) On or before the last day of the period provided for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed rule, stating the grounds therefor and requesting a public hearing on such objections. Within thirty days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the occupational safety or health standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing.

(4) Within sixty days after the expiration of the period provided for the submission of written data or comments under paragraph (2), or within sixty days after the completion of any hearing held under paragraph (3), the Secretary shall issue a rule promulgating, modifying, or revoking an occupational safety or health standard or make a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date for such period as the Secretary determines may be necessary to insure that affected employers and employees will be informed of the existence of the standard and of its terms and that employers affected are given an opportunity to familiarize themselves and their employees with the existence of the requirements of the standard.

(5) The Secretary, in promulgating standards under this subsection, shall set the standard which most adequately and feasibly assures, on the basis of the best available evidence, that no employee will suffer any impairment of health or functional capacity, or diminished life expectancy even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of such standards shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

(6) Any standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees. In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health, Education, and Welfare, such examinations may be furnished at the expense of the Secretary of Health, Education, and Welfare. The results of such examinations or tests shall be furnished only to the Secretary or the Secretary of Health, Education, and Welfare, and, at the request of the employee, to his physician. The Secretary, in consultation with the Secretary of Health, Education, and Welfare may by rule promulgated pursuant to section 553 of title 5, United States Code, make appropriate modifications in the foregoing requirements relating to the use of labels or other forms of warning, monitoring or measuring, and medical examinations, as may be warranted by experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard.

(c) (1) The Secretary shall provide without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard to take immediate effect upon publication in the Federal Register if he determines (A) that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and (B) that such emergency standard is necessary to protect employees from such danger.

(2) Such standard shall be effective until superseded by a standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

(3) Upon publication of such standard in the Federal Register the Secretary shall commence a proceeding in accordance with section 6(b) of this Act, and the standard as published shall also serve as a proposed rule for the proceeding. The Secretary shall promulgate a standard under this paragraph no later than six months after publication of the emergency standard as provided in paragraph (2) of this subsection.

(d) Any affected employer may apply to the Secretary for a rule or order for a variance from a standard promulgated under this section. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Secretary shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Secretary on his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

(e) Whenever the Secretary promulgates any standard, makes any rule, order or decision, grants any exemption or extension of time, or compromises, mitigates, or settles any penalty assessed under this Act, he shall include a statement of the reasons for such action which shall be published in the Federal Register.

(f) Any person who may be adversely affected by a standard issued under this section may at any time prior to the sixtieth day after such standard is promulgated file a petition challenging the validity of such standard with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall not, unless otherwise ordered by the court, operate as a stay of the standard.

ADMINISTRATION; ADVISORY COMMITTEES

SEC. 7. (a) In carrying out his responsibilities under this Act, the Secretary is authorized to—

(1) use, with the consent of any Federal agency, the services, facilities, and personnel of such agency with or without reimbursement, and with the consent of any State or political subdivision thereof, accept and use the services, facilities, and personnel of any agency of such State or subdivision with reimbursement; and

(2) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually.

(b) The Secretary may appoint advisory committees to recommend occupational safety and health standards under section 6(b) of this Act. Each such advisory committee shall consist of not more than fifteen members and shall include as a member one or more designees of the Secretary of Health, Education, and Welfare and may include among its members an equal number of persons qualified by experience and affiliation to present the viewpoint of the employers involved, and of persons similarly qualified to present the viewpoint of the workers involved, as well as one or more representatives of health and safety agencies of the States, and such other persons who are qualified by knowledge and experience to make a useful contribution to the work of the committee, including one or more representatives of professional organizations of technicians or professionals specializing in occupational safety or health, and one or more representatives of nationally recognized standards producing organizations, but the number of persons so appointed to any advisory committee shall not exceed the number appointed to such committee as representatives of Federal and State agencies. Persons appointed to advisory committees from private life shall be compensated at a rate prescribed by the Secretary not in excess of the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code. All members of advisory committees shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties. The Secretary shall pay to any State which is the employer of a member of the committee who is a representative of the health or safety agency of that State, a reimbursement sufficient to cover the actual cost to the State resulting from the service of such representative on the committee. No member of

the committee (other than representatives of employers and employees) shall have an economic interest in any proposed rule.

(c)(1) The Secretary and the Secretary of Health, Education, and Welfare shall appoint a National Advisory Committee on Occupational Safety and Health (hereafter in this subsection referred to us the "Committee"). The Committee shall consist of twenty members appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and composed equally of representatives of management, labor, occupational safety and occupational health professions, and of the public. The Secretary shall appoint all members of the Committee except for occupational health representatives who shall be appointed by the Secretary of Health, Education, and Welfare. The Secretary shall designate one of the public members as Chairman. The members shall be selected upon the basis of their experience and competence in the field of occupational safety and health.

(2) The Committee shall advise, consult with, and make recommendations to, the Secretaries of Labor and Health, Education, and Welfare on matters relating to the implementation of this Act. The Committee shall hold no fewer than two meetings during each calendar year. All meetings of the Committee shall be open to the public and a transcript shall be kept and made available for public inspection.

(3) The members of the Committee appointed from private life shall be compensated at a rate prescribed by the Secretary not in excess of the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code. All members of the Committee shall be reimbursed for travel, subsistence, and necessary expenses in the performance of their duties.

(4) The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business.

INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

SEC. 8. (a) In order to carry out the purposes of this Act, the Secretary, or any authorized representative, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized—

(1) to enter upon at reasonable times any place of employment where work is performed to which this Act applies; and

(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

(b) For the purposes of any investigation or proceeding provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914 (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

(c)(1) Each employer shall make, keep and preserve, and make available to the Secretary or the Secretary of Health, Education, and Welfare, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses. Such regulations may include provisions requiring employers to conduct periodic inspections to determine their own state of compliance with this Act or with applicable standards, regulations, and orders, and to certify the results of such inspections to the Secretary. The Secretary shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protections and obligations under this Act, including the provisions of applicable standards.

(2) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall prescribe regulations requiring employers to maintain accurate records of, and to make periodic reports on, all work-related deaths, injuries and illnesses. The Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work.

(3) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare shall issue regulations requiring employers to maintain accurate records of employee exposure to potentially toxic materials or harmful physical agents which are required to be monitored or measured under section 6 or 18. Such regulations shall provide employees or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provision for each employee or former employee to have access to such records as will indicate his own exposure to potentially toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable occupational safety and health standard promulgated under section 6, and shall inform any employee who is being thus exposed of the corrective action being taken.

(d) Any information required by the Secretary or the Secretary of Health, Education, and Welfare, under this Act shall be obtained with a minimum burden upon employers, especially those operating small businesses. To the maximum extent possible, unnecessary duplication of efforts by employers in recording or reporting information shall be reduced.

(e) Subject to regulations issued by the Secretary, a representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any workplace under subsection (a) for the purpose of aiding such inspection. Where there is no authorized employee representative the Secretary or his authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

(f)(1) Any employees or representative of employees who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or representative of employees, except that, upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear on any record published, released, or made available pursuant to subsection (g) of this section. If upon receipt of such notification the Secretary determines there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violations or danger exist. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists he shall notify in writing the employees or representative of the employees of such determination.

(2) Prior to or during any inspection of a workplace, any employees or representative of employees employed in such workplace may notify the Secretary or any representative of the Secretary responsible for conducting the inspection, in writing, of any violation of this Act which they have reason to believe exists in such workplace. The Secretary shall, after the completion of the inspection, furnish any such employees or representative with a written explanation of any failure to issue a citation with respect to any such alleged violation. The Secretary shall also, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to issue a citation with respect to any such violation and shall furnish the employees or representative of employees requesting such review a written statement of the reasons for the Secretary's final disposition of the case.

(g) The Secretary or Secretary of Health, Education, and Welfare is authorized to compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under this section.

CITATIONS FOR VIOLATIONS

SEC. 9. (a) If, upon inspection or investigation, the Secretary or his authorized representative determines that an employer has violated a requirement of section 5, 6(d), 8 (c), 18, or a rule, regulation, or order prescribed pursuant to one of those sections, he shall issue forthwith a citation to the employer. Each citation shall be in writing, and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimus violations which have no direct or immediate relationship to safety or health.

(b) Each citation issued under this section, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the Secretary, at or near each place a violation referred to in the citation occurred.

PROCEDURES FOR ENFORCEMENT

SEC. 10. (a) If, after an inspection or investigation, the Secretary issues a citation under section 9(a), he shall, within a reasonable time after the termination of such inspection or investigation, notify the employer by certified mail of the penalty, if any, proposed to be assessed under section 14 and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the citation or proposed assessment of penalty. If, within fifteen working days from the receipt of the notice issued by the Secretary the employer fails to notify the Secretary that he intends to contest the citation or proposed assessment of penalty, and no notice is filed by an employee or representative of employees under subsection (c), the citation and the assessment, as proposed, shall be final as to the employer and not subject to review by any court or agency, and for purposes of subsection (e) shall be deemed a final order issued by the Secretary under subsection (c).

(b) If the Secretary has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the termination of any review proceedings under this section initiated by the em-

ployer in good faith and not solely for delay or avoidance of penalties), or has failed to comply with an order issued under section 11(b), the Secretary shall notify the employer by certified mail of such failure and of the penalty proposed to be assessed under section 14 by reason of such failure, and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the Secretary's notification or the proposed assessment of penalty. If, within fifteen working days from the receipt of the notification issued by the Secretary, the employer fails to notify the Secretary that he intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be final and not subject to review by any court or agency, and for purposes of subsection (e) shall be deemed a final order issued by the Secretary under subsection (c).

(c) If an employer notifies the Secretary that he intends to contest a citation issued under section 9(a) or notification issued under 10(b), or a proposed assessment of penalty issued under section 10 (a) or (b), or if, within fifteen working days of the issuance of a citation under section 9(a), any employee or representative of employees files a notice with the Secretary alleging that he believes the period of time fixed in the citation for the abatement of the violation is unreasonable, the Secretary shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section), and shall issue an order, based on findings of fact, confirming, denying, or modifying the citation or assessment of penalty, or, if he determines the employer has failed to correct a violation within the period fixed in the citation, shall issue such orders, based on findings of fact, as may be necessary for the correction of the violation for which the citation was issued, and for the assessment and collection of any penalty under section 14. The Secretary shall give the employer, or any other person who has filed a notice under this subsection, the information required by section 554(b) of title 5, United States Code, at least fifteen days prior to the hearing. Upon a showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that abatement has not been completed because of factors beyond his reasonable control, the Secretary, after an opportunity for a hearing as provided in this subsection, shall issue an order affirming or modifying the abatement requirements in such citation. The rules of procedures prescribed by the Secretary shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this subsection.

(d) Except in the case of an order which has become final under section 10 (a) or (b), any person adversely affected or aggrieved by a final order of the Secretary issued under subsection (c) or subsection (f) may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or where the employer has its principal office, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days following the service of such order a written petition to modify or set aside the order of the Secretary. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary and thereupon the Secretary shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant to the petitioner or the Secretary such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole "or in part, the order of the Secretary and enforcing the same to the extent that such order is affirmed or modified. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

(e) The Secretary may petition any United States court of appeals for the circuit in which the violation occurred or where the employer has its principal office, for a decree enforcing his order, and the provisions of subsection (d) shall govern such proceedings to the extent applicable. If no petition for review, as provided in subsection (d), is filed within sixty days after service of the Secretary's order, the Secretary's findings of fact and order shall be conclusive in connection with any petition for enforcement, which is filed by the Secretary after the expiration of such sixty-day period. In any such case, as well as in the case of a noncontested citation or notification by the Secretary which has become a final order of the Secretary under subsection (a) or (b) of this section, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order of the Secretary and shall transmit a copy of such decree to the Secretary and the employer named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (d), the court of appeals may impose the penalties provided in section 14, in addition to invoking any other available remedies.

(f) No person shall discharge or in any other way discriminate against an employee because of the exercise by such employee on behalf of himself or other of any right afforded by this Act, including action to determine the extent of employee exposure to hazardous substances, or for leaving a workplace upon the order of the Secretary or a district court issued pursuant to section 11. Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this subsection may, within thirty days after such violation occurs, apply to the Secretary for a review of such alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be conducted in accordance with section 554 of title 5, United States Code. Upon receiving the report of such investigation the Secretary shall make findings of fact. If he finds that such alleged violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee to his former position with back pay. If he finds that there was no such violation he shall issue an order denying the application, incorporating his findings therein. Judicial review or enforcement of the Secretary's order may be obtained in the manner provided in subsection (d) or (e) of this section.

PROCEDURES TO COUNTERACT IMMINENT DANGERS

SEC. 11. (a) If, upon inspection, or investigation of a place of employment, the Secretary determines that an imminent danger exists in such place of employment, the Secretary may bring a civil action in the United States district court for the district where the imminent danger exists or where the employer has its principal office for a temporary restraining order or injunction requiring such steps to be taken as may be necessary to avoid, correct or remove such imminent danger and prohibiting the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to restart without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. An action may be brought under this subsection while an order of the Secretary under subsection (b) is in effect. As used in this section the term "imminent danger" means a condition or practice which could reasonably be expected to cause death or serious physical harm before such condition or pratice can be abated.

(b) If the Secretary determines that the imminence of a danger referred to in subsection (a) is such that immediate action is necessary, and the Secretary determines that there is not sufficient time, in light of the nature and imminence of the danger, to seek and obtain a temporary restraining order or injunction under subsection (a) of this section, the Secretary shall issue an order requiring such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibiting the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger, or to maintain the capacity of a continuous process operation to restart without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. Such order may remain in effect for not more than seventy-two hours from the time of its issuance. If the Secretary delegates his authority to issue orders under this subsection, he shall provide that such order may not be issued until the concurrence of an appropriate regional Labor Department offi-

cial is first obtained. The Secretary shall by regulation provide appropriate procedures whereby an employer may obtain expeditious informal reconsideration by officials of the Department of Labor of any order issued under this subsection.

(c) If the Secretary arbitrarily or capriciously fails to issue an order or seek relief under this section, any employee who may be injured by reason of such failure, on the representative of such employees, may bring an action against the Secretary in the United States district court for the district in which the imminent danger is alleged to exist or the employer has its principal office, or for the District of Columbia, for a writ of mandamus to compel the Secretary to issue such an order and for such further relief as may be appropriate.

REPRESENTATION IN CIVIL LITIGATION

SEC. 12. Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

CONFIDENTIALITY OF TRADE SECRETS

SEC. 13. All information reported to or otherwise obtained by the Secretary or his representative in connection with any inspection or proceeding under this Act which contains or which might reveal a trade secret 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 this Act or when relevant in any proceeding under this Act. In any such proceeding the Secretary or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

PENALTIES

SEC. 14. (a) Any employer who violates any standard promulgated under section 6, or the requirements of sections 6(d), 8(c), 18, or of any rule, regulation or order issued pursuant to one of those sections, and who has received a citation therefor, shall be assessed a civil penalty of not more than $1,000 for each such violation. Any employer who fails to correct a violation for which a citation has been issued under section 9(a) within the period permitted for its correction (which period shall not begin to run until the termination of any review proceedings under section 10 initiated by the employer in good faith and not solely for delay or avoidance of penalties), or who fails to comply with an order issued under section 11(b), shall be assessed a civil penalty of not more than $1,000 for each day during which such failure or violation continues.

(b) The Secretary may compromise, mitigate, or settle any claim for civil penalties. In assessing the penalty consideration shall be given to the appropriateness of such penalty to the size of the business of the person charged, to the gravity of the violation, to the history of previous violations, and to the good faith of the employer.

(c) Any employer who willfully violates any standard promulgated under section 6, or the requirements of sections 6(d), 8(c), 18, or of any rule, regulation or order issued pursuant to one of those sections, shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than $20,000 or by imprisonment for not more than one year, or by both.

(d) Any person who gives advance notice of any inspection to be conducted under this Act, without authority from the Secretary or his designees, shall, upon conviction, be punished by a fine of not more than $1,000 or by imprisonment for not more than six months, or by both.

(e) Whoever knowingly makes any false statement, representation, or certification in any application record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

(f) Section 1114 of title 18, United States Code, is hereby amended by striking out "designated by the Secretary of Health, Education, and Welfare to conduct investigations, or inspections under the Federal Food, Drug, and Cosmetic Act" and inserting in lieu thereof "or of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions".

VARIATIONS, TOLERANCES, AND EXEMPTIONS

SEC. 15. The Secretary may establish such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act as he may find necessary and proper to avoid serious impairment of the national defense. Action under this section shall not be in effect for more than six months without notification to affected employees and an opportunity being afforded for a hearing.

STATE JURISDICTION AND STATE PLANS

SEC. 16. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any occupational safety or health issue with respect to which no standard is in effect under section 6.

(b) Any State which, at any time, desires to assume responsibility for the development and enforcement in such State of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated under section 6 shall submit a State plan for the development of such standards and their enforcement.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies to be responsible for administering the plan throughout the State,

(2) provides for the development and enforcement of safety and health standards relating to one or more safety or health issues, which standards (and the enforcement of which standards) are at least as effective in providing safe and healthful employment and places of employment as the standards promulgated under section 6 which relate to the same issues,

(3) provides for a right of entry and inspection of all places of employment subject to the plan which is at least as effective as that provided in section 8 (a), (c), (d), and (e), and includes a prohibition on advance notice of inspections,

(4) contains satisfactory assurances that such agency or agencies will have the legal authority and qualified personnel necessary for the enforcement of such standards,

(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards,

(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions over which it has jurisdiction, which program shall be as effective as the standards contained in the approved plan,

(7) requires employers in the State to make reports to the Secretary in the same manner and to the same extent as if the plan were not in effect, and

(8) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time require.

(d) If the Secretary disapproves a plan submitted under this section, he shall afford the State submitting the plan, due notice and opportunity for a hearing.

(e) After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under sections 8, 9, 10, and 14 with respect to comparable standards promulgated under section 6, for the period specified in this subsection. The Secretary may exercise the authority referred to above until he determines, on the basis of actual operations under the State plan, that the criteria set forth in subsection (c) are being applied, but he shall not make such a determination for at least three years after approval of the plan under subsection (c). Upon making the determination referred to in the preceding sentence, the provisions of section 5 (a)(2) and (b), 8 (except for purpose of carrying out subsection (f) of this section), 9, 10, and 14, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of a determination under this subsection.

(f) The Secretary shall, on the basis of reports submitted by the State agency and his own inspections make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan, he shall notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reason for the withdrawal of the plan.

(g) The State may obtain a review of a decision of the Secretary withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such a plan to be arbitrary and capricious, the court shall affirm the Secretary's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

FEDERAL AGENCY SAFETY PROGRAMS AND RESPONSIBILITIES

SEC. 17. (a) It shall be the responsibility of the head of each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6. The head of each agency shall, after consultation with representatives of the employees thereof—

(1) provide safe and healthful places and conditions of employment, consistent with the standards set under section 6;

(2) acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees;

(3) keep adequate records of all occupational accidents and illnesses for proper evaluation and necessary corrective action;

(4) consult with the Secretary with regard to the adequacy as to form and content of records kept pursuant to paragraph (3); and

(5) make an annual report to the Secretary with respect to occupational accidents and injuries and the agency's program under this section. Such report shall include any report submitted under section 7902(e)(2) of title 5, United States Code.

(b) The Secretary shall prepare and submit to the President for transmittal to the Congress a summary or digest of reports submitted to him under subsection (a)(4) of this section, together with his evaluation of and recommendations derived from such reports.

(c) Section 7902(c)(1) of title 5, United States Code, is amended by inserting after "agencies" the following: "and of labor organizations representing employees".

(d) The Secretary shall have access to records and reports kept and filed by Federal agencies pursuant to subsection (a)(3) and (5) of this section unless those records and reports are specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy, in which case the Secretary shall have access to such information as will not jeopardize national defense or foreign policy.

RESEARCH, TRAINING, AND RELATED ACTIVITIES

SEC. 18. (a)(1) The Secretary of Health, Education, and Welfare, after consultation with the Secretary and with the heads of other appropriate Federal departments or agencies, shall conduct, either directly or by way of grant or contract, research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved and the development of innovative methods, techniques, and approaches for dealing with existing or anticipated occupational safety and health problems.

(2) The Secretary of Health, Education, and Welfare shall be responsible for producing criteria upon which the Secretary may formulate occupational safety and health standards under this Act, and shall from time to time consult with the Secretary in order to develop specific plans for such research, demonstrations, and experiments as are necessary to produce such criteria. The Secretary of Health, Education, and Welfare, on the basis of such research, demonstrations, and experiments and any other information available to him, shall develop such criteria which if applied will assure that no employee will suffer impaired health or functional capacities, or diminished life expectancy as a result of his work experience.

(3) The Secretary of Health, Education, and Welfare, in order to comply with his responsibilities under paragraph (2), and in order to develop needed information regarding potentially toxic substances or harmful physical agents, may prescribe regulations requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents which the Secretary of Health, Education, and Welfare reasonably believes may endanger the health or safety of employees. The Secretary of Health, Education, and Welfare also is authorized to establish such programs of medical examinations and tests as may be necessary for determining the incidence of occupational illnesses and the susceptibility of employees to such illnesses. Nothing in this or any other provision of this Act shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others. Upon the request of any employer who is required to measure and record exposure of employees to substances or physical agents as provided under this subsection, the Secretary of Health, Education, and Welfare shall furnish full financial or other assistance to such employer for the purpose of defraying any additional expense incurred by him in carrying out the measuring and recording as provided in this subsection.

(4) The Secretary of Health, Education, and Welfare shall publish within six months of enactment of this Act, and thereafter maintain at least annually, a list of all substances used or found in the workplace and known to be potentially toxic and the concentrations at which such toxicity is known to occur. He shall determine following a written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, whether any substance normally found in the place of employment has potentially toxic effects in such concentrations as used or found; and shall submit such determination both to employers and affected employees as soon as possible. If the Secretary of Health, Education, and Welfare determines that any substance is potentially toxic at the concentrations in which it is used or found in a place of employment, and such substance is not covered by an occupational safety or health standard promulgated under section 6, the Secretary of Health, Education, and Welfare shall immediately submit such determination to the Secretary, together with all pertinent criteria.

(5) Within two years of enactment of this Act, and annually thereafter, the Secretary of Health, Education, and Welfare shall conduct and publish industrywide studies of the effect of chronic or low-level exposure to industrial materials, processes, and stresses on the potential for illness, disease, or loss of functional capacity in aging adults.

(6) The Secretary of Health, Education, and Welfare is authorized to make inspections and question employers and employees as provided in section 8 of this Act in order to carry out his functions and responsibilities under this section.

(b) The Secretary is authorized to enter into contracts, agreements, or other arrangements with appropriate public agencies or private organizations for the purpose of conducting studies related to the establishing and applying of occupational safety and health standards under section 6 of this Act. In carrying out his functions under this subsection, the Secretary and the Secretary of Health, Education, and Welfare shall cooperate in order to avoid any duplication of efforts under this section.

(c) Information obtained by the Secretary and the Secretary of Health, Education, and Welfare under this section shall be disseminated by the Secretary to employers and employees and organizations thereof.

(d) The Secretary of Health, Education, and Welfare, after consultation with the Secretary of Labor and with the heads of other appropriate Federal agencies, shall conduct, either directly or by way of grant or contract (1) education programs to provide an adequate supply of qualified personnel to carry out the purposes of this Act, and (2) informational programs on the importance of and proper use of adequate safety and health equipment.

(e) The Secretary is also authorized to conduct, either directly or by way of grant or contract, short-term training of personnel engaged in work related to his functions under this Act.

(f) The Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions in places of employment covered by this Act, and to consult with and advise employers and employees, and organizations representing employers and employees, with respect to effective means of preventing occupational injuries and illnesses.

(g) The functions of the Secretary of Health, Education, and Welfare under this Act shall, to the extent feasible, be delegated to the Director of the National Institute for Occupational Safety and Health established by section 19 of this Act.

NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

SEC. 19. (a) It is the purpose of this section to establish a National Institute for Occupational Safety and Health in the Department of Health, Education, and Welfare in order to carry out the policy set forth in section 2 of this Act and to perform the functions of the Secretary of Health, Education, and Welfare under section 18 of this Act.

(b) As used in this section—

(1) the term "Director" means the Director of the National Institute for Occupational Safety and Health; and

(2) the term "Institute" means the National Institute for Occupational Safety and Health.

(c) There is hereby established in the Department of Health, Education, and Welfare a National Institute for Occupational Safety and Health. The Institute shall be headed by a Director who shall be appointed by the Secretary of Health, Education, and Welfare, and who shall serve for a term of six years unless previously removed by the Secretary.

(d) The Institute is authorized to—

(1) develop and establish recommended occupational safety and health standards; and

(2) perform all functions of the Secretary of Health, Education, and Welfare under section 18 of this Act.

(e) Upon his own initiative, or upon the request of the Secretary of Labor or the Secretary of Health, Education, and Welfare, the Director is authorized (1) to conduct such research and experimental programs as he determines is necessary for the development of criteria for new and improved occupational safety and health standards, and (2) after consideration of the results of such research and experimental programs make recommendations concerning new or improved occupational safety and health standards. Any occupational safety and health standard recommended pursuant to this section shall immediately be forwarded to the Secretary of Labor, and to the Secretary of Health, Education, and Welfare.

(f) In addition to any authority vested in it by other provisions of this section, the Director, in carrying out its functions, is authorized to—

(1) prescribe such regulations as he deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of the Institute and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) in the discretion of the Director, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)), money and other property donated, bequeathed, or devised to the Institute with a condition or restriction, including a condition that the

Institute use other funds of the Institute for the purposes of the gift;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this section;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(7) enter into contracts, grants or other arrangements, or modifications thereof to carry out the provisions of this section, and such contracts or modifications thereof may be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or any other provision of law relating to competitive bidding;

(8) make advance, progress, and other payments which the Director deems necessary under this title without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(9) make other necessary expenditures.

(g) The Institute shall submit to the Secretary of Health, Education, and Welfare, to the President, and to the Congress an annual report of its operations under this Act, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as the Institute deems appropriate.

GRANTS TO THE STATES; STATISTICS

SEC. 20. (a) (1). The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States which have designated a State agency under section 16(c) to assist them—

(A) in identifying their needs and responsibilities in the area of occupational safety and health,

(B) in developing State plans under section 16, or

(C) in developing plans for—

(i) establishing systems for the collection of information concerning the nature and frequency of occupational injuries and diseases;

(ii) increasing the expertise and enforcement capabilities of their personnel engaged in occupational safety and health programs; or

(iii) otherwise improving the administration and enforcement of State occupational safety and health laws, including standards thereunder, consistent with the objectives of this Act.

(2) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States for experimental and demonstration projects consistent with the objectives set forth in paragraph (1) of this subsection.

(3) The Governor of the State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(4) Any State agency designated by the Governor of the State desiring a grant under this section shall submit an application therefor to the Secretary.

(5) The Secretary shall review the application, and shall, after consultation with the Secretary of Health, Education, and Welfare, approve or reject such application.

(6) The Federal share for each State grant under paragraphs (1) or (2) of this subsection may not exceed 90 per centum of the total cost of the application. In the event the Federal share for all States under either such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(7) The Secretary is authorized to make grants to the States to assist them in administering and enforcing programs for occupational safety and health contained in State plans approved by the Secretary pursuant to section 16 of this Act. The Federal share for each State grant under this subsection may not exceed 50 per centum of the total cost to the State of such a program. The last sentence of paragraph (6) shall be applicable in determining the Federal share under this subsection.

(8) Prior to June 30, 1973, the Secretary shall, after consultation with the Secretary of Health, Education, and Welfare, transmit a report to the President and to the Congress, describing the experience under the grant programs authorized by this section and making any recommendations he may deem appropriate.

(b) (1) In order to further the purposes of this Act, the Secretary shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics.

(2) To carry out his duties under paragraph (1) of this subsection, the Secretary is authorized to—

(A) promote, encourage, or directly engage in programs of studies, information and communication concerning occupational safety and health statistics;

(B) make grants to States or political subdivisions thereof in order to assist them in developing and administering programs dealing with occupational safety and health statistics; and

(C) arrange, through grants or contracts, for the conduct of such research and investigations as give promise of furthering the objectives of this section.

(3) The Federal share of each State grant under paragraph (2) of this section may be up to 50 per centum of the State's total cost.

(4) The Secretary may, with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the agencies of such State or political subdivision, with or without reimbursement, in order to assist him in carrying out his functions under this section.

(5) On the basis of the records made and kept pursuant to section 8(c) of this Act, employers shall file such reports with the Secretary as he shall prescribe by regulation, as necessary to carry out his functions under this Act.

AUDITS

SEC. 21. (a) Each recipient of a grant under this Act shall keep such records as the Secretary or the Secretary of Health, Education, and Welfare shall prescribe, including records which fully disclose the amount and disposition of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary or the Secretary of Health, Education, and Welfare, 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 recipients of any grant under this Act that are pertinent to any such grant.

ANNUAL REPORT

SEC. 22. Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary and the Secretary of Health, Education, and Welfare shall each prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this Act, the progress toward achievement of the purpose of this Act, the needs and requirements in the field of occupational safety and health, and any other relevant information. Such reports shall include information regarding occupational safety and health standards, and criteria for such standards, developed during the preceding year; evaluation of standards and criteria previously developed under this Act, defining areas of emphasis for new criteria and standards; an evaluation of the degree of observance of applicable occupational safety and health standards and summary of inspection and enforcement activity undertaken; analysis and evaluation of research activities for which results have been obtained under governmental and nongovernmental sponsorship; an analysis of major occupational diseases; evaluation of available control and measurement technology for hazards for which standards or criteria have been developed during the preceding year; description of cooperative efforts undertaken between Government agencies and other interested parties in the implementation of this Act during the preceding year; a progress report on the development of an adequate supply of trained manpower in the field of occupational safety and health, including estimates of future needs and the efforts being made by Government and others to meet those needs; listing of all toxic substances in industrial usage for which labeling requirements, criteria, or standards have not yet been established; and such recommendations for additional legislation as are deemed necessary to protect the safety and health of the worker and improve the administration of this Act.

NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS

SEC. 23. (a) (1) The Congress hereby finds and declares that—

(A) the vast majority of American workers, and their families, are dependent on workmen's compensation for their basic economic security in the event such workers suffer disabling injury or death in the course of their employment; and that the full protection of American workers from job-related injury or death requires an adequate, prompt, and equitable system of workmen's compensation as well as an effective program of occupational health and safety regulation; and

(B) in recent years serious questions have been raised concerning the fairness and adequacy of present workmen's compensation laws in the light of the growth of the economy, the changing nature of the labor force, increases in medical knowledge, changes in the hazards associated with various types of employment, new technology creating new risks to health and safety, and increases in the general level of wages and the cost of living.

(2) The purpose of this section is to authorize an effective study and objective evaluation of State workmen's compensation laws in order to determine if such laws provide an adequate, prompt, and equitable system of compensation for injury or death arising out of or in the course of employment.

(b) There is hereby established a National Commission on State Workmen's Compensation Laws (hereinafter referred to as the "Commission").

(c) (1) The Commission shall be composed of fifteen members to be appointed by the President from among members of State workmen's compensation boards, representatives of insurance carriers, business, labor, members of the medical profession having experience in industrial medicine or in workmen's compensation cases, educators having special expertise in the field of workmen's compensation, and representatives of the general public. The Secretary of Labor, the Secretary of Commerce, and the Secretary of Health, Education, and Welfare shall be ex officio members of the Commission.

(2) Any vacancy in the Commission shall not affect its powers.

(3) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

(4) Eight members of the Commission shall constitute a quorum.

(d) (1) The Commission shall undertake a comprehensive study and evaluation of State workmen's compensation laws in order to determine if such laws provide an adequate, prompt, and equitable system of compensation. Such study and evaluation shall include, without being limited to, the following subjects: (A) the amount and duration of permanent and temporary disability benefits and the criteria for determining the maximum limitations thereon, (B) the amount and duration of medical benefits and provisions insuring adequate medical care and free choice of physician, (C) the extent of coverage of workers, including exemptions based on numbers or type of employment, (D) standards for determining which injuries or diseases should be deemed compensable, (E) rehabilitation, (F) coverage under second or subsequent injury funds, (G) time limits on filing claims, (H) waiting periods, (I) compulsory or elective coverage, (J) administration, (K) legal expenses, (L) the feasibility and desirability of a uniform system of reporting information concerning job-related injuries and diseases and the operation of workmen's compensation laws, (M) the resolution of conflict of laws, extraterritoriality and similar problems arising from claims with multistate aspects, (N) the extent to which private insurance carriers are excluded from supplying workmen's compensation coverage and the desirability of such exclusionary practices, to the extent they are found to exist, (O) the relationship between workmen's compensation on the one hand, and old-age, disability, and survivors insurance and other types of insurance, public or private, on the other hand, (P) methods of implementing the recommendations of the Commission.

(2) The Commission shall transmit to the President and to the Congress not later than October 1, 1971, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable.

(e) (1) The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(2) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this section.

(f) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(g) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(h) Members of the Commission shall receive compensation for each day they are engaged in the performance of their duties as members of the Commission at the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(i) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(j) On the ninetieth day after the date of submission of its final report to the President, the Commission shall cease to exist.

ECONOMIC ASSISTANCE TO SMALL BUSINESSES

SEC. 24. (a) Section 7(b) of the Small Business Act, as amended, is amended—

(1) by striking out the period at the end of "paragraph (5)" and inserting in lieu thereof "; and"; and

(2) by adding after paragraph (5) a new paragraph as follows:

"(6) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in affecting additions to or alterations in the equipment, facilities, or methods of operation of such business in order to comply with the applicable standards promulgated pursuant to section 6 of the Occupational Safety and Health Act or standards adopted by a State pursuant to a plan approved under section 16 of the Occupational Safety and Health Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The third sentence of section 7(b) of the Small Business Act, as amended, is amended by striking out "or (5)" after "paragraph (3)" and inserting a comma followed by "(5) or (6)".

(c) Section 4(c) (1) of the Small Business Act, as amended, is amended by inserting "7(b) (6)," after "7(b) (5),".

(d) Loans may also be made or guaranteed for the purposes set forth in section 7(b) (6) of the Small Business Act, as amended, pursuant to the provisions of section 202 of the Public Works and Economic Development Act of 1965, as amended.

ADDITIONAL ASSISTANT SECRETARY OF LABOR

SEC. 25. (a) Section 2 of the Act of April 17, 1946 (60 Stat. 91) as amended (29 U.S.C. 553) is amended by—

(1) striking out "four" in the first sentence of such section and inserting in lieu thereof "five"; and

(2) adding at the end thereof the following new sentence: "One of such Assistant Secretaries shall be an Assistant Secretary of Labor for Occupational Safety and Health.".

(b) Paragraph (20) of section 5315 of title 5, United States Code, is amended by striking out "(4)" and inserting in lieu thereof "(5)".

SEPARABILITY

SEC. 26. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

APPROPRIATIONS

SEC. 27. There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the Congress shall deem necessary.

EFFECTIVE DATE

SEC. 28. This Act shall take effect on the first day of the first month which begins more than thirty days after the date of its enactment.

GENEVA PROTOCOL OF 1925—EXECUTIVE UNDERSTANDING NO. 1

Mr. NELSON. Mr. President, on August 19, 1970, the President transmitted to the Senate the Geneva Protocol of 1925, which foreswears the first use of chemical and bacteriological warfare. The administration has taken a position in the nature of an understanding that herbicides are not covered by the protocol.

I am submitting, for appropriate referral, an understanding of the Senate that would include herbicides within the legal scope of the treaty and ask that the understanding be printed in the RECORD.

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

PROTOCOL FOR THE PROHIBITION OF THE USE IN WAR OF ASPHYXIATING, POISONOUS OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS OF WARFARE

Understanding intended to be proposed by Mr. NELSON with respect to the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925:

At the end of the resolution of ratification, insert the following: "It is the understanding of the Senate, which understanding inheres in its advice and consent to the ratification of the protocol, that the terms of the protocol prohibit the use in war of chemical herbicides."

BILLS INTRODUCED

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

By Mr. ALLOTT:

S. 4435. A bill to amend the Internal Revenue Code of 1954 to exclude certain organizations from the definition of private foundation; to the Committee on Finance.

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

By Mr. INOUYE (by request):

S. 4436. A bill for the relief of Claude Leruitte; to the Committee on the Judiciary.

By Mr. SCHWEIKER:

S. 4437. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to deduct expenses incurred in traveling outside the United States to obtain information concerning a member of his immediate family who is missing in action, or who is or may be held prisoner, in the Vietnam conflict, and for other purposes; to the Committee on Finance.

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

By Mr. NELSON:

S. 4438. A bill to declare that certain Federally owned land is held by the United States in trust for the Stockbridge-Munsee Community, and to make such lands part of the reservation involved; to the Committee on Interior and Insular Affairs.

By Mr. MATHIAS:

S. 4439. A bill for the relief of Carlo Bianchi & Co., Inc.; to the Committee on Public Works.

S. 4435—INTRODUCTION OF A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1954

Mr. ALLOTT. Mr. President, the purpose of the bill which I introduce is to amend the Internal Revenue Code of 1954 to exempt the Myron Stratton Home of Colorado Springs, Colo., and any other organization similarly situated, from classification as a private foundation. This will relieve from taxation, an organization in existence for over 50 years whose investment income is used solely to provide complete long-term care of poor children, disabled and elderly persons without charge.

Last year Congress attempted tax reform to correct abuses that arose in connection with private foundations. Mr. President, I submit that the tax burdens, such as the excise tax on investment income, imposed on private foundations under the Tax Reform Act of 1969 were not intended to apply to operations such as those conducted by the Myron Stratton Home.

If this organization were church affiliated or publicly supported, it would not be classified as a private foundation, even though some portion of the cost of providing the services and facilities were imposed on the recipients. Since the Stratton Home fulfills the same needs and performs the same functions, and without charge, there is no apparent reason why any differentiation should be made in its tax status.

In short, Mr. President, this is an inequity which I feel should be corrected.

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

The ACTING PRESIDENT pro tempore (Mr. YOUNG of Ohio). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 4435) to amend the Internal Revenue Code of 1954 to exclude certain organizations from the definition of private foundation, introduced by Mr. ALLOTT, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 4435

Be it enacted by the Senate and House of Representatives of the United States of the United States of America in Congress assembled, That (a) section 509(a) of the Internal Revenue Code of 1954 (relating to definition of private foundation) is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) an organization which has continuously for a period of at least 50 years prior to the close of the taxable year operated and maintained as its principal purpose or function facilities for the long-term reasonable care, comfort, maintenance and education of permanently and totally disabled persons, elderly persons, or children, without charge to the recipients thereof and without benefit from the date of its establishment of any grant from the United States or any State or political subdivision thereof."

(b) The amendments made by subsection (a) shall take effect on January 1, 1970.

S. 4437—INTRODUCTION OF A BILL TO ALLOW INCOME TAX EXEMPTIONS FOR FAMILIES OF AMERICAN PRISONERS OF WAR

Mr. SCHWEIKER. Mr. President, I introduce today a bill to amend the Internal Revenue Code to permit a taxpayer to deduct expenses incurred in traveling outside the United States to obtain information concerning a member of his immediate family who is missing in action in Vietnam or who is, or may be, held prisoner by the North Vietnamese.

In addition, I am proposing that the Internal Revenue Code be further amended to relieve prisoners of war and those missing in action from income tax liability during the time they are held in a detained status by the enemy.

Mr. President, during the past few years one of the most distressing aspects of the tragic Vietnam war has been the inhumane attitude taken by the North Vietnamese and the National Liberation Front in South Vietnam towards American prisoners of war.

State Department inquiries, congressional resolutions, which I have strongly supported, letter writing campaigns by newspapers, and their readers, across the Nation, and even the recent joint session on prisoners of war have still been of no avail. It is particularly disheartening to hear of the personal experiences of the mothers, fathers, sisters, brothers, and wives who have spent thousands of dollars in vain attempts to learn whether their loved ones are in fact dead or alive, and in attempts to seek their freedom.

The North Vietnamese have repeatedly refused to adhere to the Geneva Convention, and despite entreaties from many sources, both official and unofficial, have not even taken the basic step of human decency in revealing the names of the prisoners they are currently holding.

The tragedy of this secrecy is that thousands of relatives and friends of Americans missing in action must live daily under the torment of not knowing whether their loved ones are alive or not.

This year, the Senate and the House passed H.R. 4204, to provide extra pay under the War Claims Act of 1948 to men held prisoner of war, which the President signed into law.

However, in addition to this step to help the POW's, there is further action we can take to be of direct benefit to relatives, who in addition to the mental anguish and emotional strain of not knowing whether their loved ones are prisoners or not, have undergone considerable financial expenses trying to find out this information.

Many wives, parents, and children have traveled to Paris, and other spots around the world, to try to obtain information about the status or whereabouts of a serviceman who is missing in action. In so doing, they have incurred many expenses, such as transportation, hotel, meals, and telephone bills. I feel that if we allow businessmen to deduct such items in the course of their business, we also should take this humanitarian step and allow similar deductions for these families that have to bear so much grief.

This bill is similar to H.R. 19380, introduced in the other body by Representative PAUL FINDLEY, of Illinois. I hope both Houses can act swiftly so that in this small personal way, we can let the relatives of our servicemen missing in action know that we are concerned about their personal anguish, and want to do everything within our power to help.

Mr. President, I ask that my bill be appropriately referred, and that the text be printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. WILLIAMS of New Jersey). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 4437) to amend the Internal Revenue Code of 1954 to permit a taxpayer to deduct expenses incurred in traveling outside the United States to obtain information concerning a member of his immediate family who is missing in action, or who is or may be held prisoner, in the Vietnam conflict, and for other purposes, introduced by Mr. SCHWEIKER, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 4437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 218 as section 219 and by inserting after section 217 the following new section:

"SEC. 218. EXPENSES INCURRED IN SEEKING INFORMATION CONCERNING FAMILY MEMBERS WHO ARE OR MAY BE PRISONERS OF WAR.

"(a) IN GENERAL.—Under regulations prescribed by the Secretary or his delegate, there shall be allowed as a deduction the amount of any expenses (includible under subsection (b)) which are paid or incurred during the taxable year by the taxpayer, or by another person with respect to whom the taxpayer is entitled for such taxable year to an exemption under section 151, in connection with a trip outside the United States for the purpose of locating or communicating with a member of the taxpayer's immediate family who is or may be a prisoner of war or is otherwise in a missing status (as defined in section 551(2) of title 37, United States Code) during and in connection with the Vietnam conflict, for the purpose of ascertaining whether such member is alive, or for the purpose of seeking his release from imprisonment or detention.

"(b) EXPENSES INCLUDIBLE.—The expenses which may be included in the deduction under subsection (a) with respect to any trip shall include the costs of transportation, board, lodging, telephone calls, and other items and services on or in connection with such trip, but only to the extent that they are directly related to and necessary for the purpose (specified in subsection (a)) for which the trip was made."

(b) The table of sections for part VII of subchapter B of chapter 1 of such Code

is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 218. Expenses incurred in seeking information concerning family members who are or may be prisoners of war.

"Sec. 219. Cross references."

SEC. 2. Section 112 of the Internal Revenue Code of 1954 (relating to certain combat pay of members of the Armed Forces) is amended by adding at the end thereof the following new subsection:

"(d) PRISONERS OF WAR, ETC.—Gross income does not include compensation received for active service as a member of the Armed Forces of the United States for any month during any part of which such member is in a missing status (as defined in section 551(2) of title 37, United States Code) during the Vietnam conflict."

SEC. 3. As used in sections 1 and 2, the term "Vietnam conflict" includes combatant activities by United States forces in Vietnam and other areas of Southeast Asia, and directly related military, naval, air, and supply activities, conducted on or after February 28, 1961, and prior to such date as may be specified by the President by Executive order as the date of the termination of such activities.

SEC. 4. The amendments made by sections 1 and 2 of this Act shall apply only with respect to taxable years ending after the date of the enactment of this Act.

ADDITIONAL COSPONSORS OF BILLS

S. 3860

At the request of the Senator from Pennsylvania (Mr. SCOTT), the Senator from Wyoming (Mr. MCGEE), was added as a cosponsor of S. 3860, to revise and clarify the Federal Aid in Wildlife Restoration Act and the Federal Aid in Fish and Restoration Act, and for other purposes.

S. 4265

At the request of the Senator from Oregon (Mr. HATFIELD), the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of S. 4265, to amend section 306 of the Consolidated Farmers Home Administration Act to increase the aggregate annual limit on grants for water and waste facilities constructed to serve rural areas and to increase the aggregate annual limit on grants for plans for the development of such facilities.

PROPOSED AMENDMENT TO THE CONSTITUTION RELATIVE TO EQUAL RIGHTS FOR MEN AND WOMEN—AMENDMENT

AMENDMENT NO. 1029

Mr. ERVIN submitted an amendment, 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.

AMENDMENT NO. 1033

Mr. KENNEDY. Mr. President, on behalf of Senators MATHIAS, CHURCH, CRANSTON, EAGLETON, GRAVEL, HARRIS, MAGNUSON, MCGOVERN, NELSON, PROXMIRE, STEVENS, TYDINGS, and myself, I submit an amendment to House Joint Resolution 264, relative to equal rights for men and women, and I ask unanimous consent that it lie on the table and be printed. The purpose of the amendment is to amend the U.S. Constitution to provide full voting representation in Congress for the District of Columbia—two Senators and the number of Representatives to which the District would be entitled on the basis of its population. It is my intention to call up this amendment at the appropriate time during the present debate.

One of the most glaring injustices in our democracy today is our failure to give full voting representation in Congress to the people of the District of Columbia. In recent years, we have made substantial progress toward extending the franchise and broadening the base of representative government in America. Most recently, we voted overwhelmingly last spring to lower the voting age to 18, thereby bringing millions of young Americans into the mainstream of the political process.

I believe that the opportunity is now at hand to take another major step forward in our long march toward fulfilling the promise of representative government for all our people. The time has come to eliminate the injustice to which the people of the Nation's Capital have been so unfairly subjected for so long. The time has come to give full voting representation in Congress to the District of Columbia.

SUMMARY OF THE PROPOSED CONSTITUTIONAL AMENDMENT

The constitutional amendment I am offering would provide full voting representation in Congress for the District of Columbia. The amendment would contain seven principal provisions:

First, citizens of the District of Columbia would elect two Senators and the number of Representatives in Congress—probably two—to which the District would be entitled on the basis of population.

Second, each Senator or Representative would be required to be a resident of the District.

Third, each Senator or Representative would possess the same qualifications as to age and citizenship and have the same rights, privileges and obligations as other Senators or Representatives.

Fourth, a vacancy in the representation of the District of Columbia in the Senate or the House of Representatives would be filled by a special election by the voters in the District.

Fifth, the amendment would have no effect on the provision in the 23d amendment for determining the number of electors for President and Vice President to be appointed for the District. However, depending upon the outcome of the debate on Senate Joint Resolution 1, each Senator or Representative from the District would be entitled to participate in choosing the President or Vice President in cases where the presidential election is decided by the Congress.

Sixth, Congress would have the power to implement the amendment by appropriate legislation.

Seventh, the amendment would have to be ratified by the States separately from the direct popular election amendment.

DISTRICT OF COLUMBIA REPRESENTATION IN CONGRESS AND HOME RULE FOR DISTRICT OF COLUMBIA

The proposed amendment deals only with representation in Congress for the District of Columbia. It is not a proposal for "home rule" for the District. Citizens of the Nation's Capital have never had representation in Congress. Ironically, however, in times past, they have had home rule—the right to choose their own local government. For almost a century—from 1800, when the District of Columbia was first established by Congress, until 1874, when Congress eliminated all elective offices for the District—citizens of the District had at least some form of elected self-government.

I strongly support the principle of home rule for the District of Columbia. In the next Congress, I intend to make a strong effort to end the years of frustrating effort to achieve this basic reform. Whatever the result of these efforts, however, at least we can agree now that representation in Congress for the District of Columbia is both deserved and justified.

THE NEED FOR FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

Full voting representation in Congress is an act of simple justice for the District of Columbia that is long overdue. For nearly a century, every effort to accomplish this goal has met with uniform frustration and defeat. It is time now for Congress to act to end this injustice.

Thanks to the 23d amendment to the Constitution, adopted in 1961, the citizens of the District of Columbia are now eligible to vote for President and Vice President. But, there is still an unfair barrier against their participation in the National Legislature. By some strange anomaly, citizens of the District can vote for their President, but not for their own Representatives in Congress.

There is no reasonable basis to continue to exclude the citizens of the District from the right to representation in Congress. We can no longer ignore the fact that the power of the vote in Congress determines much of the life and direction of the Nation. Even without the power of this vote, the people of the District are still required to fulfill all the obligations of American citizenship. But because they have no voice in shaping the laws by which they are governed, they are relegated to the status of second-class citizens in our society.

The residents of the Federal city are as deeply concerned about their city's condition and future as are the residents of Boston, New York, Chicago, Los Angeles, or any other American metropolis. But Washingtonians do not share equally with other Americans in the opportunity to make the decisions that affect their lives. Only a constitutional amendment granting full representation in Congress will enable citizens of the District to enjoy each of the rights granted to all Americans by the Constitution of our country.

District of Columbia representation in Congress, however, is more than just a prize for the citizens of the District. It is also a symbol of the problems and aspirations of the Nation as a whole. For

the United States, the world's greatest democracy, to deny the right of representation to the people of its Capital is unconscionable, and the shame of the denial is compounded by the bitter racial emotions to which it gives rise. All of us in Congress, whatever the State or district we represent, have the obligation to eliminate this blight on the principles of our democracy.

The right of representative government is fundamental to democracy in America. Nowhere in America should the principle of representative government be more firmly established than in the Nation's Capital. In Washington today, however, democracy is weakest where it should be strongest. In this city where the principle of representative government should be practiced with pride as a symbol of freedom to the rest of the country and to the entire free world, democracy is shamefully lacking. By some cruel irony, a nation founded as a haven from oppression and tyranny denies to the citizens of its capital the blessings of democracy. Indeed, it is fairly said that Washington is America's last colony.

Washington today is a city of 764,000 people. It has a population greater than that of each of 11 States. Together, those 11 States have a total of 39 representatives in the Senate and the House. Yet, the people of Washington have no voice whatever in Congress. By contrast, those 11 States are currently represented as follows:

Population (preliminary 1970 census estimate)	
No Senators, no Representatives:	
District of Columbia	764,000
Two Senators, two Representatives:	
Hawaii	748,000
New Hampshire	722,000
Idaho	698,000
Montana	682,000
South Dakota	661,000
North Dakota	610,000
Two Senators, one Representative:	
Delaware	542,000
Nevada	481,000
Vermont	437,000
Wyoming	328,000
Alaska	294,000

The Nation is now completing the 1970 census, from which these figures are derived. Article I, section 2 of the Constitution requires that the census shall be taken at least once every 10 years. Although the census now fulfills many purposes, the Constitution makes clear that the primary purpose of the census is to determine congressional representation in the House of Representatives. Ironically, in the District of Columbia, the national census continues to fulfill every purpose except its primary purpose.

As viewed by our Nation's official policy, Washingtonians are equal for the purpose of taxation, the draft, and all the other duties of citizenship, but not for the purpose of representation. Each year, they are taxed for hundreds of millions of dollars without representation, and their sons are drafted to fight and die in Vietnam. In countless ways, the people of Washington bear the manifold responsibilities of Federal citizenship, but they are denied the opportunity to participate in making the laws by which they are governed.

To deny District citizens a voice and a vote in the Congress is not only to deny 764,000 people their rightful representation in the Senate or House. At least in part, it is also to deny more than 35 million people in 16 different States the full attention of their own Senators and Representatives. These are the people represented by the 12 Senators and 32 Representatives serving on the Senate and House Committees on the District of Columbia and the respective appropriations subcommittees.

Although representation in Congress for the District will not end the participation of Members of Congress on the Senate and House District Committees, it may reasonably be expected that at least Senators from the most populous States, like New York, would be more free to devote their attention to their own constituents and would not also be assigned the responsibility of the detailed local work of a District committee. It is notorious in the present situation, that Senators and Representatives on the District committees are too often obliged to put their work on national legislation ahead of their work on District legislation. Clearly, it would be desirable to have Senators and Representatives on those committees whose primary loyalty would be to the citizens of the District.

Of course, in the early years of our republic the status of the District of Columbia was not the same as it is today. Our Founding Fathers had no idea that the pastures, marshes, and cornfields along the Potomac River would one day become the residence for nearly a million people and the center of one of the Nation's greatest metropolitan areas.

Today, however, the situation is different. The Nation's Capital has expanded into a vast and complex society, the heart of democracy in America. Washingtonians live with precisely the same issues that face every other part of the Nation. War and race, poverty and crime, education and health are the great issues of our time, and they vitally affect all our people. Only in Washington, however, are American citizens denied a voice in solving these problems. The laws and policies that personally affect the daily lives of Washington residents are entirely dictated by us in Congress. Yet, not one of us in Congress is a direct representative of the people of the Capital City.

Equally important, the vast political changes in our society in recent years have placed extraordinary emphasis on the fair and equal participation of every citizen in the most basic right of all in our democratic society—the right to vote. The decade of the 1960s brought enormous progress in this area to millions of Americans. The Civil Rights Acts, the Voting Rights Act, the abolition of the poll tax, the reapportionment decisions of the Supreme Court, and now the 18-year-old vote, are just a few of the great steps we have taken in recent years to achieve the ideal stated so eloquently in the Declaration of Independence, that "Governments are instituted among men, deriving their just powers from the consent of the governed."

At the same time, the remarkable advances we have secured in other areas demonstrate even more clearly the injustice to which hundreds of thousands of Washington citizens are condemned. By denying them the right to representation in Congress, we rob them of one of the basic birthrights of American citizens.

In large part, I believe, the absence of District of Columbia representation in Congress is the result of ignorance and apathy, not conscious discrimination. Wherever I travel in Massachusetts, I find that people are amazed to hear that the citizens of Washington have no representation in Congress. Now that the plight of the Nation's Capital is becoming familiar in States throughout the country, I am hopeful that the remedy will be swift.

I fully understand the issues raised by those concerned about the changing relationship of the Federal Government and the Congress to the District. We all know that this is not and has never been a static relationship. Rather, the relationship has undergone a process of continual evolution through the years.

It is fair to say, however, that the only real controversy in the debate has always been over the question of home rule—a question entirely separate from the fundamental issue of representation in Congress for the citizens of the District.

Agonizing debates over many years have produced a wide variety of proposals to resolve the question of home rule. Some have suggested a Federal enclave, withholding most or all Federal property from municipal jurisdiction, but restoring all the rest to local control. Others call for complete local self-government, subject only to such minimum controls as may be clearly essential to protect the seat of Federal Government.

No such bitter controversy surrounds the question of District of Columbia representation in Congress. This is one contemporary need to which Congress can and should respond. The people of Washington are entitled to full voting representation in the U.S. Senate and House of Representatives. It is long past time for Congress to demonstrate to our own people and to people throughout the world that in America, democracy exists for all.

POSSIBLE ARGUMENTS AGAINST FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

In the past, representation in Congress for the District of Columbia has been the subject of a number of unconvincing opposing arguments. Because they are so unconvincing, most of us who favor representation for the District dismiss these arguments as a cover for partisan politics or, worse, as a cover for racism.

Some opponents of representation for the District of Columbia claim that the amendment would treat the District as a State. They say that the District is not a State, but a city, smaller than at least eight other cities in the Nation, and that

there is no greater reason for this city to be represented in Congress than larger cities which are denied the right. This argument ignores the obvious fact that other American cities are political subdivisions of States, which are already represented in both the Senate and the House of Representatives. For years, the District of Columbia has traditionally been treated as a State in virtually every major Federal grant legislation. In program after program, in statute after statute, all of us in Congress are familiar with the well-known clause—"For the purposes of this legislation, the District of Columbia shall be treated as a State."

This argument against District of Columbia representation is heard most frequently in relation to the Senate. The objection is raised that only States should be represented in the Senate, and that the District of Columbia is not and cannot ever become a State.

I believe that we can accept the logic of this argument without making it dispositive. I share the strong concern of the Members of this body for the traditions and prerogatives of the Senate, but I also feel a strong concern against the injustice of denying a substantial group in our population the right to participate in making the laws by which they are governed. Vital legislation affecting the lives of all the citizens in the Nation is debated in every session of the Senate. Until the people of the District are represented in the Senate as well as in the House, they will not have the right of true self-government that is the birthright of every American citizen.

In addition, by accepting two Senators for the District of Columbia as part of the amendment, as well as representation in the House, the Senate itself will be demonstrating its good faith to the House. Too often, as the recent House debate on the nonvoting delegate made clear, the Senate has been generous in proposing representation in the House for the District of Columbia, but reluctant to invite the District into the well of the Senate itself. Once the Senate accepts the principle of full-voting representation in the Senate for the District of Columbia, I am confident that the House will follow suit.

To be sure, the status of the District of Columbia is unique in the politics and geography of America. Obviously, for example, we would not grant voting representation in either the Senate or the House to Puerto Rico, unless that Commonwealth chose to become a State. We know, however, that, unlike all our other territories, past or present, the District of Columbia can never aspire to statehood in the United States. Can we really maintain, therefore, that the citizens of the District are doomed to a perpetual colonial status, to denial of the most basic right in civilized society—the right that is preservative of all other rights, the right of self-government? Surely this is too high a price to pay for preserving the traditions and prerogatives of the Senate.

Nothing in our Constitution or its history supports the interpretation that the District of Columbia was not intended to be entitled to representation in both the Senate and the House. Indeed, in the Federalist, No. 43, James Madison, one of the principal architects of the Constitution, wrote that the prospective inhabitants of the Federal city "will have had their voice in the election of the Government which is to exercise authority over them." Clearly, Madison was assuming that the citizens of the Nation's Capital would be represented in Congress.

Another, even less persuasive, objection to District representation rests on the proviso in article V of the Constitution, which declares that "No State, without its consent, shall be deprived of its equal suffrage in the Senate." It is far too late in our history to argue that the admission of the District of Columbia to representation in Congress would deprive any State of its "equal suffrage in the Senate." In light of the history of the Constitution and the precedents under it, the meaning of article V is clear—no single State may be given a larger number of Senators than any other State.

In other words, it was the intention of the Founding Fathers in the proviso of article V to make clear that the Senate could never—even by constitutional amendment—be apportioned by population or on any other basis that would give one State more representatives in the Senate than any other State.

This was the essence of the Federal compromise at the Constitutional Convention in 1787. It has guided us for 200 years, and it is intended to endure throughout our history. This is all that article V means, and all that it requires.

In addition, article V has never been read as prohibiting the representation of new States in the Senate, even though—obviously—the admission of a new State dilutes the voice and power of the existing States in the Senate. Indeed, since the ratification of the Constitution by the original 13 States, 37 new States have been admitted to the Union. As a result, the power of the original 13 States in the Senate has been diluted nearly fourfold, from 2/26 to 2/100. Yet, no one has ever argued that any of the original 13 States has been deprived of its equal suffrage in the Senate.

The principle is clear. So long as the District of Columbia is represented in the Senate no more advantageously than any State, it cannot be said that representation for the District deprives any State of its equal suffrage in the Senate. Each State will still have two votes in the Senate, and each State will still have the same proportionate vote as any other State.

RECENT EFFORTS TO OBTAIN REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

Although a large number of proposed constitutional amendments for full voting representation in Congress in the District of Columbia have been introduced over the years, none has yet come to a vote on the floor of either the Senate or the House.

One of the most significant recent developments occurred in 1967, when the Johnson administration proposed a constitutional amendment to provide a single voting representative for the District in the House of Representatives. The proposal would also have authorized Congress to act by statute to enlarge District of Columbia representation in either the Senate or the House, up to the representation to which the District's population entitles it. Hearings on this proposal were held before both the Senate and House Judiciary Committees in the 90th Congress.

No further action was taken in the Senate, but the House Judiciary Committee—under the leadership of its distinguished chairman, Congressman EMANUEL CELLER—reported the proposal in a much more far-reaching form. As reported, the proposal—essentially the same proposal that I am now offering—would provide for the election of two Senators by the voters of the District and election of the number of Representatives based on the city's population. Unfortunately, the House Rules Committee failed to act on the proposal. No further action could be taken by the House, and the amendment died when the 90th Congress adjourned. Nevertheless, this action by the House Judiciary Committee is the high-water mark of all the efforts to achieve this reform. But for the remarkable record of achievement already compiled in the House, there would be no real prospect for enactment of the amendment at this time.

It is also significant that a few years earlier, in 1960, the full Senate itself had accepted the principle of representation in Congress for the District of Columbia. By a vote of 63 to 25—well over the two-thirds majority required to pass a constitutional amendment—the Senate accepted an amendment, sponsored by Senator Kenneth Keating, which would have given citizens of the District of Columbia the right not only to vote in presidential elections, but also to be represented in the House of Representatives. Under the provisions of the amendment, Congress was authorized to determine by statute whether the District representatives would be given voting privileges in the House. The provision for District of Columbia voting in presidential elections went on to become the 23d amendment, but the provision for District of Columbia representation in the House died in the House Judiciary Committee. Today, however, a decade later, the climate in that committee is obviously more favorable toward full voting representation in Congress for the District.

In addition, it is worth emphasizing that the principle of District of Columbia representation in Congress has broad and bipartisan support. In his message to Congress on the District of Columbia in April 1969, President Nixon expressed the administration's strong support for District of Columbia representation in Congress. As the President stated:

> It should offend the democratic sense of this nation that the . . . citizens of its capital comprising a population larger than eleven of its states have no voice in Congress.

Last October, and again as recently as last Friday, President Nixon reiterated his strong concern for voting representa-

tion in Congress for the citizens of the District. As part of his message to Congress on September 11 entitled "A Call for Cooperation," the President emphasized his view that the lack of representative government for the people of the District was "one of the truly unacceptable facts of American life." As the President said:

I share the chagrin that most Americans feel at the fact that Congress continues to deny self-government to the nation's capital.

As long ago as December 1952, President-elect Eisenhower spoke eloquently of the need for District of Columbia representation in Congress. As he put it, taxation without representation was contrary to the principles of our Nation. He specifically expressed his strong feeling that something was basically wrong in America if we tax the citizens of the District and draft their children for military service, but do not give them the right to vote.

VOTING RIGHTS OF RESIDENTS OF THE DISTRICT OF COLUMBIA UPON ITS ESTABLISHMENT AS THE SEAT OF THE FEDERAL GOVERNMENT

The origin of the District of Columbia is found in article I section 8, clause 17 of the Constitution, which provides:

The Congress shall have Power . . . To exercise exclusive Legislation in all Cases whatsoever, over the District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States.

In 1788, the year after the Constitution was ratified, Maryland ceded territory for the District. In 1789, Virginia also ceded territory. From the Maryland and Virginia cessions, the 10-mile square area on both sides of the Potomac River constituting the original District of Columbia was selected.

In the Residence Act of July 16, 1790, Congress approved the territory ceded by Maryland and Virginia as the site for the seat of the Federal Government, and empowered President Washington to engage in all activities necessary for the site to be ready for occupation and use by the Government of the United States on the first Monday of December 1800.

The original 10-mile square area—100 square miles—approved for the Nation's Capital contained two municipalities—Georgetown and Alexandria. Georgetown had originally been laid out in 1752. It was incorporated by Maryland in 1789 and had a population of 3,000 persons in 1800. Alexandria had been founded in 1749. It was incorporated by Virginia in 1790, and had a population of 5,000 in 1800.

Prior to the cutoff date of the first Monday of December 1800, residents of the area included in the District of Columbia continued to vote for Senators and Representatives from their respective States, as well as for the President of the United States and for local officials. In the case of the national election in 1800, for example, voters from the newly laid out city of Washington cast their ballots at Bladensburg, Md., and residents of Georgetown and Alexandria voted in their respective cities.

The right to vote in national elections remained in force until the first Monday in December 1800, when, as announced in an opinion by Justice William Cranch of the U.S. Circuit Court of the District of Columbia, the exclusive jurisdiction of Congress over the District took effect.

In 1846, at the solicitation of the citizens of Alexandria, aggrieved by the denial of their voting rights and their representation in the Federal Government, Congress ceded the 30 square miles of the Virginia portion of the District back to the State of Virginia. A referendum by the people of the area approved the retrocession by an overwhelming majority of nearly 80 percent. In 1838, Georgetown had sought retrocession unsuccessfully. Thus, the territory comprising the District of Columbia today is the 70 square miles of the original Maryland cession.

The grievances of the people of Alexandria leading to the demand for retrocession to Virginia were vividly described by Representative Robert M. T. Hunter, of Virginia, in a speech on the floor of the House during the debate on the retrocession bill. The reporter of the debates summarized Congressman Hunter's speech as follows:

He spoke of the importance of the retrocession to the people of Alexandria; and depicted, in glowing colors, the blight that had fallen on that city by reason of her dependence on the General Government; her declining commerce, her premature decay; the desolation which had come upon her, not by the scourge of God, but by the hand of man. He believed that if the boon contemplated by this bill were granted, the blessings of the people of Alexandria and of their posterity would fall upon Congress. If this opportunity was neglected, Congress would be responsible for whatever evils might result. Cong. Globe, 29th Cong., 1st Sess., p. 778.

The echoes of these grievances are still heard today, more than a century later, with respect to the descendants of the residents of the original Maryland territory ceded to the Nation. The call for action by Congress is now clear.

EARLY EFFORTS TO OBTAIN REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

From the beginning of the 19th century, there have been a number of strong proponents of full voting representation in Congress for the District of Columbia. One of the earliest advocates was Mr. Augustus B. Woodward, a protege of Thomas Jefferson, who wrote a series of eight articles and pamphlets on the issue for the National Intelligencer between 1801 and 1803. In this pamphlet, entitled "Considerations on the Governmnt of the Territory of Columbia" and signed "Epaminondas," Mr. Woodward described the plight of the citizens of the new District, who were forced to endure the very sort of taxation without representation that had so recently triggered the Revolutionary War. As Mr. Woodward eloquently stated:

This body of people is as much entitled to the enjoyment of the rights of citizens as any other part of the people of the United States. There can exist no necessity for their disenfranchisement, no necessity for them to repose on the mere generosity of their countrymen to be protected from tyranny; to mere spontaneous attention for the regulation of their interests. They are entitled to a participation in the general councils on the principles of equity and reciprocity. Considerations on the Government of the Territory of Columbia, Nos. I–IV, Georgetown Museum, 1801–1803.

The other well-known early advocate of District of Columbia representation in Congress was Theodore W. Noyes, a native Washingtonian and the editor of the Evening Star from 1908 to 1946. In 1888, a year after he first came to the Star as an associate editor, Noyes wrote a series of five articles, entitled "Some of Washington's Grievances," in which he strongly urged that the District of Columbia deserved voting representation in Congress. Throughout his life, Noyes devoted much of his time and effort to the cause of District of Columbia representation in Congress, and he may legitimately be called the father of the contemporary movement for such representation.

Indeed, in large part, the history of the movement for District of Columbia representation in the late 19th century and the first half of the 20th century is a chronicle of Noyes' activities. Following his famous series of atricles in 1888, it is worth noting these additional landmarks:

In 1914, the movement began to gain broader support with the official backing of the Washington Chamber of Commerce, in a report written by Noyes himself.

In 1916, Noyes was the leading witness at the first Senate hearings ever held on representation in Congress for the District of Columbia.

In 1917, the Washington Board of Trade, the Chamber of Commerce, and many other organizations joined to organize the "Citizens' Joint Committee on National Representation for the District of Columbia," with Noyes as chairman. Noyes held the position until his death, and testified frequently for the committee in Senate and House hearings.

In 1922, in what stood for many years as the high water mark of the legislation until Congressman CELLER's action in 1967, the Senate District Committee favorably reported the District of Columbia amendment, with a report closely tracking the testimony Noyes had given.

By 1928, Noyes had become known across the Nation for his crusade. Testifying before Congress at the age of 70, he was praised as a man "of invincible determination and unquenchable hope."

In 1946, at his death, Noyes' will created a small trust to continue the movement for District of Columbia representation in Congress. In the words he used in the bequest, Noyes created the trust because he was "convinced that no other representation is so essential to the welfare of the men and women of my home community." In 1951, the trust published a volume of Noyes' collected writings on the subject, entitled, "Our National Capital and Its Un-Americanized Americans."

The first constitutional amendment to be introduced in Congress for District of

Columbia representation was proposed by Senator Henry W. Blair of New Hampshire in 1888, in repsonse to a train of events set in motion by Noyes' articles. On March 10 of that year, the Star carried the fourth article of Noyes' series, describing the unfortunate political plight of the citizens of the District. In the article, Noyes proposed an amendment to provide voting representation in Congress for the District by one Senator and one or more Representatives, according to population. As Noyes stated in his article:

(The Amendment) would be a compromise between granting only local, qualified suffrage, which is highly objectionable to the District, and consenting to absolute self-government, which involves a surrender of national control over the capital, and to which the United States, as owner of one-half the city . . . would never consent. The wisdom of this course is sustained by all the arguments which go to show that the constitutional power of "exclusive legislation" by Congress should not be hastily yielded, and also by those who maintain that taxation without representation and inequality of citizens before the law should not be allowed to exist.

The District would be placed in certain respects on a level with the States. Taxed like them, it would have like them a voice in the disposition of the general taxes. It would not, however, stand upon precisely the same footing with them, for the States are subordinated to the general government only in certain defined particulars, whereas the District would be subordinated in all respects . . . Enjoying representation in Congress and participation in the choice of the President, who appoints its local officers, Washington would resemble in its municipal government a city which, after voting for the governor and legislature of a State is managed by a commission appointed by the former and approved by the latter. *Our National Capital and Its Un-Americanized Americans*, pp. 62–63.

Shortly after publication of this article, Mr. Appleton P. Clark, Sr., a local civic leader, submitted a letter requesting presentation of an amendment to Congress for District of Columbia representation in Congress and in the Electoral College. The amendment was presented by Senator Blair, and was printed in the CONGRESSIONAL RECORD of April 3, 1888—50th Congress. The amendment was identical to the proposal outlined by Mr. Noyes. On April 5, the Senate Judiciary Committee asked to be discharged from consideration of the amendment for technical procedural reasons, and asked that the amendment be referred to the Committee on Privileges and Elections.

On May 15, 1888, Senator Blair reintroduced the amendment as Senate Joint Resolution 82, and this resolution has come to be accepted as the first constitutional amendment to provide representation for the District of Columbia in Congress.

During the 51st Congress, two constitutional amendments were introduced in the Senate—Senate Joint Resolution 11—December 5, 1889, and Senate Joint Resolution 18—December 9, 1889. On December 19, 1889, both amendments were reported unfavorably by the Senate Committee on Privileges and Elections, with the recommendation that consideration be indefinitely postponed. On September 17, 1890, Senator Blair was recognized and spoke strongly before the Senate in support of the resolutions, but they remained on the calendar without further legislative action.

Although a number of individuals made efforts to promote congressional representation for the District and a number of constitutional amendments were introduced during the ensuing quarter of a century, the next period of major interest in the proposal did not begin until 1915.

In December 1915, House Joint Resolution 37 and Senate Joint Resolution 32—64th Congress—were introduced by Representative Richard W. Austin of Tennessee and Senator George E. Chamberlain of Oregon. The resolutions were identical, and provided that the citizens of the District should be accorded the status of citizens of a State in the elections of President and Vice President and should be represented in Congress on the same basis.

On February 24 and 25, 1916, and on March 2, 1916, the Senate Committee on the District of Columbia held the first hearings on the proposal. Theodore Noyes, testifying before the committee, presented the arguments which had been promulgated as early as 1801 in the pamphlets of August B. Woodward.

In his testimony, Noyes emphasized that the arguments made since 1800 for District of Columbia representation were the same, basically, as those he had presented in his article in the Star in 1888. The principle of self-government he said, was so basic to the human dignity and constitutional rights of the people in the District that Congress should act without delay. No further action was taken by the committee, however, and no committee report was filed.

On January 27, 1917, near the end of the 64th Congress, Senator Chamberlain introduced Senate Joint Resolution 196. This proposal is of importance because it was the first of the so-called permissive forms of the amendment to be introduced. Under Senator Chamberlain's new amendment, Congress would have been authorized to act by statute to give residents of the District the status of citizens of a State for the purpose of representation in Congress and election of the President and Vice President. Under the earlier, "mandatory" forms of the constitutional amendment, representation in Congress would have been required by the terms of the amendment itself.

Between 1917 and 1921, 15 additional resolutions were introduced. The Senate District Committee held a new round of hearings on four of the proposals, and on February 21, 1922, Senate Joint Resolution 133, a permissive form of the amendment, was reported favorably by Senator Wesley J. Jones of Washington, the chairman of the committee. Senate Report No. 507, 67th Congress. Except for the increased population of the District, the findings and conclusions of the committee are as valid and current today as they were in 1922, 48 years ago. As the committee report stated:

Yet in the District of Columbia, the seat of the government of the United States, 437,571 Americans, performing justly and honorably all the duties of peace and war, remains without any representation whatever in the Government which rules and taxes them, makes the laws they must obey, and sends their sons to battle.

What is there in our scheme of government that requires that the Capital of the United States should be the one capital among the civilized nations, the inhabitants of which are excluded, deliberately and of set purpose, from all participation in their government?

The 1922 report of the Senate District Committee was twice reaffirmed in subsequent Congresses without hearing, but no further substantial legislative action was taken. The rising tide of the movement had crested and begun to subside.

At the beginning of this period, various citizen groups had begun to lend increasingly active support to the District of Columbia representation movement. Outstanding among them was the Citizens' Joint Committee on National Representation for the District of Columbia, which convened initially on November 21, 1917. The committee was composed of delegates from Washington's principal commercial and civic bodies, and was intended to become a smooth working, powerful organization, operating solely, and with one voice for the passage by Congress and ratification by the State legislatures of a constitutional amendment to give representation in Congress for citizens of the District. Theodore Noyes was unanimously elected chairman and he served in that capacity until his death July 4, 1946.

The injustice of taxation without representation, and the participation of District citizens in World War I without the full political status of their comrades, had succeeded in bringing the District of Columbia representation issue to the forefront. By 1919, the citizens' Joint Committee had established an essentially all-inclusive membership among local organizations and institutions. The rolls of the committee contained every significant civic and business organization in Washington, such as the Chamber of Commerce, the Board of Trade, the Merchants' and Manufacturers' Association, the Central Labor Union, the Federation of Citizens' Associations, the Oldest Inhabitants Association, the Bar Association, and many others.

The Joint Committee's executive officers had laid effective groundwork by visiting several cities for the purpose of studying their tax structures. The Washington press carried long accounts of progress toward the goal, and out-of-town correspondents kept other localities aware of the movement.

Red stickers were printed emphasing that the 400,000 inhabitants of the District paid taxes, obeyed Federal laws and went to war, but were forced to remain voteless. Businessmen attached the stickers to their nonlocal correspondence. The response throughout the county was surprisingly rapid and heartening. Many

persons offered support and expressed astonishment at learning that Washingtonians were disfranchised, or that they were required to pay taxes in any form. And yet, although not a dissident note sounded in these early years, no action occurred in Congress.

Then, the civil front began to crack. The organizations making up the Joint Committee began to take differing positions on the amendment they desired Congress to enact. A severe blow fell in July 1919, when racial violence broke out in Washington. The disturbances produced deep political divisions within the city on the issue, causing a loss of faith in the people of Washington throughout the country.

Apathy set in. Although the joint committee remained in existence for many years it was never able to generate the strong combination of interests that it had secured in the early years.

Leaders in the District and in Congress sought to maintain the pressure to achieve the goal, but the next major step forward did not come until the action of the House Judiciary Committee in 1967. The time is now at hand to take the final step.

REPRESENTATION OF THE CAPITAL CITY IN THE NATIONAL LEGISLATURE OF FOREIGN NATIONS

The denial of representation in Congress to the District of Columbia stands in sharp contrast to the representation enjoyed by citizens of capital cities governed under a federal system in many foreign nations throughout the world.

Within the British Commonwealth, two of the three nations with national capitals under Federal jurisdiction—Australia and India—grant voting representation in the national legislature to citizens of the capital city. Australia's Capital Territory at Canberra is administered by the Commonwealth Government in much the same fashion as Congress governs the District of Columbia. Canberra, however, unlike the District, has an elected representative in the House of Parliament who has full voting privileges.

India's capital, New Delhi, is administered by the President of India through an Administrator of his designation. Elections of representatives to both the upper and lower Houses of Parliament from the capital city are conducted in the same manner as elections for representatives from the other states and territories in India.

Of the British Commonwealth nations with federal systems, only Pakistan denies representation in the national legislature to the citizens of its capital. At the present time, Pakistan is under military rule. In an order of April 1, 1970, providing for a general election, the President of Pakistan excluded Isamabad, the capital, from the voting district of Punjab, in which the capital is located.

In general, the constitutions of European nations grant no special status to the capital cities, and they impose no limitations on the rights of citizens of the capital cities to vote in national elections. Even in countries with a federal structure, such as Austria, West Germany, Switzerland, and the Soviet Union, the electoral codes give the capital cities equal footing with other electoral districts, determined on the basis of population.

Similarly, in three of the four federated republics in Latin America in which a Federal District has been established—Argentina, Mexico and Venezuela—the citizens of the capital city enjoy voting representation in the national legislature.

Only in Brazil are the citizens of the capital city, Brasilia, denied such voting representation. And even in Brasilia, the circumstances are unique and reminiscent of the District of Columbia at its origin. Until 1956, Rio de Janeiro was the capital of Brazil, and its citizens enjoyed full voting representation in the national legislature. When the capital was transferred to Brasilia in 1956, the capital was a "new city," like Washington in 1800, carved out of wilderness territory, with a "population" expected to consist essentially of the members of the government and the national legislature. As in the case of Washington, the founding fathers in Brazil simply did not anticipate the rapid growth of their new capital city.

Indeed, half a century ago, in the first committee report of the U.S. Senate urging representation in Congress for the District of Columbia, the Senate District Committee emphasized the irony of the disfranchisement of Washington residents compared ot the citizens of the capital cities of Brazil and other Latin American nations.

As the committee stated in 1922:

National representation of the District will remove from the Nation the shame of impotency.

It will proclaim to the world that the great Republic is as devoted to the principles of representative government and as capable of enforcing them as other republics with capitals in nation-controlled districts, like Mexico, Brazil, and Argentina. These nations have not found themselves impotent to give full national representation to the people of their capitals.

It will proclaim to the world that the people of Washington are as fit to participate in national representative government as the people of Rio de Janeiro, Buenos Aires, and Mexico City. Washington will cease to be the only capital in all the world whose people, slurred as tainted or defective, are unworthy to enjoy the same national representation as that enjoyed by all other cities of the Nation.

The logic is inescapable. In nation after nation throughout the world, the citizens of capital cities are accorded the dignity and respect of representation in their national legislatures. Surely the citizens of the Capital of the United States deserve no less.

In conclusion, let me emphasize that I am confident that nothing in the District of Columbia amendment will jeopardize in any way the passage of the equal rights amendment. I am hopeful that in the course of the coming legislative debate, it will be possible for the Congress to work its will on these two important provisions, and to submit them to the States for ratification before the adjournment of the 91st Congress.

Mr. President, I ask unanimous consent for the amendment to be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. CRANSTON). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 1033) is as follows:

AMENDMENT NO. 1033

Beginning with the word "That" in line 3, page 1, strike out all to and including the colon in line 7, page 1, and insert in lieu thereof the following: "That the following articles are hereby proposed as amendments to the Constitution of the United States, any one of which shall be valid to all intents and purposes as part of the Constitution only if ratified separately by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:".

On page 2, after line 7, insert the following:

"ARTICLE —

"SECTION 1. The people of the District constituting the seat of government of the United States shall elect two Senators and the number of Representatives in Congress to which the District would be entitled by apportionment if it were a State. Each Senator or Representative so elected shall be an inhabitant of the District and shall possess the same qualifications as to age and citizenship, shall be elected for the same term, and shall have the same rights, privileges, and obligations as a Senator or Representative from a State.

"SEC. 2. When vacancies happen in the representation of the District in either the Senate or the House of Representatives, the people of the District shall fill such vacancies by election.

"SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District. Each Representative or Senator from the District shall be entitled to participate in the choosing of the President or Vice President in the House of Representatives or Senate under the twelfth article of amendment as if the District were a State.

"SEC. 4. The Congress shall have power to enforce this article by appropriate legislation."

Amend the title so as to read: "Joint resolution proposing amendments to the Constitution to provide equal rights for men and women, and to provide for the representation of the District of Columbia in the Congress."

Mr. MATHIAS. Mr. President, American citizens fought a revolutionary war largely to escape the burden of taxation without representation. Today, Americans in the District of Columbia labor, as they have for thousands of yesterdays, under this same burden of taxation without representation. Fortunately, the genius of our Constitution allows us to eliminate this injustice without firing a single shot.

The time is long overdue for the emancipation of the 764,000 citizens of the District of Columbia.

In this citadel of representative democracy, we must demonstrate to our-

selves and to the world the sincerity of our belief in that principle by extending congressional representation to the District of Columbia.

All of our citizens are subjects of national legislative policy in that they reap its benefits and share its burdens. Only the citizens of Washington, however, are denied a role in formulating that policy.

I would describe as only a first step the 23d amendment to the Constitution, which authorized District voters to participate in presidential elections. Particularly in the absence of some form of home rule, it is imperative that we take the next step toward full American citizenship for the 760,000 people of the District of Columbia. I applaud the President's recent signing of legislation to provide the District with a nonvoting representative in the House.

District residents share the concerns and problems, foreign and domestic, of contemporary America. They supply more individual income tax revenue to the Federal Government than each of about one-third of our States. They are conscripted for our Armed Forces. More than 3,000 District citizens gave their lives in World War II. At least 165 have died in Southeast Asia. They know too well the problems of crime, education, poverty, race, and the environment.

I note that the District's population exceeds that of each of 11 States and that it has a higher personal income per capita than any State.

The primary purpose for establishing the District of Columbia was to eliminate the interposition of a State sovereignty between the Federal City and the Federal Government. There is no inconsistency between this goal and the granting of congressional representation to District of Columbia citizens.

Over 6,000 proposals to amend the Constitution have been introduced in the history of the Congress. I respectfully submit that none has been more deserving of passage than that providing a proper voice in the Federal Government for the citizens of the Federal City.

I am, therefore, cosponsoring this amendment to provide full representation for the District of Columbia.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT—AMENDMENT

AMENDMENT NO. 1030

Mr. McCLELLAN submitted an amendment, intended to be proposed by him, to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States, which was ordered to lie on the table and to be printed.

TREATMENT AND REHABILITATION OF DRUG ABUSERS AND DRUG DEPENDENT PERSONS—AMENDMENTS

AMENDMENT NO. 1031

Mr. DOMINICK. Mr. President, the amendment which I submit to H.R. 18583 is intended to establish a mechanism through which some kind of control can be asserted over the burgeoning number of advisory groups established under the authority of the Public Health Service Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act.

It would require the Secretary of the Department of Health, Education, and Welfare to prepare, for submission to the Senate Labor and Public Welfare Committee and the House Interstate and Foreign Commerce Committee, annual reports on the activities of the advisory councils established pursuant to those statutes. Advisory councils are defined to include "committees, boards, commissions, councils, or other similar groups." Each report would contain a list of such advisory councils and their members, and would describe each council's functions and its activities for that year. In addition, where the Secretary found that an advisory council is no longer needed, and should be abolished, or that it would be more efficient to combine the functions of two or more councils, the report would contain a recommendation to that effect.

The amendment is modeled after section 438 of the Elementary and Secondary Education Act, as amended by Public Law 91-230—the Elementary and Secondary Education Amendments of 1969—which requires the Commissioner of Education to prepare the same kinds of reports. The only difference is that under Public Law 91-230, the Commissioner of Education has the authority not only to recommend that advisory councils be abolished, or their functions combined, but unless Congress objects, to carry out such recommendations himself.

I ask unanimous consent that the text of that provision of Public Law 91-230 be printed in the RECORD at this point.

I do not have complete figures as to the present number of advisory councils established pursuant to the Public Health Service Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act. But, a quick survey of Public Health Service publications indicates that approximately 325 statutory advisory councils have been established in connection with the work of the National Institutes of Health, the Health Services and Mental Health Administration, and the Environmental Health Service alone. Approximately 3,375 persons have been appointed to serve as members of these councils. I do not have complete information as to the amount of staff employed by the councils, but I am sure the total is substantial.

Advisory councils are established for varying periods of time, usually several years, and typically meet two or three times per year. In addition to travel expenses and per diem, members and staff are entitled to compensation for time spent on council business. The rate of compensation varies, but it may be as high as the equivalent of GS-18—more than $33,000 per year.

While again, no figures are available, it is obvious that annual Federal expenditures for the approximately 325 advisory councils established just in connection with the three agencies of the Public Health Service I mentioned, run into the millions. I am not questioning the fact that such councils perform essential services in helping the various agencies to carry out their statutory mandates. But, I am suggesting that since we are spending a considerable amount of money on them every year we should pay a little closer attention to what they are doing. I am sure that there are many instances where costs could be reduced by combining the functions of two or more councils where they are doing overlapping work, or by abolishing prior to their statutory termination date those councils which are no longer performing needed services. My amendment would require the Secretary to scrutinize the numerous advisory councils with these ideas in mind when preparing the annual report on their activities.

We have decided that this should be done in the education area, and there is no reason why it should not also be done in the health area.

The PRESIDING OFFICER (Mr. WILLIAMS of New Jersey). The amendment will be received and printed, and will lie on the table.

AMENDMENT NO. 1032—AMENDMENT TO PERMIT RECLASSIFICATION OF MARIHUANA

Mr. DOMINICK. Mr. President, under the House bill, marihuana and tetrahydrocannabinols are classified in schedule I. One of the standards for all schedules except schedule I is that the controlled substance has a "currently accepted medical use." This amendment would permit the Attorney General to remove or transfer marihuana into any other schedule even if there was no currently accepted medical use.

The purpose of this amendment is to allow a flexible and intelligent approach to the classification of marihuana in the future. If future medical evidence indicates that marihuana has a lower abuse potential and that its effects are minor, it should be reclassified in a lower schedule so that offenders can receive the treatment applied to those schedules. However, the bill as written, would prevent this if marihuana has no currently accepted medical use.

We must recognize that marihuana is a social as well as a medical problem. To let the requirement of "currently accepted medical use" be controlling is to ignore the social realities. This amendment would permit a flexible and intelligent approach which would recognize those social realities.

The PRESIDING OFFICER (Mr. WILLIAMS of New Jersey). The amendment will be received and printed, and will lie on the table.

AMENDMENT NO. 1034

Mr. DODD submitted an amendment, intended to be proposed by him, to the bill (H.R. 18583) to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen

existing law enforcement authority in the field of drug abuse, which was ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 858 TO H.R. 18515

At the request of the Senator from New York (Mr. JAVITS), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from North Dakota (Mr. McGOVERN), were added as cosponsors of amendment No. 1025 to H.R. 18515, the HEW-Labor appropriations bill, which would provide additional appropriations for programs under the Economic Opportunity Act.

AMENDMENT NO. 943 TO H.R. 17550

At the request of the Senator from West Virginia (Mr. BYRD), on behalf of the Senator from Texas (Mr. YARBOROUGH), the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of amendment No. 943 to H.R. 17550, to the Social Security Act, which would authorize the Secretary of Health, Education, and Welfare to waive, under certain circumstances, the registered nurse requirement of the Medicare Act.

NOTICE OF HEARINGS ON JUDICIAL NOMINATIONS FOR DISTRICT OF COLUMBIA COURTS

Mr. SPONG. Mr. President, two weeks ago the President submitted to Congress nominations to fill newly created positions on the District of Columbia Court of Appeals, new positions on the District of Columbia court of general sessions, and vacancies on the general sessions bench.

I wish today, on behalf of the Senator from Maryland (Mr. TYDINGS), to announce that the Senate Committee on the District of Columbia will hold hearings on 10 of these nominations on Friday, October 9, 1970, and on the remaining nominations as soon thereafter as possible.

The hearing on October 9 will begin at 9 in room 6226 of the New Senate Office Building. At that time, the committee will hear testimony regarding the following nominees to the District of Columbia court of general sessions: Sylvia A. Bacon, of the District of Columbia; Leonard Braman, of Maryland; Stanley S. Harris, of Maryland; DeWitt S. Hyde, of Maryland; Normalie Holloway Johnson, of the District of Columbia; Paul F. McArdle, of Maryland; Theodore R. Newman, Jr., of the District of Columbia; Nicholas S. Nunzio, of Maryland; William E. Stewart, Jr., of Maryland; and James A. Washington, Jr., of Maryland.

Individuals and representatives of organizations who wish to testify at the hearing should notify Miss Ann Howard at 225–8786, prior to October 8, 1970.

Written statements, in lieu of personal appearance may be submitted to the staff director, room 6218, New Senate Office Building, Washington, D.C. 20510, for inclusion in the hearing record.

ADDITIONAL STATEMENTS OF SENATORS

TEN SKETCHES OF REVOLUTIONARY WAR EVENTS

Mr. MANSFIELD. Mr. President, our country soon will start its commemoration of the bicentennial era and the 200th year of our freedom.

Already many events have been planned and the nonpartisan American Revolution Bicentennial Commission, created by the Congress, has submitted its report and recommendations to the President—Senate Document 91–76. The Commission's new Chairman, David J. Mahoney, was sworn in September 11, 1970. He is a young business executive with offices throughout the country. And this is symbolic of the fact the commemoration will be nationwide. Mr. Mahoney has said he expects to be in Washington nearly every week or so to work with the Commission's able and energetic Executive Director, M. L. Spector.

The press is helping take the lead in reminding our citizens of the historic events of the American Revolution and the foundations and principles upon which this Nation was founded.

An excellent example of this is being furnished by the Copley News Service. The chairman of the Copley Newspapers and News Service, James S. Copley, is a member of the Bicentennial Commission. He and his executive editor, John Pinkerman, are providing a series of written sketches on Revolutionary War events and personalities.

I ask unanimous consent that the first 10 be printed in the RECORD.

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

THE PRELUDE TO REVOLUTION

(By Robert Betts)

The first stone thrown at British soldiers in Boston on Oct. 24, 1769, may not have had the impact of the first shot fired in Concord 5½ years later—the one that sounded 'round the world—but it certainly made its mark in history.

As Lt. Col. William Dalrymple nervously remarked, after his men had survived that first onslaught of sticks and stones and were safely back in barracks: "This is but a prelude to some motion more consequential."

Boston had long been the trouble spot. It set off the rioting against the Stamp Act in 1765. It was the Massachusetts Assembly, meeting in Boston, which had in February, 1768, sent a circular letter to the other Colonies challenging Parliament's right to tax the Colonies.

When Chancellor of the Exchequer Charles Townshend decided to raise more revenue with his duties on tea and other imports things started to get really serious.

The act of establishing the Commissioners of Customs, with headquarters at Boston to collect the revenue, has been called "England's most fateful decision," because most of the events that goaded Americans into independence may be attributed directly or indirectly to it.

The commissioners bore the brunt of the first trouble. They and their clerks, surveyors, collectors, searchers, spies and informers were beaten up, tarred and feathered and subjected to other indignities.

Apart from the question of the justice of the taxes, the customs men themselves were said to be a dishonest bunch of bloodsuckers, exploiting the situation for their own personal gain.

"When things are ripe for it," the Whigs warned, "they will be prosecuted in Law for Robbery" and the whole wicked system of customhouses and commissioners wiped out.

One who showed open contempt for the customs men was John Hancock, a rich Boston merchant. When two of them came snooping between decks on his ship Lydia he had his men seize them and escort them roughly ashore.

The commissioners laid in wait for Hancock. When another of his ships, Liberty, sailed into Boston harbor in June, 1768, with a cargo of Madeira wine, customs men again came aboard. Again Hancock and his men seized them. This time they locked them in a cabin, unloaded the cargo, then heaved the officials overboard.

News of what was going on at Hancock's wharf fired other patriots to action. A mob went after the collector and controller and drove them through the streets. The collector's son was dragged along by his hair.

The commissioners fled to Castle Williams, three miles across the water. One of them was reported to have taken refuge at Newport. The Boston Sons of Liberty searched high and low for him, in "Outhouses, Bales, Barrels, Meal Tubs, Trunks, Boxes, Packs and Packages . . . in short every Hole and Corner sufficient to conceal a Ram Cat, or a Commissioner." But they didn't find him.

Meanwhile the commissioners sent an urgent dispatch to London, declaring that Boston was in a state of insurrection and that they dared not go ashore. They also prepared smuggling charges against Hancock and other merchants.

Back in London their lordships' patience was fast running out. They demanded that measures be taken to show "those Braggarts their Insignificancy in the Scale of Empire" and that Boston be reduced to "a poor smuggling Village."

Secretary of State for the Colonies Lord Hillsborough was by now convinced that the Americans were aiming for total independence from the mother country, and that the Colonies would be lost forever if the rebels were not quickly suppressed. He agreed it was time to teach the Americans a sharp lesson, and that the best way to do it was by sending regular troops of the British army.

By September, 1768, two regiments had set sail for Boston. Two more followed shortly afterward.

The Sons of Liberty had sworn that the troops would never land. But they did and without incident, although according to Gov. Thomas Hutchinson the situation at the time was very close to revolution.

Sulkily resigned to the presence of the British troops in their midst, the Boston Town Meeting salved its pride by declaring that the regiments could remain in the colony only by the authority of the assembly.

John Hancock deeded his new concert hall to the town, stipulating that no British revenue, army or navy officer should be admitted to it.

Social boycott of the officers was not the only way of showing the redcoats they were not welcome. The men were luridly depicted in the patriots' propaganda press as rapists and murderers and were hauled into court on every conceivable pretext. It was dangerous for them to venture out alone. There were frequent scuffles with cudgel boys down dark alleys.

"I don't suppose my men are without fault," pleaded Col. Dalrymple on one occasion, "but 20 of them have been knocked down in the streets and got up and scratched their heads and run to their Barracks and no more has been heard of it whereas if one of the Inhabitants meets with no more than just a Kick for an Insult to a Soldier the Town is immediately in an Alarm and not one word the Soldier says in his justification can gain any credence."

The soldiers had been told that they could not fire to defend themselves without the order of a civil magistrate. Everybody knew that no magistrate in Boston would dare issue such an order.

Things had reached such a pitch and the men's nerves were so frayed when the stones came flying through the air that day in October, that the detachment broke ranks and one of the soldiers fired a shot into the air. It brought the mob to a halt.

Nobody was seriously hurt on that occasion, but it was a warmup for what was to come later, when the first real blood was spilled on March 5, 1770, in what came to be called the Boston Massacre.

PATRIOT COUSINS—THE ADAMS BOYS OF REVOLUTIONARY WAR FAME

(By Frank Bauer)

BOSTON.—It takes all kinds to make a successful revolution—and that is a lesson in American history that some of today's rebels might pause to consider.

Take the hot spot this city was during the years that led up to the American Revolution. Here was John Hancock of the wealthy elite (the "Establishment") teamed with the waterfront rabble in the cause of independence.

Silversmith Paul Revere, shoemaker Billy Dawes and intellectual Dr. Joseph Warren, who died on Bunker Hill, all were aligned in the cause of liberty.

And no more interesting contrast of personalities on the revolutionary bandwagon was there than that "brace of Adamses"—as they were contemptuously referred to by British Gov. Shirley.

John and Samuel Adams were cousins by blood but many genes apart in temperament, as one historian has put it. Yet the contributions of each were basic to the successful emergence of a new nation at a time when the Colonies' natural and common ties of heritage to Britain—and British domination—had to be severed.

Sam Adams, the older cousin, was a revolutionary of more conventional description. Born with a bias against the royal governors which was strong in his father, the boy came to be part of the radical movement that engaged his parent, and both shared the bitter conviction of the injustice of British colonial rule.

Sam senior had clashed as early as 1741 with the royal governors.

Young Sam became the dedicated and purposeful revolutionary, persevering in his plotting with the Boston workingman toward the overthrow of the despised British rule. His inherited Calvinism gave depth to this cause, and in the fight against tyranny he hoped, too, to make Boston austere and godly in reforms from what he regarded as the effeminacy and corruption in the mother country.

It was Sam's cunning hand that helped to engineer the "Boston Massacre"—that much-touted street eruption whose propaganda value was useful in helping to stir up indignation throughout the Colonies. It was Sam's "boys" who staged the Boston Tea Party and harassed the royal tax collectors in a variety of ways.

Sam himself had been Boston's tax collector (in 1756) and had distinguished himself in that role more for his failure to enhance the coffers than for his diligence in behalf of the treasury. He wound up 4,000 pounds in shortage and faced court action, but his negligence was more softheartedness than willfulness.

His personal business life was no more effective. The senior Adams had left Sam a neat legacy and prosperous malt works, but Sam squandered the kitty and let the business run to pot.

Cousin John was ever aghast at the improvidence of his older cousin.

For all of his poverty and poor management, however, it was Sam who painstakingly and craftily organized Bostonians of all levels to resist and frustrate—by word and by deed—the Colonial governors. He was the constant agitator over the years, and he was impatient when the boiling showed signs of subsiding.

He has rightly been dubbed the firebrand of the Revolution, and the British redcoats were on their way to seize him and John Hancock in Lexington at the time Paul Revere made his famous ride.

Cousin John Adams, 13 years Sam's junior and appearing even younger, was a revolutionary of entirely different stripe.

John was a fastidious man and prudent—both in political outlook and personal affairs, given sometimes to worrying more about his health than the fate of the Colonies under British oppression.

While both John and Sam were graduates of Harvard, it seems quite clear that the erudition and culture of that dominant institution had rubbed off more on John than on Sam.

John was a respecter of reason, devoted to logic and the law—feeling the bonds with British ancestors and contemporaries in the admiration of constitutional processes. He was repelled and disconcerted by the rabble-rousing of his esteemed cousin and shocked at Sam's disregard for personal fortune and by Sam's shabby home and careless living.

It was John Adams—the young attorney—who, much to Sam's displeasure, was persuaded to undertake the defense of the redcoats involved in the "Massacre" shootings in 1770. It was John's delaying stratagem and skillful argument that spared the British soldiers from lynch law and established the American reputation of adherence to due process.

Sam felt thwarted and set back by John's appeal to reason over patriotic ardor and cause, but "that brace of Adamses" had advanced freedom and independence more than they knew in their respective ways.

When the Continental Congress was called in Philadelphia in 1774 and a splendid coach and array of coachmen and mounted servants rolled out of Boston with the Massachusetts delegates, there were John and Sam Adams among them—Sam leaving his beloved state for the first time in his life.

Both men signed the Declaration of Independence and later served their new nation with distinction—John as second president of the United States, Sam in Congress and later in the Massachusetts Legislature and as governor.

The cousins had long since been reconciled from their differences of the Massacre days and now shared the great responsibility of building a United States. Independence had left the old agitator, Sam, without his fiery cause, and he bowed to Cousin John as the man of the future. John, meanwhile, had rendered verdict on Sam in an opinion inscribed in American annals. Cousin Sam, he wrote, was "born and tempered a wedge of steel to split the knot of lignum vitae that tied America to England."

BOSTON "MASSACRE" DISTORTS HISTORY

(By Frank Bauer)

BOSTON.—The Boston Massacre—sometimes pictured as the bloodbath that sparked the Revolution—was not that. It was, however, the first fanning of angry cries for American independence.

The British might have altered the course of history had they taken warning and "cooled it" after the riot of March 5, 1770, but a tax-hungry Parliament instead persisted in its infuriating levies on the colonists.

Occurring five years before the outbreak of war, the "massacre" was a street brawl in which the fatal shooting of five demonstrators by terror-stricken redcoats became a rallying cry for the patriots.

It is to the credit of the colonists—and worth attention today—that after the bloody event, the rules of law triumphed over inflamed passions. A cooler leadership prevailed over patriotic ardor and lives of offenders were spared.

Therein lies another dramatic story of the divergent pathways of two patriots—John Adams, the farsighted lawyer whose astute defense saved the British soldiers, and his cousin, Samuel Adams, whose fiery exhortations might have railroaded the redcoats to a lynching. (John Adams later became the nation's second president.)

The Boston Massacre was neither unexpected nor uninspired. For months the hated British soldiers had been taunted on the streets, and there had been numerous incidents since the two regiments had first arrived in 1768.

They had been sent to back up the king's tax collectors, who had found enforcement of the levies impossible in the face of incensed colonial resistance.

The redcoats had marched arrogantly into the city and immediately earned the disdain of the patriots. The air was charged with undisguised hate and both sides were spoiling for a fight.

Three days before the "massacre" there had been an incident at the rope shop. A British soldier seeking paid employment to supplement his military allowance was insultingly invited to clean the outhouse, the invitation delivered in a vernacular calculated to touch off the fight that followed. The redcoats, outnumbered and beaten, returned with companions to get even. Only the intervention of the shop's Tory owner averted a riot.

The city was tense with ominous expectations three days later, on the cold moonlit night of March 5. There had been snow early that day, then some melting and an evening freeze. And there were whispered hints that trouble was brewing. Soldiers were heard to say that there were "them in Boston as would eat their suppers . . . (and) would never eat another."

Sam Adams had spread the word to some friends that help might be needed that night. Many of the Bostonians had cudgels ready.

A sentry stationed at the customs house had an angry exchange with a youth. A crowd gathered, and there were shouted insults and namecalling. Fire bells rang, and the crowd grew. The frightened sentry called for help. Seven soldiers responded and were joined by Capt. Thomas Preston.

The mass of people—not about 200—included some bold aggressors who brushed up against the armed soldiers menacingly.

A bayonet was seized. Suddenly there was firing. Five colonists lay dead or dying and six others wounded.

The war might have begun right then and there.

The heavily armed Sons of Liberty, egged on by Sam Adams, were ready to avenge the shootings. Only the desperate appeal of the lieutenant governor, Thomas Hutchinson, prevented more bloodshed. He begged for calm; quickly promised to bring the soldiers to trial.

What followed constitutes a dramatic and sterling chapter in colonial history.

The enraged populace shouted for punishment. The soldier prisoners, submitting to arrest with Capt. Preston, feared for their lives. Sam Adams summoned a town meeting of 3,000 excited patriots who insisted that the troops be removed. Hutchinson, a royalist who hated the idea of rebellion, was literally trembling in face of the confrontation. He had the troops withdrawn. They marched through hooting crowds to boats that removed then to an island in the harbor.

Preston, who ironically had been one of the better regarded British officers, begged

for a defense lawyer. It appeared that there would be no volunteer until young Josiah Quincy Jr. said he would undertake representation if the older John Adams would join him.

Adams, whose political sympathy lay with the patriots as opposed to the loyalists, was also profoundly dedicated to the ideal of impartial justice and an independent court and bar—a principle that could find little support at the moment in the aroused city.

When Adams agreed to take the case, he and Quincy were promptly subjected to rock-throwing and the jeers of fellow citizens.

Cousin Sam Adams, Paul Revere and the newspapers under their influence pressed hard for rapid trial and severe penalty. Revere had circulated his famed—and highly inaccurate—print depicting the redcoats firing into an innocent and passive group of bystanders.

John Adams and his aides, including one Robert Auchmuty, moved for delay—that tempers might cool and legal processes prevail. The court was of a similar mind. Some hazardous legal stalling tactics succeeded in postponing the trial until October while Preston and his men languished apprehensively in jail—sometimes in terror that they would be lynched.

John Adams' next strategy was to get a separate trial for Preston, who had friends among the patriots. By clever maneuvers the defense also managed to get a jury of citizens who lived outside the city limits. Historians are at a loss to explain how Sam Adams let this happen, for he and his Liberty boys could have packed the courts and cowed judges and staff.

It may be that Sam Adams knew of the impressive array of witnesses that Cousin John had assembled—citizens whose testimony was to prove that the "massacre" was the result of riot and violence and growing out of the redcoats' natural fear that they were to be mobbed and killed.

In three hours the jurors voted to acquit Preston, and the captain was speeded out of Boston for his safety.

Trial of the soldiers who had done the shooting was another matter, the defense attorneys knew well. The patriots were still bent on punishment.

John Adams prepared his presentation of witnesses carefully and built up skillfully to the climactic argument that the shootings were in self-defense.

There was testimony to the unusual number of men on the streets that cold night, the account of the fight at the rope shop three days earlier (one of whose participants was among the March 5 victims), and of the belligerency toward the soldiers.

A respected physician testified that he had treated one of the wounded and had heard his patient confess that the soldiers had indeed fired in self-defense and that he did not blame the man who shot him.

Patiently and quietly John Adams explained to the jurors the law of homicide and the principle of self-defense. He appealed to them to imagine themselves in the place of the soldiers facing a mob.

Step by step he reviewed the testimony that had helped to define the riot and then, in dramatic summary, quoted the principle of law that was dear to him:

"To your candor and justice I submit the prisoners and their cause. The law, in all vicissitudes of government, fluctuations of the passions, or flights of enthusiasm, will preserve a steady, undeviating course. It will not bend to the uncertain wishes, imaginations and wanton tempers of men . . . On the one hand it is inexorable to the cries and lamentations of the prisoners; on the other hand it is deaf, deaf as an adder, to the clamors of the populace."

It was a persuasive peroration to that law-respecting jury, which returned after two and a half hours of deliberation. Six of the soldiers—not guilty, they voted. Two—not guilty of murder but guilty of manslaughter. The judges dismissed the six, ordered the guilty pair branded on the thumbs—a familiar penalty of the day for manslaughter.

John Adams later wrote that his "disinterested action" in defending the soldiers was one of his best services to his country—and he had rendered many. Samuel Adams had not agreed, but it was to the new nation's incalculable benefit that the two men remained friendly and united in the creation of the republic, both pledging lives, fortune and sacred honor in the Declaration of Independence.

THE FOUNDERS WE HAVE FORGOTTEN

"The second day of July, 1776, will be the most memorable epoch in the history of America," wrote John Adams to his wife after the approval of the Declaration of Independence. "I am apt to believe that it will be celebrated, by succeeding generations, as the great anniversary festival."

July 4 is celebrated with all the pomp and parade Adams envisioned, so much so that it may have eclipsed the moral and philosophical significance of the Declaration of Independence and the lives of those who signed, not on July 4, but on Aug. 2, 1776.

The pomp and pageantry have, moreover, obscured the dispute whether John Hancock signed on July 4, and millions believe that Patrick Henry and George Washington signed at that time. They did not and were away from Philadelphia at the time.

How many signers can you name besides Adams, Jefferson, Hancock and Franklin? Have you ever read the declaration completely through? Do you have a copy in your home?

If you find yourself groping for answers, you are confirming the conviction of a small group of intellectuals, academicians, journalists and businessmen who have banded together in a new organization called The Founders Society. What they intend to communicate is a clear understanding of the American Revolution, especially among young people, and its relevance to our own times.

As a starter, The Founders Society would like to see Aug. 2 officially declared "Founders Day," arguing that we honor the Declaration of Independence and its primary author, Thomas Jefferson, but not those who signed it and who are "our forgotten founding fathers."

Rejecting the idea that they are a "patriotic organization," The Founders Society will promote the philosophical and political program of the Founders of America, which they characterize as "classic liberalism," espousing freedom from all types of coercion, voluntary consent among individuals, reason, liberty and law.

They believe, moreover, that these concepts of the American Revolution are more relevant now than they were in 1776.

The society points to a recent work, "Greatness to Spare," by T. R. Fehrenbach on the 56 signers as an excellent primer for those Americans groping for knowledge of the heroic story of the signers of the Declaration of Independence. "If their ordeals were relevant then," Fehrenbach writes, "they are surely relevant now, and they certainly have too long been ignored."

The author also reminds us that the declaration was, in its most severe sense, an act of treason against the king, with the universal penalty of hanging. "Whatever else the 56 signers of the Declaration of Independence did," he adds, "by this supreme act of courage on Aug. 2, 1776, they immediately changed the course of the revolution. What had been a civil conflict of dubious outlines to some, now became a great national patriotic war. The act drew sharp lines."

It is forgotten, too, that prior to the Declaration of Independence the signers had spent almost a decade trying to reason and peacefully persuade the British crown to renounce its repressive acts and measures.

The declaration not only polarized opinion about a break with Britain, but as famed historian Samuel Eliot Morison points out, for many of the fence sitters the declaration came as a "godsend to tender souls among the patriots who could not get over their duty to honor the king."

What especially appalled those opposed to independence was the fact that most of those advocating it came from the "establishment" and "power structure" of the Colonies. Each of the 56 signers had his whole life and career ahead of him, as indicated by their ages—their average age was 40. Eighteen were in their 30s and three in their 20s. With the exception of Samuel Adams of Massachusetts, all held substantial property and sustained steady losses during the seven-year war for independence which ended with Wahington's triumph at Yorktown.

Eleven were successful merchants, nine were large landholders, twenty-four were jurists and lawyers, and the remaining were doctors, ministers and political leaders. All but two were married, many with infant sons and daughters exposed throughout the war to British intimidation and harassment.

Nine signers died of wounds or hardships in the war, five were captured and imprisoned, and one was driven away from his wife's deathbed and lost all his children. Twelve had their homes burned to the ground, 17 lost everything they owned and every signer was branded a traitor, hunted and barred from his home and family during the war. Almost every signer was offered bribes by the British and safety for their family and loved ones if they would repudiate their signatures after they were made public in early 1777. Not one went back on his pledge of the declaration vowing "our lives, our fortunes and our sacred honor."

Forty-nine of the signers lived to see not only the triumph over Britain, but many went on to serve the new political institutions which they had helped create. They served as president, vice president, Cabinet officers, ministers abroad, U.S. senators, congressmen, state governors, state senators and assemblymen.

The Revolution's stunning success was due in large measure to their philosophy held toward men in general and toward political power in particular. The former was liberal and optimistic, the latter conservative and pessimistic.

The quality of mind of the 56 who embraced such a view still awes and astounds historians and foreign observers alike. The 56 were not revolting against society, but against abusive and arbitrary government as they saw it. This set of deepest-held premises of the signers accounts for the total absence of a reign of terror, mass murders and civil war such as that following the French, Russian, Mexican, Chinese and Cuban revolutions.

Still more remarkable was the endurance of the political ideas and institutions to which they gave granite permanence. "The structure they built was so liberal," observes author Fehrenbach in his work on the 56 signers, "and at the same time so pragmatically conservative, that it became the only 18th Century government and constitution to survive intact through modern times."

Since the early 1960s, the American radical new left has claimed it is emulating the 56 signers of the Declaration of Independence and the American Revolution. How valid is this comparison?

"What is most impressive about the Revolution of 1776," writes Amherst historian Henry Steele Commanger, "is its creative and constructive character.

"What is most impressive about the revolutionary fervor in America today is its negative and destructive character."

TOWN DEFIED BRITISH IN TWO WARS

(By Ralph H. Minard)

STONINGTON, Conn.—In the Revolutionary War and in the War of 1812, many New England towns felt the wrath of the British.

In Connecticut, Benedict Arnold led damaging attacks on the towns of New London and Groton. To the west, Gen. Tryon, former colonial governor of New York, led a force into Danbury and burned part of the town.

But there was one town that successfully defied the British in both wars.

Stonington today is a somewhat somnolent seaport looking out on Fisher's Island Sound and Block Island. It has a small lobster and fishing fleet. Its white cottages hide behind white picket fences, and in the summer, hollyhocks.

In Colonial times, its vigorous citizenry more than compensated for a small population by their great activity. It had both fishing and whaling fleets, and sturdy mariners who knew the sights and sounds of China as well as those of their town green.

Hunger was what brought the British to Stonington the first time. A sizable British force was trapped in Boston, and had to be supplied by sea. So British naval ships began scouring the southern New England coast, seeking livestock and other provender to feed a famished army.

A British admiral in the fleet off Boston dispatched Capt. Sir James Wallace, 44, commanding the 20-gun frigate Rose southward to round up whatever cows, sheep and pigs he might find.

Wallace burned about 20 houses and barns on the island of Conanicut in Narragansett Bay and hauled off livestock. Next he threatened Bristol, R.I.

The town fathers first refused to provision his ship, but changed their minds after a few cannonballs whistled through town.

Wallace then heard of a substantial number of cattle on Block Island, in Long Island Sound, and set sail for that place. But the Colonists on Block Island had already been warned, and had shipped their cows to Stonington, 20 miles away, for safekeeping.

Wallace pursued the elusive cattle to Stonington, arriving off that port Aug. 13, 1775. He sent a small party to shore demanding surrender of the cattle. The men of Stonington refused. The small boat pulled back to the Rose and the men of the village began assembling with muskets. They were soon reinforced by a nearby militia force.

Thirty-nine years later another British squadron, more formidable by far than Capt. Wallace's Rose, sailed into Stonington Harbor during the War of 1812.

Stonington, built on a peninsula jutting out into Long Island Sound, was extremely vulnerable.

The British squadron, commanded by Capt. Thomas Masterman Hardy, 45, a close friend of Adm. Horatio Nelson and a veteran of the Battle of Trafalgar, included Hardy's flagship, the Ramillies, 74 guns; the Pactolus, 44 guns; the Despatch, a brig of 22 guns; the bombship Terror, and the armed brig Nimrod. Hardy's date of arrival was Aug. 9, 1814.

Once again the men of Stonington refused a demand to surrender the town and release the wife of a British government official believed to be in custody there. (She wasn't.)

While Hardy went about preparations for a landing, the inhabitants of the town dragged their two small cannon into position behind an earthen breastwork. They lit signal fires on nearby hills to summon aid. And they rounded up their supplies of muskets, ammunition and shot.

Around 8 that evening, the Terror moved into firing range and began unleashing flares and cannonballs into the town. At first the defenders were awed by the pyrotechnics, but they soon found many of the rounds were falling on the far side of town, and the few fires started by the flares were quickly doused.

Next the British sent some barges close in to shore to fire a barrage of Congreve rockets—powerful armed rockets guided by long sticks. The bombardment lasted until midnight, with the American cannon firing in retaliation.

Toward evening, the Rose sent an armed landing party toward shore. At the proper moment the townspeople led by Capt. Oliver Smith and Capt. William Stanton, fired a heavy fusillade from their Queen Anne long-range muskets. The landing party, with several wounded, rowed back to the Rose. Wallace thereupon bombarded the town for several hours, damaging numerous houses.

But he sent in no further landing parties, and that night headed the Rose eastward into the Atlantic. The menace to Stonington had been overcome with only one casualty—Jonathan Weaver Jr. Weaver was compensated by the next Connecticut General Assembly to the tune of 12 pounds, 4 shillings and fourpence. Capt. Smith was promoted to major.

Sometime later, the town acquired two 18-pound cannon to bolster its defense strength. The cannon, after the end of the Revolutionary War, were stored in one of the town buildings, all but forgotten.

The following morning, Aug. 10, found the Americans in improved shape. They had been supplied with a six-pound cannon and militia had poured into the village. More ammunition was reported on the way from nearby New London. The defenders had one more advantage—their cannon could be hauled from one strategic point to another, providing mobility.

At 7 a.m. the British loaded five barges with armed sailors and sent them shoreward to complete capture of the town. But one 18-pounder, firing from the extreme end of a neck of land, launched such a hail of grapeshot at the aggressors that one barge was shattered, several sailors were killed and the landing party rowed swiftly back to the ships of war. The British ships then moved to a new position and began bombarding, but were driven off by the other 18-pound cannon.

The British squadron pulled into deeper water, pursued by cannonballs from both defense pieces. The British then resumed their bombardment, while the defenders huddled in the breastworks and behind boulders. They were down to five shells, and limited their response to musket fire.

The promised ammunition arrived from New London by coach, and the Americans resumed firing at the British ships.

On the final day, Aug. 11, the British sent round after round of cannonfire into the village. At one point there were 20 houses ablaze. But the British realized it would be suicide to try any more landing parties.

The brig Despatch had been so badly pounded she was in danger of sinking. The defenders ashore believed they had killed four attackers in the landing party. They learned later that 21 sailors from the Despatch had lost their lives.

The Stonington militiamen were weary after three days of cannonading, but were well supplied with ammunition, men and muskets, and ready for another day of fighting.

But Capt. Hardy had had enough of meddling with this beehive and on Aug. 12 pulled out to sea. The Stonington forces had only three men wounded. One died months later. The town had suffered about $4,000 in damage to houses.

For years thereafter, a favorite children's chant was: "It cost the king ten thousand pounds to have a dash at Stonington."

Until recent times, the big cannonballs fired by the attackers remained lodged in the trunks of ancient trees in Stonington—a reminder of the valor of the defenders.

PAUL REVERE—TALENTED WORKHORSE OF THE REVOLUTION

(By Frank Bauer)

BOSTON.—It may have been "the shot heard 'round the world" but it did not interrupt Paul Revere's pedestrian task at Lexington Green.

Revere, the dutiful and worthy servant of the Revolution, barely turned his head when he heard the shooting. He was bent to the task of rescuing a trunk of papers belonging to John Hancock from a tavern near the historic green.

Revere had been up all night, making his famed ride along with several other messengers to warn the countryside—and especially to warn Hancock and Sam Adams—that the British regulars were on their way. It had not been a completely successful mission. Revere had been lucky enough to elude two mounted British officers near Boston but other Redcoat officers had intercepted him near Lexington and taken his horse.

He had made his way by foot through wood and pasture to the parsonage where Adams and Hancock were hiding. Hancock wanted the trunk with its valuable—and treasonable—papers. It had been left at Buckman's Tavern, and Hancock and Adams were wanting to take it with its contents to the meeting of the Continental Congress in Philadelphia. The trunk had been especially made to fit the carriage that would take the two Congress delegates to Philadelphia.

Revere, his warning duties finished and now fed after his eventful night, agreed to return to the tavern with Hancock's clerk to get the trunk.

As the two were ready to leave the tavern with their load, the British troops in all their orderly and braided splendor had reached the green where the Minute Men were assembled.

The Red coats had had a long and slow night's march after an uncomfortable and knee-wetting crossing of the Charles River, but they were impressive in formation and numbers as they drew up to the Lexington Green. The motley assortment of militiamen gathered there hardly seemed to be worthy foe, but the British were mindful even before reaching the town that the country was astir with furtive figures in the predawn hours.

The British were ordered not to fire as they came close to the Minute Men. It was not clear that there was to be fighting. The regulars were destined to seize military stores at Concord and wanted no interference.

It is not known to this day who fired first, but a shot rang out and the American Revolution was off to its start.

The significance of the moment was probably lost to Paul Revere. He heard the shooting as he left the tavern, looked over his shoulder but continued on his mission to carry the trunkful of papers to Hancock.

This was the nature of the man. Revere was a talented workhorse of the Revolutionary cause, a paid and respected messenger of the Provincial Congress and the colony of Massachusetts. He had made several rides to Philadelphia and elsewhere on his mare for the rebel political leaders. He was not quite the daredevil, lone ranger type rider conjured up in some minds, but certainly he took plenty of risks to both body and fortune as he embarked on errands that under the law were susceptible to charges of high treason.

Revere was essentially a family man, closely attuned to the Revolutionary cause, but who first and foremost had to make a living. This he did with unusual skill and versatility.

It was Paul Revere, the silversmith (and his works are still prized), the bellmaker, engraver, powder mill proprietor, money designer, coroner, clerk of the town market, express rider and, not the least among his skills, the dentist.

It was Revere, as dentist, who positively identified the body of Bunker Hill hero Joseph Warren exhumed some months later

from its battlefield grave. Revere had made for the handsome young Warren two teeth of ivory wired in with silver. Probably he was the first dentist in American history called upon to identify a corpse by the denture. Revere had learned his dentistry early in his career from a "surgeon-dentist" who lived in Boston for only a short time and had left after finding skeptics among his patients.

Revere not only cleaned teeth and mended them but he offered to supply spectacles and lenses. He made spatulas and probes for surgeons, rattles and "wisles" for babies, engraved collars for dogs, baptismal basins and other vessels for churches, gold earrings, shoe buckles, punch bowls, chafing dishes and more. Someone has observed that he was Colonial America's Sears, Roebuck, adding that if he had made his famous ride through Middlesex County astride a power lawn mower, he wouldn't have had to raise his voice.

As a rider for Revolutionary causes he was more than a messenger. It is apparent from the nature of his errands, though he was less than an ambassador.

His observations were valued by John Adams, Hancock and the other brain men of the cause. When he made rides to Philadelphia, for example, his personal recounting was heard with interest by the men who had dispatched him, and there is little doubt that his reports had influence on policy.

A modern wit, arguing against civil defense expenditure during a recent New England town meeting, added a triumphant punch line, "Who paid Paul Revere?" This debater did not know that Revere's own bill for his messenger service is on display this day in a Boston historical collection. Revere was paid for his riding, though he charged the colony of Massachusetts a modest five shillings a day for such services.

He had to be preoccupied with finances, for he had a big family and home. Two wives bore him a total of 16 children, and he supported his widowed mother and aided sisters and other family members. The Reveres had not struck it rich, and Paul's growing family had many needs. His father, the Huguenot immigrant, Apollos Rivoire, had endowed him nicely in the silversmith trade, and his mother, Deborah Hitchbourn, came from a propertied family, but there was no family fortune. Revere had to seek out many occupations to keep home and shop and maintain his lodge affiliations in the hard times that Boston knew during the Revolutionary period.

It was in 1770, when Paul was 35, that he bought the century-old North Square house that was to be home for many years and that to this day stands a memorial to him, restored, furnished and open for public inspection in downtown Boston. It is that city's oldest dwelling, built somewhere between 1650 and 1680, probably by one John Jeffs.

Paul purchased the place from one of the city's largest real estate dealers, Capt. John Erving, paying 213 pounds and with a mortgage of 160 pounds, a substantial investment for the times.

Somewhere along the line, the two-story house became three stories, perhaps to accommodate Revere's sizable family. The restoration has returned the dwelling to its original two stories.

Paul added a barn to the property where he kept his mare—the horse that served him well on his rides. It was probably the same mount that took him on his express ride in November 1773 to warn the neighboring seaports that the detested tea ships might be heading to unload at their wharves. It is the first record we have of Revere "booted and spurred and ready to ride," says the authoritative account of Esther Forbes ("Paul Revere, the World He Lived In").

Paul supposedly was a participant in the tea party itself. Two of his clubs were involved including the Masons, whose brief record the night of the "party" reads: "Lodge closed on account of few members present." While it had been decided that young men not readily recognizable would dump the tea into the harbor, some of the older and bolder leaders—well disguised—went along to make sure that the job was done right and that there would be no looting. It was a risky venture for Revere and the men of his stature. If caught, they would be held liable under strict royal edict and face trial for destroying property of the East India Company.

But Paul Revere was ever a daring man. His basic devotion to the cause was later reflected in the military heroism of two grandsons who gave their lives in the Civil War—Paul Joseph Revere at Gettysburg and E. H. R. Revere at Antietam.

Paul himself survived the Revolution by several decades and lived to recount for interested Americans the details of the "eighteenth of April in seventy-five." The Longfellow poem that memorialized the ride in "Tales of the Wayside Inn" was published in 1863, 45 years after Revere's death and established for all time Revere's niche in American history.

IT ALL BEGAN WITH THE MAYFLOWER COMPACT

(By James Cary)

WASHINGTON.—"In the name of God, amen. . . ."

That's how it began, the first words of the first written document of self-government in English-speaking America—the Mayflower Compact.

This fall Massachusetts will open a 350th anniversary celebration of the drafting and signing of that document and of the historic events that followed.

For on that cornerstone was erected the foundations of the republic, soon in turn to celebrate its own 200th anniversary in the year 1976.

In readying a 15-month program beginning Sept. 12 to commemorate the anniversary, Massachusetts has stated:

"In an age of tumult, disillusion and rebellion, when Americans are seeking to clarify their personal values and basic convictions, the Pilgrim anniversary will provide a colorful opportunity for millions of citizens to rediscover their country's roots. . . ."

The Mayflower sailed from Plymouth, England, Sept. 16, 1620, carrying 102 members of the separatist church to the new world.

They missed their intended landfall in Virginia but after a 66-day voyage arrived off Cape Cod near the present-day site of Provincetown, Mass.

There, on Nov. 11, 1620, in the cabin of the ship, 41 of those aboard signed the Mayflower Compact, proclaiming among other things that they were binding themselves into "a civil body politick (sic)" to "constitute and frame such just and equal laws, ordinances, acts, constitutions and officers . . . as shall be thought most meet and convenient for the general good of the colony."

For five weeks after that they conducted three expeditions down the bay coast to the cape, touching sites that later were to become Chatham, Wellfleet, Truro, Eastham, all communities that will join in the 350th anniversary celebration.

Finally on Dec. 26, they came ashore at what is now Plymouth, where they prayed near "Plymouth Rock" and founded their colony.

After a somewhat circuitous journey, the famed "Plymouth Rock" is again back in what is believed to be that original location. Just before the Revolution it was placed in the town square in front of the old First Church, but was returned to the beach in time for the 300th anniversary of the landing in 1920.

Ironically, too, the rock played an inadvertent role in naming the settlers the "Pilgrim fathers," a term that was not used until 200 years after their landing.

Before that they were called "old comers" by their children and succeeding generations. Later they were also known as forefathers.

It was Daniel Webster, the principal speaker at "Forefathers Day" services on Dec. 22, 1820, who said in an emotional address:

"Beneath us is the rock on which New England received the feet of the Pilgrims. . . . We have come to this rock to record here our homage for our Pilgrim fathers."

He made the term stick.

Though Plymouth Rock is no longer in the town square as it was then the present residents of Plymouth have cleared and redeveloped a 30-acre area in the center of town for tourists expected to join in the celebration this fall.

There they have reconstructed the 1749 Plymouth County courthouse, built a Pilgrim gristmill, and preserved 20 residential structures of historic interest. The courthouse is the oldest wooden courthouse in America; some parts of the buildings go back to 1660. Its main courtroom is furnished with a judge's bench, jury box and sheriff's table exactly as it was in 1749.

In the courthouse basement are the old county gallows, an ancient town hearse and Plymouth's 1828 hand jump fire engine.

At nearby Plymouth plantation there is a re-creation of the Pilgrim village of 1627. Other attractions include Mayflower II, a replica of the original ship, tied up near Plymouth Rock. There are also numerous demonstrations of Pilgrim crafts, and exhibitions at historic Plymouth houses.

Other planned events include a parade on opening day, Sept. 12, and a Dec. 21 reenactment by costumed Pilgrims of the original landing in 1620 at Forefathers Day services at Plymouth Rock. The Rev. Billy Graham will officiate.

THOMAS HUTCHINSON—TRAGIC FIGURE OF THE REVOLUTION

(By Frank Bauer)

BOSTON.—The nostalgia of transplanted Yankees has been stirred in recent years by the haunting lament of songstress Jane Morgan with her "Homesick for New England."

Such a ballad would have torn the heart out of a prominent New Englander of Revolutionary War days who, though he departed Boston despised and despising, came to miss his native home with a depth of melancholy that hastened him to an unwanted grave abroad.

He was Thomas Hutchinson governor of the province of Massachusetts, Boston born and bred and contemporary of the patriots whose activities brought about his misery.

Hutchinson was older and wealthier than such Boston neighbors as Paul Revere, Sam Adams and James Otis, but he knew them well. The records show he even did business with silversmith Paul Revere in the days when this plotting patriot had already become a thorn in his side.

Hutchinson was the son of a well-to-do Boston merchant and an American by several generations. He became a lawyer and respected political figure early in his career. He represented Boston in the General Court and was several times chosen speaker. He was appointed probate judge, then lieutenant governor and, at 49, chief justice.

A man of gentility and Boston's most distinguished citizen, Hutchinson lived in the mansion left to him by his father. With fenced-off gardens, fruit trees and coach houses, he resided gracefully and with pride and an aloofness that removed him from the hurly-burly inspired by some of his rebellious neighbors.

It was natural for Hutchinson to be both cautious and conservative, and, as an officer of the crown, he tried hard to maintain the

relationship between mother country and Colony that would produce peace and order. His background gave him a superior understanding of the Boston patriots, and he knew well of their politics and their opposition to tyranny. Probably he did not share fully the Tory disdain for the roughnecks who precipitated the Boston Massacre and, later, the Tea Party—even though his position was central and uncomfortable in both instances.

He had succeeded as governor of Massachusetts after a hated predecessor had been recalled to England. His appointment came in 1769 in the face of his increasing unpopularity with fellow citizens because of his support for British policies.

Hutchinson was the governor at the time of the Tea Party in 1773, and it was his refusal to permit the reshipment of teas on which the hated tax had been imposed that caused the Colonists masquerading as Indians to dump the tea into the harbor.

He had shown much courage in the conflicts of the times. His home was sacked by a mob during the Stamp Act riots of 1765, when he was the lieutenant governor under Gov. Sir Francis Bernard. Hutchinson's excellent library was dismantled and his priceless manuscript history of Massachusetts was scattered into the streets. Bernard took refuge behind British guns, but Hutchinson went right to the center of the disturbance with a sheriff, was pelted with stones and subjected to abuse.

At the time of the massacre in 1770 when feelings in Boston ran at fever pitch and the squad of Redcoats who had done the firing was in danger of being lynched, Hutchinson stood face-to-face with the enraged crowds and successfully bargained for the judicial processes that saved the soldiers.

Shortly after the Tea Party, however, when the hazards to him and family had mounted, Hutchinson gave up and asked leave to resign. In June of 1774—only 10 months before the outbreak of the Revolution—he sadly departed his beloved homeland and sailed off to the England whose king had commanded his loyalties.

There he was destined to spend the remainder of his life, always yearning for return to America. The pain of his nostalgia was evident in the writings of those years before his death in 1780.

"I had rather die in a little country farm in New England," he pined, "than in the best nobleman's seat in Old England."

He mourned that the "prospects of returning to America and laying my bones in the land of my forefathers for four generations . . . is less than it has ever been. God grant me a composed mind."

This was despite the fact that England had made him welcome, granted him a pension and that his children had joined him abroad. His beloved wife he had buried many years before near his Boston home, and her tomb was seized with the rest of his property. Long a widower, he had never remarried—an unusual situation in those days.

The strong feeling against Hutchinson died down quickly after the Revolution, and in 1821 the blood of patriot Paul Revere was mixed with that of the old governor when Paul's son, Joseph Warren Revere, married Mary Robbins, a grand niece of Gov. Hutchinson.

Hutchinson's skill in finance and money matters earned a friendly citation from John Adams in the years after Adams' presidency.

"If I were the witch of Endor," Adams wrote, "I would wake the ghost of Hutchinson, and give him absolute power over the currency of the U.S. . . . He understood the subject of coin and commerce better than any man I ever knew in this country."

It was a real tribute from an old enemy.

Historian Esther Forbes writes, "If any ghost walks a New England field, haunts a deserted garden, it must be the slender wraith of Thomas Hutchinson."

One Hundredth Anniversary Fete Was a Gala Affair

(By James Cary)

WASHINGTON.—They rang the Liberty Bell for half an hour. Bands played. Foot troops and cavalry moved into the procession. President U. S. Grant and his Cabinet took their places in waiting carriages.

Then with a beating of drums and clashing of cymbals the giant parade stepped out through the mud up Broad Street to the exhibition grounds in Philadelphia's Fairmont Park.

That's how it all began on May 10, 1876, when the United States celebrated its first 100 years as an independent nation—a six-month observance that gave Americans and the world a closer look at the products and skills of a young and building country.

Today the United States is busy preparing for a much greater celebration of its 200th anniversary centered around the bicentennial year of 1976. The American Revolution bicentennial commission will submit its proposals for that celebration to President Nixon this spring. He in turn is expected to make the final plan public on July 4.

But that massive, coast-to-coast observance, whatever form it takes over whatever period of time, will be no more spectacular to those who watch and participate than was the 1876 exhibition commemorating the nation's first century.

Just as today, 1876 was a time of great change and adjustment. The Civil War was little more than a decade past. It was the year when Wild Bill Hickok was shot and killed, from behind, in Deadwood, S.D., and Gen. George A. Custer and 264 soldiers were massacred by the Sioux at the Little Big Horn.

The nation was expanding westward and there were troubles aplenty. But in Philadelphia, on the 10th of May, the sun broke through after a drenching rain and the parade moved out on time for the 10 a.m. opening ceremonies before packed stands at the exhibition grounds.

A 150-piece orchestra played. A Methodist bishop prayed: "May the new century be better than the last." The grand chorus sang, and President Grant declared the exhibition open at the stroke of noon.

Awaiting the crowds that swarmed through the turnstiles that day were buildings known as "Main," "Machinery," "Agricultural Hall" and "The Women's Pavilion." There were also a museum and numerous restaurants and foreign exhibits, all spread over some 48 acres of reddish-yellow sticky clay soil, partially covered in places by asphalt roads and newly sown grass.

William Pierce Randall of the University of Maine has written vividly of the celebration in his book, "Centennial" (Chilton Book Co., $12.50), explaining that the exhibition was laid out in the shape of a lopsided "A," marked out by such streets as "Avenue of the Republic," "Fountain Avenue," and a ravine known as "Lansdowne Valley."

"Just inside the main entrance," Randall said, "was the Grand Plaza, with Main to the right and Machinery to the left. Main was the chief building and reputedly the largest structure in the world—1,880 feet long, 464 feet wide and 20 acres in area."

Inside were three organs, played almost constantly. There were many fountains, some scented with cologne, a central bandstand, wheelchairs for hire and displays by the thousands.

Spread before the public eye were such diverse goods as Norwegian silver work, clothing, ropes, Yale locks, guns, iron and steel products, glassware, gas fixtures, paints, chemicals, Belgian wood carvings, British magazines and somewhere on the grounds, needlework done by Queen Victoria and her daughter.

In a carriage annex there were examples of wheeled vehicles from the most primitive through the most modern Pullman palace cars.

In Machinery Hall, on that opening day, President Grant and Emperor Dom Pedro of Brazil together turned the valves that started a giant Corliss engine. Its steady hum filled the hall, operating many other contrivances off pulleys, chains and ropes.

Randall reports there were steamship models, ice yachts, automatic switches, a machine that made 40 pounds of bricks a day, fire engines, popcorn machines and a chewing tobacco machine run by four Negroes who sang hymns while they worked. There was even a typewriter.

Randall's book adds:

"A man named Bell displayed a telephone. The Emperor Dom Pedro happened along one day, listened, and dropped the receiver saying, 'My God, it talks!' Elisha Graves Otis was less lucky with an elevator that he tried to interest people in."

A railroad train chugged around the exhibition grounds, where for five cents the weary could travel from one end to the other, or just spend some time catching his breath and seeking relief from the terrible spring and summer heat.

Memorial Fountain, which survives today, was one cool spot but the most popular fountain was one whose waters flowed over cakes of ice.

There were many soft drink stands, too, dispensing for 3 cents flavored syrups diluted with water or carbonated water. There was also a man named Charles E. Hires who gave demonstrations showing how he made his root beer from dried roots and spices.

In the Agricultural Building there were plows and reapers and the gamut of farm produce plus aquariums, silkworms at work and spice grinders. In the U.S. government building a prime attraction was a display of the camp equipment that George Washington, commander of the Revolutionary Army, had used on his campaigns.

Still another building was the Department of Public Comfort with its large reception room, abundantly furnished with chairs and sofas. It also had barber shops, shoe-shine rooms, checkrooms, an art gallery, toilets, washrooms and an open-air terrace under a canvas awning.

Spread throughout the exhibition grounds were many restaurants, and clustered around its periphery many more with much lower prices.

There was also a museum outside of the grounds featuring wild men from Borneo, wild children from Australia, Fiji Islanders, lemonade booths and shooting galleries.

The exhibition continued on into the fall until finally Nov. 10, closing day, arrived. It rained again just as it had the day the exhibition opened.

There was a 13-gun salute, an orchestra played Beethoven's "Fifth Symphony," a choir sang the "Hallelujah Chorus," there were speeches, "America" was sung, John Paul Jones' original flag was unfurled and President Grant again appeared to declare:

"Ladies and gentlemen, I have now the honor of declaring the exhibition closed."

The time was 3:37 p.m.

In Machinery Hall a gong sounded and two engineers threw a switch halting the giant Corliss engine. In nearby Judge's Hall all those present joined in singing the "Doxology."

And so the celebration of America's first 100 years ended, and the long drift through time began—toward that distant day when the second 100 years would be similarly marked. It is now rapidly approaching.

Capital Face-Lifting Asked for Bicentennial

(By Edward Neilan)

WASHINGTON.—A special task force has urged a massive face-lifting for the nation's

capital as part of America's bicentennial celebration in 1976.

The group, in a report presented to the American Revolution Bicentennial Commission, said it would be "both highly desirable and eminently practicable" to undertake a broad program of urban innovation in Washington to make it a showplace as part of a nationwide series of events celebrating the bicentennial.

The special task force on the bicentennial in an urban America was drawn from the Joint Center for Urban Studies of the Massachusetts Institute of Technology and Harvard University and the American Academy of Arts and Sciences.

The task force urged the President to make the bicentennial "a cause as well as an occasion for celebration" in Washington.

A wide range of innovations in the fields of transportation, communications, medical services, housing and environmental control were suggested. These steps would be aimed at creating a "fair without a fairgrounds" and provide lasting benefits to the national capital area.

Washington, D.C., has slipped badly in recent years as the nation's model city. Several programs to correct the slide have been suggested, but little action has been taken. The bicentennial celebration, the task force suggests, would provide an appropriate focus.

In his letter of transmittal to the President's commission, Prof. Charles M. Haar, director of the Joint Center for Urban Studies, emphasized that the task force had concentrated on examples of developments that were practical and applicable to the rest of the nation's urban areas.

The suggestions include development of a cable system for transmission of urban services; the organization of special emergency-care systems based on armed forces medical operations in Vietnam; the creation of a traffic-free zone downtown; the Department of Housing and Urban Development's use of Operation Breakthrough, an industrialized housing program, to build thousands of units in Washington, and many other special programs.

The report notes that Washington as an urban area "is a showplace not only of our past heritage but, unfortunately, of our present difficulties."

The report says millions of visitors will travel to Washington to see American monuments during the bicentennial. If there is not a concurrent effort to improve the condition of the city, the celebration would be "misleading, imprudent and virtually immoral," the report said.

INCIDENT AT KENT STATE UNIVERSITY

Mr. WILLIAMS of Delaware. Mr. President, I am not passing any judgment as to the regrettable incident at Kent State wherein four students were killed; however, a certain situation has been called to my attention which does need comment.

A student who claimed to have witnessed the unfortunate incident from a dormitory window made a statement to the press, as appearing in the Cincinnati Enquirer of May 8, 1970, under dateline of White River Junction, Vt. In the interview the student, Mr. James Young, outlined his views of the riots with particular reference to the National Guard action.

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

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

KENT EYEWITNESS SAYS GUARDSMEN SAVED OWN LIVES

WHITE RIVER JUNCTION, VT.—A student who said he saw four of his classmates killed when National Guard troops fired on demonstrators at Kent State University in Ohio on Monday says the Guardsmen were not to blame.

James Young, 20, of White River Junction, said in an interview Thursday with radio station WNHV that the Guardsmen "had to fire to defend their lives."

Young, who said he watched the incident from a dormitory window 150 yards away, said the students were an angry mob.

"I really believe the crowd would have, if they had tried hand to hand to fight their way out—would have beaten them to death," Young said.

"The news reports sort of gave the impression that the National Guard was entirely wrong," he said. "But that's not true. They were defending their lives. They had no alternative but to shoot."

He said that from his vantage point, he saw about 30 Guardsmen come up a hill from a green and down the other side to a football field where they confronted more than 2000 students.

The Guardsmen formed a protective circle with tear gas launchers in the middle, Young said.

"I saw one tear gas grenade tossed back and forth several times between students and Guardsmen," he said.

Young said 50 to 100 students were throwing rocks, pieces of concrete and lengths of pipe at the troops.

"And they were only about 20 feet away from the soldiers," he added.

Young said the troops then tried to march back up the hill toward the common to rejoin other Guardsmen. When they reached the top of the hill, he said; they met another group of students and were surrounded.

Young asserted the Guardsmen had used up all their tear gas. He said they advanced on the students several times, but each time the students held their ground.

"Then they turned and fired," he said.

"I thought they all fired in the air—some did anyway." Young said. He said he heard no other shots before the Guardsmen opened fire.

Young also said the demonstrators were warned repeatedly during the 45-minute period to disperse. He said the Guardsmen warned that all bystanders should leave the area about five minutes before tear gas was used.

Young arrived home Tuesday after university officials closed the school following the Monday incident.

Mr. WILLIAMS of Delaware. Mr. President, apparently this interview was called to the attention of a Member of the U.S. Senate, following which, under date of June 16, 1970, the Senator wrote the following letter to the young man:

SIR: You are a despicable fellow. Furthermore, you have a cruel yellow streak down your back.

I'm mailing you a factually correct statement. This has been verified by many signed statements I have taken.

If you testify in court stating what you are reported to have said in your interview, you should and undoubtedly will be indicted for the crime of prejury.

I repeat, I am not passing upon the merits or the accuracy of Mr. Young's views, but I do question the propriety of any Member of Congress threatening or intimidating a prospective witness in a case which may very well be decided by the courts.

I am forwarding a copy of these remarks to Mr. Young with the suggestion that if called as a witness his only responsibility is to tell the truth.

SENATE NATIONAL HEALTH SERVICE CORPS ACTION CAN AID CITIZEN HEALTH—HOUSE APPROVAL NEEDED TO SET PROGRAM IN MOTION

Mr. RANDOLPH. Mr. President, there is an area of vital concern—the health of our citizens. We have for years watched in dismay as the gap between medical technology and the delivery of health care to many of our people has widened.

The measure unanimously approved by the Senate on September 21 to establish a National Health Service Corps represents an important step in recognition of this growing problem. The senior Senator from Washington (Mr. MAGNUSON), the author of the National Health Service Corps bill, has provided real leadership in guiding this crucial legislation through the Senate. He has had the diligent assistance and cooperation of his able colleague from Washington (Mr. JACKSON). Together, they have translated concern for health care into an effective action program. I would stress that this measure, which I am priviliged to cosponsor, as is my diligent colleague from West Virginia (Mr. BYRD) has strong bipartisan sponsorship and support. The Senate Subcommittee on Health and its parent Committee on Labor and Public Welfare, under the helpful chairmanship of the Senator from Texas (Mr. YARBOROUGH), conducted hearings and executive sessions and reported the bill to the Senate. It is our hope that the House of Representatives will act affirmatively and expeditiously so that this legislation can be enacted into law this year.

The National Health Service Corps is a concept which embodies the best of Christian concern; it would encourage young doctors and other paramedical personnel to move into areas where health needs are greatest and most lacking. To illustrate this need, the Charleston Gazette published on October 1 an editorial which recounts in detail the critical health problems that exist in some areas of my home State of West Virginia. For example, in 13 West Virginia counties, a recent survey showed there was only one physician for four times the patient population recommended by the American Medical Association, and in six counties the population load for a physician was six times the recommended ratio. Mr. President, I ask unanimous consent that this timely editorial be printed in the RECORD.

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

ACTION NEEDED TO ALLAY SEVERE MEDICAL SHORTAGE

West Virginia has many problems, but none more critical than the severe shortage of physicians, dentists and nurses in rural areas. The same situation exists in other states with extensive rural areas and smaller communities.

Dr. Robert L. Nolan, professor and chairman of the Division of Public Health and Preventive Medicine at West Virginia University, called attention to the severity of the shortage in a letter to the Sunday Gazette-Mail:

In some West Virginia counties there are no practicing health personnel available at all.

In the last 10 years at least 60 communities with populations of less than 10,000 have been left without physicians as rural practitioners retired and were not replaced.

In 13 West Virginia counties there was only one physician for four times the patient population recommended by the American Medical Assn., and in six counties the population load for a physician was six times the recommended ratio.

The state's estimated need for public health nurses is 720, but there are only 136 so identified and only about two dozen of these were formally trained in public health nursing.

Throughout the United States these shortages in rural areas reflect higher maternal death rates, higher rates of disability and death from accidents, increased infant mortality rates, and longer periods of disability and hospitalization for specific illnesses.

Fortunately, there are signs of a mood in Congress to do something about this appalling deficiency. Sen. Jennings Randolph, D-W. Va., and Sen. Warren Magnuson, D-Wash., with the cosponsorship of 25 other senators from both parties, have introduced a bill to establish a National Health Service Corps to improve health care in areas where personnel and services are inadequate. A similar bill is pending in the House under sponsorship of Rep. Harley O. Staggers, D-W. Va.

Under the Randolph-Magnuson bill, which passed the Senate on Sept. 21 without a dissenting vote, a new division of the U.S. Public Health Service could assign volunteer health personnel for direct health services to people in isolated rural and urban areas where such services are not now available. Special encouragement would be offered for the assignment of volunteers to areas in which they might ultimately settle on a permanent basis.

Plans call for an appropriation of $5 million a year—a lamentably small amount—to start the program on a trial basis. There is no provision for matching funds at the state or local level. Certainly it is a modest approach, and one that should be tried.

Aside from filling a desperate need for people now without health services, the program has possibilities of the further desirable effect of attracting new physicians to rural areas. As Dr. Nolan points out, there is now an understandable reluctance on the part of newly graduated physicians to settle by themselves in the more remote rural areas where there are severe limitations in facilities and absence of organized programs to which they could relate. Also, the president of the West Virginia University chapter of the Student American Medical Assn., Peter Selove, believes that with passage of the National Health Service Corps Act, more young physicians would stay in West Virginia to practice after graduation.

The need is critical. The Senate action is encouraging. We would urge Rep. Staggers to do everything in his power to assure favorable action in the House before Congress adjourns.

THE CONSTITUTIONAL RIGHT TO WORK

Mr. CURTIS. Mr. President, for some years the U.S. Supreme Court has been concerned with the constitutional rights of minorities. I was happy to see an article in the October issue of Dun's Review which indicates that the Court may now include in this concern the constitutional right to work of workers in the United States.

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:

BUSINESS AND THE NIXON COURT

(By Fred P. Graham)

Last spring, after the Senate had turned down the Supreme Court nominations of G. Harrold Carswell and Clement Haynsworth, there was some talk that President Nixon's inexperience in picking judges was beginning to show. But Chief Justice Warren E. Burger pointed out that, on the contrary, Richard Nixon was one of the most experienced selectors of Justices in United States history. Substituting for the President as the after-dinner speaker at a Washington banquet, the new Chief Justice tucked his tongue in his cheek and noted that no President since George Washington had nominated as many Justices in so short a time as President Nixon.

Getting a laugh out of the White House's discomfiture without hurting anyone's feelings was an adroit performance in itself. Yet there was more than a shadow of prophecy in the teasing reference. For not only did the retirement of Chief Justice Earl Warren and the departure of Justice Abe Fortas give the President a rare early opportunity to place a conservative stamp on the Supreme Court by replacing two of its most liberal members; given the age and infirmities of three of the remaining Justices (84-year-old Hugo Black and septuagenarians John Harlan and William O. Douglas), it is likely that President Nixon will be able to appoint a Supreme Court majority, the first President to be afforded such an opportunity since Franklin D. Roosevelt.

By appointing pro-New Deal Justices back in the late 1930s, Roosevelt was able to overturn many of the court's "strict constructionist" decisions and to set its tone for a generation. Now, given President Nixon's campaign criticism of the high court and his pledge to appoint "strict constructionists" if elected, there is every reason to believe that a Nixon-appointed court will reverse the trend once again.

While it is clear that a staunchly conservative court would have a profound impact on such controversial areas as civil rights and the rights of criminal suspects, how would such a shift to the right affect the many complex decisions that concern business? The first year of the Burger court provided only hints of the future course of the new Chief Justice's decisions. But several impressions did emerge.

For one thing, most of Burger's labor decisions favored management. His only pronouncement on the general subject of labor implied that he believes in a Constitutional "right to work"—a First Amendment right to refuse to join a union. This came when the court refused to hear the appeal of a former New York Teamster member who had been denied unemployment compensation because he invoked "conscientious objections" against rejoining the union and thus could not accept a job offer in a union shop. In the odd-couple act of the year, liberal Justice Douglas joined Burger in a dissenting opinion that the denial of benefits "places a burden on the petitioner's freedom of association." Using the terminology employed by the Supreme Court in its defense of a young man's right to become a conscientious objector to military duty, Burger argued that the worker's opposition to union membership could be a "deeply felt belief which falls in the First Amendment area."

The suggestion that workers have a Constitutional right to ignore compulsory union membership arrangements is one that few judges have been willing to kick around in public. Burger's apparent approval of the idea suggests that this unusually independent jurist may have some unhappy moments in store for organized labor.

The court's other labor decisions of last term did not give Burger an opportunity to amplify his philosophy, but his decisions on the rather narrow and technical cases that were decided must have given union lawyers some sober thoughts. Out of ten rulings that decided controversies between workers or their unions and management, he agreed with the employer's contention, the issue was apparently so clear-cut that the decision was unanimous.

Burger's conservation on labor and other issues seems to stem primarily from three beliefs: a feeling that courts should not shortcut established procedures and lines of authority, a conviction that as many problems as possible should be handled by the states, and a strict constructionist's belief that the Constitution and laws should not be given generous reading to accommodate individuals' claims for expanded rights.

What impact will this philosophy have on the court's antitrust decisions, which during Earl Warren's tenure invariably upheld the Justice Department? There is not much to go on here, since antitrust cases were a rare commodity at the court's last session. But in the one case that did come before the court, Burger, joined by Justice Harlan, did not accept the government's contention that the merger of two Phillipsburg, New Jersey banks violated the antitrust laws. Both Justices, in fact, pointed out the benefits of the merger.

THE FOURTH MAN?

Although he did not join them on that case, Justice Potter Stewart showed a definite tendency at the court's last session to join Burger and Harlan in objecting to strict governmental regulation of business. Now, as the court term opens this month, the key question as far as business is concerned is whether the court's newest Justice, Harry Blackmun, will be the fourth man in an emerging pro-business alignment.

There are many signs, in addition to his lifelong friendship with the Chief Justice, that Blackmun shares the philosophy of the three conservative justices. Most significantly, he is an unabashed admirer of the late Justice Felix Frankfurter, who was the intellectual leader of the Warren Court's conservative minority.

Blackmun joined the court too late last spring to participate in many cases. But he wrote one dissenting opinion that could prove to be a straw in the wind: He joined Burger and Harlan in favor of giving the states broader discretion to suppress prurient films, books and magazines. This opinion has nothing to do with business, of course. But it indicates a generally conservative outlook and an intellectual kinship with Burger and Harlan.

If these four Justices do gravitate toward a philosophical alignment on the court's right, it could have a significant impact on several business-related cases that are now on the court's docket. And if they were joined in any one case by Justice Byron White, frequently the court's "swing man" between the liberals and conservatives, they would form a majority.

The old problem of secondary boycotts in the construction trades will be back before the court—this time to test the legality of a union's pressure on a neutral employer. The right of national banks to compete with mutual funds by operating comingled agency investment accounts will be decided, as well as the authority of state and federal courts to make unions pay damages to workers who

have been wrongfully stripped of their union memberships.

But the most intriguing set of business-related questions are the increasing instances in which individuals seek to invoke concepts of free speech and equal treatment against private companies. In fact, such cases could become the major concern of corporate lawyers.

Item: Ida Phillips of Orlando, Florida was denied a job by Martin Marietta Corp. under a company rule that barred all mothers of pre-school-age children. She claimed that this violated the Civil Rights Act's rule against sex discrimination. Lower courts agreed with the company's assertion that she was excluded not because she was a female, but because her responsibilities to three small children might detract from her work. Should employers be forbidden to lay down such blanket rules regarding women, and be required to prove in each individual case that the woman would be handicapped in her job because of her sex?

Item: Black workers at the Duke Power Co. plant in Draper, North Carolina were segregated into menial jobs until the federal equal-employment law was passed in 1964. But ever since that time, few of them have been able to move up because the company has instituted a requirement of a high-school diploma or a specified score on an intelligence test as a prerequisite for promotion; Negroes have not fared well on either score. Should employers be barred from applying such a test, even though it is applied equally to all races, unless it can be shown that the tests actually do measure the employees' capacity to do the work?

Item: An interracial group in Chicago felt that Jerome Keefe, a real-estate broker, was guilty of "blockbusting" in their neighborhood—that is, of attempting to panic white homeowners into selling out at deflated prices by suggesting that blacks were moving in. They distributed leaflets that expressed this view but were ordered to stop by a state judge. Does the right of privacy of Keefe and his family outweigh the protesters' First Amendment right to express their views?

Although this issue came to the Supreme Court as a small businessman's racial dispute, many lawyers think that it will come to plague officials of large companies, and not always over racial questions. Large corporations are increasingly becoming the targets of anti-war and environmental activists, who may adopt the tactic of picketing corporate officers' homes if the Supreme Court gives the strategy its blessing. Similar questions seem to be imminent.

What right, for instance, do union members have to demand entry into a privately owned skyscraper in order to picket a company that has offices inside? Does the Constitution give individuals legal recourse against companies that poison the environment with pollutants and radiation? Can a company that holds government contracts be required to go beyond nondiscrimination to hire a certain percentage of Negroes?

These are questions that are either on their way to the Supreme Court now or are likely to gravitate there soon. And their ultimate disposition could certainly be determined by the amount of time that elapses until these cases are heard. For if, say, Justices Black or Douglas—or both—should decide to call it a career, a conservative majority would almost automatically be assured. There is strong indication in the writings of Warren Burger that the Warren Court was presumptuous in some of its declarations of individual rights against the state. Thus, as efforts are made to extend these rights to an individual's relationship with a corporation, a Nixon-appointed court would be almost certain to demur.

It is, of course, true that a man's previous record is not always an accurate guide to how he will act when he takes his seat on the hallowed top court. After all, President Eisenhower was under the impression that Earl Warren was a middle-of-the-roader when he named him Chief Justice.

But President Nixon has selected only men from the Federal Courts of Appeal who have solid track records as conservatives on the types of legal questions that tend to come before the Supreme Court. This is why many lawyers believe that Nixon may indeed succeed in molding a staunchly conservative court that could—much like its liberal predecessor—affect the life of the nation for a generation.

As far as the business community is concerned, such a rightward shift could reshape the court's position in such thorny areas as labor law and antitrust and effectively bar the door to a rush of private complaints against corporations. To quote the late Chief Justice Charles Evans Hughes in one of his unguarded moments, "The law is what the judges say it is."

FOR ELECTORAL REFORM AND ABOLITION OF ARCHAIC ELECTORAL COLLEGE

Mr. YOUNG of Ohio. Mr. President, the time is long past for Congress to abolish the archaic electoral college and bring about real electoral reform allowing for direct election of the President and Vice President. I am happy to be a cosponsor of the Senate joint resolution introduced by the distinguished junior Senator from Indiana (Mr. BAYH) to amend the Constitution to provide for this essential reform.

Many have forgotten that the 1968 presidential election was so close that had there been a shift of a few thousand votes in two or three States from Nixon to Humphrey, the election would have been thrown into the House of Representatives and the vice-presidential election into the Senate. Then segregationist candidate George Wallace could have thrown his weight around trying to make a deal with Nixon or Humphrey.

Mr. President, the threat of a deadlocked, or bargained, electoral college should never be permitted to occur again.

Many years ago, as Congressman at Large from Ohio, I urged the abolition of the electoral college system and that it be replaced by the direct election of the President and the Vice President. Many other Members of Congress have done likewise over the years.

Senators and Representatives are elected directly by the citizens of their States or congressional districts. It is ironic, then, that the Chief Executive of the Nation, the man who holds the greatest responsibility for the lives and welfare of our citizens, is not directly chosen by those citizens, but rather by the electoral college, an anachronism in this space age.

The electoral college was originally established to assure the election of high-caliber men to the Presidency, to give greater electoral strength to the Southern States, where slaves could not vote but where each slave was counted as three-fifths of a vote, and to prevent voters from clannishly supporting candidates from their own States. As the party system has developed, none of these reasons remain valid. In his book, "Paths to the Present," historian Arthur M. Schlesinger put it:

> What demoted the electoral college from a deliberative body to a puppet show was the rise of political parties. As people began taking sides on public questions, they were unwilling to leave the crucial choice of the Chief Executive to a sort of lottery. Instead, each party publicly announced its slate of electors and the candidate they would support. This usurpation of the elector's functions, though peaceably achieved, amounted to a coup d'etat. It was an amendment of the written Constitution by the unwritten constitution. The electors, while retaining the legal status of independence, became henceforth hardly more than men in livery taking orders from their parties.

The delegates to the convention—for the most part conservative New England merchants and southern landholders—distrusted the ability of the average citizen of that day to decide questions of such gravity. Moreover, the discussions at the convention revealed that the delegates did not believe that it was possible for a voter in one State to know anything about the ability or character of public men in the other States scattered along our 1,500-mile shoreline.

Today, when our population is almost 100-percent literate; when all Americans have the advantage of an elementary and secondary education and millions more the advantage of a higher education; when television and radio bring candidates into every living room of the Nation; when the distance from Washington, D.C., to San Francisco, Calif., can be covered in less time than it took to travel from Washington to Baltimore at the time of the Constitutional Convention, it is absurd to maintain a vestigial reminder of an era in which the people were not fully trusted to choose their President. If George Washington, James Madison, Benjamin Franklin, John Hancock, and other patriots who helped draft the Constitution of our country were alive today, they would not know this country. We live in a different world. Transportation and communication over thousands of miles are nearly instantaneous. We live in a new space age of change and challenge. The electoral college system no longer has any place in our Republic.

Mr. President, every citizen should have an equal voice in the selection of the President. The only way to assure this is by direct election of the President and Vice President. Public sentiment for this is growing. As the American Bar Association's commission on electoral college reform concluded:

> The electoral college method of electing a President of the United States is archaic, undemocratic, complex, ambiguous, indirect and dangerous . . . While there may be no perfect method of electing a President, we believe that direct nationwide popular vote is the best of all possible methods.

THE ROLE OF PRIVATE PHILANTHROPY IN A FREE SOCIETY

Mr. BROOKE. Mr. President, some time ago the distinguished senior Senator from Illinois (Mr. PERCY) delivered an exceptionally timely and sensible address to the American Bar Association convention in St. Louis.

The thrust of his argument is that the need exists in this country for continued and expanded private participation in the furtherance of our social goals. Foundations and private charities are in a position to innovate, to experiment, and to encourage personal involvement at all levels in the solution of our country's ills.

I ask unanimous consent that the complete text of the address be printed in the RECORD. I commend it to the attention of the American public.

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

ADDRESS BY SENATOR CHARLES H. PERCY

When your president, Mr. Segal, asked me to speak at this luncheon on "The Role of Private Philanthropy in a Free Society," my first instinct was to respond with a lengthy discourse on the Tax Reform Act of 1969—the law you gentlemen refer to fondly as the "Accountants and Lawyers Relief Act."

Yet, the more I thought about it, the more I suspected that it would be unwise to engage in a direct confrontation with lawyers on their turf. It occurred to me that many of you doubtless are experts on taxation. I'm still trying to understand Commissioner Thrower's explanation of the alleged improvements in form 1040.

I considered a diversionary tactic, changing topics. I was prepared to resurrect my learned—at least to lawyers—treatise on the farm problem. But ultimately I decided in favor of tax reform—and against humility, which I have always thought was an overrated virtue.

Before I have my own tax reform, particularly as it bears upon foundations and private giving, I'd like to touch briefly on the over-all problem of financing the orderly change we describe as progress. Basically, we call upon three broad areas—two public and one private—for the revenues that keep our society moving forward.

One of these, the federal government, has ample funds, but its programs, such as public welfare, are remote from the people they are designed to serve, and have more and more frequently been found wanting.

The second, the state and local governments, have the special knowledge of regional problems that only proximity can supply, but their sources of new revenue have almost been exhausted.

The third, foundation and private philanthropy, is an indispensable adjunct to the efforts of the public sector, serving as both an essential stimulant and an invaluable complement.

As you know, the future of private giving in this country was seriously jeopardized by some of the original provisions of the Tax Reform Act. Let me quickly review this legislative history, because I believe it bears on our capacity to close the gap between the human and financial needs of this country, our attempts to meet those needs, and the over all theme of this year's ABA Conference: "Looking Into the '70s."

The history of foundations in the United States is marked by a conspicuous willingness to innovate, to take risks, to freely meet prevailing public opinion head-on. Foundations have plunged into areas where government has feared to tread or has tripped on its own red tape.

Yet last year the Congress was on the verge of enacting punitive proposals that would have stemmed this flow of socially beneficial activity. One provision of the tax bill would have levied a wholly unjustifiable 7½ per cent tax on foundations, diverting monies from sound educational, medical, health, welfare and cultural organizations into the Federal Treasury, where it would unquestionably have been used for many of the same general purposes, but much less effectively. Another provision, perhaps the most ludicrous of all, amounted to a death sentence: It would have forced operating foundations out of existence altogether over a 40-year period.

And what was the rationale for this legislative overkill? Nothing but a few charges that a very limited number of foundations, representing only a fraction of 1 per cent of total foundation assets, had been engaging in questionable activities such as self-dealing, lobbying and sheltering rich individuals from the fair payment of taxes.

We were seriously threatened in 1969 by the total loss of the type of private initiative that has provided critical support for reform of medical education, educational television, family planning and population research, legal defense for the poor and Robert H. Goddard's pioneering experiments in rocketry—to name just a few of the accomplishments of foundations. We risked the financial starvation of universities, hospitals and countless numbers of voluntary charitable organizations. In brief, we were about to kill a mosquito with a cannon.

Fortunately, the common sense of Congress enabled it to see the overriding need to preserve a pluralistic approach to society's problems. In my judgment, the tax reform measure as finally enacted, though far from perfect, served to strengthen legitimate foundations by helping to ferret out the abuses of a few that had damaged the reputations of them all.

The principal flaw in the approach of the tax reform law to foundations is the 4 per cent annual tax on net investment income, which presumably was designed to cover auditing costs. Yet a tax of less than 1 per cent is all that is justified. I plan, therefore, to introduce legislation that would amend the tax law to substitute the actual auditing expenses of the Treasury Department, based on its experience, for the arbitrary 4 per cent figure.

In its totality, however, the final version of the Tax Reform Act of 1969 was carefully written to avoid stifling the imagination and energy of foundations. Congress as a whole is not hostile to foundations; it is against abuses, electioneering and lobbying, but it has labored to protect the vast majority of foundation activity which is beneficial to society.

It is important to note that, following enactment of the Tax Reform Act of 1969, one of the most enlightened of the major foundations reviewed 1,500 active grants in light of the new regulations, and has not found it necessary to stop payment on a single one of them. Less than a half-dozen required modest amendments.

These congressional attitudes must be clearly understood by the legal profession. Very few foundations are braver than their lawyers, and I would hope that those of you in a position to do so will encourage and expand independent philanthropy. Nothing in the tax laws justifies more restrictive counsel.

I am convinced that our decision to reform—rather than to discourage or abolish—foundations was particularly crucial. In my opnion, it is no overstatement to suggest that the task of government may have been impossible in the years ahead if we had acted otherwise.

The Commission on Foundations and Private Philanthropy, an independent body under the chairmanship of Peter G. Peterson, chairman and chief executive officer of Bell & Howell Company, has reported that American philanthropic giving amounted to $17.6 billion in 1969. It estimated that 55 to 60 million Americans—more than one-fourth of the total population—currently do volunteer work for philanthropies.

Without these massive contributions, the billions of dollars and man-hours, with what would we be faced? The answer is clear: Government philanthropy, government education, government medicine, government culture, government control. I can think of no responsible public official who would, or could, defend this course as feasible for the United States.

The Peterson Commission cited a survey of 50 Chicago charitable organizations which showed that almost all opposed total public funding. It also pointed to studies of the unfavorable experience of European nations which had relied on public funding of social programs. Here is the Commission's conclusion:

"It was observed in these studies that under that arrangement, political whims, rigidities, paper work, and loss of independence characterized the operation of the country's social efforts by charitable organizations."

De Tocqueville described reliance on voluntary organizations as one of the most important features of the American tradition. Because we have prudently chosen to retain that tradition, we can look into the '70s with more confidence. Government is struggling now in this country to keep pace with its responsibilities. Without the assistance of its traditional allies in the private sector, it could have been overwhelmed by the complex and expensive problems it seeks to solve.

Since enactment of the 1969 Tax Reform Act, private contributions to foundations and to philanthropy in general have declined. I hope the decline is temporary and attributable to the stock market slump and tighter economic conditions, rather than to a basic change in personal giving habits. Your help is needed in your role as financial and legal advisers, because I feel certain you share my concern that a weakening of our private philanthropic institutions would be disastrous.

In examining the public side of the public-private equation, I think it is possible to pinpoint the principal reason for the deficiencies of government—a weakness in the structure.

Our basic machine, the federal system, has not functioned in conformity with the plans of its designers. The central government has gradually assumed unquestioned primacy, while the state governments have withered to the extent that many of them now are moribund. Contrast this present imbalance with the words of Alexander Hamilton, speaking in 1787 to a group of New Yorkers in an attempt to quiet their fears that the establishment of a national government would mean the extinction of state sovereignty. He said:

"While the Constitution continues to be read and its principles known, the states must, by every rational man, be considered as essential, component parts of the Union; and therefore the idea of sacrificing the former to the latter is wholy inadmissible."

It may be fairly said today that a good many rational men now consider the states not as essential, but as vestigial. This is not due to any quarrel with the Constitution, but because some state governments seem to perform little beyond basic housekeeping functions.

The plight of the states in the year 1970 can be explained succinctly—money, or the lack thereof. One-man, one-vote has led to more responsive state legislatures. Many states, including my own, are fortunate enough to have dynamic and progressive governors. But their resources are limited, considering the magnitude of the problems they face.

The federal government has an almost infinite capacity to collect and absorb tax revenues. By controlling the purse, it controls the states; any funds that revert to

the states come neatly wrapped in rules, regulations and bureaucrats, all of which seem to insure that state officials will have too little and sometimes no voice in projects affecting their own jurisdictions.

As relative latecomers to the development of more efficient taxing procedures, the states are barely able to scrape together sufficient revenue to keep their governments operating, given the large chunk of available funds skimmed off the top by the federal government. Too frequently, when they wish to finance innovative new projects, they must go to Washington—hat in hand—and seek out the appropriate agency and the federal program that approximates their needs. I say "approximates" because no program is likely to be directly on target; if it is designed to meet a national problem, it will only rarely fit perfectly the specific circumstances of an individual state or locality.

I should say emphatically that I do not regard the federal government as an insensitive villain intentionally ignoring state and local needs. Unlike some political orators I have heard, I have never seen a pointy-headed bureaucrat. Nor do I think it necessary to further pollute the Potomac with briefcases.

But I am contending that in a country as large as diverse as ours, with so many regional variations to common problems, it is impossible for a central authority to provide relevant solutions for everyone. Yet, while it lacks the requisite knowledge of local conditions, the federal government has the keys to the national treasury, seemingly giving it unlimited power.

The answer to the states' dilemma lies, I think, in revenue sharing, the principal plank in the Nixon Administration's concept of the "new federalism."

In 1803, President Jefferson urged that federal revenue be utilized for "a just repartition among the states . . . applied . . . to rivers, canals, roads, arts, manufactures, education, and other great objects within each state." This was the last presidential revenue sharing message for 1966 years, until August 14, 1969, when President Nixon's message went to the Congress. In the interim, the balanced concept of federalism envisioned by the framers of the Constitution had gone seriously awry.

Revenue sharing—the automatic, "no strings attached" return of a specified portion of federal revenues to the states and localities on the basis of objective criteria specified in law—differs from any existing federal program in fundamental ways.

First, it not only provides that the expenditure of federal revenues would be decentralized, but also that the decision-making powers over its use would be determined in the states and localities. Local responsiveness would be encouraged and the federal system strengthened.

Secondly, because of the automatic reversion of the funds to the states, there would be no need for a new federal overhead function under the proposal; 100 per cent of the money would be disbursed to state and local governments.

The states today can be viewed as 50 laboratories for the solution of broad problems. We already have witnessed the differing ways in which the separate state reflect varying attitudes toward such issues as abortion, divorce and capital punishment. One state will pass a new law; its sister states can analyze the results, then decide whether or not they wish to adopt the changes, accept them with modifications or reject them.

The same principle could be applied to programs implemented by the states or localities under revenue sharing. One state or city, unfettered by federal guidelines, may wish to apply its funds to a new approach to its housing problem. Another may try to solve an educational crisis or meet its specific health needs.

But, no matter how the revenue is expended, each new program—and each new wrinkle in an old program—would provide evidence to be assessed critically by the other states and localities. The data that emerged would be manageable, easily applicable to other regions. By contrast, the principal yield of an inflexibly administered federal program often is confusion.

State, county and city executives have almost unanimously endorsed the revenue sharing plan. Should Congress fail to enact it into law soon, Governor Richard Ogilvie of Illinois plans to propose that state legislatures sponsor a constitutional amendment that would require the federal government to share its revenues with the states.

I share Governor Ogilvie's sense of urgency and his concern over the preemption of major sources of revenue by the federal government. Over three years ago, when I first came to the Senate, I co-sponsored revenue-sharing legislation. I firmly believe that President Nixon's plan represents a potential turning point in intergovernmental fiscal relations, and constitutes the only feasible way for federal funds to reach effectively into the areas where the problems actually exist.

Yet, in spite of the generally favorable reaction that revenue sharing has elicited, and the clear need for it, no immediate action on the proposal is expected in the Congress. Several reasons have been advanced for this.

The most obvious—and, to my mind, the least valid—is that the Congress is reluctant to surrender its authority in decisionmaking to other levels of government. Based on conversations with my colleagues, I don't believe this is true. I find genuine concern among members of both houses, representing all ideological positions, over the seeming inability of state and local governments to fend for themselves, and I sense a willingness to give them the financial tools that the task requires. Some senators honestly fear that the states and localities may do little more than create new layers of bureaucracy, but I believe that adequate safeguards exist or can be created to prevent this from happening.

But the most compelling explanation for the absence of federal revenue sharing legislation is simply this: There is no available federal revenue to share. And little is likely to be available unless we can put an end to the nuclear arms race, drastically lessen our involvement in Southeast Asia and prevent a worsening of the crisis we face in the Middle East. If we are to face the '70s with optimism, we must achieve a successful conclusion to the SALT talks and a negotiated settlement to the Vietnam war at the earliest possible moment, and use our influence to bring about an accord between the Israelis and the Arabs.

As we attempt to enumerate this country's priorities for the balance of the decade, first among them in my opinion must be a just conclusion of the war in Indochina. At the same time, we must make a parallel commitment that the United States will not permit itself to become mired in any other comparable military adventure anywhere else on the globe, unless our national interest is involved—and involved so clearly that Congress actually participates in the decision to commit American forces to battle.

It is necessary to trace our history back through six national Administrations, to 1941, to find an instance in which the Congress exercised its constitutional prerogative to declare war. But, since the end of that declared was 25 years ago, the United States has lost scores of thousands of men killed and wounded and more than $200 billion in revenue in undeclared conflicts in Korea, the Dominican Republic and Southeast Asia. And no one can calculate what our less well-advertised actions in such places as Cuba, Guatemala and the Congo might have cost us.

If we are to be able to marshal our resources for the many battles that need to be fought on the home front, if forward-looking proposals such as revenue sharing ever are to become realities, it is imperative that the Congress resume its traditional responsibilities under the Constitution in matters of peace and war.

I have dealt today with the relationships among forms of government and between government and the private sector. I have outlined what I believe to be the steps that will be required for a coordinated, pluralistic approach to this society's very real and very pressing problems. I have concerned myself more with the mechanics of change than with specific programs and courses of action.

But before closing, let me add another factor to the formula for progress. I would like to return for a moment to philanthropy, not to its tangible aspects, such as foundation grants and government disbursements, but to what I consider to be humanitarian giving in its highest sense—personal commitment.

The longer I serve in the federal government, the more impressed I am by the high costs associated with its performance of useful services. Each year, I am made more aware of the overriding need for greater citizen involvement in government.

In this audience today there are specialists in property law, taxation and criminal law, wealthy individuals and others of moderate means, Democrats and Republicans, conservatives and liberals. But all of you share a common asset: Brainpower. Because of the stature of your profession and your backgrounds, you are uniquely well-equipped to contribute important services to your individual communities and, through your local and national bar associations, to your state and your country. None of these donations are tax-deductible, but to my mind there is no more valuable form of philanthropy.

In recent weeks and months, I have been very much impressed with the large delegations that came to Washington from the New York and Chicago Bar Associations to express their views on the war in Indochina.

Similarly, the trend among younger members of the legal profession toward work that is personally fulfilling, even if less remunerative, is extremely encouraging. Many of the ablest young lawyers are requesting that their firms permit them to work a portion of their time defending the interests of the poor, the illiterate and undereducated, the jobless and underemployed, the malnourished and unhealthy.

In all candor, however, it must be said that the record of the organized bar in terms of social consciousness has had valleys as well as peaks. The silence and the equivocation of too many of you during the crucial Haynsworth and Carswell controversies reflected little credit on your profession. The endorsement procedures then used in rating judicial nominees were patently inadequate, although I am pleased to note that they have been revised and significantly improved.

In general, your performance over the years is one of which you can be proud. In 1835 De Tocqueville offered this observation: "I cannot believe that a republic could hope to exist at the present time if the influence of lawyers in public business did not increase in proportion to the power of the people."

If De Tocqueville was correct—and that was almost invariably the case—the greatness and durability of our republic 135 years later is in some measure a tribute to your contributions and those of your predecessors.

I hope this generation of lawyers will be even more generous. Your help is desperately needed.

SENATOR MUSKIE—A MAN OF STATE AND NATIONAL PROMINENCE

Mr. EAGLETON. Mr. President, whenever a national leader like the Senator from Maine (Mr. MUSKIE) runs for reelection in his home State, he is always criticized for his national prominence. However, as the Ellsworth, Maine, American stated in an editorial last week, "it is a poor argument" and "is false even in its narrowest and most selfish sense."

The Ellsworth American is a weekly newspaper edited by the former editor of the Washington Post and Ambassador to the U.N., J. Russell Wiggins. It has gained a fine reputation for its perspective on National and State affairs. I am sure that the people of Maine also recognize what ED MUSKIE has done and can do for his State and will send him back to Washington with an overwhelming margin.

I ask unanimous consent that the editorial be printed in the RECORD.

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

ON NATIONAL FIGURES

Senator Ed Muskie is being criticized for his national prominence by an opponent who runs no great risk of ever incurring that political disability. It is the fate of public men of stature and influence to have brought against them the charge that their preoccupation with national and world affairs is diminishing their ability to run errands for their constituents and further the narrow concerns of their own states.

It is a poor argument. A state is never more fortunate in politics than when its own elected senators and representatives and leaders acquire enough reputation to be sought after as national leaders. The citizens of Maine, for one thing, can have no interests larger than their interests in the conduct of national affairs and the settlement of international problems and to have a Maine man active in these larger matters is not a loss to the state but a decisive gain. If this involved some sacrifice of time the public man might otherwise devote to kissing babies, mending fences and running errands for his own constituency, it is a sacrifice justified by the larger interests that are served. Maine surely does not regret that Speaker Reed and Vice President Hamlin were Maine men. The state did not suffer by reason of their national stature.

But the argument is false in even its narrowest and most selfish sense. National prominence enhances and does not diminish the ability of a public man to serve the proper interests of his own state. Maine does not have less influence to further its own causes in Washington because Muskie has been a vice presidential candidate or because he is a presidential candidate. If he had been a successful candidate for the vice presidency, Maine would have more influence in Washington. If he becomes a successful presidential candidate, it will have more influence.

The argument is a wrong-headed argument whether it is made on narrow and parochial grounds or on grounds of broad national interests. If an elected official's national prominence is a disadvantage to a state, it is a disadvantage that could only be forestalled by electing to office candidates so lacking in ability, authority and character that they could be certain of escaping attention or acquiring recognition in the nation at large. Some of the critics who castigate Muskie on these grounds seem confident that their own qualifications for national political oblivion are so pre-eminent as to make it certain that, if elected, they would be left wholly free to devote themselves entirely to Maine, whose interests they, of course, could not notably advance because of a total lack of political influence, no matter how much time they might spend on the job.

CONTROL OF ALCOHOLISM AMONG CIVILIAN EMPLOYEES

Mr. HUGHES. Mr. President, it is my privilege to announce to the Senate the issuance of a milestone report by the Comptroller General of the United States which points the way to very substantial improvement in the efficiency and economy of the Federal Government operation.

According to this report, savings to the Federal Government of from $150 to $295 million annually could be attained by the establishment of an effective program for controlling alcoholism among civilian employees.

The cost of the alcoholism program, similar to prevention-treatment-rehabilitation programs in successful use by a number of large industries in the private sector, was estimated at $15 million annually.

Mr. President, clearly, this report, prepared by the General Accounting Office, is a breakthrough revelation of the tremendous savings in human and economic resources that can be achieved by the institution of professional, tested methods for controlling alcoholism and problem drinking that cost very little by comparison with their potential savings.

On behalf of the Subcommittee on Alcoholism and Narcotics that requested the report from the Comptroller General, I want to express our appreciation to Mr. Staats for this illuminating and highly professional study.

For the first time, we have a definitive, dollars-and-cents figure on the mammoth costs that alcoholism and problem drinking inflict on the Nation's largest employer, the Federal Government.

The total cost of alcoholism to the Federal Government—from lost work, accidents, and reduced efficiency among civilian employees—ranges between $275 million and $550 million per year, the GAO concluded.

It should be kept in mind that the GAO estimates of possible savings were derived from a study of only the civilian work force of 2.8 million persons, less than half of the total number on the Federal payroll.

If the alcoholism program were extended to include the 3.5 million Federal employees who are in the Armed Forces, the potential savings would be that much greater.

The study concluded that with effective employer-operated programs, approximately 54 percent of the problem drinkers are rehabilitated.

According to the report, an estimated 4 to 8 percent of the Federal work force suffers from alcoholism.

I would point out, in conclusion, Mr. President, that S. 3835, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, which passed the Senate unanimously on August 10, requires Federal agencies to establish alcoholism programs among their employees of the kind referred to in the Comptroller General's report.

This legislation and related bills are now under consideration by the House Subcommittee on Public Health and Welfare.

INTERNATIONAL DAY OF BREAD

Mr. PEARSON. Mr. President, this day has been designated by Presidental proclamation as "International Day of Bread." On this occasion we celebrate bread not only as a major staple in our diet but as a symbol of all food during this harvest week festival.

Wheat has, indeed, been a staff of life throughout much of the Western World. Day of bread celebrations date back to the festivals of the early Egyptians, Greeks, and Romans. This tradition has been revived in recent years in several European and South American countries.

The first day of bread in this country was celebrated in 1969. And certainly it is appropriate that, as one of the world's major wheat producers, we set aside a day of special recognition.

This day has special meaning in Kansas, the heartland of the Nation's breadbasket and the country's largest wheat producer.

In addition, we should, on this special day, rededicate ourselves to the task of eliminating hunger and malnutrition in this country and, indeed, the world over. And certainly it is the case that our efforts to combat world hunger can also make a major contribution to our goal of achieving world peace.

THE POLITICS OF DESPAIR

Mr. RIBICOFF. Mr. President, I invite the attention of Senators to an unusually perceptive and frank address delivered recently at the University of Georgia by the distinguished Senator from South Carolina (Mr. HOLLINGS).

Senator HOLLINGS made an eloquent plea for national reconciliation through tolerance and compromise, while decrying emotional outbursts as a means of bringing about needed changes. His appeal for making our system work to build a just society strikes a welcome note during the current period of national discord.

As one who frequently speaks to young people on campuses all over the country, I heartily second Senator HOLLINGS' contention that students today "are more concerned about the future of this country and what it stands for than my generation."

Senator HOLLINGS has done us all a great service by speaking out so forcefully against the widening gap between promise and performance in our society. I commend the Senator's words to all who would seriously seek to bind up the Nation's wounds.

The New York Times published portions of Senator HOLLINGS' address on its editorial page October 3. I ask unanimous consent to have printed in the RECORD

these excerpts as they appeared in the Times.

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

THE POLITICS OF DESPAIR

(By Senator ERNEST F. HOLLINGS)

(NOTE.—These remarks are from a recent address delivered by Senator Hollings (D-S.C.) at the University of Georgia.)

My temptation today is to give a rip-roaring speech, because we in Georgia and South Carolina live hard, we work hard, and we are proud of our progress. But, somehow it strikes me that we have had enough rips and roars in our society today and what is needed most is a talking of sense to our people. For truly America is fed up—America is in turmoil. Everyone is shouting and no one is listening. And, rather than bring us together, the mood at this moment is—leave us alone. Gone is the old sense of community that united us for the challenges of the past. We don't face problems together anymore. We identify not as Americans, but as hard hats or students or militants or women liberators or as members of the silent majority.

As little groups and cliques we shout our non-negotiable demands, attempting to drown out all differing points of view. We fight for a spot in front of the television camera in the street, on the misguided assumption that emotional outbursts will somehow bring needed change. Our own group is always right.

The hard hat wants no dialogue with the student—he wants the student to shut up. The students seeks no compromise with the hard hat—he hopes for an America without hard hats. The clamor of rhetoric increases decibel by decibel until the voices of reason are now effectively silenced. Meanwhile, everyone is in flight—fleeing from the city to the suburb, fleeing from the disorder of crime and violence, fleeing from government. And, more important, fleeing from responsibility to one another. A country once excited by the challenge of change is now beset by wear. And so, the challenge is the same as 100 years ago—"shall we meanly lose or nobly save the last best hope on earth."

No one can visit a college campus and discuss the nation's problems without giving attention to the role of youth today. Many of my friends are annoyed by the attention public officials now accord the students. Twenty years ago, the only attention the student received from a Senator was a commencement talk on graduation day. We spoke and the students listened. Today, the average campus will be visited by four or five senators or congressmen. Some students won't listen to anything. But, the overwhelming majority are listening. They are more concerned about the future of this country and what it stands for than my generation.

We can credit the students with consumer protection, automobile safety, meat inspection and the fairness doctrine. The test for each Senator now is—is it fair? The draft law—is it fair? The tax law—is it fair? And, many times while the best brains of industry are telling us it can't be done, the students prove otherwise.

I don't speak politically, I don't speak as a member of one political party, for I realize as De Tocqueville said over 130 years ago. "There are many men of principle in both parties in America, but there is no party of principle." That has not changed. Lyndon Johnson is just as much responsible for today's inflation as is Richard Nixon. Lyndon Johnson stumbled and fumbled on the war just as much as Richard Nixon and, unfortunately, both lead from consensus rather than concern.

The office of Vice President over the years has been built to one of responsibility. The Vice President could bring us together as chairman of the President's council on youth opportunity. But, in his first 16 months in office, Mr. Agnew has not once convened a council meeting. Quite a record for the self-styled expert on youth. And, while I have been trying desperately for an oceans program, Mr. Agnew refused for ten months to meet with the marine science council—yet he is its chairman. In February, the President created a new office of intergovernmental relations. The Vice President is its head, charged with improving Federal relations with state and local governments. But, when the governors met in Missouri this summer, the Vice President was absent. Last spring, the President named Mr. Agnew to chair a cabinet committee on school desegregation. But, the Vice President missed its last seven meetings in the critical weeks before the schools opened this fall. The Vice President is chairman of the national aeronautics and space council; the President's council on Indian opportunity; and the President's council on physical fitness. But, he has ignored all three. Most importantly, he has ignored his primary constitutional duty—President of the United States Senate. As campaigner-in-chief for the "support the commander-in-chief strategy," he has been absent 98 per cent of the time roaming the land, tearing down the Senate.

Like 100 years ago, the politics of hope have given way to the politics of despair. Too many of us are seeking change outside the political realm, outside all the institutions which can make productive change possible. Our problems cannot be solved in the streets. A just society cannot be built on the ashes of burned buildings or the beaten bodies of those with whom we disagree. A just society cannot be built when so many of us sit home in front of the TV, cheering for our side as our adversaries receive their comeuppance.

No problem confronts this country that cannot be solved within the system. We must all do our part. The citizen must rededicate himself to the spirit of tolerance and compromise that makes meaningful change possible.

THE LATE MARY ANN OVERCASH

Mr. THURMOND. Mr. President, South Carolina and the Nation have lost one of its valiant citizens, the late Mary Ann Overcash, of Spartanburg, S.C. She was a great patriot and a fine American, who was soundly devoted to the welfare of her community and her country.

Mrs. Overcash worked hard, both for the preservation of the traditional American political philosophy, and for the betterment of the younger generation. She realized that the youth of this Nation form the key to the future, for it is the youth who will carry on the work of the present generation. For Mrs. Overcash, this has proved tragically prophetic in her own case. Her death at 41 deprives us of her leadership, but the many youths she has worked with will carry on her tasks.

Mrs. Overcash is well known for her work with the Singing Cavaliers, of Dorman High School, and in helping to bring the work of this fine singing group to the attention of the public. She was one of the main organizers of the God and Country Rally at Spartanburg Stadium, which did so much to instill in our citizens a reminder of the eternal values. More recently, she was one of the dynamic originators of STAND, which means Students Talk About Narcotic Dangers, an organization dedicated to educating the young about the drug problem. She died in the middle of this work.

Mr. President, I had the opportunity to work with Mrs. Overcash on some of her efforts for the country. It was a privilege to be associated with such a dedicated and fine person. I extend deep condolences to her husband, my friend, Emery M. Overcash, and their fine son, Johnny.

In addition, the leaders of her community have paid tribute to her work, and it is fitting that these tributes be included in the CONGRESSIONAL RECORD.

Mr. President, I ask unanimous consent that the newspaper obituary of Mary Ann Overcash, a letter to the editor by her neighbors, and an editorial from the WSPA Voice of the Air be printed in the RECORD.

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

CIVIC LEADER, MRS. OVERCASH, DIES SUNDAY

Mrs. Mary Anne Overcash, 42, a leader in civic affairs in Spartanburg County, died Sunday at 6:45 a.m. in Irwin, Penna.

Mrs. Overcash was the wife of Emery M. Overcash of 128 Brian Drive. She was a native of Riverside, Calif. and was the daughter of Lucian C. Crutchfield of Zion, Ark. and Mrs. Mary Ramsey Crutchfield of Spartanburg.

She was the organizer of S.T.A.N.D. and had done much work with the Dorman High School Chorus. She was also the past president of Spartanburg Alert, which organized the God and Country Rally held at Memorial Auditorium.

She had been nominated by Sen. Strom Thurmond for the title of Miss Conscience, a national award.

Mrs. Overcash was a member of First Baptist Church.

Surviving in addition to her husband is one son, Johnny of the home.

Arrangements are incomplete and will be announced by the J.F. Floyd Mortuary.

MRS. OVERCASH, THE MOVING SPIRIT

THE EDITOR:

A great lady has left us. Mary Ann Overcash, the moving spirit behind S.T.A.N.D. (Students Talk About Narcotic Dangers) died Sunday. She died in the midst of her work in persuading young people and adults that narcotics and other dangerous drugs are a major menace to this country.

Earlier than most, she and a few others here in Spartanburg recognized the seriousness of drug abuse among the young. And she dreamed a dream, the vision of an organization that would combine the wisdom of adults with the enthusiasm of young people to combat drug abuse. S.T.A.N.D., Inc., was the result.

Some weeks prior to her death, Mary Ann asked, "Will our people recognize the danger of drug abuse in time?" The question was asked in some impatience, but there was no despair in it. Despair was not a word in Mary Ann Overcash's vocabulary. Courage and faith and a great love for young people were a part of the warp and woof of her life.

So, because of her dream, because of her hope, because of her great love for young people, S.T.A.N.D. will continue to educate and aid the youth of our county. Hundreds of young people, many adults, and all of us here at S.T.A.N.D. will miss her daily presence and inspiration. Her work will go on.

MRS. ROBERT RICHARDSON,
MRS. JOSEPH WEBNAR,
JOHN COLLINS.

WSPA EDITORIAL

WSPA came in close contact with the late Mary Anne Overcash. She was a vibrant woman who attacked every project with her whole being, giving every ounce of her strength to bring about a successful conclusion.

Mrs. Overcash appeared on WSPA on only a few occasions. She sought no limelight for herself but only for those projects which she selected to assist.

WSPA's first association with Mary Anne Overcash centered around the Singing Cavaliers of Dorman High School. There is no doubt these youngsters had the ability, but it was the voice of Mrs. Overcash that kept the broadcast media apprised of this, and she was without a doubt their number one booster.

Then came STAND (Students Talk About Narcotic Dangers). Through her untiring efforts, she brought STAND to the public eye, brought STAND to the students and thus afforded help to drug users who had no other place to turn.

At forty-one, Mary Anne Overcash had only skimmed the surface. Hopefully, other hands will carry on her work. All WSPA can say is: "Spartanburg is a little better because she chose to give of herself in this city she came to call home."

PRISONER OF WAR STATEMENTS

Mr. GURNEY. Mr. President, each of the statements we make concerning the outrageous treatment of American prisoners of war by the North Vietnamese Communists is rather a small matter in itself.

However, it is our hope that they will have some effect when taken cumulatively. They represent a steady determination on the part of all of us to keep this issue alive, and to draw the attention of the entire world to this tragedy.

Perhaps in this way we can persuade Hanoi that they must begin to observe the terms of the Geneva Convention on Treatment of Prisoners of War, to which they are signatories.

EDNA GELLHORN—GRACIOUS AND GREAT LADY

Mr. EAGLETON. Mr. President, I fear that sometimes we in the Senate use the word "great" a bit too loosely. We refer to the great State of such and such, to my "great and good colleague, Senator what's his name," to this "great and important piece of legislation," and so forth.

Today, I want to use the word "great" in its truest and noblest sense as it applies to a wonderful, compassionate, and courageous lady who died in St. Louis on September 24, 1970, after 91 fruitful, creative, and productive years.

Mr. President, I wish to address some remarks to the memory of the late Edna Gellhorn.

The life of Edna Fischel Gellhorn was filled with contributions to the public welfare of such extraordinary value and variety that even a span of 91 years seems hardly long enough to include all her accomplishments. The range of her activities covered virtually every worthwhile cause that demanded dedication, devotion, skilled leadership, and the perceptive knowledge of how to move mountains.

This singular woman, born in St. Louis on December 18, 1878, began her distinguished career of public service soon after graduating from Bryn Mawr College with the class of 1900, which elected her its lifetime president. Married to Dr. George Gellhorn, a prominent gynecologist, she plunged into the battle for women's suffrage and became a founder of the National League of Women Voters as soon as the suffrage amendment passed.

Her unflagging interest in educating women for intelligent citizenship continued throughout her lifetime, during which she served three times as president of the St. Louis League of Women Voters, once as Missouri league president, and as a member of the national board of directors.

She was chairman of a spirited national campaign for the merit system, which stimulated the adoption of the civil service amendment to the St. Louis city charter. Campaigns for a blanket ballot and a secret ballot for Missouri, for a new State constitution in 1945, for women's property rights, for pure milk, for wrapped bread, for smoke abatement, for equal opportunities for minority groups—all of these efforts found in Mrs. Gellhorn a tireless worker, compassionate friend, and fearless advocate.

During World War I, she served under Herbert Hoover as regional director in St. Louis of the Food Administration. An early supporter of the League of Nations, she helped found the United Nations Association, and remained interested and active in UNA/USA all her life.

Many more organizations owe their vitality and their very beginnings to Edna Gellhorn. She was a cofounder of John Burroughs School, of the American Association of University Women, and of the National Municipal League. In St. Louis, she was an original member of the Milk Investigating Committee, and served on the boards of the Urban League, Missouri Social Hygiene Association, Board of Children's Guardians, and as a member of the Civil Service Commission.

At the risk of omitting the name of any group with which she worked, it is safe to say that she was a magnificent part of the growth of every important civic and social agency in St. Louis.

Happily, she escaped the fate of the prophet who is not without honor save in his own country. Testimonials, awards, and honorary college degrees line the walls of her home, and each vies with the next in describing public affection, gratitude, and admiration for her. She has left the shining imprint of her character upon St. Louis, and her memorial is a far better city, and a legion of devoted friends whom she has inspired to carry on in her tradition.

Mr. President, Adlai Stevenson, speaking of the death in 1962 of Eleanor Roosevelt, said:

She would rather light candles than curse the darkness.

Edna Gellhorn was a great admirer of Adlai Stevenson and a close personal friend of Mrs. Roosevelt.

It can well and properly be said of Edna Gellhorn:

She would rather light candles than curse the darkness.

BALTIMORE ORIOLES: AMERICAN LEAGUE CHAMPIONS

Mr. MATHIAS. Mr. President, "next year," the year that never comes, arrived in Baltimore on Monday, at approximately 3:30 p.m., when the battling Baltimore Orioles defeated the Minnesota Twins and won the American League pennant. The Orioles beat the Twins three straight in the American League playoffs to gain the championship for the third time in the last 5 years. Last year, it will be recalled, the Orioles beat the same Minnesota team in the playoffs only to go on to lose to the New York Mets in the world's series.

However, that was last year. And, ever since last October, those of us in Maryland who believed that demonic machination was responsible for the Mets' amazing victories have been waiting for "next year."

Now that "next year" has been delivered, we look forward to the opening of the world's series on Saturday. Unfortunately, the Mets will not be present this year, but maybe that will mean that Frank and Brooks Robinson, Boog Powell, Dave Johnson, Mark Belanger, Don Buford, Paul Blair, Elrod Hendricks, Mike Cuellar, Dave McNally, Jim Palmer, and the rest of manager Earl Weaver's charges will oppose only other mortal ballplayers this year. For of mortal baseball players, the present Oriole team must be among the best ever assembled. This year's Orioles have not one, not two, but three pitchers who have won 20 games or more during the season. During the regular season, they won more games than any team in either league. Their victory today was the team's 14th straight, longer than any winning streak this season.

We who have waited so long for "next year" look forward to the continuation of that winning streak on Saturday and the return of baseball's world championship to Baltimore where it belongs, and but for those demons of 1969 would be firmly lodged today.

TRAGEDY AT KENT STATE UNIVERSITY

Mr. YOUNG of Ohio. Mr. President, the magazine Good Housekeeping for October 1970, contains a carefully prepared report authored by Thomas Gallagher. The article demonstrates that murder was committed on the campus or commons of Kent State University on May 4, 1970.

I ask unanimous consent that this moving and thoughtful, factually correct narration be printed in the RECORD.

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

THE TRAGEDY AT KENT STATE

NOW IT IS CLEAR: THE CLASH THAT COST FOUR YOUNG PEOPLE THEIR LIVES COULD HAVE BEEN AVOIDED. AN EXCLUSIVE GH REPORT ON HOW AND WHY IT HAPPENED.

(By Thomas Gallagher)

The students at Kent State University call it Blanket Hill, because on sunny days in spring, after classes, the grassy slope becomes a maze of blankets and couples—a place to relax, meet friends and talk. The grassy slope runs gently upward from the campus Commons toward Taylor Hall, the architecture building, where on Monday, May 4 of this year, four Kent students were killed and nine wounded by a volley of shots from National Guardsmen.

Why did it happen?

Did it have to happen?

What had been said and done—or not said, not done—that brought Americans to the point of killing one another?

And what of the future? Can we learn from those tragic days how to understand our differences and once more live in peace—peace on our campuses, in our cities, our homes?

Sandra Lee Scheuer, who used to say she never wanted to die because there were so many things in life she wanted to do, was one of the students killed. A 20-year-old junior from Youngstown, Ohio, Sandy was a sweet, happy girl. She said interesting things in an amusing way; she made people laugh and want to be with her. Sandy was very popular on campus. She was also on the Dean's List.

On Friday, Sandy had talked to her mother by phone and it was agreed that Mrs. Scheuer would deliver some of Sandy's summer clothes the next morning. On Friday, too, Sandy mailed her parents a card honoring their twenty-seventh wedding anniversary. She planned it so the card would reach her parents on the right day—Monday.

After Mrs. Scheuer's visit on Saturday, Sandy made plans for a weekend off-campus. Though she could not know it, Mrs. Scheuer was never to see her daughter alive again.

On the Monday when the shots were fired, Sandy was on her way to her "speech disorders" class in the Speech and Hearing Center. Starting across the campus, she passed guardsmen with rifles and spotted a tear-gas canister among the bushes. The guardsmen had used tear gas to disperse several hundred students the previous Saturday night, after militants had set fire to the ROTC building. But Sandy hadn't been on campus that night and did not know. . . .

As she continued past Taylor Hall, she heard the Victory Bell ringing on the Commons, where a student rally was to be held in protest against U.S. involvement in Cambodia and martial law on campus. "Sandy was concerned about the war," a classmate said. "She thought it was senseless to send young men over there to die, but like everybody else, she didn't know what to do about it."

Hearing the bell, she must have slowed her pace or stopped to watch for a moment before continuing on to class. Nothing could have been more natural; nothing more fatal. At that moment, the girl who never wanted to die had only a few moments to live.

William K. Schroeder, 19 and a sophomore from Loraine, Ohio, was to die a short time after Sandy Scheuer. Bill, an "extra special son" to his parents, had been an Eagle Scout at 13 and an A-student and basketball star in high school. At Kent State he ranked second among his ROTC classmates academically and played an aggressive game of basketball. "We used to kid him about ROTC," his roommate said. "It's not very popular on campuses these days."

The kidding didn't get under Bill's skin, but the burning of the ROTC building did—and he said as much the next day when he called home to tell his parents he was all right.

"Bill wasn't a revolutionary or a radical," sophomore Gene Pekarik said. "He had nothing against the military."

Pekarik and Schroeder were close friends from the same hometown, and later that morning, when they met on campus, they decided to watch the rally before going on to lunch.

As they passed a group of guardsmen, Perarik said, "I hope none of those guys have itchy fingers."

"Don't worry about it," Bill said, smiling to reassure his friend. "They don't even have slips in their rifles."

It was to be Bill's last smile.

Sophomore Jeffrey Miller, from Plainview, L.I., N.Y., phoned his mother less than two hours before his death. "Don't worry, Ma," he assured her, "I'm not going to get hurt." But he didn't promise to stay away from the rally, because he was curious about everything that happened on campus. "When something was going on," a classmate said, "he'd be there." Another campus friend said "he was not an activist," and after his death, nothing in his room suggested that he was. There were the drums he played an hour every day, and such books as "The Sun Also Rises," "Catcher in the Rye" and "Lost Horizon." On one notebook he had printed "Rocky for President in '72."

Jeff Miller was just too interested and alive to sit in his room when the Victory Bell started ringing. . . .

Allison Krause, 19, was a freshman from Pittsburgh. "I was in her political-science class," Gene Pekarik said. "She went with a boy down the hall from me. She was gentle, loving, beautiful and happy. She used to carry a little kitten around with her sometimes and sit with it out on the grass."

The boy down the hall from Pekarik was Kent freshman Barry Levine, who had met Allison on campus in September and fallen as much in love with her as she had with him. "Allison was against the war," Barry said, "but there was a student riot in town on Friday, the night following Nixon's Cambodian speech, and she condemned it. She couldn't see making small businessmen suffer because of what Nixon had done."

On Saturday Allison had talked to her parents by phone about what had happened in town the night before. "But don't worry," she said, "I wasn't involved . . ." In fact, she had not left the campus at all on Friday night. "I'm the one who brought up the subject of the National Guard," her father says, "because I felt they'd be called in. I knew they had been on duty in Akron at a Teamsters strike and would probably be exhausted. And I told her so. 'They're probably frightened and nervous,' I said, 'so keep out of trouble and stay away from them.' "

The next day, having assured her father that she "understood the danger," Allison went up to one of the guardsmen and, as a gesture of peace, slipped a flower into the trigger housing of his rifle.

"Flowers are better than bullets," she said.

The soldier looked at her, and perhaps because he sensed she was not trying to antagonize him, he didn't remove the flower.

On Monday, Allison went to the rally with Barry Levine. Six or seven hundred students had gathered by the time they got there, and among the onlookers were many professors, instructors and teaching fellows. One of the eyewitnesses was Robert Ray, a teaching fellow in English.

"After the students had chanted anti-war slogans about three or four minutes," Ray said, "a jeep pulled out of the guards' ranks with two uniformed military men in the front and a campus police officer with a bullhorn in the rear. He told the crowd to disperse, that the campus was under maritial law. When the crowd booed him down, the jeep returned to ranks.

"About five minutes later the jeep came out again and the order to disperse was repeated. There were more boos and chants, and meanwhile the commotion kept attracting more students. Finally, the guardsmen started moving out—advancing toward the students.

"Up to this point, there had been no rock throwing. It was not until the guardsmen lobbed their tear-gas canisters into the crowd that the trouble started. I got a blast of gas myself and went inside Taylor Hall to wet a handkerchief and gulp some water."

When Ray stepped outside again, the troops were starting up Blanket Hill in pursuit of the students. Tear-gas canisters continued to land on the grass and concourse around the building.

Ray got another dose of gas and rushed back inside for more water. By the time he came out again, the masked troops had advanced through the overhanging gas to the top of the hill, and the students had retreated to the other side of the building. At that point the students split into two groups, one heading farther downhill toward a dormitory complex, the other eddying around a parking lot below Taylor Hall.

The troops continued down the hill to a grassy area below the parking lot, still firing canisters of tear gas. A few students ran to pick up the smoking canisters and hurl them back, but only about halfway. When one landed near the troops, the crowd cheered.

Robert Ray and the several hundred students around Taylor Hall kept watching. When the troops began moving back up the hill again, away from the parking lot, the students in the lot followed, throwing stones and cheering, "like children in a chase," Ray said.

As the troops reached the crest of the hill, they turned, and one of them, a short officer with a pistol in his left hand, fired a shot into air, over the heads of the students. The National Guard claimed that a sniper fired a single shot before the troops fired, but Kent Journalism Professor Richard Schreiber, who was on the Taylor Hall balcony with binoculars, saw this "short officer" draw his .45-caliber pistol and fire.

Immediately after this shot, a nearby guardsman, blacking out from either exhaustion or tension, collapsed. Whether the troops around him thought he had been hit by sniper fire, or were obeying a command, they formed a skirmish line—the front row on one knee and the second row standing—and fired their rifles. According to sophomores Bill Montgomery, 22, an ex-Marine who spent 13 months leading a squad of soldiers in Vietnam, the short officer fired his pistol, along with the riflemen, this time aiming directly into the crowd.

The popping and cracking of rifles lasted about eight seconds, and against its din, Robert Ray said to a student next to him, "They're using blanks." But in that very instant he heard the unmistakable sound of bullets ricocheting off steel and concrete, and out of the corner of his eye he saw a boy, only 15 feet away, fly off his feet and land on his back. Ray, with six years of training in the Reserves, could not believe what his eyes and ears were telling him. "I didn't think anybody in his right mind would give the National Guard bullets."

The struck boy, Dean Kahler, suffered a gunshot wound in his hip the size of a half dollar. He was lying in a pool of his own blood, staring blankly past the students who rushed to help him. For the rest of his life Dean would be paralyzed from the waist down. He was not yet 21.

Farther down the hill, John Barilla, a senior majoring in dramatics, was running to the aid of a girl lying by Prentice Hall, over 75 yards away from where the troops had fired. The girl was Sandy Scheuer, and she

was bleeding from the neck. Ben Parson, a boy from Masillon, Ohio, was giving her mouth-to-mouth resuscitation. It was a sight Barilla would never forget: Ben's tears falling onto Sandy's cheeks; Sandy's books lying beside her.

Over by the parking lot, people had yelled, "They're blanks!" but they had run for cover anyway. "Allison and I fell behind a car," Barry Levine said, "and behind us a girl screamed."

The girl, spattered with blood, had been standing next to Jeff Miller, whose skull had been split open by one of the bullets.

For at least ten seconds after firing stopped, Barry thought that he and Allison were safe. "There were people around us on the ground, but I didn't know they'd been shot. Then I heard Allison saying, 'Barry, I'm hit.'

I glanced at her. I didn't believe it. She was pale and her voice was weak, but there was no wound and no blood. 'No,' I said, 'no!'

" 'I'm hit,' she said again.

"At that moment I saw blood coming from under her arm and I screamed, 'Get an ambulance! Get help!' "

Gene Pekarik had hit the ground at the cracking sound of rifles, but he, too, thought they were blanks until he saw Jeff Miller lying there, and, nearby, Allison Krause. "My roommate came running toward me shouting, 'Your buddy's been shot, your buddy, Billy Schroeder.'

"I ran to Bill," Gene said, "and when I got to him he was alive and able to speak. He just said, 'Where's an ambulance?' His voice was weak, like a whisper."

For the next 10 minutes there was nothing to do but wait for help for the 13 casualties. There was blood everywhere.

When ambulances arrived, John Barilla put Sandy Scheuer on a stretcher and helped carry her the 50 yards to the parking lot. Then he rushed to Jeff Miller, the boy who had been shot in the head.

Meanwhile, Barry Levine had helped put Allison on a stretcher and had climbed in the ambulance after her. "Jeff Miller was in the same ambulance with us," he said, "but he died on the way. The hospital was in Ravenna, seven miles away, and Allison kept gasping for air."

They let Barry stay with Allison until they took her into the hospital. Then they led him into a room and asked him to wait. Meanwhile, ambulances kept bringing in more casualties: Bill Schroeder, who had only a few more hours to live; John Cleray, 19, a freshman, with a bullet wound in the abdomen; Jim Russell, 22, a senior with a bullet wound in the right thigh and a bullet fragment lodged above his right temple; Thomas Grace, 20, a sophomore whose wounded left foot was soon to become gangrenous; Donald MacKenzie, 22, with a shattered left jaw and cheek; Joe Lewis, 18, in critical condition with a bullet wound in the hip; Robert Stamps, 19, wounded in the left thigh; Douglas Wrentworth, 20, his right leg bullet-fractured; Alan Canfora, 21, his wrist torn open by a bullet; and Dean Kahler, 20, paralyzed for life with a bullet in his spine.

The longer Barry waited, the more his hopes rose. But an hour later, a nurse came out to him and he saw in her eyes what he still refused to believe. Then the nurse said it, "I'm sorry. She's dead."

Barry asked to be allowed to see Allison, but after waiting three more hours, he was told permission could not be granted. An hour after Barry left, Allison's parents arrived. "We went in and uncovered her face and shoulders," Mr. Krause said. "She looked as though she were asleep. I kissed her on the forehead and cried out in anguish. My wife, who has more strength than I, held my arm."

"I have cried myself out," Bernard Miller, the father of Jeff Miller, said. "My son was no radical. He only wanted to end the war; to end the killing. I have no bitterness about the guardsmen. They were young, just as Jeff was young, but there shouldn't have been bullets in their guns."

At Allison Krause's funeral in Pittsburgh, her father took Barry Levine's hand in his and thanked him for coming, as if trying not so much to share his grief as to experience it in another way. They both loved Allison, the girl who had said the day before she died, "Flowers are better than bullets." She had no way of knowing then that she would always be remembered by those words. And no better epitaph could be written for the other dead, for the wounded—indeed, for the tragedy itself.

Why then, did it happen? What can we learn from it that will help put an end to killing?

Two weeks before the tragedy, John Glenn, the astronaut-turned-politician, had visited the campus to speak to the students. "When I finished the question-and-answer period," he said, "a nice kid with bushy hair and a little beard followed me out to the car. He kept saying 'People have got to listen to us. They've got to try to understand how we feel or everything will blow up. Can't anyone help us?' "

The conviction that they were being given no voice in their own future came rather late to the students of Kent, a university whose primary role since its founding in 1910 has been to provide an education for the sons and daughters of Ohio's blue-collar and white-collar middle class. Kent, is a solid, middle-American university, and its students, far from being radical or revolutionary, have for years demonstrated what one professor called "a great capacity for apathy."

In the late '60s, when campus disorders at Columbia University, the continuing Vietnam War and the protest marches had stripped away their apathy, they found themselves in a situation quite unlike that of students attending universities in large cities.

Over the years the town of Kent, with its 29,000 inhabitants, had become increasingly dependent on the university—and relations between the two factors had become increasingly strained. In the early '50s, the university had about 5,000 students, almost all of whom had haircuts regularly and wore what would now be called "square" clothes. Even then, though, the wariness of the town residents was felt by students strolling down Main Street to see a movie, buy something at Purcell's Department Store, or listen to a juke box in some bar. It was the old town-and-gown stalemate, with the townsmen silently and sometimes resentfully accepting students' business and the students nonchalantly and sometimes contemptuously giving them their trade.

The trouble started when the university, caught in the postwar baby boom, quadrupled its student body to just under 20,000. Business in town increased, but so did the students, many of whom now went in for long hair, headbands, and "crazy" ideas—the kind of ideas that their parents back home either disagreed with or refused to discuss.

Just as the gap between students and parents had been widening over the years, so had it between the town of Kent and the undergraduates. Hearing the same remarks—on their hair, their style of dress—from townspeople that they objected to at home, the students became more and more convinced that only on their own campus could a feeling of mutual confidence and honesty exist. This feeling reached a new intensity last spring when, on April 30, President Nixon announced that American troops had moved into Cambodia.

Kent students, listening to the speech, were shocked and dismayed. They talked late into the night of nothing else, and the next day, Friday, the talk continued. "I didn't go for the war, but it was there and I more and less accepted it," said Ronald Arbough of Cuyahoga Falls, an Army veteran and a self-described conservative. "I was pretty apathetic. Then came Nixon's speech on Cambodia and I thought, well, for crying out loud, I voted for the guy because I wanted to get it over and then he goes and makes it bigger . . ."

Ordinarily on Friday night, the town of Kent "swings", and Friday, May 1, was no exception. The students jammed into the bars to drink beer, listen to music and kiss their dates. They tried to forget Cambodia, but their fun was soured by a sense of frustration and defeat, the feeling that their lives had already been shaped by events beyond their control.

All the same, nothing happened in Kent that night until a scruffy gang of helmeted motorcyclists called "The Chosen Few"—they were neither Kent students nor Kent residents—staged a rodeo on wheels at the main intersection in town. As a giant traffic jam formed, the honking horns, competed with the roar of the motorcycles and the students came out of the bars to watch.

When one car tried to run the blockade, its windshield was smashed, then two store windows were broken, some refuse cans upturned, and rocks and beer bottles reportedly thrown at a squad car. By the time the police arrived, The Chosen Few had vanished into the crowd of students who now numbered about five hundred. The sight of the police with their clubs, rifles and holstered pistols only intensified their feeling about Cambodia. As several said later, they had no intention to be violent, they had no leader and no purpose, but they were angry and keyed up. And they were there.

A few shouted back at the police, but most just stood their ground, resisting the order to disperse—until a canister of tear gas was thrown at them.

"If only the law-enforcement people would realize that students look upon tear gas as the symbol of repression," one Kent senior in the crowd said. "Their job would be so much easier if they'd stop using it. There's only one thing that could more effectively unite a crowd, and that's napalm."

All at once, the 500 students began surging through the downtown section, hurling bottles, rocks and debris through bank and shop windows. They scattered through side streets, ran through alleys and reassembled, broke into smaller groups and reassembled again. Meanwhile the police, using tear gas and riot formations, slowly moved the main body of them back toward the campus.

At one point, at East Main and Linden Streets, a passing car accidentally hit a truck scaffold where a night crew was working on a malfunctioning traffic light. The scaffold fell, leaving a workman stranded on the traffic light 20 feet above the ground. This prosaic mishap had a curiously calming effect on the catcalling students. As the police, temporarily suspending their dispersal efforts, went to the man's rescue, the crowd quieted down. When he was safely removed, the students cheered—actually cheered the same policeman they'd been baiting. Now their anger was spent.

No more tear-gas canisters and no more taunts and epithets were thrown that night; the students broke up and began moving back toward their campus and dorms.

In retrospect, there can be no doubt that, if tear gas had not been used and if the police and the town and university had taken patient, reasonable and concerted action, they would have had a quieting effect on the Kent students. (Next morning, short hairs and long hairs alike formed groups to help sweep up the broken glass in town.) If officials had appealed to the students' underlying dislike of violence and the destruction of personal property, the build-up of resentment and anger could have been slowed, if not stopped altogether. But Kent State president Robert I. White was attending a meeting of the American College Testing Program

in Mason City, Iowa, and the already existing gulf between university and town widened when Kent City Police criticized university police (whose authority was limited to the campus) for not helping to quell the riot in town.

"It's hard to understand why the university police, with their 36 men, couldn't have given some assistance," said Kent Police Chief Roy Thompson. He then expressed a strong belief that the disturbance had been instigated by a "bunch of agitators" and "subversive groups."

On Saturday, shortly after this statement by Thompson to reporters, town officials imposed an 8 p.m.-to-dawn curfew, closed all bars, and alerted the National Guard. Nothing expressed the breakdown of communication between town and university more eloquently than this inconsistent curfew. It allowed no one on foot in town after 8 p.m., but allowed students to drive to and from the campus any time they wanted between 8 p.m. and 1 a.m. (when the campus curfew took over). The campus exits lead right into town, and if, indeed, a disturbance had been planned for Saturday night, the curfew would have done nothing to prevent it.

But even given the lack of communication between town and university, trouble would almost certainly have been averted had not every hour brought a further escalation of tension. On Saturday afternoon, for example, the Kent newspaper, the Record-Courier, carried this headline: "Nixon Hits Bums Who Blow Up College Campuses."

The story told how, the morning after his Cambodia speech, Nixon was congratulated by a young woman who said, "It made me proud to be an American." Nixon smiled, thanked her, offered a few appropriate comments, then made his now famous remark about "campus bums." At the time, of course, he had no knowledge of the explosive situation at Kent, and doubtless he never expected his epithet to be reported in the newspapers, much less headlined. But the wheels of tragedy were turning, and when the impromptu remark was reported in the Record-Courier, it left little doubt in the minds of Kent students that the President was speaking from his heart and that it was a true revelation of how he felt about them.

The president of Kent's National Bank, one of whose windows had been broken by students the night before, thought the remark "not too intelligent" of Nixon. "Now, I voted for him, but I can't understand why he won't sit and listen to these kids—find out why they feel as they do all over the country."

That Saturday night, with no one allowed on foot in town after 8 p.m., the campus was jammed with thousands of students, most of them too worked up to study, let alone sleep. It was that night that some of them set fire to the ROTC building on campus. "One, two, three, four," they shouted as the flames shot up, "we don't want your bloody war!"

At 9:50, the armored personnel carriers of the National Guard came roaring down Main Street. Guardsmen moved onto the campus from all directions, with rifles, tear-gas launchers and other weapons, slowly breaking the larger groups of students into smaller groups, then forcing the smaller groups back into their dormitories. Shortly after midnight, the campus was quiet again, but spent tear-gas canisters, rocks, broken glass and debris were strewn everywhere, and the ROTC building was a total loss.

The next morning (Sunday), when Ohio Governor Rhodes arrived in Kent, he was strongly urged to close the university without delay, before something terrible happened. With American troops in Cambodia, and now on the Kent campus, the situation was explosive. But Governor Rhodes rejected the idea of closing the university. Instead, he imposed martial law on campus.

"We have the same dissident groups and their allies going from one campus to the other," he said later at a televized news conference in Kent. "And they use a university . . . as a sanctuary. . . . They make definite plans of burning, destroying, and throwing rocks at police and at the National Guard and the Highway Patrol . . . They're worse than the brown shirt and communist element and also the 'night riders' in the viligantes. They're the worst type of people that we harbor in America."

When Kent students heard this speech later that day on TV, their animosity increased. It was thought to be deliberately inflammatory, as well as unfounded.

Some students, and many instructors, saw it as a direct result of the close political race then underway between Governor Rhodes and Robert A. Taft, Jr., for nomination to run for the U.S. Senate—a race Governor Rhodes was to lose two days later.

"We were being used as political tools by Governor Rhodes," said Joseph Bianchi, a Kent resident and graduate student.

"The entire confrontation engineered by Governor Rhodes without consulting president White was inexcusable," said assistant professor of education Harold Carpenter. "You cannot separate what happened at Kent from the election on Tuesday, any more than you can separate it from Cambodia. There is no question that the burning of the ROTC building was a result of Nixon's speech. The entire student body was up tight about it. When Rhodes arrived on Sunday, he felt that closing the university would expose him to the charge that the radicals were running things and he thought it would hurt his chances against Taft. His speech heated things even more."

Similarly, other members of the faculty blasted Rhodes for not understanding "the complexity and variety of issues motivating our students," nor their belief in their "moral prerogative" to protest "the rule of force."

The impending tragedy might still have been avoided if Governor Rhodes had told president White that the M-1 rifles the guardsmen were carrying were loaded with live ammunition. But just as Rhodes had not consulted White before calling out the Guard, he had never told him about the bullets. "I was never told that the guardsmen were carrying live ammunition," president White said later.

Thus by Sunday evening, the stage was set for disaster. On one hand were the students, charged up at the "invasion" of their campus, seething at the extension of the war, resentful of President Nixon and convinced they were being used as political pawns by Governor Rhodes. On the other were 800 exhausted and frightened young guardsmen, charged with enforcing martial law and carrying bayonet-fixed rifles that no one connected with the university knew were loaded.

To make matters worse, the guardsmen had just come from duty at the Teamsters strike in Akron. They had slept only three hours in the last 48, and hadn't showered in three days. They were, understandably, not at all happy about facing up to the inevitable taunts and insults of the students. Though most came from nearby farming communities and factory towns, they differed from the students in outlook and opportunity, in background and behavior. These differences took on something close to class distinctions on the Kent campus that Sunday afternoon. It was as if the less favored were being pitted against the more affluent, with one side carrying guns and the other side rocks.

Not all of the students felt antagonistic. "My date spoke to several guardsmen," Jan Montgomery of Youngstown said. "They were just as upset about the disturbance as we were. Personally, I felt better—safer—with the guard there. And I didn't like the way some students walked up to guardsmen and called them pigs and spat in their faces. The guardsmen just had to stand there and take it."

When darkness fell that Sunday night, the nerve-racking tension in Kent webbed the air and made it hard to breathe. From darkened roofs, dormitory windows and parking lots, rocks and lighted firecrackers were thrown at patroling guardsmen, who had been told that many of the students had guns. Meanwhile, three helicopters kept up a steady drone over the town and campus, sending powerful beams of light down into every nook and corner.

"The helicopters and sirens and the confusion and rumors really panicked the whole town," a Kent resident, Harold Carpenter, said. "People with shortwave radios kept listening to police dispatches and passing them along as truth, when in fact they were mostly just leads or false alarms. It was as if a revolution had started. People were loading their guns, pulling down their shades and locking their doors. I heard one neighbor say, 'If that armed mob comes down this street, I'm shooting.' There was no armed mob, but he apparently believed there was."

What happened the next day was a tragedy born of a failure of communication. Starting with student violence in the streets on Friday night, it had moved inexorably to its conclusion through invective, rumor arson, repression, inflammatory political speeches and disastrous official decisions. If reason and conciliation had been shown by either side at any given point in the sequence of events, the fatal volley of shots would never have been fired. If the students, for example, had peacefully protested the existence of ROTC on campus instead of destroying the building itself, or if Governor Rhodes, after the building was destroyed, had temporarily closed the university instead of imposing martial law on campus, the tragedy might have been averted. The rocks and tear-gas canisters were thrown and the fatal shots fired because, at Kent that weekend, Americans had stoppe i talking to one another.

In July, a Department of Justice inquiry, conducted by 100 agents of the FBI, received wide attention. The bureau itself drew no conclusions, but among its findings were these: The shootings "were not necessary and not in order"; no guardsman had been hurt by flying rocks, and none was in danger of his life at the time of the shooting; 13 students were hit by bullets in 11 seconds, and all but four were shot in the back or side; Ohio officials were advised that six of the guardsmen—all identified in detail—could be held criminally responsible responsible for their part in the shootings.

Finally, to settle the question of who was to blame for the killings, and why they happened, the state of Ohio would have to conduct its own investigation and follow this with a trial by jury. Just such an inquiry was ordered on August 3 by Ohio's Governor James A. Rhodes.

As for the people who suffered the most—the parents of the dead—they have this to say:

"We tried to find meaning in these deaths, but it is hard. It as though death has chosen its victims in a lottery of the young and the good . . .

"There is only one fitting memorial to the fallen. It is for the living to stop the killing. We urge man no longer to raise his hand against his fellowman—whether it be on the battlefields of Asia, in any part of the world, on any street corner in this nation, on any university or college campus throughout this land. Violence will not stop violence. The hard fact of our times is that it does not take courage to kill. It takes courage to live.

"Let us dedicate ourselves in the future to peace and life, not violence and death. . . ."

It was in the spirit of this statement that the Kent Students' Medical Fund, Inc., was established in June of this year. The fund's aim is to raise $100,000 through contributions for the surviving wounded, many of whom are still hospitalized as this is written.

Conceived by Kent students, the fund is supported by Congressman Stanton of Ohio, by outstanding citizens of the city of Kent and by members of the Kent State faculty. It deserves to become a rallying point for all Americans who believe more in life than death, more in reason than in passion, more in unity than in hate.

DIRECT ELECTION ADVOCATES SHOULD PRACTICE WHAT THEY PREACH

LESSONS ON OBSTRUCTIONISM

Mr. GOLDWATER. Mr. President, recently in the course of debate over the direct election proposal the Senate has been repeatedly lectured on the rules of democracy. We have been taken to task by some of the sponsors of direct election for our alleged failure to act on an opportunity to demonstrate that the Senate is honest, intelligent, and responsive to the needs and desires of the people. The liberal eastern newspapers have chimed in with their usual claptrap about the backwardness of this body for refusing once again to follow their radical preachments.

Indeed, on September 23, after only 10 days of debate on the issue, the author of the direct election amendment, the distinguished Senator from Indiana (Mr. BAYH) accused certain Members of this body of using arbitrary tactics against the electoral reform measure.

The Senator from Indiana charged that:

> The history of Senate Joint Resolution 1 is a continuous record of delay and obstruction, a continuous record of parliamentary chicanery intended to frustrate the will of the vast majority of the members of this body, and more importantly the will of the People of the United States.

TRUE VICTIM OF OBSTRUCTIVE TACTICS

Mr. President, much of what the Senator has said is correct concerning an important reform measure that has long been languishing in the Senate. But he has erred in identifying this proposal as being the one which the Senate has currently been debating very actively. Rather, it would have been more fitting if the Senator had pointed his finger at another Senate joint resolution which has been collecting cobwebs for almost 5 years in the very subcommittee chaired by the junior Senator from Indiana.

Mr. President, I am referring to Senate Joint Resolution 6, which is known as the school prayer amendment.

If ever there was a victim of dilatory tactics, it is the proposal to allow the American people to restore prayer to their schools. The Senator from Indiana mentioned that the Subcommittee on Constitutional Amendments began its recent efforts on electoral reform almost 5 years ago in February of 1966. Well, the very same thing can be said of the prayer amendment. A full set of hearings was conducted in August of 1966 but nothing has happened to move it along ever since.

The Senator also observed that Senate Joint Resolution 1 has more than 40 cosponsors. Actually, it reached a peak of 42, with the subsequent loss of at least two Senators who have now announced their opposition to the plan. Any way you figure it, this is not as many Senators as those who have joined in proposing the restoration of the right of prayer in public institutions. The prayer amendment has no less than 45 cosponsors, and it is still climbing.

The Senator from Indiana further reminded the Senate of polls which indicate a high degree of public support for election reform. However, once again, I might draw a comparison with the prayer amendment which has its own polls showing a public sentiment running in its favor by better than 80 percent.

In addition, the author of the direct election proposal complained that his amendment had languished, as he put it—

> Month after month in the Judiciary Committee, without action, while other business was considered and voted on.

But, Mr. President, this is exactly what has happened to the school prayer legislation. The resolution calling for a constitutional amendment to put love of God and respect for the Holy Bible back into our schools has been chained to the back reaches of the Subcommittee on Constitutional Amendments for over 4 years now. In fact, if we trace this proposal to its origin, we can see that the first of such amendments was introduced by my good friend the Senator from Mississippi (Mr. STENNIS) in June of 1962. Thus, if the Senator from Indiana is truly sensitive to the will of the American public, and if he is truly concerned about proving the Senate to be a responsive institution, then I respectfully suggest that he should strive to bring the school prayer amendment before this Chamber for a vote.

FUNDAMENTAL IMPORTANCE OF PRAYER

The matter of prayer is every bit as important to the American people as their interest in electoral reform. The religious fiber of our Nation is the source of our national character and greatness. Indeed, the spiritual foundation of our society is the bulwark of America's strength in the struggle for the preservation of freedom around the world.

As Prof. Charles E. Rice describes it in his excellent book, "The Supreme Court and Public Prayer," our Western culture—

> Is the repository of the traditional Christian beliefs that men are made for a destiny higher than this life, "that they are endowed by their Creator with certain unalienable rights," and that a primary purpose of government is in the phrase of the Declaration of Independence, "to secure these rights." Communism, by contrast, relies upon the assumptions that there is no God and that man and all else in the world are purely material.

Professor Rice, who teaches law at the University of Notre Dame, adds:

> It is most important here that the basic premises of Communism are its denials of God and the spiritual nature of man. From these postulates follow the messianic nature of Communism and the irreconcilability of its struggle with the West.

SIGNIFICANCE OF INDIVIDUALS

Mr. President, herein lies the core of my disagreement with the antischool prayer cases. The doctrine of these decisions constitutes a fundamental rejection of basic beliefs which have distinguished this country in the community of nations. The ultimate mark of America is the special meaning which our society places upon the individual man.

We do believe that each person is born with certain God-given rights, which no government can take away from him. We do hold firm to the belief that each individual is important and deserving of respect from all other citizens. We do contend that government is created to serve man, not to be his master. We cringe at the thought of computerizing man, of treating him as a souless being whose thoughts and actions can be precisely predicted and manipulated.

Religious beliefs flow through and sustain every facet of American life, and have done so since the beginnings of our history. To my mind, whatever threatens the right of Americans to freely engage in religious ceremonies and to freely express their religious beliefs, whether it be at home or in public, also threatens our basic spiritual heritage and national character. This is why I consider the antiprayer decisions dangerous and deplorable.

WHAT ANTIPRAYER CASES DID

Let me review very briefly what the Supreme Court actually decided in the two cases affecting the right of public prayer, and you will see what I mean.

First, there is the 1962 decision of *Engle* v. *Vitale*, 370 U.S. 421. In this case, the Court held the State of New York could not encourage recitation of a nondenominational prayer composed by State officials. The prayer was brief, it was freely adopted by each local school board, it was offered before the beginning of regular classroom activities, and its observance by pupils was completely voluntary. The schoolchildren simply acknowledged their dependence upon God and asked His blessings upon them and their parents, teachers, and country.

Nevertheless, the six-member majority on the Supreme Court found that New York had established an official religion and thereby violated the first amendment. The Court spoke in sweeping terms by declaring that—

> The First Amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control or influence the kinds of prayer the American people can say.

The Court followed this incredible ruling by striking down laws in both Pennsylvania and Maryland which had provided for the holding of opening exercises in public schools consisting of the reading, without comment, of some passages from the Holy Bible or the use of the Lord's Prayer. These cases were considered jointly by the Supreme Court in *School District of Abington* v. *Schempp*, 374 U.S. 203 (1963).

The majority divided its views among four lengthy opinions, clearly revealing the bewildered conclusions among the majority itself as to how far their holding had actually gone. The Court's

opinion, written by Justice Clark, was particularly ominous in defining the test for judging when the establishment clause has been violated. He asked:

What are the purposes and the primary effect of the enactment?

He declared:

If either is the advancement or inhibition of religion, then the enactment exceeds the scope of legislative power as circumscribed by the Constitution.

As I shall discuss in a minute, this is a test without bounds.

REJECTION OF CASES

Mr. President, I deplore both of these decisions. I disagree with the outcome of the specific cases and I am alarmed at the frightful implications which follow from the broad language used by the Court, as surely as night follows day.

The decisions are wrong because they have overturned a good and decent practice used in almost every State in the Union. They are wrong because they have reversed an entire century-and-a-half of interpretation of the first amendment under which the right of free, nonsectarian prayer was allowed to be exercised in public schools. They are wrong because the Supreme Court overturned a program of daily classroom invocation of God's blessings, which the Court itself found to be no more than "A solemn avowal of divine faith and supplication for the blessings of the Almighty."

Well, what is wrong with that? Instead of condemning this beautiful example of public reverence, the Court should have applauded the willingness of the local school boards to follow spiritual practices which are in the best traditions of our Republic.

HIGHER VALUES FOSTERED BY PRAYER

In the contemporary climate of glamorization by the mass media of campus pillaging, drug addiction and sexual permissiveness, it would be worthwhile for Americans to turn their attention to the higher values present in religion.

For example, the New York Board of Regents believed that in allowing the ceremony of an opening prayer:

The school will fulfill its high function of supplementing the training of the home, ever intensifying in the child that love for God, for parents, and home which is the mark of true character-training and the sure guarantee of a country's welfare.

I for one, agree with this viewpoint. The encouragement of faith in God and the advancement of a moral conscience for our children would seem to me to be a welcome part of our national educational policy. In truth, the prayer cases presented the Court with a remarkable opportunity to secure the rights of religious-minded parents and children to come together in a prayer based on the common bonds of their faiths and the moral values which have guided our free society. By rejecting this positive, hopeful interpretation, the Court turned its back on the chance to foster the increase of accommodation, tolerance, and a friendly community life in our society.

FAR-REACHING EFFECTS OF COURT DECISIONS

But, Mr. President, this is not my only reason for wanting to reverse the strange decisions of the Supreme Court banning prayer in our schools. It is also my opinion that there are dangerous and far-reaching applications implicit in these decisions which will sooner or later redound from the bizarre reasoning used by the Court's majority. I am supported in this belief by eminent legal and religious authority. The present Solicitor General of the United States, Erwin Griswold, who is a former dean of Harvard Law School, has referred to the rationale of the Court as "Absolute and extreme."

Prof. Charles S. Rice of the University of Notre Dame writes that the school prayer decisions—

Predictably will have the effect of raising agnosticism to the rank of the official public religion of the United States."

What is more, Henry P. VanDusen, former president of Union Theological Seminary, has been quoted as stating:

The corollary in both law and logic of the Supreme Court's recent interdictions is inescapable, prohibition of the affirmative recognition and collaboration by government at all levels with all organs of religion in all relationships and circumstances.

RELIGIOUS HERITAGE IN DANGER

What concerns these scholars is the sweeping language used by the Court. Every conceivable practice of public religious reverence has been placed in doubt by the Court's decisions. When the Court finds a State cannot enact regulations or guidelines that have the primary effect of advancing religion then there is almost no religious practice identified with government that can survive.

When the Court holds that the first amendment demands neither the power nor the prestige of the Federal Government shall be used to control, support, or influence the kinds of prayer the American people can say, there is almost no religious activity I can think of which remains permissible in a public facility.

RELIGIOUS INFLUENCES IN GOVERNMENT

There are numerous examples of the interconnection between religion and government. The Federal Government finances the salary of chaplains who serve the Armed Forces. The House of Representatives and the Senate of the United States each employ a chaplain who offers opening prayers upon the commencement of their proceedings. The Supreme Court itself begins each day's session by invoking the protection of God. Every U.S. President beginning with George Washington has asked for the protection and help of God upon assuming his oath of office. Since 1865 the words "In God We Trust" have been inscribed on our national currency and coins. The Star Spangled Banner, which has been made our official national anthem by a formal act of Congress, includes verses praising the power of God. Congress has also enacted legislation calling upon the President to proclaim a National Day of Prayer each year.

Yet while their fathers ritually begin their day with prayer, the same conduct by children is considered to pose a threat of religious persecution and state control of spiritual beliefs.

Furthermore, Federal moneys are appropriated for loans and grants which are awarded to students who may choose to attend church-related schools. The Federal tax laws and the laws of States have consistently granted deductions to taxpayers for contributions they have made to support churches and church-connected schools. The compulsory attendance laws in every State support the position of parochial schools. These laws clearly sanction instruction given at religious schools since they treat education received there as adequate to meet State scholastic standards.

DAMAGING EFFECTS OF PRAYER DECISIONS

All of these practices are now cast in doubt. Each of them either stands as a direct means of advancing the conduct of religious activities or of using the power or prestige of the government to support, or at least to influence, the kinds of religious beliefs which millions of persons might hold.

Therefore, if the reasoning of the Supreme Court is carried to its logical and radical end, every one of these historical practices will be forbidden. It may be true that some members of the bench have engaged in tortured reasoning in order to disclaim this contingency, but the faces on the Court will change. No one can deny that the possibility of worse effects is ever present.

Already we can see the sorry spectacle of attacks on the printing of Christmas stamps. Nativity scenes have been banned on public property in some localities. The Christmas prayer of Apollo astronauts was denounced in 1968. In many schools kindergarten children are forbidden to say grace before eating cookies and milk. Roman Catholic schools in Brooklyn were not allowed to participate in Operation Headstart until they took the crucifixes off their classroom walls. All this has been done in the name of the dogma announced by the Supreme Court in the school prayer cases.

In fact, since these cases were handed down, a Federal Court of Appeals in New York State has decided that pupils cannot say prayers in classrooms by themselves and on their own initiative. I probably need not add that the Supreme Court has allowed this decision to stand.

Who can say what is next?

RIGHT OF MAJORITY TO ENJOY FREE EXERCISE OF RELIGION

Finally, Mr. President, it must be recognized that these cases involve a counterpart civil right and that is the privilege of free exercise of religion held by those citizens who desire to have their children's schoolday open with a religious exercise. According to most public surveys nearly 80 percent of the American public desires to continue the policy of prayer in schools. In October of 1964 the Harris poll found 82 percent of Americans in favor of permitting religious exercises in the public classroom. A recent poll taken by Good Housekeeping magazine came up again with 80 percent in support of reversing the Supreme Court decisions. This year, I understand, polls taken in several States continue to show a similiar high percentage of Americans backing public prayer.

But the will of this great majority will be stifled by what the Boston Pilot has called "the tyranny of the few" unless Congress is allowed to act on this pro-

posal. The Rev. Robert G. Howes, writing in the National Catholic Education Association bulletin, has put it this way:

To permit a minority's preference to dominate public practice, however, thus denying to an overwhelming majority its will, is an intolerable travesty of democracy.

Mr. Justice Stewart, in his dissent in the 1963 prayer case, remarked that—

A compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage . . . And a refusal to permit religious exercises thus is seen, not as the realization of State neutrality, but rather as the establishment of a religion of secularism, or at the least, as government support of the beliefs of those who think that religious exercises should be conducted only in private.

In other words, the way the first amendment has been applied by the Supreme Court means that it has been turned inside out to deny the majority their right to enjoy the free exercise of religion, while at the same time the religious dissenter's intolerance of religious beliefs has been transformed into a constitutional principle.

DIRECT ELECTION ADVOCATES SHOULD PRACTICE WHAT THEY PREACH

Mr. President, there is only one way to restore the first amendment to its original meaning and that is through a constitutional amendment. The American people want a corrective amendment. Forty-five Members of the Senate have formally sponsored such an amendment. Church leaders of all denominations have endorsed a public prayer amendment, ranging from Billy Graham to Bishop Fulton Sheen. The National Conference of Governors and the National Conference of Mayors have both endorsed it.

For my part, I might recall my active role in drafting the plank in the 1964 Republican platform which pledged:

Support of a Constitutional Amendment permitting those individuals and groups who choose to do so to exercise their religion freely in public places.

And just to keep this discussion on a nonpartisan basis, I might mention that Mr. Gordon St. Angelo, chairman of the Indiana State Central Democratic Committee, is reported to have notified the junior Senator from Indiana of his support for the amendment.

And I am also informed that the Very Reverend Theodore Hesburgh, president of the University of Notre Dame, has recently appealed to the Senator from Indiana to move the prayer amendment onto the Senate floor.

Mr. President, in light of this strong line of endorsements, which is merely expressive of the will of millions of our people, I respectfully ask the sponsors of direct election to practice what they preach. As they might say, "Let the people's choice prevail." Bring the prayer amendment to the Senate for a vote.

Mr. President, in closing, I would like to ask unanimous consent to have printed in the RECORD a short paper relative to the issue of public prayer. The document is a booklet entitled "Questions and Answers on the Civil Right of Free School Prayer," prepared by Citizens for Public Prayer. I recommend it for reading by all citizens interested in this issue.

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

QUESTIONS AND ANSWERS ON THE CIVIL RIGHT OF FREE SCHOOL PRAYER

1. *The First Amendment to the Constitution is involved here. What does it say?*

It says two things. First, government must not establish, that is support and/or promote any particular religion; second, government must not interfere with the free exercise of religion on the part of its citizens.

2. *Does the First Amendment deny the right of free prayer in public schools?*

As originally written and interpreted with common sense for many decades, the First Amendment to the Constitution does not deny the right of free, non-sectarian prayer in public schools. Public reverence is a matter of very long and very general record in the history of these United States. At the time the Supreme Court banned free prayer from the public schools of New York State on June 25, 1962, the majority of public school districts across America provided time for free school prayer.

3. *Why, then, is it now proposed that the First Amendment itself be amended?*

While there is nothing wrong with the First Amendment as written, once the Supreme Court intervenes to mis-interpret that Amendment, as it did in its two prayer-ban decisions, it becomes necessary to repeal this mis-interpretation and restore the first amendment to its original sense. This restoration is *not an attack on the First Amendment, but rather a defense and a re-affirmation of it.* It is not a question of repealing or tampering with the First Amendment. The Court has already done this. It is a question of clarifying that Amendment so that it is in accord with the clear will of the nation. It is not those of us who advocate a PEOPLES' AMENDMENT FOR PUBLIC PRAYER who open a Pandora's box here but the Court which, ignoring the common sense of the First Amendment has already done so.

4. *Are you attacking the Supreme Court?*

We attack neither the institutions nor the persons of the Court. Simply, with full democratic right, we question the two prayer-ban decisions. We believe, with Mr. Justice Stewart, that "the Court has misapplied a great constitutional principle." We do no more here than Abraham Lincoln did when, more than a century ago, he questioned the Dred Scott decisions in these words:

"When all the words, the collateral matter was cleared away from it, all the chaff was fanned out of it, it was a bare absurdity. . . . The Dred Scott decision covers the whole ground, and it occupies it, there is no room for the shadow of a starved pigeon to occupy the same ground."

While no two cases are, of course, perfectly analogous, our dissent from the majority opinion of the Court in its two prayer-ban decisions is based, as was Lincoln's to Dred Scott on two counts—(a) whatever the obiter dicta (for incidental remarks) the deed of the decisions, the rationale of the decisions is very seriously wrong, (b) so long as the decisions stand no practise of public reverence among us is safe.

5. *What, in fact, did the Court do in its two prayer-ban decisions?*

Briefly, on June 25, 1962 and on June 17, 1963, the Court widened the First Amendment prohibition against government support of a particular sect or church (e.g., Roman Catholicism, Episcopalianism, Reform Judaism) to include government encouragement of free, non-sectarian prayer and other religious exercises in the public schools. In its first decision, the majority of the Court said—"Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the Establishment clause." In its second decision, the Court said that even to question that the First Amendment meant reverence as such, rather than government support of a particular sect or church, is "entirely untenable and of value only as academic exercises." This kind of interpretation of the First Amendment is very clearly *fundamental.* It is not incidental. It is not isolated. It states *a principle which must affect all future Court decisions in matters falling under the purview of the First Amendment.* As the former Dean of Union Theological Seminary, Henry P. Van Dusen, put it:

"The corollary in both law and logic of the Supreme Court's recent interdictions is inescapable, prohibition of the affirmative recognition and collaboration by government at all levels with all organs of religion in all relationships and circumstances. A consistent application of such a policy would involve a revolution in the Nation's habitual practice in the matter of religion . . . *Nothing less than this is at stake.*"

6. *What did the Court, specifically, do in its two prayer-ban decisions?*

In 1962 the Court banned this prayer from New York State public schools:

"Almighty God, we acknowledge our dependence upon Thee and we ask Thy blessings upon us, our parents, our teachers and our country."

Eleven of the thirteen judges who passed on the case before it reached the Court had ruled that the prayer was constitutional. Attorneys-General from nineteen States had intervened to support this constitutionality saying, in part:

"Our founding fathers, together with the great and God-fearing leaders of the last century and a half, would be profoundly shocked were they to have been told in their day that in this year of our Lord . . . a voluntary, nondenominational acknowledgement of a Supreme Being and a petition for His blessing recited by American children in their classrooms is being seriously attacked as a violation of the Constitution of the United States."

In 1963, the Court banned reading of the Lord's prayer and parts of the Bible from public schools in Maryland and Pennsylvania. In each instance, by state law, no pupil was required to recite the prayer who wished to be excused, no teacher to lead it who wished to be excused. Remember, *the issue throughout is religion, an upreach of heart and mind to God, not what some call "teaching about religion."*

7. *Did not the court, in its 1962 decision, say that the prayer in question had been state-composed and state-imposed and was, therefore, unconstitutional?*

It did, but this was a misunderstanding of both the situation and the principle involved. At the request of the Board of Regents of the State of New York, a representative group of religious leaders composed a prayer which was then made available to school administrators across the State. This prayer was no more state-composed or state-imposed than is the case in any instance where government seeks and uses the advice of relevant experts (i.e. engineers on highway construction, doctors on mental health) to meet the will of the people government serves. In short, we have here a perfect example of the *principle of subsidiarity.* Government does for families and individuals what they cannot accomplish in the dimension and place desired by themselves. When, in 1951, the Board of Regents of the State of New York enabled the beautiful prayer above, they did so with these words:

"We believe that thus the school will fulfill its high function of supplementing the training of the home, ever intensifying in the

child that love for God, for parents, and for home which is the mark of true character-training and the sure guarantee of a country's welfare."

8. *Did not the Court, in both decisions, go to considerable lengths to assure that it was not hostile to religion, and that we remain "a religious people?"*

There were here, as there are in most court decisions, many incidental remarks, pleasant phrases that do not express the heart of the decision, "obiter dicta." As noted in the answer to question No. 4 above, the deed of these decisions is absurd. No matter how many incidental assurances the Court may give (and for incidental remarks the other way see Mr. Justice Douglas' concurring opinion in the second decision) the fact is clear—these decisions place all public reverence in danger. We have a rather perfect example here of what you do thunders so loud I can't hear what you say. Progression from and use of the two prayer-ban decisions in attacks on other instances of public reverence (e.g. the 1968 Christmas prayer of the astronauts, the 1969 Peace Pageant in Washington, D.C.) make it more than clear that these decisions were not isolated or terminal but the very critical start of what could be a series of creeping secularisms. Whatever the innuendoes in the decisions, whatever stands between parentheses, *religion is very evidently no longer constitutionally welcome in our public schools.* Again, the subject is religion not "teaching about religion."

9. *There are those who argue that religion is still possible in schools. Do you agree?*

This is a question which must be very carefully considered and answered. At the start it must be stressed than many *(if not most) of those who argue in this fashion are actively opposing or, at least, minimizing the drive for a People's Amendment for Public Prayer.* We call their line the argument from substitution. There are two key factors in our response to it. One is the factor of timing, the other is the factor of recognition of the radical precedent in the two prayer-ban decisions, a precedent which no amount of substitution will eradicate. *Timing.* Once the decisions have been fundamentally reversed, then it is time to ponder the whole matter of spirit and moral content in our public schools. Until then, *the substitutors are suggesting we band-aid a cancer.* They are suggesting we accept seemingly valid alternatives which, as we shall note, are often not valid alternatives at all and which do precisely nothing to root out the basic error of the decisions. The very first question to ask a substitutor is—*Do you, or do you not, favor a prayer amendment?*

Many of the substitutors' proposals are void of any reverence (e.g. God as dates, works of art, which Pope ruled when, who reformed what were). Many have no affective content about them (e.g. the Bible as literature period), no collective brotherhood about them (e.g. silent meditation). The closer any of them come to being real brotherhood in prayer, the more likely it is that it will be challenged and struck down by courts operating under the compulsion of prayer-ban illogic. *Recognition of the root of evil.* Some things may still be possible in our schools, but to press them while allowing the deadly virus of two-year prayer-ban decisions to fester is folly of very serious dimensions. *The argument from substitution is particularly dangerous* and must be watched carefully. While seeming to favor it, in fact it opposes and undercuts our cause. *Any film, article or organization which advances the argument from substitution and does not clearly and repeatedly call for a prayer amendment is suspect and is working against us.*

10. *Why is it important to reverse the decisions? Briefly what did they do?*

a. *They denied a great and good pratcice,* a brotherhood of free prayer which had existed with a maximum of good sense and a minimum of mistakes in most of our school districts.

b. They created a precedent equating establishment in the First Amendment with reverence, though in each of the cases decided the prayer was non-denominational and voluntary. In terms of the precedent no practice of public reverence is now safe. At the same time, *all future decisions under the First Amendment are now tainted at the source.*

c. What happened in the effort constitutionally to reverse the Court is an almost unbelievable denial of the democratic process. Even today, nearly eight years after the decision despite repeated and "king size" mails to the Congress, and in the face of poll after poll indicating that a massive majority of the American people want free prayer restored to their public schools, there has not been one single *normal* floor vote on a prayer amendment bill in either chamber of the Congress. What is at stake, clearly, in addition to the civil right of free prayer, is democracy itself. If the will of such a proven majority of the nation cannot break through the obstructionism of congressional committee chairmen, then democracy is indeed in grave danger.

11. *Is there an even larger sense in which a Peoples' Amendment for Public Prayer is now essential?*

There most certainly is. Indeed there has never been a time since Washington prayed in the snows of Valley Forge when we so much need again *a Nation on its Knees!* We are daily buffetted with evidence of arrogance, sex-ism, dope-ism, immorality and flagrant indecency among us. The school prayer issue, when it is debated in fifty states as we ponder a Peoples' Amendment for Public Prayer, could be a critical first step in the recovery of our spirit as *a reverent republic.* Here is how the National Coordinator of Citizens for Public Prayer put it at Harrisburg, Pennsylvania, on July 10, 1969:

"America today is in deep and big trouble. I need not stress the suffering and angry poor, the anarchy, the lawlessness, the tragic syndrome of escape from responsibility through drugs, the filth in some of our theaters and on some of our stages. Nor do I come here to suggest that returning the civil right of free prayer to our children will all at once change everything. I do suggest that the fight for renewal of this civil right can become a great rallying point for those who, like us, stand outraged before the rot which spreads through the nation!

There is given to men now and then some relatively simple moment or symbol or place in which a number of complex and important things gather and at which a comprehensive remedy for multiple wrongs is clarified. Such a symbol was the penny on the pound of tea in Boston two hundred years ago. Such moments came at Valley Forge. Such places are Thermopylae and, perhaps, Stalingrad, surely at the Concord Bridge. There are in these times and things the symbolism and power to move whole peoples. *This kind of moment is now possible.*

"This kind of moment is now before us as we fight to enable a vote in fifty states on a Peoples' Amendment for Public Prayer. Make no mistake. The national debate over a clarifying amendment to repeal the two tragic Supreme Court prayer ban decisions of 1962 and 1963 will not stop with the morning moment, the brotherhood of free prayer in our public schools. Involved will be the whole critical issue of God's role among us. Involved will be highly important ingredients of respect and reverence, our good traditions since the Pilgrims signed the Mayflower Compact "in the name of God", that supreme Fatherhood which makes all our brotherhood meaningful. Involved, in fact, may be the very survival of the democratic process. *Here is a place to take our stand explicitly once again* as a reverent republic and to recoup our collective sanity by re-asserting our national spirit."

12. *What wording do you suggest for this Peoples' Amendment for Public Prayer?*

Various wordings are, of course, possible. None will be easy to come by, none will be perfect, but *with reasonable ecumenism and good will on all sides, we can find the right words.* In any case, we have never shied away from critical issues before our national conscience just because it was difficult to say their solution in law. Whatever wording is decided here must be very carefully and prayerfully conceived so that it accommodates the will of the great majority of our people, while safeguarding as much freedom of abstention and silence to the minority as is consistent with that paramount will. But a wording must be decided. To avoid the matter because its semantics is complex is to deny the nation a remedy it obviously desires and to promote increasing civil disobedience in the subject area. Here, as an example of a possible wording, is how Senate Joint Resolution No. 6 introduced on January 15, 1969, by forty five Senators of both parties and varied religious faiths, was worded:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer."

13. *What about school districts which defy the Court and re-institute free school prayer*—like Leyden, Massachusetts; Fair Chance, Pennsylvania; Netcong, New Jersey?

First and foremost, they demonstrate that the subject is not dead and that honest Americans are concerned enough about it to risk technical illegality. There are two kinds of defiance. One occurs in states where the Court's ruling is ignored by educational authorities. Residents of such states, however, must not deceive themselves into a false sense of security. They may, and very likely will, be challenged. They, too, should join now in the National Prayer Amendment effort. The second occurs in states where the local school board providing for free prayer, comes into conflict with state educational authorities and such groups as the (so-called) Civil Liberties Union. We do not, of course, favor breaking the law. But there is much more involved here. We do understand civil disobedience when practiced responsibly. And this is clearly *a highly responsible instance of civil disobedience.*

School districts which thus defy the Court are saying—we've had enough, we've waited more than seven years. These are frustrated but plainly honest citizens. They are not outlaws. They are not desperadoes. The challenge here, as in the instance of urban riots, is not to condemn the abrasiveness so much as to remove the causes which transform peaceful citizens into civil disobedients. The challenge before those who are honestly concerned for "civil liberties" is rather to break the incredible denial of democracy in the Congress in the case of school prayer, rather than to fulminate against the decent citizens of defiant school boards. Those who are scandalized by technical law-breaking in such communities as Clairton, Pennsylvania and Leyden, Massachusetts and then do nothing to make it legally possible for school boards to do what the great majority of their constituents clearly desire are, at best, hypocritical. The greater sin, surely, lies with the apathetic mass of parents than with parents of the praying few, with the silent clergy rather than with defiant school boards, with those who while promoting "civil liberty" and preaching "the democratic process" deny civil liberty to the great majority of American parents and do absolutely nothing to vindicate the democratic process on this matter in the Congress!

14. *Where can I pick up further source and action material?*

(a) Write us for periodic action bulletins. Each time you do, *please enclose a self-addressed and stamped envelope* to cut our costs. Our address is on each of these pages.

(b) Make sure your *library, school and community,* has a copy of "The Supreme Court and Public Prayer" by Professor Charles E. Rice, Fordham University Press, New York City, 1964. This is the best source book available.

(c) Write your Congressman (c/o House Office Building, Washington, D.C.) and ask for a copy of "The Congressional Record", volume 115, part 14. Beginning at page 18822 is a magnificent collection of statements in favor of a prayer amendment. If your Congressman is not included in this collection, write back and ask him why not. When he replies, ask him to make a pro-prayer statement for the "Record" soonest!

(d) Additional material from these Congressmen and Senators: (1) Senator Richard Schweiker (Pennsylvania), (2) Congressman John Dent (Pennsylvania), (3) Senator Peter Dominick (Colorado), (4) Congressman Thomas Meskill (Connecticut), (5) Congressman Buz Lukens (Ohio).

(e) Write Patrick Cardinal O'Boyle, DD. (1721 Rhode Island Avenue, N.W., Washington, D.C.) and ask for a copy of his excellent Thanksgiving Day 1969 address. You will find this re-printed in its entirety under extension of remarks of Speaker John McCormack in "The Congressional Record", 1 December 1969.

15. *What can I do to help?*

(a) Organize a local chapter of Citizens for Public Prayer.

(b) Phone and visit local civic, church, school leaders and other public officials and talk it over. Don't be satisfied with double talk. Demand positive evidence that they are actively and openly supporting the civil right of free public prayer.

(c) *Make as much noise as you can, wherever you can, whenever you can,* to keep this issue alive. This means getting on all local radio-TV talk shows. This means resolutions by your church, civic and, particularly, PTA groups.

(d) Ask everyone who seeks your vote (mayor, governor, school committee, state legislators, Congressmen, Senators), for a clear statement of support for a prayer amendment. If you concur with us that this issue is critical and fundamental, then *it should be a major matter in all elections,* especially for legislature and school board.

(e) Keep in close touch with us. Let us know how you succeed. Re-print our material as often as you like (only on each page please list our address). *Why not start by sending our address to every name on your Christmas card or birthday list?* And remember again, advise your friends to send us *each time a self-addressed and stamped envelope.*

CADDO LAKE—AN AREA OF ENDURING BEAUTY

Mr. YARBOROUGH. Mr. President, one of the most outstanding areas of natural beauty in the State of Texas is Caddo Lake, located on the Texas-Louisiana border, in the northeast corner of my State. Being a native of east Texas, I have many boyhood memories of the magnificent area around Caddo Lake. The Yarborough family settled in east Texas, near Caddo Lake about 125 years ago. I have known of Caddo Lake and its lure for east Texans since my earliest boyhood.

The mystique, rare beauty, and historical tradition connected with Caddo Lake is revealed in an article appearing in the September 1970 issue of Texas Parade. The lake is described as "a maze of lagoons, bayous, and swamps, crisscrossed with piney ridges and dotted with small mushy islands." The remote location of this wilderness area provides a haven for many species of wildlife which are found rarely outside the area. Its recreational resources make Caddo a favorite for fishing, camping, and outdoor enthusiasts of every variety.

We live in an age when it is becoming increasingly difficult to find places which retain their unblemished scenic beauty and rustic charm. The people of east Texas are fortunate to have Caddo Lake for their use and enjoyment. We seldom recognize the value and irreplaceable nature of what we have until we lose it. Throughout my 13 years in the Senate, I have sought to alert the people of Texas and the Nation to the threat posed to our vanishing wilderness areas. In 1962, I was successful in my efforts to establish the Padre Island National Seashore, one of only five such areas in the entire United States. I was able to bring about the creation of the Guadalupe Mountains National Park in 1966 and am presently seeking to establish a Big Thicket National Park.

I commend the people of east Texas for what they have done to insure the preservation of Caddo Lake. We should each continue to be on guard against possible future encroachment by special interest and private developers. I pledge to continue my advocacy and interest in safeguarding our remaining wilderness areas.

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

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

Lake of mystery and legend—that's the description applied by so many generations to Caddo Lake in the far northeast corner of Texas. In addition to being one of the South's largest natural lakes (110 square miles), it is among the most beautiful. The exact origin of the lake is not known though the most believable explanation comes from Indian legend.

The Caddo nation of Indians (for whom the lake is named) lived in the area at the time. Their legend tells of the Great Spirit appearing to their chieftain in a vision and warning of impending disaster. The tribe fled their village beside a pleasant stream and took refuge on high ground nearby. As they huddled in the darkness of night, the ground beneath them trembled and shook. Next morning, as the sun rose, they were astonished by the sight that greeted them. The spot where their village stood was now covered by a great lake.

Scientists, coinciding legend with known fact, say that event could well have occurred during the night of December 15, 1811, when the New Madrid earthquake, greatest recorded in the history of North America, rocked the continent. Indeed, elsewhere it temporarily reversed the flow of the mighty Mississippi and sent tremors rolling across the countryside like wind across wheatfields.

Actually, as early as 1536, explorers (first were the Spanish under Hernando De Soto) mapped the area as a swampy chain of small lakes and winding bayous which they named Laguna Espanola.

While it is scientific conjecture that the New Madrid shock had a part in reshaping these smaller lakes into the present, 32,700-acre impoundment, it is hard fact that the great Red River Raft did play a part. This was the name given by early settlers to a 35-mile long obstruction of logs and driftwood on the Red River which blocked proper drainage of Caddo Lake and navigation into the area.

The only travel through the area, which for a time served as a "no man's land" between the United States and Mexico, was over the notorious Trammel's Trace. This crude road, more or less a tunnel through the thick vegetation, was frequented by renegades, slave traders and a few brave settlers who hurried through the dark passageway to the Texas frontier.

Following the birth of the Republic of Texas in 1836, came the founding of Jefferson on the banks of Big Cypress Bayou and Caddo Lake. In just a short time, as settlers poured into the Republic through the frontier village of Jefferson, it came to be called "Gateway to Texas."

In 1845, Steamboat Captain Henry Shreve (for whom Shreveport, Louisiana is named) discovered a navigational route to Jefferson around the great Raft across Caddo Lake and thus extended the head of navigation on the Red River from the Mississippi River into Texas. Jefferson became the principal river port in Texas and its wharves were loaded with produce of northeast Texas waiting to be taken to New Orleans and St. Louis by sternwheelers.

During the Civil War, Jefferson was the Confederacy's "Horn of Plenty", and as such, a prime target for Union forces. Vital supplies from Texas passed through the port to Dixie soldiers fighting to the east. Union forces were unable to get within striking distance of the town because of its protective surroundings of treacherous swamps and bayous.

After the war and following a brief period of reconstruction, Jefferson again prospered. By the early 1870's more than 200 steamboats a year were plying the waters of Caddo Lake. In fact, the Port of Jefferson was ranked second after Galveston in volume of trade. Its population passed the 30,000 mark and for a while, the city was the largest in the state.

Then, rapidly, its fortunes changed.

Many peg the turning point to a visit by railroad magnate Jay Gould. In January, 1872 Gould approached the city fathers with an offer to build his railroad to Jefferson if the town would meet a part of the roads expenses. Feeling that their continued prosperity was linked with the lake at their doorstep rather than the new-fangled railroad which they felt impractical, the offer was rejected. Visitors to Jefferson can still see the famous Excelsior Hotel register on display with its message penned by Gould—"End of Jefferson, Texas—Jan. 2, 1872." It was the end.

In 1874, the Red River Raft, the plug for Caddo's basin was broken up allowing the lake to partially drain. Jefferson was left high and dry and the railroad that could have saved it, ran elsewhere.

Isolated by the great lake that at one time brought it fame and fortune, Jefferson became a sleepy hamlet almost untouched by the march of progress. This very isolation has proved to be a blessing in disguise. Visitors to the historic city today view a city of yesterday, its old homes and business district largely unchanged by the passing of time.

Only after we were well into this century, did the nearby discovery of oil reawaken Jefferson's prosperity. And the surging interest in history and tourism has added to that reawakening. Where else could one find an eighteenth century town virtually intact with such a wealth of colorful history—the sinking of the Mittie Stevens (a steamboat which caught fire one night in water so shallow its passengers could have waded safely to shore yet 60 were lost); the nationally-famous "Diamond Bessie" murder trial

which lasted seven years; and, of course, the visit of Jay Gould and other historical personages.

These and other events are reenacted each year during the Jefferson Pilgrimage which draws thousands of visitors. And many are drawn to the lake, still a lake of great mystery and splendid remoteness.

To those accustomed to the usual man-made lakes, Caddo will come as a surprise, for it is a maze of lagoons, bayous and swamps, crisscrossed with piney ridges and dotted with small mushy islands. And everywhere, buttressing its swampy shallows are the moss-draped Caddo cypress. The lake has always been a favorite with outdoor sportsmen—the camper, the fisherman and the hunter come year round.

Concentrations of wildlife not found elsewhere in the state thrive within the sheltering undergrowth and waters of the lake. Deer browse beneath sweetgum and birch while squirrels scold overhead and other small game animals prowl through the jungle-like vegetation. Water moccasins sun themselves on low branches overhanging the water and turtles speckle half-submerged logs. Overhead flap blue and white heron, while anhinga (or water turkey) dive among the lily pads and moss in search of fish. Ducks seine murkey shallows for tasty morsels.

Fishing has always been an outstanding attraction at Caddo. The Parks and Wildlife Department has identified 77 species of fish in its amber-colored waters. And they come in all sizes from the small sunperch to the monster alligator gar. Catfish up to 170 pounds have been caught.

In recent years, a system of boat roads have been mapped and marked through the numerous bayous to assist those traversing the lake. Still some people manage to get lost in such places as Bird Island, Ray Island, Goose Prairie, Hog Pond, Whagdoodle Pass, Perch Gap, Whistleberry Slough and Hell's Half Acre, wandering aimlessly in circles until rescued.

There are ample facilities for swimming, hiking, pleasure-boating, canoeing, camping and picnicking. A limited number of cabins are available at Caddo Lake State Park where a program of expansion of all facilities is currently underway.

Along the lakeshore are numerous motels, cafes and places to rent boats.

Next time you plan a trip, why not depart from the ordinary and visit Caddo Lake—lake of mystery and legend.

A GRAND DREAM BRIGHTENS FOR THE C. & O. CANAL

Mr. MATHIAS. Mr. President, the cause of conservation marked an important milestone yesterday when the other body unanimously approved H.R. 19342, as amended, to establish the Chesapeake & Ohio Canal National Historical Park.

Friends of the C. & O. Canal have been waiting and working for this legislation since 1961, when the Senate last approved a bill to preserve this historic waterway and develop its vast recreational potential.

It is now time for us to act on H.R. 19342, the House-passed bill, and my similar bill, S. 1859, which is before the Committee on Interior and Insular Affairs. This legislation has momentum which should not be dissipated by delay. As the House hearings showed, the bill has broad support and only a few perfecting amendments may be required to implement fully the purpose and concept embraced by sponsors and supporters of the national historical park.

On September 29, I wrote the distinguished chairman of the Subcommittee on Parks and Recreation (Mr. BIBLE), urging him to schedule an immediate hearing on S. 1859 and offering to cooperate in every way to expedite consideration of this legislation before adjournment. I know that the Department of the Interior, State and local officials, and interested citizens are equally willing to work with the subcommittee toward this end.

The importance of this legislation is clear. In an informative article in the Washington Sunday Star of October 3, Benjamin Forgey summarized the beauty and history of the C. & O. Canal and the restoration and improvements required to enable it to serve the recreation needs of the Potomac Valley and the East. As Mr. Forgey noted, many of the canal's finest engineering features, such as aqueducts and locks, badly need repair and stabilization, while innumerable opportunities exist for modest public facilities and interpretive exhibits to tell the story of the canal to today's hikers, bikers, fishermen, campers, and naturalists.

I wish to express my congratulations to the members of the other body who were so instrumental in securing the approval of H.R. 19342, including that great conservationist, the Honorable JOHN P. SAYLOR, ranking minority member of the House Committee on Interior and Insular Affairs, and my two colleagues from Maryland, Hon. GILBERT GUDE and Hon. J. GLENN BEALL, JR. They have worked for this legislation with great patience and persistence, just as they have worked for many other important steps to preserve our Nation's natural resources.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of my letter to Senator BIBLE and the article from the Washington Star to which I have referred. I only regret that it is not possible to include the excellent photographs which accompanied the Star article and captured eloquently the beauty and flavor of the Chesapeake & Ohio Canal.

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

SEPTEMBER 29, 1970.

Hon. ALAN BIBLE,
Chairman, Subcommittee on Parks and Recreation, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Residents and friends of the Potomac River Valley are gratified by the action of the House Committee on Interior and Insular Affairs this week in reporting to the full House legislation to establish the Chesapeake and Ohio Canal National Historical Park in Maryland and the District of Columbia.

As you know, similar legislation was approved by the Senate Interior Committee and the full Senate in 1961. We have been waiting for House action ever since. The House Committee's vote this week gives us, in my judgment, the best opportunity ever to enact this bill and thus save the Canal and serve the urgent recreational needs of the Potomac Valley.

The historic Chesapeake and Ohio Canal, stretching 184.5 miles along the Potomac River from Washington to Cumberland, is a unique public resource. It capsules the Potomac Valley's growth, its commercial hopes, its enduring natural values and its human appeal. Built in 1828 and 1850, the Canal, even in its present state, is probably the finest relic of the impressive engineering feats of the nation's canal-building era, with its sturdy locks, its arched masonry aqueducts, and the magnificent Paw Paw Tunnel which reaches over 3000 feet through a mountain. Equally important as a unique slice of American history is the lively culture of the canallers, which survives today in many small towns and is being rediscovered and preserved by area historians.

A trip along the C & O Canal today offers a breadth of natural assets unequaled anywhere. The towpath, beginning as an urban trail a few steps from the streets of Georgetown, proceeds up the valley to the rugged mountain slopes of the Alleghenies, through beautiful hills and meadows so far largely undisturbed by intensive urbanization. No other park can boast such scenery, wildlife and history so close to millions of Americans, and yet so undisturbed.

For more than three decades, from the end of commercial operations in 1924 until the late 1950's, the Canal lay neglected. During the past fifteen years, however, the public has rediscovered the Canal with energy and appreciation. According to the National Park Service, over 1.5 million people—hikers, bikers, campers, canoeists, sportsmen and naturalists, of all ages—used some segment of the Canal last year. The Boy Scouts of the area have been particularly active, and since 1967, when a special Canal hiking merit badge was created, over 60,000 Scouts have hiked or cycled over 1.6 million miles along the towpath.

The potential public use of the Canal is staggering. Over 5.3 million Americans live in the District of Columbia and those parts of Maryland, Virginia, West Virginia and Pennsylvania within about on hour's drive of some section of the Canal. The valley is within relatively easy reach of some 9 million Americans now, a total that will exceeed 12 million by 1985. Already parts of the lower end of the Canal between Georgetown and Seneca are crowded on summer weekends as Washington area residents seek recreation, calm and open space.

As one hikes along the Canal today, the need for legislative action is evident at every mile. In some areas National Park Service personnel have worked wonders in providing rudimentary public services within the severe constraints of inadequate funds and very narrow property lines. But at major points of public entry there is a clear need for inobtrusive parking lots, picnic areas, boat ramps, and interpretive programs to educate this generation about Canal flora and fauna and about 19th-century commerce and engineering. There is also an obvious need to expand the 5,250-acre Canal property to insure scenic preservation and public access across the Canal to the Potomac River before the Potomac's shoreline succumbs to the pressures of metropolitan growth and development.

Equally evident is the importance of stabilizing the major engineering features of the Canal before they surrender to the erosions of time. Since 1924 very little maintenance has been done on most of these structures, with the exception of the Paw Paw Tunnel, which the National Park Service has begun to restore. Of the 11 major Canal aqueducts, one has already collapsed beyond rescue, and four more require immediate repair. Over half of the Canal's 174 culverts are badly silted or otherwise need restoration. Many of the locks should be stabilized before their condition becomes worse.

All of these recreational and historical needs would be met by my bill, S. 1859, and the similar legislation just reported by the House Committee. As recommended by the Interior Department and reported to the House, the legislation (H.R. 19342, as

amended) would grant National Historical Park status to the Canal, expand the property in Federal ownership to about 20,000 acres, and authorize funds for land acquisition and for historic recreation and the development of necessary public facilities and interpretive programs. The legislation would also provide necessary access across the Canal to the Potomac River, for example for public roads and utilities, with safeguards to protect the environment. A citizens' advisory council would be established to foster communications between the Interior Department and area citizens and officials.

In my judgment this legislation is fully justified in its own right. It assumes double importance as the backbone of environmental protection efforts for the Potomac Valley as a whole. As Secretary Hickel stated in transmitting his official endorsement of the legislation to the Congress on May 27, the establishment of the Chesapeake and Ohio Canal National Historical Park "will constitute an essential first step in a continuing program of protection and development of the entire river."

As you know, the past decade was one of extensive study and intensive discussion of the future of the Potomac Basin. After the consideration of many alternatives, general agreement has now been achieved in vigorous support of the C & O Canal National Historical Park as the place and the way to start. There is an impressive consensus on this point among Federal, state and local officials, national and regional conservation groups, and interested citizens. Of over two dozen witnesses at the recent House hearings, in fact, all but one expressed strong support for the principles of the bill and its general approach.

Among those testifying in favor of the legislation were the Director of the National Park Service; spokesmen for the State of Maryland and Montgomery, Allegany and Washington Counties, Maryland; and representatives of a large number of conservation organizations, including American Youth Hostels, Audubon Naturalist Society, Boy Scouts of America, The C & O Canal Association, Citizens Committee on Natural Resources, Conservation & Recreation Council, Friends of the Earth, National Parks & Recreation Council, National Recreation & Parks Association, The Nature Conservancy, Potomac Appalachian Trail Club, the Sierra Club, and The Wilderness Society.

One question explored at length during the House hearings was the proper nature and scope of "development" of the proposed park. The Interior Department, for example, has proposed a long-range authorization of $47 million (1970 prices) for development, with $25 million of that to be budgeted during the first five years, including over $14 million for restoration and stabilization of the historic features of the Canal. While recognizing the need for inobtrusive public facilities, especially at points of heaviest public use of the Canal, many witnesses urged that top priority be given to land acquisition and urgently needed restoration work. In reporting H.R. 19342, the House Committee approved the Interior Department's request for about $20 million for land acquisition but limited development authority to $17 million. I believe that a reasonable figure, probably in that general range, can be pinned down after a review of priorities among the development and restoration projects proposed by the Department.

On other points there is general agreement among the principal sponsors of the legislation, the Interior Department and the House Committee, although the provisions relating to necessary access across the Canal to the Potomac River may require further refinement.

In summary, I believe your subcommittee and the Senate should now end the nine-year period of waiting and resume consideration of C. & O. Canal legislation. Toward this end, I urge you to schedule a public hearing even before the full House takes up the bill on October 5. I stand ready to testify at any time, and know that other witnesses will cooperate in expediting proceedings in every way.

I might note that the cost of delay, even until next year, would be high—in soaring land prices, in further urban encroachment on the Canal, in deterioration of the Canal's aqueducts and locks, in disappointment and frustration among those who have worked long and hard for this legislation. But if we invest a relatively modest amount of time before adjournment, the national return will be great, for we will gain a unique national historical park, one which will rank among the finest in the country and will serve the immediate and future recreational needs of millions.

Sincerely,

CHARLES McC. MATHIAS, Jr.,
U.S. Senator.

WITH FALL A GRAND DREAM BRIGHTENS FOR THE CANAL

(By Benjamin Forgey)

The sun glints and sparkles on the slow-moving Potomac River. The forest rises from the banks in steep escarpments. Leaves are just beginning to turn color—the red of the dogwood giving a dark spotted undercoating to the green canopy of maples and sycamores. Here and there a poplar adds a spot of yellow, as fall settles in the upper reaches of the river.

We are standing on the rocky riverbank, looking back at the 120-year-old stone aqueduct that carries the Chesapeake & Ohio Canal bed across Fifteen Mile Creek. Measuring along the twisting course of the river, we are some 140 miles northwest of Washington.

Robert W. Bell, a National Park Service ranger who must know as much about the history of the old canal as any man alive, but who wouldn't claim as much, is discussing—of all things—congestion.

TURNING THEM AWAY

"We put this little camping facility in here two years ago," he says, indicating with a gesture the parking spaces and cement-based cooking grills tucked in among the trees.

"There are 18 sites here," he continues, "and on weekends we've been turning them away. We've had rangers in here to direct the traffic. This situation exists all up and down the canal."

Bell's point, in broader perspective, is the pressure a megalopolis puts upon its dwindling resources of publicly owned open space.

More directly, he is referring to the problems and prospects of making the old C & O Canal which follows the river from Georgetown for 184 miles to Cumberland, Md., into a truly usable national park.

He is not speaking idly. The House Interior Committee has reported favorably on a bill to convert the entire stretch of the canal into a national historic park. The House is expected to vote on the measure tomorrow and, if the bill is adopted, speed it to the Senate, where Sen. Charles McC. Mathias, R-Md., is pushing for its adoption during this session.

The House bill would authorize $20.4 million for acquisition of some 12,000 additional acres along the canal route, and $17 million for development of the park over the next three years.

Total acreage for the proposed park would be 20,239; this would include 7,106 acres currently owned by the federal government, 958 acres now owned by the State of Maryland, and 2,003 acres the state plans to acquire.

ADDITIONAL ACRES

The Interior Department, accordingly would acquire an additional 10,172 acres. The bill would provide for a cooperative management agreement between federal and state governments concerning the state-owned parklands, and further would preclude for two years the Interior secretary from buying land that Maryland intends to acquire.

The C & O Canal was begun in Georgetown with great fanfare in 1828, on the same day that the first spike was driven in Baltimore for the Baltimore and Ohio Railroad. The original concept was to extend the canal to Pittsburgh, but construction became bogged down in politics, labor difficulties, and great engineering problems. In the race west, the railroad won, and the canal was terminated in Cumberland.

Nevertheless, the canal was operated well into the 20th Century. It received a temporary economic lift from the demands for large amounts of coal during World War I, but by 1924 it had outlived its usefulness.

The federal government acquired the canal and towpath all the way to Cumberland in 1938, from the receivers of the C & O Canal Company. The first 22 miles, from Georgetown to the Seneca Breaks, was restored at that time, but the remaining 162-mile stretch was neglected and continued to decay.

Today, as Bell was saying, there are signs of life on the canal above Seneca. But it is a far cry from the multi-use park that could be developed if the government gets money and authority to straighten out the tangled pattern of private and public ownership of land along most of the canal.

The Park Service, after a fashion, is taking care of the land it already owns with campsites and parking facilities.

But the more dominant theme is that of years of decay and neglect. Many of the fine old aqueducts "are just about ready to collapse," according to John M. Kauffmann of the National Park Service. Many of the canal locks—put together more than a century ago with enormous chunks of stone—are virtually splitting at the seams and have to be propped up with wooden buttresses. Mile upon mile of canal bed is overgrown with trees.

CURRENT INTENTIONS

Current Park Service intentions for the park depend not only upon congressional passage of the House bill being pushed by Reps. J. Glenn Beall and Gilbert Gude, both Maryland Republicans, and Rep. John P. Saylor, R-Pa., but also on future appropriation of $30 million in additional development funds. But if the plans are carried out, about 40 recreation centers of various kinds will be built along the canal above Seneca. Most of these will be equipped with materials to tell the fascinating story of the canal to its modern-day users.

First priority in development will be given to restoration of the canal bed itself (in some cases this may mean a complete replacement of the old clay liner to the canal) and to the locks and aqueducts that have fallen into disrepair. Eventually, the Park Service hopes to "re-water" some 66 miles of canal.

"What we're trying to do is to create a long, narrow band of parkland between Washington and Cumberland, and to spread out the usage over the whole route," explains Kauffmann.

If the park is built according to plan, it should make Supreme Court Justice William O. Douglas extremely happy. Since the mid 50's, when he made his first 184-mile walk from Cumberland to Washington to dramatize the need for keeping the land in the public domain, Douglas has campaigned long and hard for the park.

It should also make a lot of just plain folks extremely happy.

RESUMPTION OF MILITARY AID TO GREECE

Mr. THURMOND. Mr. President, the State Department has acted wisely in announcing the resumption of full mili-

tary aid to our NATO ally, Greece. This announcement is long overdue. It is reasonable to wait an appropriate period whenever a government is formed outside of constitutional processes. But in the case of the Greek Government, this wait has been all too long, particularly in the light of the rapid buildup of the Soviet navy in the Mediterranean.

Greece is in a crucial strategic geographic location, as far as the defense of freedom against the Soviet threat is concerned. As a result, Greece has long been under intense Soviet pressures through guerrilla warfare, internal subversion, and propaganda. We ought to be thankful that an anti-Communist government has taken charge, and averted the collapse of Greece into anarchy and communism.

Although many critics of Greece contend that the present government has suppressed freedom, the evidence does not seem to support the charge. Certainly, in the larger picture, Greece has become a bulwark for the defense of the free world. But even on home ground, the Greek colonels have restored freedom—the freedom that comes from driving out the fear of Communist takeover, the fear of terrorism, and the fear of financial instability. In short, they have restored the very preconditions of freedom.

Those who complain most about conditions in Greece are mainly those in leftist and revolutionary circles, and their international sympathizers who rightly find that their freedom to destroy Greece has been curtailed. At the same time, the Greek Government is ready to accept those who give up their revolutionary activities and agitation. Recently, the Greek leaders have even taken into the government some liberals and ex-Communists who have explicitly foresworn their former ways.

Those who visit Greece with no political motivation attest to progress in that land. Among such visitors recently has been a constituent of mine, Dr. Daniel S. Kavadas, of Columbia, S.C. Dr. Kavadas is an American citizen who has had a distinguished career in the U.S. Army as an oral surgeon. He recently made a trip to Greece for the express purpose of seeing conditions there firsthand. Dr. Kavadas is convinced that the present government is the salvation of Greece. He has written of his experiences in a letter to me, which I would like to share with my colleagues.

Mr. President, I ask unanimous consent that excerpts from the letter by Dr. Kavadas be printed in the RECORD at the conclusion of my remarks.

Mr. President, I also ask unanimous consent that an interview with Dr. Kavadas entitled "Army Junta is Salvation of Greece," written by John A. Montgomery, and published in the Columbia, S.C., Record of September 21, 1970, also be printed in the RECORD at the conclusion of my remarks. Mr. Montgomery is the able editor of the Columbia Record, with a fine reputation for impartial assessment, so his interview with Dr. Kavadas has outstanding merit and judgment.

Mr. President, I also ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a recent column by the perceptive columnist Dumitru Danielopol in the Copley newspapers, a column entitled "Military Aid to Greece Is Realistic Decision," from San Diego Union, September 25, 1970, as well as the editorial "Righting a Wrong" from the same paper. Both give a professional analysis of the situation.

Finally, I would also like to give Senators the benefit of the views of the Greek Government itself in an interview conducted by Sir Hugh Greene, a correspondent of the London Sunday Telegraph. There has been a great deal of comment on Sir Hugh's feature article which appeared in the Sunday Telegraph some weeks ago. His article has been quoted on the floor of this Chamber. Since the article was full of half-quotes, partial phrases, and an abnormal amount of adverse editorializing by the author, I took the trouble to get the full text of the recorded interview between Sir Hugh and Prime Minister George Papadopoulos upon which the article was based. I think the most fairminded readers will agree that the full context does not bear out the adverse comments interpolated into the newspaper version.

Mr. President, I ask unanimous consent that the complete text of the Greek Prime Minister's interview with Sir Hugh Greene be printed in the RECORD.

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

DEAR SENATOR THURMOND: I have been an eye-witness to the progress that has been accomplished since the present government of Greece took over, and there is no doubt in my mind, and in the minds of those who respect themselves and the truth, that the goal of the present government was and is to restrain communists and anarchists, to establish law and order, and to improve the living conditions of the people of Greece.

We arrived in Athens the 23rd of July to attend the Supreme Lodge Convention of the Order of AHEPA. On the 24th of July we sailed for the Island of Icaria, my wife's birthplace. From Agios Kyrikos, the port city, we went by car to Karavostamon, the town where my wife was born. We stayed there four days, and then went to nearby Evdelos, where we stayed for two days. Because I wanted to see the rural areas, to talk with the people, and find out how they feel about their government, I went by car to 30 villages of the island—"from Agios Kyrikos to Agios polykarpos." I am not exaggerating when I say that this is the first time in the history of the island that the people with the help of the government have built roads, brought water and electricity to their houses, and installed telephones. The people are very content with the progress, order and security the present government has brought to the country. Many have told me that prior to 1967 they dared not venture out at times because of the turmoil and anarchy that existed.

After leaving the Island of Icaria we returned to Athens, and on the 5th of August my wife, my daughter and I had an audience with the Deputy Prime Minister, Mr. Stylianos G. Pattakos, in his office. I told Mr. Pattakos about our trip to Island of Icaria, and the progress we saw there in regards to private and public works, and that we could not substantiate the past foreign propaganda against the government. Mr. Pattakos stated that the present government was established in 1967, not only to prevent a Communist take-over in Greece, but to provide a stable government for the progress, safety and security of the country. Above all the new government was set up to improve the living conditions of the people. Last but not least, Mr. Pattakos held interviews with the citizens to discuss their problems, thus keeping himself aware of the people's needs.

On the 10th of August we flew to the Island of Rhodes, my birthplace. Rhodes, the capital city of the island, is a city of contrasts and presents a picture of the old and new at every turn. The harbor (the entrance to which was once straddled by the "Colossus of Rhodes", one of the seven wonders of the ancient world) is frequented by luxury cruise ships from many nations, as well as commercial boats representing every shipping company in Greece. The yachts in the marinas fly nearly every flag in the western world. There are miles of beautiful sandy beaches, green forests, mountains and interesting villages and it has the friendliest of people.

The Voice of America Radio Station is located at Afandou Beach, the town where I was born. A golf course will be built there soon for the enjoyment of the tourists. The medieval walled city—surrounded by the new city of Rhodes—is a photographer's paradise. Rhodes is fast becoming one of the greatest tourist places of Greece. In fact, tourism has increased 80% there in the past two years. The Monarches (governor) of Rhodes is His excellency Panayotis Despotopoulos, the Archbishop, the Right Reverend Spyridon and the director of the airport Mr. Athanasios Adamopoulos.

On the 18th of August we flew back to Athens, and on the 20th I had an audience with the Minister of Public Order, Mr. Panayotis Tzevelekos. Mr. Leventis and I had enenjoyed the pleasure of meeting Mr. Tzevelekos, as well as Mr. Pattakos, during a visit they made to Fort Jackson, South Carolina in 1963. In renewing our acquaintance, and discussing my trip and the progress we saw there, Mr. Tzevelekos assured me of his government's determination to continue working for the welfare of the Greek people. He pointed out that their creed is "progress, safety, and law and order."

I have been an eye-witness to the improvement in these conditions, in Greece and have seen the present Greek government at work. I can say without reservation that the present Greek government deserves an honest and unbiased appraisal by those who respect the truth and themselves. Those who in the past have been against Greece and against the resumption of Military aid to Greece, like Senator Vance Hartke, acted on the information presented to them by anarchists and paid anti-Greek opportunists. Their decisions were not based upon personal observation. Greece deserves the restoration of full aid under the Military Sales Act from the United States of America in order to carry out the American ideals of peace in that troublesome part of the world by restraining Russia's entrance to the Mediterranean.

With many many wishes and highest regards,

Sincerely yours,

DANIEL S. KAVADAS, D.D.S.

ARMY JUNTA IS SALVATION OF GREECE

Continuing political crises were halted in Greece three years ago when army officers under Col. George Papadopoulos took over the government in a bloodless pre-election coup d'etat.

American policy toward the NATO ally since then has vacillated, with a strong leaning of opposition to the junta. Senator Vance Hartke, Indiana Democrat, introduced a rider to this year's Foreign Military Sales Act that would have cut off military aid to Greece.

Applauding the action of the Senate in defeating the amendment, Senator Strom Thurmond, South Carolina Republican, said the Hartke proposal was "unrealistic and a serious threat to our security."

"There is also ample evidence that the Greek government is pursuing democratic policies," he added, disputing one of the principal arguments against aid to Greece.

Dr. Daniel S. Kavadas of Columbia says America opposition to the new Greek government is based on ignorance of the facts and deliberately false propaganda. He recently returned to Greece to learn first-hand what changes had been made. He was convinced that the coup was the salvation of the country.

Dr. and Mrs. Kavadas are both natives of Greece. He tried for ten years to come to America under the immigration quotas, but was unsuccessful until 1934.

He then joined an uncle in Oklahoma City, attended the University of Oklahoma, and taught Greek to pay his expenses. He went from there to Washington University School of Dentistry at St. Louis, Mo.

Called into the U.S. Army in 1943, he served in the Pacific, Italy and Germany. He was at Fort Jackson from 1948 until 1955 as post dental surgeon.

He was transferred to Stuttgart, Germany, as chief of oral surgery for a Seventh Army hospital. Three years later he returned to the States and was assigned to Fort Hood, Texas, and Fort Lee, Va., until he suffered a heart attack and retired in 1960.

He has lived in Columbia ever since with his wife and their daughter, Despina-Evmorfia, or "Debbie," who is an 11th grade student at A. C. Flora High School. All three have visited Greece in the past year.

While in Greece, Dr. Kavadas had audiences with Deputy Prime Minister Stylianos G. Pattakos and Minister of Public Order Panayotis Tzevelekos. He met both when they visited Fort Jackson in 1963.

The Deputy Prime Minister and other ministers have an open-door policy and hold daily interviews with the Greek people.

Pattakos told Dr. Kavadas that the army coup of 1967 was not only for the purpose of preventing a Communist takeover, but also to provide a stable government for the safety, security and progress of the country.

Dr. Kavadas confirmed that the new government was accomplishing these objectives.

He visited 30 villages and talked with the natives.

Before April 1967, they lived in abject poverty. The country was in turmoil. Competing ideological and philosophical factions, combined with criminals, made streets unsafe.

Now, for the first time, the villages have electricity, running water, telephones, and good roads and sidewalks. The economy and the money (drachma) are stable.

"Of all the people I talked with," Dr. Kavadas said, "not one expressed displeasure with the new regime. Not one wanted to go back to pre-junta conditions. Law and order have been restored. It is now safe to walk the streets any time of day or night. And this has been brought about without an obtrusive military presence. The government has cut the old delaying lines of red tape, established provincial communications with the people, and is immediately responsive to their needs."

"Greeks maintain their traditional friendship for the United States," he added, "and will continue to do so under any circumstances. They are the best friends America has in that area of the world."

"There is more democracy today in Greece than there is in Italy or France or many other countries that have normal relations with the U.S. If Greece had been under the present government for 15 years instead of only three and a half, most of her problems would be solved.

"The foes of present Greece are only advocating a return to anarchy."

Righting a Wrong

A wrong has been righted in the decision by our government to resume full-scale arms assistance to Greece. Our military aid to this North Atlantic Treaty Organization ally had slowed to a trickle under a boycott imposed by former President Johnson.

The embargo was ordered after a corps of Greek army colonels seized control of the government in 1967. Since then the colonels have been the target of an international campaign of villification portraying them at one moment as maniacal "fascists" and the other as bumbling bureaucrats.

Time has produced a truer picture of the new government. To the chagrin of leftist critics, the colonels have brought Greece stability and economic growth that is the envy of Europe, and our State Department now reports that a trend toward re-establishment of parliamentary democracy is clearly visible.

The Greek government has remained unwavering in its loyalty to the Atlantic Alliance despite official snubs by many NATO members.

Now, by restoring the flow of heavy military equipment that Greece needs to fulfill its NATO obligations, we are strengthening security in the trouble-torn Mediterranean and healing a painful wound in our relations with a valuable ally.

Military Aid to Greece Is Realistic Decision

(By Dumitru Danielopol)

Military aid to Greece will soon be resumed, says the State Department.

It's about time. For more than three years this column has been advocating such a move as intelligent and realistic.

Greece, placed in a strategic position in the Eastern Mediterranean, happens to be one of our staunchiest allies and has remained loyal to its North Atlantic Treaty Organization obligations throughout the years.

Ever since the military took over in 1967 to halt internal corruption, subversion, intrigue and political decay, they have been under fire from all kinds of Communists, Socialists and liberals in Western Europe and the United States.

Under the sponsorship of Social-Democrat regimes in Sweden, Norway, Denmark and Holland, the Greek leaders were accused before the council of Europe of deliberately torturing political prisoners. The accusations have been hotly denied in Athens.

The "evidence" presented has been highly suspect. At worst it would appear that some prisoners may have been mistreated by local police embittered by political excesses. In fact, Athens invited International Red Cross inspection of islands on which the prisoners were detained. Most now have been released.

The Johnson and Nixon administrations withheld NATO arms deliveries under pressure from the Scandinavian nations.

But the colonels held firm. They took power to perform a difficult task. Their problem, they insisted, was a domestic matter, one to be settled by Greeks.

"This is our revolution," one top echelon military man told me in Athens. "These are our people. We are going to stand by them, whether you like it or not."

The resumption of arms deliveries is bound to raise criticism from all those opposed to the Greek military. The President will be accused of helping a "Fascist dictatorship," a "totalitarian state," etc.

No one will mention that the Greek revolution has been proven to be a spectacular success. No one will mention three years of reforms, stability and peace. No one will mention that Greece is enjoying its greatest growth in modern history, that it is the No. growth country in Europe.

The drachma is one of the most stable currencies in the world; Greek salaries are up; taxes are down; foreign investments are increasing by leaps and bounds; roads, power stations and factories are being constructed even in remote mountain areas that have been ignored by decades of politicians.

Critics also will not mention that censorship has virtually ended; that the number of political prisoners is now lower than at any time since the end of World War II; that civil rights have been restored, that passports are granted freely and that within a few months the infrastructure of laws necessary to implement the new constitution will be complete. After that, free elections are only a matter of time.

"If it's a dictatorship, it is a mild one," one skeptic told me recently after his return from Greece. "I didn't notice it myself. But I must say that I enjoyed walking in the streets at any hour of the night without having anything to fear."

Full Text of Prime Minister's Interview With Sir Hugh Greene

The General Direction of Press and Information announced on Saturday that because the special correspondent of the Sunday Telegraph Sir Hugh Greene, who was granted an interview by Prime Minister Mr. George Papadopoulos, had interposed his own comments, subjective critiques and arbitrary conclusions, changing the meaning of the Prime Minister's replies, the full text of the interview was being released for publication.

Opening the interview Sir Greene thanked the Prime Minister for his kindness in granting the interview. "I realise," he said "how valuable your time is, especially now that you have assumed the Foreign Ministry. On the occasion, I express my sympathy on the death of Mr. P. Pipinelis. Mr. Pipinelis was known in England as the man whose efforts during the 1967 Cyprus crisis led to by passing the tension and helped to improve relations between Turkey, Greece and the Cypriot people."

"Therefore it is natural that interest has been demonstrated in whether there will be any change of policy on the Cyprus issue."

R.: In both speeches which I made on assuming my new duties as Minister of Foreign Affairs, I clarified absolutely that not only would there be no change whatsoever in the foreign policy of the Government, both in its general lines and in matters of special interest, but that I shall consider the continuation, as close as possible, of the policy followed by the memorable Mr. Pipinelis as a success. And, after all, that is one of the reasons why I considered it necessary to assume the responsibilities of that Ministry personally.

Q.: I would like to submit certain questions on the internal affairs of the country, which are provoking special interest abroad. For example, the Prime Minister, in one of his past statements, characterised the Government as temporary. My question is whether he continues to consider it temporary today.

R.: The final purpose of the Government is to secure for the Nation the prerequisites which are necessary for the functioning of the State in accordance with the Constitution of 1968. Under this meaning, the present, special form of Government is temporary.

Q.: Is the aim to lead the country to a parliamentary form of democracy?

R.: Undoubtedly, that is the aim.

Q.: Are you following a steady plan towards a parliamentary form of government?

R.: Actually such a plan is being followed concerning the gradually developing stages of the course. However, concerning the time duration of each stage, the government, perhaps, could not stick to a pre-designated scheduled or pre-dated course, because those factors creating the prerequisites which are

necessary for the functioning of the 1968 Constitution are many and varied; consequently, the duration of each stage will depend on events.

Q.: Which are those factors?

R.: I have reported them in detail many times in the past. I realise, however, the wish of Mr. Greene for a new, brief enumeration of them so that he can have a full picture of the situation and the problems being confronted. Thanks to his long and distinguished career as a journalist and specialist in public affairs, Mr. Greene knows surely already that, during the pre-revolutionary years, democracy in Greece was in danger, not from immediate action by communists, but from the existence of weak areas in society which made it easy prey for communist subversion.

These weak areas were:

(1) The retarded economic development of the country.

(2) The unacceptable delay of social services and their inability to give the citizens the necessary assistance or to contribute to the improvement of living conditions.

(3) The lack of the necessary infrastructure for rapid economic and social development.

(4) The bad conditions of education which, as is known, greatly influences all other sectors of the life of a nation and,

(5) The inadequacy of administration and of the state machinery in general.

These are the sectors on which the government now concentrates all its efforts so that it can create the basic prerequisites which would allow the country the luxury of a representative form of government without undergoing the dangers which existed in 1967. Only then could the nation have a fully democratic system of government without being the target of party conquest.

Q.: Under these conditions, how does the Prime Minister view the appearance of new men and new political parties in the electoral struggle which shall lead the country to a parliamentary government?

R.: It is certainly self-understood that when the necessary conditions have been created the field will be left free to all those who consider themselves suitable to devote their energies to public life and to offer their abilities to the country. They shall have the opportunity to measure their strength in elections as members of the political opposition or of the governmental party, and to assume their places in the legislative or executive authority.

Q.: I would like to ask if the Prime Minister would present himself as head of a political party. Also if he considers the lack of support from any party machine as a weakness of his government.

R.: To the first part of the question, the reply is that I have devoted myself to the struggle for the achievement of basic targets, that is, the acquisition of the possibility for the nation to proceed to elections in safety, tranquility and peace. I am working so that it will be possible for others to govern the country, without the threat which was created previously by the existence of the aforementioned weaknesses. The only thing I can hope for is that I will offer satisfactorily the services which are required to cure the nation's needs and to guide it to a point where the functioning of a democratic system, as described in the 1968 constitution, will be possible. I hope that it will not be necessary for me to continue to govern the country in the new role of a political Prime Minister. I hope that, at that time, I shall be in a position to leave, the governing of the land to others, with the conviction that they shall believe in the same basic truths of democracy. With one word I can say the following:

My future activity in the political sector will depend on the strength which will be left in me to continue and on the needs of the nation. Personally, despite all this I believe that there shall be no need for such continuation.

Concerning the second part of the question, indeed, the lack of a political party machine behind the present government constitutes a weakness from one side. But, if one takes into consideration the fact that one of the basic efforts of the government aims at bypassing those political passions which had arrived at a frenzy during the 20-year pre-revolutionary period, then it shall become absolutely clear that the loss suffered from the lack of a political party machine is much smaller than the damage which would have followed if the country had been left to the prey of political passions.

Q.: Does the Prime Minister consider the indefinite maintenance of martial law during the duration of this transitionary period necessary?

R.: I believe that martial law or, more correctly, the shadow of it which has remained will not be maintained much longer. My intention is to lift at the soonest possible date. I will be the happiest man on earth on that day, which I hope will be soon.

Q.: I would like to note that, since there is only a shadow of martial law, its lifting would not bring about any essential change in the task of the government.

R.: Indeed, that is how things stand, and there is a possibility for one to wonder why is this shadow still necessary and preserved. Its necessity is due to purely psychological reasons. The spirit of anarchy that has created the political tensions was so strong, that its control, by this shadow of martial law, was necessary. This shadow is more effective than an entire system of laws.

Q.: On the subject of the political detainees in Greece: The recent leniency towards Theodorakis impressed public opinion greatly. Is there hope for such a leniency by the Prime Minister to other political detainees?

R.: Time will tell. Personally, I wish to be freed from this matter of political detainees as soon as possible.

Q.: I heard, Mr. Prime Minister, that you study Greek philosophy and that your political beliefs are based on the theories of Polybius and Plato's Criton. According to the theories of Polybius, political life moves within a circle which begins with autocratic regimes and, though successive stages, ends in anarchy, to return again to autocracy and a new circle begins.

R.: Firstly, I believe that the classical Greek philosophers, and the study of history, exercise indeed a great influence on the formation of a man's ideals, independently of the sector of his interests. My concepts are not based on these two classical Greek intellectuals only. Undoubtedly, both Polybius and Plato exercised a significant influence on the formation of my personal concepts and beliefs. The views of Polybius on political matters are indeed excellent. The inquisitive mind of Plato, on the other hand, examined social and philosophical subjects in such a way as to render an invaluable contribution to the development of the human mind. However, their ideas are not the only basis for the formation of many personal concepts and beliefs. The study of the history of humanity from the days of Polybius and Plato through today, my personal experiences, the truths concluded from the study of History and the observation of current events also contributed.

Q.: Would it be possible for you, Mr. Prime Minister, to say a few more words on your political ideals and especially if you believe that the democratic system is more preferable than the autocratic one?

R.: I, indeed, believe that the democratic system is the safest, when it offers the people the most satisfactory conditions of justice, freedom, security and human dignity. However, those who are elected by the majority of the people and whose mission is to carry out, to the letter, the mandate of the people and rule in accordance with democratic principles, should be imbued by a deep sense of responsibility and also be inspired by the ideals with which they are identified. Only then is the democratic system applied. Otherwise, it is not applied, when the only motive of the representatives of the people is their re-election.

Q.: Perhaps the Prime Minister has an explanation for the non-satisfactory character of those who exercised power according the Greek History.

R.: This subject could keep us talking for hours, and because I am pressed for time I will try to give a brief resume of my views, even if it is not satisfactory for either of us.

The phenomenon is, in part, due to an organic weakness of the mentality the Greek people acquired, as a result of the long duration of tortures during foreign occupations.

It is also due to a weakness of organization, caused by an attempt to imitate democratic slogans as they are applied in other countries under entirely different conditions not adapted to our own conditions. For example, Greece today is able to apply a Constitution similar to the British one, but this was impossible for her before fifty, thirty or even twenty years.

Q.: the final question is whether the suspension of the delivery of arms raises difficulties in any way for the Greek Government, or weakens its position, and whether the lifting of the subject suspension is expected soon.

R.: I always try to see things in the most realistic manner. The present situation may be compared with that of a man who tries to safeguard his area from an enemy. If he considers it clever to supply the guard with one weapon so that he may better guard his own home, as well as the entire area, then he should give the guard a strong weapon. If the guard has no weapon, he will try to defend both the house and the area in the best possible way, but, of course, in this case the chances for the success of his mission have decreased. Certain of our allies think that they can exercise pressure on us by refusing to supply us with the necessary arms. We will find as many arms as we can to defend our small house.

We will probably fall fighting because of lack of the necessary weapons. If our allies consider supplying us with weapons as clever, so that we may be able to face the common enemy more effectively and make our small house the vanguard of the free world, then they strengthen their own defense as well. If not, then they themselves will suffer from the consequences. But what really is of interests is the following: Military aid is not an essential factor in the continuation and fulfillment of the task the Revolution undertook. Consequently, the suspension of arms supplies does not exercise pressure of the Government nor hinders its work and progress.

It is interesting to mention that, during World War II, when Greece was Britain's only active ally and fought against the enemy armies, giving England time to breathe and be strengthened, she did it with arms she had received from Germany before the war began. This, of course, does not mean that Greece will now be supplied with Russian arms, because presently she can receive all kinds of arms if she pays for them, from any ally, and it is certain that Britain will be the first to accept the exchange.

Sir Greene then thanked the Prime Minister for his kindness in giving him so much of his time.

QUEST FOR DOMESTIC TRANQUILLITY

Mr. YARBOROUGH. Mr. President, in recent weeks we have witnessed a serious

escalation in the self-destructive impulse which seems to be afflicting the right and left extremity of the spectrum of American political opinion. Almost daily we read of either another mindless bombing directed at our colleges and law enforcement agencies, or another skirmish between the police and militants. How are the American people expected to react to these assaults inflicted upon their personal and national security? There is very little evidence to suggest that the bulk of our citizenry is in any mood to condone, tolerate, or apologize for those on the right and on the left who would seek to accelerate the fragmentation of our society either through acts of violence or repression. I know that Senators would agree that the situation has become critical throughout the country. If this epidemic of irresponsible activity is not quelled, the implications for our Nation's survival can only be considered to be of the gravest magnitude.

I call upon our people to embark upon the quest for domestic tranquillity which is essential if we are to achieve our national goal of providing a decent and dignified existence for every man, woman, and child in this country. It is curious that some of our national leaders who ostensibly seek to "bring us together" continue to have precisely the opposite effect through their interminable and intemperate rhetoric. It is not my intention to engage in this senseless exchange which can only serve to drive our people further apart. We need fewer speeches and more dialog. The Vice President tells us that "confronted with a choice, the American people would choose the policeman's truncheon over the anarchist's bomb." The implication that either one of these two alternatives is more preferable or less disastrous than the other does a disservice to reality. The "anarchist's bomb," whether directed selectively at material property or used indiscriminately against human beings, is evidence of a suicidal self-destructive pathology which will elicit only the harshest of reactions in the society at large. On the other hand, the billy club which is used to beat a Black militant or a radical university student onto submission today, can be used to bludgeon a recalcitrant Chicano, factory worker, construction man, or anyone else designated as a "troublemaker" by those who control the truncheon tomorrow.

Domestic harmony cannot be obtained in an atmosphere of suspicion. We must encourage a feeling of mutual respect which can only flourish in the absence of mutual fear. The vast majority of our law enforcement officers have earned, and thus deserve every bit of support that the community which they serve has to offer. In some isolated instances it appears that the policy may have abused the trust bestowed upon them to enforce the laws of the land with equanimity toward all, and with malice toward none. These abuses must be rectified, and I am confident that self-regulative forces are at work seeking to avoid any recurrence of such situations. Each of us has a responsibility to do all that we can to contribute to the effort to restore reason, rationality, and tranquillity. To do otherwise can only insure that we shall all be consumed by the inflamed passions of those extremists of the right and left who would destroy America in their misguided effort to save her.

Mr. President, I ask unanimous consent that a very fine editorial entitled "Curing the Madness Within," published in the September 6, 1970, edition of the Los Angeles Times, be printed in the RECORD.

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

CURING THE MADNESS WITHIN

A fatal bombing at a great university; a riot in East Los Angeles, and the death of a respected reporter; bombings of police stations; murders and attempted murders of policemen from New York to San Francisco. Thus the violence of our times continues.

And thus Vice President Agnew expressed what many people are thinking when he said last week that "confronted with a choice, the American people would choose the policeman's truncheon over the anarchist's bomb."

That is undoubtedly true. But it is a frightening choice. We must not reach the point of making that choice. And we need not reach it.

The inability of this country to deal coherently with its current domestic turmoil has come in part from the widespread habit of selective indignation.

That habit is most evident when people talk about relations between the citizens and the law-enforcement authorities.

On the one hand, those who experience the indifference or hostility of the police may tend to respond to the murder of a policeman with indifference, at best. On the other hand, those who fear social turmoil the most may tend to respond with indifference, at best, to breaches of lawful conduct by the law-enforcement agencies themselves.

These tendencies spread throughout society.

A respected university president absurdly doubts the ability of the American judicial system to try a Black Panther fairly. Mayors and police chiefs tend to see the Los Angeles riots solely in terms of outside agitators.

In the dwindling but vocal left, injustice becomes the excuse for violence. In the growing right, violence becomes the excuse for injustice. Politicians bend with the prevailing winds.

Too few community leaders and too few elected officials express what common sense would tell them; that murder is always murder and always and in every case dreadful; that there is never any excuse or reason for civil violence; that unlawful practices by law-enforcement agencies always undermine the foundations of a lawful and peaceful society.

It would be the beginning of social wisdom if every citizen, every student and teacher, every leader of every minority group, every police chief, every mayor, every elected official from the President down, were to repeat and repeat these precepts of common sense until they become the common opinion.

For these precepts are the only basis on which true law and true order can be maintained. On them both private citizens and public authorities can build a coherent and intelligent approach to the actions that must be taken if we would avoid the terrible choice outlined by Agnew.

In simple terms, we urgently need support of the police by the community, and support for the community by the police.

The policeman feels abandoned by the society which asks so much of him. He is often poorly paid. His profession ranks too low on society's contrived status ladder. He is often reviled by people he is supposed to protect.

He frequently has good reason to fear for his life.

Many citizens are afraid of the police, who seem to them enforcers of someone else's laws. To them the policeman seems careless of their rights. It appears to them that there is a double standard of justice.

Each attitude feeds the other. Suspicion and hatred increase. Violence comes more readily.

It is clear beyond dispute that everyone who might be thought anti-police—whether students, members of minority groups, intellectuals, common citizens or politicians—ought to reflect on the facts of modern life, and having reflected, give the police the kind of support they must have. This support requires respect for a necessary, dangerous and honorable profession; and public appropriations for salary, manpower and equipment.

It is equally clear that the police, their departmental commanders and the elected officials who are ultimately responsible, must take infinite pains to enforce the law evenhandedly, in such a way that everyone recognizes that the enforcement is fair.

For it seems to us quite plain that violence, some of it deliberately provoked by revolutionary attitudes, is going to continue. Until the whole country pulls itself together into a common-sense approach to civil disorder, the grim alternative of which the Vice President spoke will remain on the horizon as a warning of things to come.

DEVERTON C. COCHRANE: LEADER OF MEN

Mr. BROOKE. Mr. President, any war brings with it individual, personal tragedy. When disputes develop, when national interests are challenged, nations must fight. It is not impersonal nations, however, but men who must bear the burdens of conflict and make the sacrifices for their country.

Such man was Staff Sgt. Deverton C. Cochrane, of Boston, Mass. His father, Bob Cochrane, told me of his story, and I asked him to put it down in writing so that others might know and share in this tale of bravery and sacrifice. This, then, is a father's story about his son. I ask unanimous consent that it be printed in the RECORD in the hope that others, too, might benefit from the example which he set.

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

Staff Sgt. Deverton C. Cochrane 034-38-0828, H Company (Ranger) 75th Inf. (Airborne), 1st Cavalry Division (Airborne) A.P.O. San Francisco 96490.

Born: December 15, 1948, missing in action in Cambodia on June 17, 1970.

Dev entered the Army in early January 1969 on a two year enlistment after a little over 2 years at the University of Massachusetts in Amherst. During that year he went through Basic Training at Fort Gordon, Advanced Infantry Training at Fort Polk and N.C.O. School at Fort Benning. In Mid-December he finished Ranger School also at Fort Benning and in Florida.

Right after Christmas he reported back to Fort Dix and on New Year's Eve of 1969 he landed at Bien Hoa in Vietnam. In a few days he was assigned to H Company at Phoc Vinh which is a volunteer Ranger Company and does the Long Range Reconnaisance Patrol work for the 1st Cav. They are known as

"Lerps" (L.R.P.). These patrols consist of five man teams. It is rugged duty and the safety of the team depends on the skill of each of the five men. Rank means nothing. Ability alone counts and a man becomes asst. team leader and later team leader only after proving himself. A team leader has as much responsibility for his men and his mission as does a captain in ordinary units.

Dev made up his mind to be a team leader and worked hard in his unit and at Recondo School at Nha Trang.

On March 27th he was involved in a hostile action which resulted in his receiving on April 16th the Army Commendation Medal with a "V" device for heroism.

Finally in early June he made team leader. I believe the Mission of June 17th was his third in that capacity.

On Father's Day, June 21, 1970 an Army Master Sergeant visited us to say that Dev had been reported missing in action in Cambodia in an action with a hostile enemy force. His unit had returned at 1700 hours and he was not with it. We later heard that a large search party had scoured the area and could find no graves or bodies and so we settled down to a long waiting period hoping that, at the worst, he was a prisoner of war.

On Thursday, July 30th we had a visit from a boy whose home is nearby who was a member of Company H and who had left there shortly after June 17th. With him was another boy who had left the Company several weeks earlier. It is a little difficult to remember all the details exactly and we will see him again and verify details. In any event here is the gist of what we learned.

Dev's five man team was inserted in an area the day before. Standard procedure is to make radio contact with a team every two hours. His last transmission was at 1520 hours. About late afternoon they were unable to make contact. Helicopters were put into the air over his area to attempt to make contact, and were calling him every five minutes but could raise nothing. At about 2100 hours one man of his team broke out of the bush into the fire base with nothing but a knife and in a state of shock. During the night they got this story from him.

At about 1700 hours Dev was leading his team through an area to a place where they planned to hole up for awhile. Suddenly Dev sensed something was wrong in the bush ahead. He gave the signal for his team to hit the dirt. As he did so rifle fire seemed to come from all sides. It seemed as if his signal was the signal for the enemy to open fire because their presence had been discovered. Dev was shot twice in the neck.

The fourth man tried to reach Dev to help him and he was killed trying. Also the team's radio was shot to pieces in the crossfire.

The second and third men were badly wounded, but the fifth man managed to drag them back a few hundred yards into the bush. They then had only two rifles for three men so he left them with the wounded men he had hidden and struck out for the fire base armed only with his knife.

When last seen Dev's head was cocked at a crazy angle which did not indicate life.

A large search party of 25 Quick Reaction Forces men and 5 Rangers went in the next morning. Bad weather prevented them from landing until about 9 A.M. The considerable amount of enemy activity in the area kept them from reaching the scene of the ambush until 5 P.M. There were no bodies, no fresh graves and no trace of anything except a couple of broken fragments of the radio antenna. The two wounded men were recovered on the way in and evacuated. The next day a full line company of 120 men or more began a two-day complete search to no avail.

We were told that the No. Vietnamese feared the Rangers most of all and that they were in the habit of removing them from the field and taking them alive or dead back to camp as exhibits to bolster the moral of their troops. This would be the logical explanation for the disappearance of Dev and his buddy.

What were Dev's chances? In the first place the neck contains a lot of our most important machinery and two shots entering it would do a lot of almost irreparable damage. The No. Vietnamese do not have even adequate medical facilities. Finally even if he could have been evacuated by our medics the chances are Dev would have wound up a paralyzed lump of clay. This he or we would not have wished.

We recognize that all of this was long range observation under hectic conditions and that there might be a one in a million chance he might survive. However, we feel logically that this was the end of the trial.

Dev is alright now for he is most surely in the hands of God. We pray only that he will grant us the grace to accept this with as much fortitude as Dev did. We are thankful that he probably never knew what hit him, that he was not tortured by the enemy and that he did not come home as a basket case. This last Dev would have never have wanted as he was a man of action.

Dev knew what he was doing. We tried to talk him out of it but he was determined to go and get it over with. He did not approve of this war but was aware that there was a duty to be done and made up his mind to do it in the shortest and best way that he could. He enlisted for two years and his accomplishments were remarkable for such a short period of time. His buddies say he was determined to prove himself and to be a leader of men. This he certainly did. We are all just as proud of him as we can be. He is sorely missed.

BOB COCHRANE.

NEED FOR FAST ACTION ON H.R. 15911: AID FOR VETERANS

Mr. WILLIAMS of New Jersey. Mr. President, during critical times in our history our veterans have been called upon to make unselfish sacrifices in defending our Nation. They have served our country well and with dignity.

Many still carry their scars from combat. Hundreds of thousands are permanently disabled.

While our debt to these brave men and their families can never be repaid, there is still much that can be done.

ACTION IN THE 91ST CONGRESS

During this Congress several proposals have been passed—including a number I have advanced—which will help meet the special needs of veterans and their dependents.

Paraplegic veterans: Eligibility requirements that govern assistance for special housing for paraplegic veterans have been liberalized under Public Law 91–22. In addition, the new law increases the maximum Federal grant from $10,000 to $12,500 for the purchase of a home equipped with special facilities, and raises the maximum direct loan from $17,500 to $21,000.

Dependency and indemnity compensation payments: Public Law 91–96 authorizes increases in dependency and indemnity compensation payments to widows and children of veterans who died in service or as the result of a service-connected disability.

Nursing home care: Public Law 91–101 eliminates the 6 months time limit at the Veterans' Administration expense for nursing home care for veterans with service-connected disabilities. Under the new law, community nursing home care will be authorized for unlimited duration for such veterans.

Medical services: Complete medical services, including outpatient care, will be authorized under Public Law 91–102 for a non-service-connected disability for a veteran totally disabled by a service-connected disability.

Service-connected disability payments: Public Law 91–376 will provide increases ranging from 8 to 12 percent for more than 2 million veterans with service-connected disabilities.

NEED TO PASS H.R. 15911

But there is a matter of vital concern for 1.6 million veterans and widows receiving non-service-connected disability pensions.

These persons are primarily elderly individuals: 70 percent of the veterans receiving pensions served in World War I, and 75 percent of the widows are former wives of World War I servicemen.

Today many of these individuals find their pensions in jeopardy because of the 15-percent social security increase signed into law last December.

In many instances the 15-percent rise will move a veteran into a higher income bracket, causing a reduction or possibly even a termination of his monthly VA pension benefit. In some cases he may actually sustain an overall reduction in his total income because the increase in social security benefits would be less than the reduction in his pension.

As chairman of the Senate Committee on Aging, I have had a longstanding and deep concern about this perplexing problem.

In 1967 the committee conducted hearings on "Reduction of Retirement Benefits Due to Social Security Increases." A report was issued, and it offered several recommendations to protect veterans against loss of pension benefits. These recommendations helped lead to the passage of Public Law 90–275, which increased the income limitations for veterans to take into account the 1967 social security raise.

A few days ago the House of Representatives passed H.R. 15911. This measure will assure that veterans will not lose any of their non-service-connected disability pension because of the 15-percent social security raise voted last December.

Virtually all of the 1.6 million beneficiaries will receive an average pension increase of about $7.50 per month. Moreover, the bill raises the income limitations from $2,000 to $2,300 for a veteran living alone and from $3,200 to $3,500 for a married veteran.

Another compelling reason for acting on this proposal is that rapidly rising prices have seriously eroded the buying power of aged persons.

Today all Americans are feeling the impact of our spiraling inflation.

But elderly veterans living on limited, fixed incomes have been particularly hard-pressed. As prices go up, their purchasing power goes down—usually quite sharply.

No legislation is now more deserving of the attention of the Senate nor more important to older veterans than H.R. 15911.

If we are to show our appreciation for the hardships endured by these persons in protecting our Nation in time of danger, then this legislation—now before the Senate Finance Committee—is essential.

Mr. President, I urge prompt and favorable consideration of H.R. 15911 by the Committee on Finance.

THE MICROCOSM AND THE MACRO PROBLEM—ADDRESS BY DR. PHILIP R. HECKMAN

Mr. HRUSKA. Mr. President, there is much talk these days of campus unrest and its causes. Some critics would have us believe that only the students are to blame. Others fault the Government. Many think the trouble lies with college and university administrators.

A more logical assessment is that the American college and university community is keenly aware of the number and complexity of problems facing our society. The intellectual environment certainly encourages rather constant consideration of these problems, which I consider to be an exceptionally valuable process.

Whether or not there is "unrest" as a result of this consideration depends on a variety of factors, not the least of which is the rapport enjoyed among the students, the faculty, and the administration.

Dr. Philip R. Heckman, president of Doane College, at Crete, Nebr., is one college official who not only understands the problems that face us, but also knows how to present them in terms which lead to cooperative consideration of them.

Recently, Dr. Heckman addressed the student body of the college on the microcosm and the macro problem—the little school and the big headache. I commend it to the attention of all Senators and ask unanimous consent that it be printed in the RECORD.

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

THE MICROCOSM AND THE MACROPROBLEM

(THE LITTLE SCHOOL AND THE BIG HEADACHE)

(By Dr. Philip R. Heckman, President of Doane College)

It's been my habit in the last several years to define the Doane College community as a microcosm. To do it once again—repeat for old residents, outline for new—I give you this recipe: All faiths, races, economic strata, geographical areas, variegated points of view in politics, religion, morals and vocation; put together in residence in a setting with a minimum of distractions, spice with the best variety of disciplined minds that college can recruit and afford; occasionally shake violently, either stirred by the cook or boiled by internal combustion through the reaction of competing ingredients; simmer the whole thing for four years until ripe and serve with a flourish. The microcosm is my term—not my word but the use of it here—initiated from my office. I get kidded about it by many. If the President creates slogans, he has to pick some that can absorb both friendly and hostile darts. But it does help as a definitive term. You all know what I mean? Sometimes we achieve it, sometimes we fall short, but everytime we use the term something is invoked in all our minds that is the same. It comes to shared understanding and shared purpose. That's the microcosm, or the little school.

Now let's talk about the macroproblem, or the big problem. There's always been big problems in the world, but in the past we've felt them to be either (1) eternal problems, impossible of solution and therefore to be endured and lived with, or (2) problems that are in the hands of the gods or people so far removed from us the problem is unnecessary for our consideration, or (3) problems with available solution and daily evidence of a steady, encouraging march to that solution. In the last hundred years, in the life of Doane College, we have seen number three in ascendency. There have been available solutions to the problems of the world, or at least to this nation, being solved by an *increasing gross national product*, the *moving back of the frontier, the rising rate of literacy, the move toward the good life as evidenced by each generation having more goods, more leisure, more education* and *more autonomy*. Suddenly in a generation these assumptions are all under question.

The first assumption that problems are eternal has been questioned. Now we feel that every problem can be, in fact must be, solved. I consider this a net gain in human stature.

The second has changed. We now believe solutions no longer come from on high but may well be the possession of the people. I consider that a net gain in stature.

Something has happened to the third area, though. Problems that struck us as being on a long steady march to Shangri-La have hit a snag and we suddenly are aware that *uncontrolled technology, industrial development, a competitive ethic, growth as the final good and the ultimate god* no longer will guarantee a nirvana on earth for everyone. In fact, these four panacea, these pills for all our ills—uncontrolled technology, industrial development, competitive ethic, growth as an ultimate good—are becoming increasingly identified as the sickness, not the cure. Put another way, the world macroproblem (a term first used in this sense in a book by Pecci just one year ago) is a composite of all the problems brought on by the applications that were earlier solutions—applied technology and industrial development. It's one problem, it's worldwide and it will get worse before it gets better.

I break the problem down into six separate parts, all complex and interconnected. This list of parts is not mine. It comes from a series of policy papers recently compiled by the Committee on Education and Labor for the 91st Congress.

1. *Population and food supply.* Concentration of population in compacted areas is breaking down human organization. General growth of population shows us that we will see an increase in starvation before a solution. The increase in food supply called the "green revolution" is only a delaying action. Our technology, one time the savior, has decreased the death rate and brought on the dehumanizing crowd.

2. *Changes in the biosphere.* Pollution of air, water, soil, radioactive contamination, depletion of resources, changes in temperature and composition of the atmosphere, are also brought on by technology and industrial growth and the technology of the future indicates an exponential J curve in the burning up of the good in this world and the adding to the bad because of our insistence on increasing the supply of absurd physical products.

3. *The poverty and the developmental gap.* Poverty is extremely important, particularly for those who are poor, but in the world picture, the developmental gap between the poor and the rich is a larger issue. The poorest man on this earth lives better today than that long forgotten day when we all stood in the mouths of caves and hit each other with sticks. We have progressed, but not equally. As a kid, I didn't know we were poor until we moved to town. You could walk around in the early 1930's with not a cent. It was a common condition and was endured without a great deal of bitterness because of its breadth. But today, both literally and poetically, everyone has moved to town and we know that others have things that we do not.

Television, that awful huckster of property, and other communication media have reached every corner of the globe, telling people that the good life is made up of goods and if you do not possess your share, you are therefore unfortunate. Some see the solution to this to shorten or cease communication. Obviously that's in error. The problem of the gap between the haves and the have nots must be erased by a ministry to the have nots. There must be sufficient good in the world for everyone to reach some standard that we consider both human and humane. But here, too, the problem appears to get worse before it gets better. Technological development has a self-regenerating acceleration so that the nations now prosperous will become more prosperous faster than the undeveloped societies, societies faced with staggering problems of overbreeding and undereducation, keeping them from reaching what the economists call the "take-off point."

4. Another problem has reached human awareness, the problem of *biological and psychological alterations.* Formerly in the hands of the writers and the readers of science fiction, it's now clear to all of us that we hold powers never held before by any creature, to alter the mind, the body, the fetus, the genetic transmissions to our heirs and to do something to our emotional state, our personality, our intelligence, our character, our goals and our motivation. This can be done before birth and at, any point during life through a series of engineering acts both chemical and surgical, acts that are more and more falling into the hands of unpracticed people. The rise of the problem is accelerated by the fact that these powers are no longer protected by any Pandora's box of common value structure.

5. *Weapons and sabotage.* Twenty-five years and a few weeks ago the bomb was dropped in Hiroshima. From that instant on, thinking people knew that our destructive capacities were reaching heights never before attained by any organism. The world has now created and stockpiled instruments enough to destroy us all. Even the small nations can initiate a war that the planet cannot afford. Along with this supply of destructive power, we have built an interrelated network of dependency on each other.

Our trade, our power systems, our transportation systems, and many other systems are so sophisticated and delicate that they can be thrown awry, in fact destroyed, by a few disenchanted people and a handful of destructive capacity.

6. The last, but the most depersonalizing item on my list, *threats to mental health and our civil rights.* Many of the things mentioned earlier plus technology increasingly make us wards of the state and our privacy and our freedom becomes more and more controlled. Anxieties build up from congestion, from complexity, from the rapidity of change, from reduced contact with nature and from reduced interpersonal communion. Large segments of the population become nervous and this nervousness or fear has within it great possibilities for inducing the policed state.

Attending all these problems in the last two years is the broadening realization that they are no longer open to simple solution. As a pilot, I am aware of the safety technique called 180 degree turn. Any time you're heading into stormy weather, it is suggested that you turn around and head out. Similarly for decades, in fact centuries, we've felt that

the solution to starvation was to produce more food; the solution to war was to stop fighting; the solution to poverty was to help the poor; the solution to population explosion was to put up posters telling people about planned parenthood. We now know that these solutions are inadequate.

To point to the dilemma, I discuss the problem of war which has been preoccupying us all. On the positive side is the fact that we are seeing the emergence of a true horror of war, something man has always professed but never truly possessed. I remember 1942 with blinding accuracy. In the face of a global war, fear was the sole commodity of mothers, the only ones afraid. The sentiment of fathers might have been pride and the feeling of the young on the way to war was anticipation, patriotism, to be one of the gang, attitudes once felt to be noble but today understood to be highly inappropriate, as one goes off to kill or be killed. We had to take arms; maybe we had to recently, maybe we must again. But we do it now and we'll do it, if ever in the future, with a sense of shame, with a recognition that it is not our country's finest hour. At least we've made progress, in fact steps new in the history of this creature, man.

I find the new law on conscientious objectors, or rather the interpretation of the law, interesting. The Supreme Court held that a man can be an objector, can object to killing on purely moral grounds rather than previously defined religious ones and, therefore, be excused from serving. Now in my mind this should keep every young man in the nation out of uniform. In essence, it says that (a) a young man finds killing unacceptable on moral grounds and he therefore need not serve, or (b) a young man finds killing acceptable on moral grounds, which in my mind makes him a psychopath, and should not serve. Objecting to war on moral grounds is a stand we all ought to quickly flock to but it does not mean that the occasion could still occur when people, objecting strenuously, may have to defend, may have to take up arms, may have to aim a gun and pull the trigger at someone who threatens their lives, their wives, and their beliefs, but they should continue to object to what they must do on moral and ethical grounds.

But what do we hear today on this dilemma of war? We hear *option A*, we must have a draft, a standing army, we must have a war in foreign lands, we must take on the military surveillance of the world or else we will be overrun. On the other hand, *position B*, we must stop the confusion in every young man's mind, we must stop hitting each other with sticks, we must pull out of Vietnam by noon tomorrow, tear down the capitalistic system that prospers and causes global wars. In thinking about national responsibilities and Vietnam War, I confess to certain ambivalence. Recent information comes from the Rand Corporation, which is our national private investigative agency on research and new developments, that if South Vietnam fell today, several hundred thousand South Vietnamese lives would be lost by a blood bath of terrible dimension. And this puts before the pacifist, of which I am one, insisting that we be out of South Vietnam by suppertime, the question whether we are interested in saving lives or merely interested in saving American lives. My son is an American boy and I cringe at the idea of people shooting at him in steamy jungles, merely to have him protect some foreign horde on foreign soil. But on the other hand, I have always recognized that God was colorblind and lacked the proper patriotic credentials to appreciate the American point of view and that if 20,000 pink and earnest American boys marched off to save the lives of a half million little brown people, the God I worship may weep but consider it a bargain. It is a problem, isn't it? From all this we just learn of the absence of simple solutions. In this area, as in all other areas of the macroproblem, what we cannot find in the picture at the moment is a general consensus, a unified national will.

Which brings us to the responsibilities of Doane College and the microcosm. In a larger sense, everything that is done here should make its contribution to the solution of the big problem. That will lead us to think that everything is important, but some things are more important than others. As I think about priorities on the college campus today, it leads me back to personal responsibility and if you'll excuse a few moments of thinking out loud, I speak to the role of the college president.

Recently an article indicated that the college president, for many years, had to be an *academician*. Since World War II in a time of growth, his role changed from a scholar to that of *institution-builder* and more recently, in the last two or three years, the prime presidential task is neither of these but *crisis manager*. I don't agree with the labels totally but there is some element of truth in the changes. In calmer times, both faculty and administrators could be academicians and spend their time in the areas of pure thought. For twenty years we've had to be institution-builders not only building buildings but improving salaries, the student body and finding a high quality even base for your institution. It's only recently that the task of keeping the peace and keeping the place open has received public attention. Obviously the best leadership requires all three, but with limits on human time and energy, one must constantly consider priorities. By choice, any man in college business would prefer to be an academician and deal with ideas and retreat into realms of pure thought and leave someone else to rassle with the bear. I make a note on the side to the faculty. Pure thought is no longer possible; even in monasteries it gets contaminated by its distance from the action. Only thought, action and contemplation that includes the present conditon of mankind can be considered pure and valid.

The past is important. Theory must be expounded and resolved. Experience must be reviewed and revered. But if these things do not relate to now and the future, they are then impure, not because of something in the recipe but because of something the recipe lacks. I think the wise president today would be by choice an academician, by necessity an institution-builder and under a bit of protest, a crisis manager. He would, I think, not protest crises because the issues of the campus and the world are not important. In fact, everything I'm saying tonight screams of the importance of the issues. But he would protest when the resolution of campus issues creates more heat than light, depends upon adversary proceedings and confrontation tactics and aborts other crucial issues.

I don't think at Doane we walk away from the issues. I seek student concern, student involvement, student expression and student cooperation. I seek faculty concern, faculty involvement, faculty expression and faculty cooperation. This concern ought to touch a host of issues which are obviously of relative importance from the creation of the Doane academic product to the problem of a broken gum machine. Obviously big issues should get the biggest attention. All too often the wheel that squeaks gets the grease. If I retain some task as crisis manager, I intend to play it as Cool Hand Luke. You may recall from the movie, Luke said "what we have here is a failure to communicate." I'd like to retain a certain coolness, keeping heat from obscuring the issue and then correct all failures to communicate. Open the doors, lower the barriers, provide for everyone the right to hear and the right to be heard, not as watchdogs and vigilantes but as people interested in the product, but retaining some role as a traffic manager and planner of agenda, letting the biggest issues get their day in court first. I consider it administrative abdication to allow the agenda to be responsive to the loudest, which may or may not be the most important.

This is the year of curriculum planning at Doane, which will use a lot of our energies and skills. Those energies and skills cannot be dissipated too quickly. Both here in the microcosm and out there in the macroproblem, problems arise before us like yawning chasms and they have to be bridged by a new consensus. There must be some understanding on both sides. To bridge any chasm, you have to rest a structure of understanding on both cliffs. There are no one-cliff bridges. In a day when the center seems to be dropping out of all issues, cliffs become increasingly hazardous places and many people suggest we retreat from them and let the chasm, the gorge, stand unbridged rather than fall. That's shortsighted. We have to walk up to every issue and do our best and then, is it not called, this thing we pursue, education?

Last week, visiting with the resident assistants, we spoke in one group about the Doane College response to issues and asked whether the college had been capricious, responding in different ways on different issues or generally had been predictable. One man said, "Oh, you're pretty predictable, you generally stay in the middle." It was meant to be a mild rebuke, but in a day of polarization and real questioning whether either pole possesses the truth, I consider it a compliment. I continue to seek the elusive third option.

The public press today, in discussing campus life, puts forth images of option A and option B. *Option A*, oriented to the past, a campus where the president retains unquestioning authority, where faculty stick to their lectures and testing of the facts and where a series of values that have identified higher education for the last hundred years must be preserved at all cost. Opposing this is Option B where folks feel all must be changed, that colleges must become political creatures, authority must be dispensed to the lowest customer, learning is almost totally emotional and does not require fact, discipline is old hat, relationship between people is all the knowledge that really matters. Given these two stereotypes, most of us would reject them both.

Moving off campus for a moment and putting the polarities in more general terms, I use a list culled from recent readings. The old culture has moral components which are authoritarian, punitive, fundamentalist. When forced to choose, it tends to give preference to property rights over personal rights, technological requirements over human needs, competition over cooperation, concentration over distribution, producer over consumer, means over ends, secrecy over openness, social form over personal expression and loyalty over truth. The new *person-centered culture* reverses all these priorities. I sense a serious personal problem in the constant seeking and holding out for a third option. In a day when the center is falling out, it's easy to find philosophic chums at either one of the edges. But in pointing to the flaws of everyone else's arguments, one ends up as a lonely man. The liberal centrist, the way I would define my own views, finds out that he is no longer wooed or needed as much as he once was and he has difficulty being effective. He seems to operate in a moral vacuum which disturbs both the old and the new. In the past the liberal centrist has been effective at negotiation and mediation between two divergent points of view but that effectiveness has always been based on a unified consensus at a deeper level of society. Somewhere the consensus both on the national level and at institutional levels does not exist or have its former

strength. It must be found again. If we need new kinds of approaches to the problems, if stitutions, we had better design them and and find out how to get them accepted. If we need an active stewardship of the future, we need new national and supernational in- if we need altered values, compatible with a livable world, we had better do that also. We have to view the *macroproblem* passionately but also objectively. We have to use our microcosm to train ourselves for solutions. For us in residence at Doane, for the year 1970–71, there is no better time than now, there is no better place than here.

POLLUTION INVADING THE WORLD'S WATERS

Mr. YARBOROUGH. Mr. President, in a remote corner of the Washington Post edition of September 17, 1970, there appeared a three-paragraph article which, though benign in its size, was terrifying in its content. In it, Jacques Yves Costeau, back from 3½ years' exploration and movie-making around the world, and a man intimately familiar with the ocean and its environs, makes a single but shocking statement:

The oceans are dying. The pollution is general.

He goes on to say that ocean life has diminished by 40 percent in the last 20 years.

Mr. President, I think all of us must realize by now that pollution poses a great threat, not only to the oceans, but to our entire environment. But when a man of Cousteau's firsthand knowledge and experience makes such a far-ranging statement, the gravity of the environmental crisis is brought home with shocking impact.

Two other articles of recent date provide evidence that what Cousteau says is true. One appeared in the Dallas Morning News on September 6, 1970, and discusses how the Caspian Sea, the world's largest lake and a prime source of Russian caviar, face certain death unless pollution ends. The other is an article published in the September 6, 1970, edition of the Washington Post, revealing how pollution has tainted the Mediterranean Sea, particularly along the resort areas of the Riviera.

Mr. President, these articles illustrate why I believe to be so urgent my bill, Senate Joint Resolution 156, a bill to create an interagency commission to enable the United States to make adequate preparation for the 1972 U.N. Conference on the Human Environment, be passed. The U.N. Conference could be mankind's last supper before its crucifixion by its own waste. I am not an alarmist; nor am I a doomsdayer; but I am a realist. I do have progeny, and I do worry about what the state of our planet will be after I have passed on. The increasing evidence that we are approaching a process of decay that is irreversible causes me to give every priority to efforts to preserve our biosphere. And, without question, the most crucial of these efforts present or contemplated, is the U.N. Conference of 1972. We must make the most of what may be man's last opportunity to avert extinction.

Mr. President, I ask unanimous consent that the three articles, the first entitled "Oceans Are Dying, Cousteau Says," printed in the September 17, 1970, edition of the Washington Post; the second entitled "Caspian Sea Faces 'Death' Unless Pollution Ends," by Peter J. Shaw, appearing in the September 6, 1970, edition of the Dallas Morning News; and the third, entitled "Water Pollution Problem Tarnishes Vacation on the French Riviera," by Roland Huntford of the London Observer, contained in the September 6, 1970, edition of the Washington Post, be printed in the RECORD.

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

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

"OCEANS ARE DYING," COUSTEAU SAYS

MONTE CARLO, September 16.—"The oceans are dying. The pollution is general."

That's the appraisal of Jacques Yves Cousteau, back from 3½ years' exploration and movie-making around the world.

"People don't realize that all pollution goes to the seas. The earth is less polluted. It is washed by the rain which carries everything into the oceans where life has diminished by 40 per cent in 20 years," the underwater explorer said.

[From the Dallas Morning News, Sept. 6, 1970]

SCIENCE SPOTLIGHT: CASPIAN SEA FACES "DEATH" UNLESS POLLUTION ENDS

(By Peter Shaw)

LONDON.—Pollution could make the Caspian Sea, the world's largest lake and a prime source of Russian caviar, a dead sea in the 21st century.

A top Soviet ecologist, Prof. A. G. Kasymov of the Azerbayan Academy of Sciences, warned in a recent issue of Britain's monthly Marine Pollution Bulletin:

"If pollution of the western part of the middle and southern Caspian Sea continues as it is now, the sea can be expected to be transformed into a dead sea—not only unsuitable for habitation by fish and other food animals, but also for the needs of technology."

The 170,000 square mile Caspian Sea is surrounded by the Soviet Union and Iran. The world's second largest lake, America's Lake Superior, has an area of 31,820 square miles.

"The growing problem of the pollution of the Caspian Sea has recently aroused much concern in the Soviet Union for it seems to be leading to a catastrophe," Kasymov wrote.

"A chain reaction is being set up which will have consequences that are difficult to predict."

Kasymov, who is attached to the academy's institute of zoology, said the Caspian Sea is annually being polluted by about one million tons of petroleum and petroleum products, 100,000 tons each of asphalt and sulphuric acid and 10,000 tons of other substances toxic to aquatic organisms.

"Where pollution is particularly severe, the surface of the sea is covered with a thick layer of petroleum products and the substratum is impregnated with petroleum and various petroleum products," Kasymov said.

He said pollution of the coast in the Azerbayan region, along the sea's southwest shores, was principally due to petroleum and waste water from chemical and petroleum refining industries. He said Azerbayan's petroleum output was increasing and further pollution was inevitable.

The Soviet scientist listed several measures to protect the Caspian Sea from pollution. Among them: purification units for all plants, factories and works that discharge waste waters into the lake, and prohibition of the discharge of all caustic solids used in industrial or petroleum production.

[From the Washington Post, Sept. 6, 1970]

WATER POLLUTION PROBLEM TARNISHES VACATION ON THE FRENCH RIVIERA

(By Roland Huntford)

Regularly every morning, a long white patch appears on the waters of the cove near ice where I like to bathe. It is drain water from houses on the cliff, and it makes its leisurely way from there to the beach.

Although it appears to be largely detergent, and presumably innocuous, most swimmers time their bathing to avoid it.

At least we are lucky in this particular cove, because we can keep away from visible pollution and, most of the time, the water is reasonably clear. This can scarcely be said of most other beaches along the Cote d'Azur.

Nice itself suffers frankly filthy water, with sewage floating too obviously for comfort. Local inhabitants keep away from the beach during the holiday season, hoping for a clearer sea in September.

In the past few years, I have noticed a steady deterioration in the state of the sea around Nice. No longer am I prepared to dispute the cry that the Mediterranean is becoming a stinking cesspool.

Oil on the beaches has long been a regular accompaniment of Riviera life, like forest fires in July and wasps in August. When you go bathing you take, as a matter of course, besides sun lotion, a straw mat to protect yourself from oil patches on the shingle, and some solvents to remove the inevitable stains.

Such solvents are now the stock-in-trade of all shops along the coast. New kinds with new trademarks appear every year, and only the knowledgeable and the economical insist on simple benzine in order not to throw money away unnecessarily.

The hunt for cleaner water has already started. With few exceptions, the coast from Marseilles to well east of Genoa in Italy has been well and truly dirtied. The Spanish coast is reputedly worse. But Yugoslavia, Greece, parts of Southern Italy and Corsica and Sardinia are supposed to be cleaner.

But not even water pollution can deprive the Riviera of its elusive patina. The rich and the famous still come, and those who can afford it have filtered swimming pools. The rest take their chances in the open sea.

Despite creeping pollution and the annual denudation of the forests by destructive fires, the Riviera has kept something of its traditional holiday atmosphere. The president of the republic has come to take his annual stint in the sea. The stars gather at St. Tropeza and Monte Carlo. And, true to habit, burglars and jewel thieves have arrived.

Without these gentlemen of crime, the Riviera's season would not be quite itself. The coast of the South of France in summer is the happy hunting ground of crooks in search of sun and booty.

The usual quota of jewel thefts has taken place. Car thieves have been apprehended by the score. But an ugly intrusion into an otherwise happy bed of honest crime, drug traffic, has also arrived. Opium dealers and heroin pushers have been arrested wholesale and this year for the first time one notices drug addicts, red-eyed and listless, in public places. It is as if pollution had taken hold both of man and nature.

But still there remain compensations along this bit of coast, the monumental views of mountains and sea, the easy Provencal character, and the splendid cuisine. But even there, it is best not to think too much or question too deeply. Heaven knows what the fish in your bouillabaisse bring with them from a tainted sea.

PROPOSED HEALTH SECURITY ACT

Mr. CRANSTON. Mr. President, on August 27, I was privileged to cosponsor S. 4297, the proposed Health Security Act, introduced by the Senator from Massachusetts (Mr. KENNEDY) for himself and 14 other Senators. On that date, I spoke briefly about the importance of this measure, as follows:

Mr. President, our country and its people face countless crises today—and not the least of these is in medical care.

Soaring costs of private care now put this portion of preventive and curative medicine totally beyond the reach of tens of millions of our fellow citizens.

Skyrocketing costs of public programs—like medicare—are absolutely staggering.

We are in a health crisis for endless reasons—and no one is expert enough to predict how much worse the crisis can get because wholly unfathomable factors are involved. Who knows, for example, what health hazards we really face today, and will face tomorrow, because of the poisons and pollutions that endanger the air, water and food we depend upon for our very lives

I join in sponsoring this health insurance legislation because we must come to grips with this crisis.

Undoubtedly this measure will be revised in many small and large ways before it finally becomes the law of the land. It must be given the most detailed and careful study and scrutiny. Surely, there will be many suggestions, some of them sound, some of them unsound, regarding ways to improve the financial and medical aspects of this bill.

Our final objective must be to insure the best possible medical care for the people of our United States and the least possible cost.

I trust that today the U.S. Senate is launching an effort that will lead our Nation to that end.

Today, Mr. President, I would like to cover a few more points regarding this landmark legislative proposal.

First, I wish to express my appreciation for the hard work of Senator KENNEDY and his staff in assembling this monumental bill. When national health insurance legislation in some form is finally adopted, the country will owe a considerable debt to Senator KENNEDY as well as to the Senator from Texas (Mr. YARBOROUGH), chairman of the Health Subcommittee and the full Labor and Public Welfare Committee, the Senator from Ohio (Mr. SAXBE), and the Senator from Kentucky (Mr. COOPER), all of whom served with Senator KENNEDY on the Committee of 100 for National Health Insurance, chaired by the late Walter Reuther.

This legislation reflects the enormous vision and social concern and compassion which Walter Reuther brought to his life and work. Surely no one can quarrel with its aim to provide good medical care for every citizen. The shame is that it appears necessary at this point for the Federal Government to intervene in order to achieve that fundamental goal.

I have cosponsored the bill because I feel that we will probably adopt some form of national health insurance program in the next several years and because I believe that this is the most thoughtful and far-reaching program yet proposed. As I said upon its introduction, I recognize fully that the bill is far from perfect and that there remain a number of unanswered questions and enormous administrative, political, professional, and economic problems to resolve before any such national health security program could function effectively and in a fiscally responsible way.

For example, we obviously must explore the role of those insurance companies, which have already invested so heavily in the health insurance field, in assisting in administration of such a program.

We also must ensure that there is a very ample period from the date of enactment to the effective date—at least 2 years and probably more—to ensure effective leadtime for planning and preparation, as well as improvement and lateration of health care delivery systems prior to attempting a program as comprehensive and far reaching as is proposed in this bill.

Also, I think serious consideration should be given to beginning such a comprehensive program in four or so representative States rather than, right off, on a nationwide basis in more than 50 different jurisdictions with enormously disparate State laws, customs, medical practice conventions, and regulations and traditions of delivering health care.

One other unresolved question of particular concern to me as chairman of the Labor and Public Welfare Committee's Subcommittee on Veterans' Affairs is the relationship of a veteran to this national health security program. As the bill is now written, every person, including even a veteran with a 100-percent disabling service-connected condition, would have to pay a payroll tax toward the program's expenses. It seems to me that serious legal, moral and other questions can be raised about the appropriateness of such an additional charge to persons already entitled to free health care from the Federal Government based on some sort of quasi-contractual or other right. I thus plan to work closely with the other sponsors of this bill to protect the interests of our Nation's veterans and to insure the integrity and full utilization of the enormous health resources offered by the VA hospital and medical system.

These are but a few of the questions raised by this highly complex and visionary proposal. Lest I appear to have cosponsored a bill about which I think there are more questions than answers, let me hasten to add that I feel the virtues and positive features of this bill far outweigh its possible shortcomings and unresolved questions.

Of particular note are the priorities which the bill places on creating favorable circumstances for the growth and expansion of comprehensive group practice, ambulatory care centers, community mental health centers, hospital day care centers, and other forms of noninstitutionalized provision of medical care. I think this is obviously the only direction in which we can move if we are to bring some reason and some logic to our current health care cottage industry. I also strongly support the comprehensive nature of the services covered without coinsurance or deductible provisions.

I believe we must move boldly to develop a comprehensive program utilizing the combined resources and imagination of the private and public sectors to make our health care system as responsive, as low in cost, as accessible, and as innovative as possible. At committee hearings on national health insurance at the end of September, we received much expert testimony which should constitute an important resource for groups and individuals who wish to study the general concept and the various proposals for national health insurance in the months ahead.

Mr. President, I look forward to working closely with Senators KENNEDY, YARBOROUGH, SAXBE, and COOPER, as well as with the other sponsors of this legislation, in the many long months ahead to perfect this program. I can think of no more urgent domestic matter than providing a sound, comprehensive, solvent system of providing compassionate, effective, and economical medical care for our sick and injured, and our chronically ill, often hopelessly incapacitated, citizens, regardless of their financial means.

PRESIDENT NIXON'S JOURNEY ABROAD

Mr. DOLE. Mr. President, last night the President of the United States returned home from an 8-day trip that took him to five nations and to the Mediterranean Sea itself in a visit to the 6th Fleet.

The primary purpose for the President's trip was peace—peace in the Middle East and peace in Vietnam.

By his journey and by his presence, he brought the chances for a lasting peace in the Middle East a little closer and made the prospects for world peace a little brighter.

The President said before leaving Ireland that his goal is to give the world a "generation of peace."

At first glance that goal seems reasonable enough. But I would point out that in this century we have yet to have a generation that has not seen major fighting somewhere in the world. A generation of peace. Only a strong United States, led by a strong President, can bring that about.

But all of us can and must support that goal. And all of us can and must work with the President to bring it nearer.

None of us, Mr. President, can do any less if we are to keep faith with the people we serve.

CONSUMER CLASS ACTIONS

Mr. MAGNUSON. Mr. President, there has been some concern expressed by industry representatives that S. 3201, containing consumer class action provisions which is now scheduled for floor action, represents too radical an expansion of consumer rights.

I invite attention to evidence which suggests that far from opening the floodgates and innundating the courts, the class action provisions of the Commerce Committee bill actually limit and restrain the uninhibited right to consumer class actions which may already exist in Federal courts.

Several cases recently filed have claimed that private consumer actions including consumer class actions, may now be maintained in Federal courts for the redress of any "unfair or deceptive act or practice" under section 5 of the Federal Trade Commission Act.

If the cited case law proves persuasive to the courts—and I am informed by knowledgeable attorneys that the briefs filed so far are indeed persuasive—then S. 3201 is needed not to grant a new procedural right to consumers but to protect legitimate business against potential abuses of consumer class actions and to insure the orderly processing of consumer claims.

The Commerce Committee amendments to S. 3201 if adopted will provide the following restraints:

First. Class actions arising out of individual transactons under $10 will not lie unless or until FTC or Justice has successfully prosecuted the manufacturer or seller.

Second. Class actions under S. 3201 will lie only for the violation of clearly defined "unfair consumer practices" as listed in the act and defined through fair rulemaking procedures rather than for any act which the court may define as "unfair or deceptive."

Third. If the court finds that a particular class action is a "strike suit" designed to harass or intimidate a defendant the court can award attorney's fees to the defendant.

Fourth. S. 3201 provides the mechanism for the FTC or Justice Department to act on behalf of consumers, resulting in a stay and consolidation of multiple private consumer class actions.

I ask unanimous consent that a portion of the text of a brief filed by Belli, Ashe, Ellison, Choulos & Lieff in the case of Headley against Continental Credit Card Corporation, in the U.S. District Curt for the Northern District of California be printed in the RECORD.

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

VI. PLAINTIFFS HAVE STANDING TO BRING THIS ACTION UNDER SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

Defendants argue that this Court lacks jurisdiction of the third claim for relief because "Congress has not provided a private cause of action to that section". Defendants' position represents a misconception of the law of jurisdicition. In *Bell v. Hood*, 327 U.S. 678, 90 L. Ed. 939, 66 S.Ct. 773 (1945) plaintiffs brought an action against agents of the Federal Bureau of Investigation for allegedly violating their constitutional rights. The District Court and Court of Appeals had held that, inter alia, since the constitution did not authorize money damages to the plaintiffs, the Court lacked jurisdiction. The Supreme Court reversed and held that whether those particular plaintiffs had any right to relief pursuant to the constitutional provision was irrelevant to the question whether the Court had jurisdiction to pass on the merits of the claim. The Court held that the District Court should have assumed jurisdiction, then proceeded to the question whether plaintiffs had stated a cause of action. Accord, *Baker v. Carr*, 369, U.S. 186, 7 L. Ed. 2d 663, 82 S.Ct. 691 (1962).

Defendants mean to object to the *standing* of plaintiffs. To expedite matters, plaintiffs will consider the issue as though it had been properly stated: Do the plaintiffs have standing to bring an action for private relief under Section 5 of the Federal Trade Commission Act, as amended by the Wheeler-Lea Amendment of 1938.

B. The two criteria of (1) adverseness and (2) congressional intent to protect must be present for plaintiffs to have standing. They are present in the case at bar

The precise question presented for decision by this Court is one of first impression. The issue is: Does a consumer have standing to bring an action for private relief under 38 Stat. 719, Section 5 of the Federal Trade Commission Act, as amended by the Wheeler-Lea Amendment of 1938, 52 Stat. 111?

As originally passed in 1914, the relevant portion of Section 5 reads:

"That unfair methods of competition in commerce are hereby declared unlawful." 38 Stat. 719

The Wheeler-Lea Amendment was passed in 1938 to:

"Afford a protection to the consumers of the country that they had not heretofore enjoyed." (83 Cong. Rec. 392 (1938), (remarks of Representative Lea).

As amended Section 5(a)(1) reads as follows:

"Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are declared unlawful". 52 Stat. 111

Congress has provided in 28 U.S.C. 1337, *Commerce and Anti-trust Regulations*:

"The District Court shall have original jurisdiction of any civil action or proceeding arising under any act of Congress regulating commerce or protecting trade in commerce against restraints and monopolies."

In the latter part of the 19th Century and the first part of this Century, the Supreme Court required that standing be determined by the "legal interest"—sometimes called "legal rights" or "legal injury"—test. That test has proven unsatisfactory because it first requires a decision on the merits or because it is simply conclusionary or circular.

The problem of requiring a decision on the merits to decide the standing question can best be seen in the old competition cases. In *New Orleans, Mobile and Texas Railroad Co. v. Ellerman*, 105 U.S. 166, 26 L. Ed. 1015 (1882), plaintiff Ellerman held a franchise from the City of New Orleans to collect wharfage fees. The defendant railroad was later given a franchise by the State of Louisiana to collect the same fees. Plaintiff argued that the State of Louisiana's action deprived him of a vested property right. The Supreme Court first found that the plaintiff had been given no legal right to be free from competition and that, therefore, he lacked standing to bring the suit because he did not have a "legal interest". In *Tennessee Electric Power Co. v. Tennessee Valley Authority*, 306 U.S. 118, 83 L. Ed. 543, 59 S. Ct. 366 (1938), eighteen private power corporations in competition with TVA brought an action against TVA on the grounds that TVA was unconstitutionally created. The power companies relied on state statutes which they argued conferred on them the right to be free from competition. The Supreme Court found that the state statutes did not confer on the power companies the right to be free from competition and that, therefore, they lacked standing because they did not have a "legal right".

Pittsburgh and West Virginia Railway Company v. United States, 281 U.S. 479, 74 L. Ed. 980, 50 S.Ct. 378, (1929), is a case using conclusionary or circular "tests" and calling it the legal injury test. Plaintiff was a minority stock holder of a railroad authorized to conduct certain activities by the Interstate Commerce Commission. The Supreme Court held that the financial loss that was to be suffered by plaintiff was insufficient to constitute a "legal injury" and that, therefore, plaintiff lacked standing to bring the action. *Allegheny Corporation v. Breswick Co.*, 353 U.S. 151, 1 L. Ed. 2d 726, 77 S. Ct. 763 (1957) is another action brought by a minority stockholder based on an Interstate Commerce Commission order. The Court employed the same "tests" but held that the plaintiff had a sufficient economic loss to constitute a legal injury and that, therefore, he had standing.

The legal interests test has gradually eroded. It was dealt its death blow by the Supreme Court in its last term. Under the newly-evolved test, there is a rebuttable presumption that a party has standing if he can prove the following:

1. He will conduct his case with adversary zeal.

2. The statute under which he is suing was enacted by Congress with the purpose of protecting the class of persons of which he is a member.

The presumption can be rebutted only with an explicit and clear statement by Congress to the contrary. Silence is insufficient. The presumption in favor of the standing of the plaintiff is made even stronger—if not conclusive—if he can demonstrate the following two elements:

1. He, as a private party, would otherwise have no remedy under the statute.

2. The purpose of Congress is passing the statute can most effectively be met by granting standing to private parties.

Baker v. Carr, 369 U.S. 186, 7 L. Ed. 2d 663, 82 S. Ct. 691 (1962) is the genesis of the new standing test . . . In *Baker*, the Supreme Court stated that it was still following the legal rights test, but the formulation of the test sounded very different. In *Baker v. Carr*, the plaintiffs brought an action arising under the Fourteenth Amendment to the United States Constitution, which they argue was passed to, inter alia, guarantee them that their votes would not be debased in public elections. Plaintiffs relied on 42 U.S.C. Section 983 and 1988 for jurisdiction. The District Court, sitting as a three-judge Court, dismissed the action on the ground that it lacked jurisdiction of the subject matter and that the complaint failed to state a claim upon which relief could be granted. The Supreme Court reversed. The Court stated the issue as follows:

"Have the appellants alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the Court so largely depends for determination of difficult constitutional questions? This is the gist of the question of standing." 369 U.S. at 204.

The Court held that the voters did have such a personal, adverse stake. The Court also found that the Fourteenth Amendment was passed to, *inter alia*, protect electors from debasement of their votes:

"A citizen's right to a vote free of arbitrary impairment by state action has been judicially recognized as a right secured by the Constitution . . ." Id. at 208.

The Court found (1) adverseness and (2) an intent to protect and held that the plaintiffs had standing.

By the 1968–69 term, it was clear that the Supreme Court had not only evolved a new test, but had dropped the old legal interest terminology. In *Flast v. Cohen*, 392 U.S. 83, 20 L. Ed 2d, 947, 88 S. Ct. 1942 (1968), the plaintiffs, as taxpayers, brought an action arising under the establishment and free exercise clauses of the First Amendment to the United States Constitution They argued that the purpose of that amendment was to, inter alia, guarantee them that they would not be taxed to support religious activities but that a Congressional Act did authorize the expenditure of their taxes for religious purposes. A three-judge Court dismissed the action on the ground that the plaintiffs lacked standing. The Supreme Court reversed. First, the Court cited the

language from *Baker v. Carr, supra,* indicating the need for an adverse, personal stake and found that the plaintiffs in Flast did have such a stake. *Secondly,* the Court found that one of the purposes of the drafters of the Constitution was to prevent taxpayers from having to pay taxes to support religion:

"Our history vividly illustrates that one of the specific evils feared by those who drafted the establishment clause and fought for its adoption was that the taxing and spending power would be used to favor one religion over another or to support religion in general." Id. at 103.

In *Allen v. Board of Elections,* 393 U.S. 544, 22 L. Ed. 2d 1, 89 S. Ct. 817 (1969), electors and candidates for public office brought an action arising under Section 5 of the Voting Rights Act of 1965 The plaintiffs relied for jurisdiction on 28 U.S.C. Section 1343. Section 5 of the Voting Rights Act follows the same form as Selection 5 of the Federal Trade Commission Act. It sets out the purpose of the Act and provides for enforcement by the United States Attorney General:

"Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) (42 U.S.C. Section 1973b(a)) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: Provided, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the Attorney General's failure to object nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court." 79 Stat. 439, 42 U.S.C. Section 1973c (1964 ed, Supp. I).

The Supreme Court held that the private parties had standing to bring an action arising out of an alleged violation of the Act. First, the Court made the finding of an adverse, personal interest on the part of the plaintiffs. Second, it made the finding that Section 5 of the Voting Rights Act was intended to protect a class of persons of which plaintiffs were members.

In addition, the Court found that the purpose of Congress would be implemented by granting standing to plaintiffs, because the Attorney General had a limited staff and might not be able to uncover all attempts by the states to defeat the Congressional purpose of assuring that persons would not be denied the right to vote because of their race.

Hardin v. *Kentucky Utilities Co.,* 390 U.S. 1, 19 L. Ed. 2d, 787, 88 S. Ct. 651 (1968), is the last Supreme Court case that even claims to follow the old legal interest test of *Railroad Company* v. *Ellerman, supra,* and *Tennessee Power Company* v. *TVA, supra.* This is an action brought by a private power company against the mayors of two towns and the TVA on the grounds that the TVA in conspiracy with the mayors was providing electric power to the towns in violation of a provision of the Tennessee Valley Authority Act of 1933. That Act establishes the Tennessee Valley Authority, defines its powers, and sets up prohibitions on certain activities by it. A commission is established to effectuate the Act.

In stating the legal interest test it was clear that the test had undergone a complete metamorphosis. The Court notes that there is no explicit grant or denial by Congress of standing to private parties to sue under the Act. The Court examines the history of the TVA and finds that one of the primary purposes of the provision under which the plaintiffs in *Hardin* claim standing was to protect the class of private utilities of which plaintiffs were members from TVA competition. Therefore:

"Since respondent is thus in a class which Section 15–D is designed to protect, it has standing under familiar judicial principles to bring this suit (citing cases), and no explicit statutory provision is necessary to confer standing." 39 U.S. at 7.

In two companion cases decided in March of this year, *Data Processing Service* v. *Camp,* U.S. ——, 25 L. Ed. 2d 184, 90 S. Ct. ——, *Barlow* v. *Collins,* U.S. ——, 25 L. Ed. 2d 192, 90 S. Ct. ——, the Court, after noting the legal interest test's longstanding infirmities and its death, formally buries it. Both cases were actions brought by private parties challenging administrative actions. In both cases, the lower Courts had held that the parties lacked standing. The lower Courts had relied on the old legal interest test. The Court stated that that test was no longer acceptable. The new test, as most clearly set forth in *Barlow,* requires:

"First . . . the personal stake and interest that impart the concrete adverseness required by Article III.

Second (a showing that plaintiffs) are clearly within the zone of interest protected by the Act.

Third . . . judicial application of canons of statutory construction (to determine whether Congress intended to give a party standing in the Courts). It is, however, 'only upon a showing of clear and convincing evidence of a contrary legislative intent' that the Court should restrict access to judicial review." Id. at 198–200.

In 1964, midway in the development of the new standing test, the Supreme Court decided *J. I. Case Co.* v. *Borak,* 377 U.S. 426, 12 L. Ed. 2d 423, 84 S. Ct. 1555 (1964). *Borak* is indistinguishable from the instant case on the broad question of the standing of a private party to bring an action arising under a federal statute. An action was brought by a private party alleging, inter alia, a violation by the defendants of Section 14 of the Federal Securities Exchange Act, 15 U.S.C. Section 78–n. That section bars the use of deceptive or inadequate disclosure in proxy solicitations. Like the Federal Trade Commission Act, the Securities Exchange Act declares certain practices to be illegal and establishes an agency, the Securities and Exchange Commission, to enforce the act. Also as in the Federal Trade Commission Act, Congress did not in the Securities Exchange Act expresaly grant standing to private parties to bring actions for violations of the practices declared in the Securities and Exchange Act to be illegal.

There is no discussion in *Borak* of the question whether plaintiffs would have a personal stake sufficiently adverse that they would prosecute their action with zeal. Apparently since considerable money was at stake, the Court assumed that such adverseness was obvious.

The Court found that plaintiffs were in the class of persons who were intended by the Act to be protected:

"While this language (from legislative history) makes no specific reference to a private right of action, among its chief purposes is 'the protection of investors', which certainly implies the availability of judicial relief where necessary to achieve that result." Id. at 432.

The Court points out in addition that since the Securities and Exchange Act does not expressly provide for private relief, it must be inferred:

"To hold that derivative actions are not within the sweep of the section would therefore be tantamount to the denial of private relief. Private enforcement of the proxy rules provides the necessary supplement to Commission action." Id. at 432.

In addition, the Securities and Exchange Commission has an extremely heavy workload. By permitting private parties standing under the Act serves the Congressional purpose of discouraging deceptive and misleading statements in proxy solicitations.

"The Commission advises that it examines over 2,000 proxy statements annually and each of them must necessarily be expedited. Time does not permit an independent examination of the facts set out in the proxy material . . ." Id. at 432.

The Supreme Court held that private parties had standing to bring actions arising out of the Securities and Exchange Act.

Application of the new test requires a holding that plaintiffs in the instant action have standing to bring an action arising out of Section 5(a)(1) of the Federal Trade Commission Act.

1. Plaintiffs have a sufficient personal stake to guarantee that they will conduct this action with necessary adverseness

Each of the plaintiffs in this action has lost his investment of thousands of dollars. In addition, he has spent a considerable amount of time and money in pursuit of the worthless, fraudulent scheme of defendants.

2. Wheeler-Lea Amendment of 1938—Which Is Now a Part of Section 5(a) of the Federal Trade Commission Act—Was Passed With the Purpose of Protecting the Class of Consumers of Which Plaintiffs Are Members

Plaintiffs are consumers of defendants' franchises. They are not their competitors. When Chairman Lea, who was the Chairman of the Committee on Interstate and Foreign Commerce, introduced the Wheeler-Lea Amendment in the House, he stated:

"Indeed, the principle of the Act is carried further to protect the consumer as well as the competitor. In practice the main feature will be to relieve the Commission of this burden (of having to prove competition where it has jurisdiction), but we go further and afford a protection to the consumers of the country that they have not heretofore enjoyed." 83 Con. Rec. 392 (1938), (Remarks of Representative Lea).

Representative Reece, a member of Chairman Lea's Committee, made the same point in debate before the House:

"Briefly the pending bill would amend and extend the Federal Trade Commission law so as to—protect the consuming public from unfair practices in commerce, as the present law protects our businessmen from unlawful competition practices by their rivals; . . ." 99 Cong. Rec. 397 (1938), (Remarks by Representative Reece).

During the extensive debate and discussion of the bill in the House, not one member questioned that one of the purposes of the Act was to add protection to consumers.

Just as in the Voting Rights Act, in the Securities and Exchange Act, and in the other Acts discussed above, Congress has

provided in the Federal Trade Commission Act an enforcement machinery. And just as in those Acts, Congress in the Federal Trade Commission Act was silent on the question whether a private party had standing to bring an action arising out of a violation of the Act. And just as the Supreme Court held in the cases above that private parties have standing if they can show (1) adverseness and (2) an intent to protect, so this court must hold that the plaintiffs in the case at bar have standing, since they have shown (1) adverseness and (2) an intent to protect.

The additional policy reasons for granting standing in the *Borak* case are also present in this one. Just as in the Securities and Exchange Act, so in the Federal Trade Commission Act there is no provision for private relief. Just as the Court said in *Borak* that a private party in such circumstances should be presumed to have standing, so also must plaintiff be presumed to have standing in the case at bar.

Just as the securities and Exchange Commission has a large workload and a limited staff, so also does the Federal Trade Commission.[4] By permitting private parties to bring actions for deceptive and misleading proxy solicitation material, the Congressional purpose of discouraging that type of material is advanced. So also by permitting private parties to bring actions against perpetrators of deceptive and unfair consumer practices, the Congressional purpose of discouraging that type of consumer practice is furthered.

C. Reliance by defendants on the cases cited by them in their motion to dimsiss is misplaced

Defendants have failed to note that there are two branches to Section 5 of the Federal Trade Commission act:

1. The branch that protects competitors that was passed in 1914; and

2. The branch that protects consumers that was passed in 1938 as part of the Wheeler-Lea Amendment.

The 1926 case of *Moore v. New York Cotton Exchange*, 270 U.S. 593, 70 L.Ed. 450, 46 S.Ct. 367 (1926), has one sentence in it about a cause of action brought by a private party under Section 5. The sentence is a conclusionary sentence to the effect that a private party has no standing to bring an action under Section 5. The Court states no rationale for its conclusion. At that point in history, the Court could only have been relying on the conclusionary legal interest test. That test has now been expressly rebuked by the Supreme Court. *Moore* has been overruled *sub silento*. But even if *Moore* had not been overruled, it is not in point on the issue before this Court in the case at bar: Does a consumer—not a competitor—have standing to bring an action for private relief based on the statute as amended by the Wheeler-Lea Amendment of 1938?

Defendants misconstrue the holding of *Sampson Crane Company v. Union National Sales, Inc.*, 87 F. Supp. 218, (D. Mass. 1949) also a competitor case. The language to the effect that private parties have no right of action under Section 5 is more dicta. The Court in that case was unable to get to the question of a private party's standing to bring an action under Section 5, because the party there had failed to allege the use of interstate commerce. But even the dicta relies on *Moore*, which has been overruled *sub silento* and is addressed only to the question of the standing of competitors, not consumers.

It is difficult to determine the reason for defendants' reliance on *Atlantic Refining Co. v. FTC*, 381 U.S. 357, 14, L.Ed. 2d 443, 85 S.Ct. 1498 (1965). First, that is a case dealing with the competition branch of Section 5. Second, the question before the Court is what standard should be used in reviewing an order by the Federal Trade Commission determining certain practices to be unfair methods of competition. The Court concludes that the "warrant in the record" standard is the one to be used in such a situation. The Court does state that certain statutory terms like "unfair" should be defined by the Commission, but that the Courts have the final say on their meaning. The same applies to broad terms in the Securities and Exchange Act. Certain broad terms are left to definition by the Securities and Exchange Commission, but the Courts have the final say. And, as held in *Booak*, private parties have standing under the Securities and Exchange Act.

Highland Supply Corp v. *Reynolds Metal Co.*, 327 F. 2d 725, (8th Cir. 1964), also a competition case, is apparently cited by defendants because it restates the dicta that was stated in *Sampson Crane. Highland* was a private anti-trust action. The action had been dismissed by the District Court on the grounds that the statute of limitations had run. Plaintiffs argued that the statute had not run, because it had been tolled by the Federal Trade Commission's order of divestire. The holding of the Court has nothing to do with the issue in the case at bar:

"Since Section 5 of the Clayton Act has no application to an order . . . of the Federal Trade Commission . . ., we hold that any reference made to the FTC proceedings in the instant complaint was insufficient to toll the statute of limitations as provided in that Act, . . ." 327 F. 2d at 731.

Marquette Cement Manufacturing Co. v. *FTC*, 147 F. 2d 589 (7th Cir. 1945), another competition case, is equally not on point. The plaintiff brought an action to prevent the Federal Trade Commission from hearing the case on the ground that the Commission was not an impartial tribunal. Plaintiffs argued that there was no necessity that the action be heard by the Federal Trade Commission, because the Department of Justice had concurrent jurisdiction.

The Court simply held that the Justice Department was not a tribunal that had authority to bring an action. The question whether a private party had standing to bring an action for damages for private, not public, injuries was not even before the Court.

The reliance by defendants on *Atlanta Brick Co.* v. *O'Neal*, 44 Supp. 39 (E. D. Tex. 1942) another competition case, is clearly mistaken. The Court in *Atlanta Brick* overruled a motion by defendants to dismiss an action brought by a private party based on Section 5 of the Federal Trade Commission Act. Plaintiff sought damages under the Sherman Act, the Clayton Act, Section 5 of the Federal Trade Commission Act and Section 3 of the Robinson-Patman Act. The Court held that the allegations did not amount to a Clayton Act violation and that only the allegations of combination would amount to Sherman Act violations. As to the alleged Robinson-Patman violation, the Court held that, while the Act "does not provide in express terms that a person injured by things forbidden shall have a cause of action," the effect of the acts declaring them unlawful is that "the person so injured . . . is entitled to invoke its provisions, if he can allege and prove injury approximately caused by such violations."

Concerning Section 5 of the Federal Trade Commission Act, the Court also referred to the fact that "the Act nowhere gives any additional right of action to persons injured by unfair trade practices. On the contrary, it expressly provides that nothing therein shall 'be construed to alter, modify, or repeal the Anti-Trust Acts'." The Court did not grant the defendant's motion to dismiss the counts based upon the alleged violation of the Federal Trade Commission and Robinson-Patman Acts, but held only that, as they did not constitute anti-trust laws within the meaning of the provision providing for treble damages, treble damages were not permitted for their violation.

National Fruit Product Co. v. Dinwell-Wright Co., 47 F. Supp. 499 (D. Mass. 1942) is a competition case that contains dicta that is at best remotely relevant. Plaintiff sued for a violation of Federal Trade Mark Law and for unfair competition (which was assumed to be a state cause of action). The question before the Court was, after *Erie Railroad v. Tompkins*, 305 U.S. 673, 83 L.Ed. 436 (1938), which law applied to these two causes of action. As to any claim based on violation of Federal Trademark Law, the Court held federal statutory law applicable and, where that is ambiguous or silent, federal common law. As to the claim based on unfair competition, a state claim which the Court held was brought into Federal Court under the doctrine of pendent jurisdiction it was held that state law applied. Plaintiff's final argument was that federal law should apply because national commerce requires a national rule of unfair competition. The Court replied, "Indeed, it might well be said that when Congress established the Federal Trade Commission to prevent what are now described as unfair methods of competition in commerce (15 U.S.C. Section 45), Congress indicated that it preferred to have such uniform federal rules as might be appropriate initially devised and applied not by Federal Courts but by a federal administrative agency." Id. at 504. The same point could be made of the securities laws. But, of course, in *Borak* the Supreme Court held that private parties had standing to bring actions for violation of the Securities Acts and the Courts have managed to work quite well in inter-relation with the Securities and Exchange Commission.

La Salle Street Press, Inc. v. *McCormick and Henderson, Inc.*, 293 F. Supp. 1004 (N.D. Ill., 1968), is another competition case. In *LaSalle*, defendants had brought a counterclaim charging that unfair competition violated Section 2(a) of the Clayton Act and Section 5 of the Federal Trade Commission Act. The Court held that no violation of the Clayton Act was alleged. Citing *Moore*, *Sampson Crane*, *Atlantic Refining Co.* v. *FTC* and *Marquette Cement Manufacturing Co.* v. *FTC*, the Court held that private parties did not have standing to seek relief under the provisions of Section 5 of the Federal Trade Commission Act.

Defendants' so-called "unbroken line of authority" is neither unbroken nor authoritative on the issue before this Court in the case at bar. In *Atlanta Brick* the Court overruled defendants' motion to dismiss a private action brought by a competitor based on Section 5 of the Federal Trade Commission Act.

The cases cited by defendants other than *Moore* and *LaSalle Street Press* are not authoritative on any issue concerning Section 5 of the Federal Trade Commission Act. They cite mere dicta based on *Moore* concerning competitor's lack of standing under Section 5. There is analysis in none.

Moore, decided in 1926 before the passage of the Wheeler-Lea Amendment in 1938, and *LaSalle Street Press*, the District Court opinion that follows *Moore* without analysis are not authority on the issue before this Court: Does a consumer have standing to bring an action for private relief under Section 5 of the Federal Trade Commission Act, as amended by the 1938 Wheeler-Lea Amendment?

Based on the law of standing as it has been developed by the Supreme Court in the last

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[4] *Report of the Senate Commerce Committee on S. 3201 (Consumer Protection Act of 1970), Senate Report No. 91–1124, at 15–16* (August 14, 1970). (Plaintiffs' counsel will furnish a copy of the Report to the Court and defense counsel as soon as they receive a copy of same from the Committee).

decade, the answer to that question is a resounded "yes".

D. Reliance by defendants on the pendency of Senate legislation which would amend section 5 to include a specific right of private action to consumers is misplaced

Defendants argue that the pendency of Congressional action to amend Section 5 of the FTC Act clearly implies that Congress considers no right of private action to be allowed under Section 5 as it stands today. This assertion is not true.

"The committee notes that there have been several recent cases filed in Federal Courts which claim that a class action based upon a violation of Section 5 of the FTC Act may be directly maintained under existing law and does not depend upon the authority which this bill (S. 3201) would confer. Committee action on S. 3201 should not be construed to indicate a Congressional intent that the theory of these pending cases is not valid; the Committee takes no position on these cases." *Report of the Senate Commerce Committee on S. 3201 (Consumer Protection Act of 1970), Senate Report No. 91–1124, at 15–16 (August 14 1970).*

It is thus clear that the question whether a private right of action exists under Section 5 of the FTC Act is *not* foreclosed by the legislation pending before Congress.

WICHITA STATE UNIVERSITY MEMORIAL SERVICE

Mr. DOLE. Mr. President, on Monday evening, October 5, memorial services were held in Cessna Stadium, Wichita, Kans., for those who died in a tragic plane crash October 2, 1970.

It was a moving and fitting tribute to those members of the Wichita State University football team, members of the university administration, and friends of the university who lost their lives.

I ask unanimous consent that the program be printed in the RECORD.

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

WICHITA STATE UNIVERSITY—AN EXPRESSION OF SORROW

(Oct. 5, 1970, 7:30 p.m., Cessna Stadium)

The University and the community are joined in this service to express their common sorrow resulting from the crash on October 2, 1970 of a plane carrying members of the football team, University administration, and friends of the University. Those aboard this flight were:

John Taylor, Football Player.
Dave Lewis, Football Player.
Glenn Kostal, Football Player.
John Hoheisel, Football Player.
Randy Jackson, Football Player.
Bob Renner, Football Player.
Mike Bruce, Football Player.
Rick Stephens, Football Player.
Randy Kiesau, Football Player.
Don Christian, Football Player.
Ron Johnson, Football Player.
Carl Krueger, Football Player.
Jack Vetter, Football Player.
Steve Moore, Football Player.
Keith Morrison, Football Player.
Marvin Brown, Football Player.
Tom Owen, Football Player.
John Duren, Football Player.
Rick Stines, Football Player.
Mal Kimmel, Football Player
Tom Shedden, Football Player.
Gene Robinson, Football Player.
Tom Reeves, Trainer.
Marty Harrison, Student Manager.
Ray King, State Representative, 89th District.
Yvonne King, Wife of Represenative King.
Carl Fahrbach, Dean of Admissions and Records.
Floyd Farmer, Administative Assistant to Athletic Director.
Ben Wilson, Wichita State University Head Coach.
Helen Wilson, Wife of Head Coach Wilson.
John Grooms, Shocker Club Membership Drive.
Etta Mae Grooms, Wife of Mr. Grooms.
Ray Coleman, Membership Chairman of Shocker Club.
Maxine Coleman, Wife of Mr. Coleman.
Bert Katzenmeyer, Wichita State University Athletic Director.
Marian Katzenmeyer, Wife of Athletic Director Katzenmeyer.
Dan Crocker, Pilot, Oklahoma City.
Ronald Skipper, Co-pilot, Oklahoma City.
Judy Lane, Stewardess, Oklahoma City.
Judy Dunne, Stewardess, Oklahoma City.

Our sympathy is extended to the families and friends of those lost in this accident and our thoughts and prayers are with the injured and their families.

Presiding: Mike James, President, Wichita State University Student Body.

Opening Prayer: Reverend Mr. C. P. Criss, United Campus Christian Ministry.

Remarks: Clark D. Ahlberg, President, Wichita State University; A. Price Woodard, Mayor, City of Wichita; Robt. B. Docking, Governor, State of Kansas.

Music: "Where Have All the Flowers Gone?" Led by Diana Carothers, Sophomore, Wichita State University.

Remarks: Leonard Cowan, Executive Minister, Wichita Council of Churches; Kelly Cook, Varsity Football Representative; Gus Grebe, Sports Commentator.

Closing Prayer: Father Leo Kerschen, Roman Catholic Chaplain, Newman Center.

Music: "Battle Hymn of the Republic". Led by University Choral Groups.

Alma Mater.

Opening and closing music provided by Wichita State University Brass Quintet.

Families of those involved on the Gold Plane are seated in the special section on the field.

Others represented in special section:
Football Players and their Relatives and Friends.
Student Senate.
University Administrative Council.
Admissions and Records Staff.
Athletic Staff.
University Senate.
Board of Trustees.
Shocker Club.
Community Agencies.
Physical Education Corporation.
Kansas House of Representatives.
Kansas Board of Regents.
Wichita State University Alumni Association.
Wichita State University Endowment Association.
Century Club.
Missouri Valley Conference.
State Colleges and Universities.
United States Senate.
United States House of Representatives.

Lord, make me an instrument of Your Peace
Where there is hatred, let me sow love;
Where there is injury, pardor
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light
Where there is sadness, joy.

O Divine Master, grant that I may seek not so much to be consoled as to console; to be understood as to understand; to be loved as to love; for it is in giving that we receive; it is in pardoning that we are pardoned, and it is in dying that we are born to Eternal Life. Amen.

(This prayer is inscribed on a plaque that hangs on the wall of the athletic office.)

SENATOR ERVIN'S UNPARALLELED CONTRIBUTION TO THE LEGISLATIVE PROCESS

Mr. HOLLINGS. Mr. President, I wish to express my admiration and respect for one of our colleagues who has contributed so much to the legislative process by his diligent, conscientious efforts regarding constitutional issues debated in this body. The constitutional analysis and interpretation of the distinguished Senator from North Carolina (Mr. ERVIN), has been a most important benefit to this body and to our Nation. Although I have not agreed with Senator ERVIN on all points, the fact that these issues are brought forth for debate and thorough review by him is an unparalleled contribution to legislative process.

During the 91st Congress alone, the CONGRESSIONAL RECORD is replete with major constitutional issues which deserved careful consideration by this body. Senator ERVIN's presentation on the controversial no-knock and preventive detention features of the District of Columbia crime bill and on the drug bill were extremely helpful in considering threshold questions of constitutional law. The debate presented on the recently passed Equal Employment Opportunities Commission legislation contributed much to the understanding of the Federal-State constitutional relationship. The participation of Senator ERVIN on election reform resolution demonstrated superbly Senator ERVIN's unequalled understanding of the Constitution, its history, and its import to future generations. Senator ERVIN's constitutional concern over the pending equal rights for women amendment again demonstrates his practical analysis of proposed constitutional reform.

Yesterday, Senator ERVIN evidenced his constitutional vigilence concerning the guarantees of the first amendment relating to free speech by servicemen.

The deliberations of the constitutional issues relating to the busing and assignment of schoolchildren pending in the Supreme Court in the landmark case of Swann against Charlotte-Mecklenburg Board of Education et al. will be assisted by the amicus curie brief filed under Senator ERVIN's leadership. I was proud to join Senator ERVIN in this endeavor. I ask unanimous consent that the entire brief be printed in the RECORD.

Whether or not everyone in Congress agrees with the positions advanced by Senator ERVIN on various constitutional questions, there is certainly no doubt that his active and conscientious role has been and will continue to be of the greatest benefit to the legislative process and the resulting laws passed by Congress.

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

[In the Supreme Court of the United States, October Term, 1970]

AMICUS CURIAE BRIEF FOR THE CLASSROOM TEACHERS' ASSOCIATION OF THE CHARLOTTE-MECKLENBURG SCHOOL SYSTEM, INCORPORATED

(No. 281, James E. Swann, et al., *Petitioners*, Charlotte-Mecklenburg Board of Education, et al.; No. 349, Charlotte-Mecklenburg

Board of Education, et al., *Petitioners*, v. James E. Swann, et al., on writ of certiorari to the U.S. Court of Appeals for the Fourth Circuit)

INTEREST OF THE AMICUS CURIAE

The Classroom Teachers' Association of the Charlotte Mecklenburg School System, Incorporated, is a non-profit membership organization in corporate form, which includes in its membership a substantial part of the 3,553 classroom teachers in the Charlotte-Mecklenburg School System and which devotes itself to the advancement of public education. The specific objectives of the organization and its members are to promote the interests of classroom teachers in the Charlotte-Mecklenburg School System, and to secure to the students attending the schools of the System opportunities to achieve by quality education their highest potentialities.

The Classroom Teachers' Association of the Charlotte-Mecklenburg School System and its members believe that the execution of the order of the United States District Court for the Western District of North Carolina and the judgment of the United States Circuit Court for the Fourth Circuit affirming such order in part seriously impair the educational opportunities offered by the Charlotte-Mecklenburg School System to the students in its schools, and for this reason the organization files this amicus curiae brief in support of the position of the Charlotte-Mecklenburg Board of Education, which harmonizes with this view.

The parties to the proceedings in Nos. 281 and 349 have consented in writing to the filing of this brief, and the writings evidencing such consent have been filed with the Clerk.

The members of the Supreme Court bar who submit this brief in behalf of the organization do so without compensation in the hope that they may aid the Supreme Court to reach a decision which will restore tranquility to much troubled areas of our land and enable the public schools operating in them to function economically and efficietly as educational institutions.

OPINIONS BELOW

The opinion of the Court below consists of the opinion and judgment of the United States Court of Appeals filed May 26, 1970, which are not yet reported and which appear in the Appendix (Volume 3, pages 1262a to 1304a).

In its opinion and judgment, the Court of Appeals reviewed and approved in part and remanded in part for further consideration the rulings and findings made by the United States District Court in the following orders and documents:

1. Order dated February 5, 1970 (819a–839a), as amended, corrected, and clarified on March 3, 1970 (921a).

2. Supplementary Findings of Fact dated March 21, 1970 (1198a–1220a).

3. Supplemental Memorandum dated March 21, 1970 (1221a–1238a).

JURISDICTION

The Supreme Court has jurisdiction to review this case by writ of certiorari under 28 U.S.C. 1254(1), and has accepted it for such purpose by granting writs to the petitioners in No. 281 and the petitioners in No. 349.

QUESTIONS PRESENTED FOR REVIEW

This case presents the following questions for review:

1. Does a public school board comply with the Equal Protection Clause of the Fourteenth Amendment when it creates non-discriminatory attendance districts or zones and assigns all children, black and white, to neighborhood schools in the district or zone in which they reside without regard to their race?

2. Does the Equal Protection Clause of the Fourteenth Amendment empower a federal court to order a public school board to assign children to the schools it operates to balance the student bodies in such schools racially or to bus children outside of non-discriminatory attendance districts or zones to effect such purpose?

3. Does Title IV of the Civil Rights Act of 1964, which prohibits the assignment of students to public schools to balance the student bodies in such schools racially and to bus them from some schools to other schools or from some school districts to other school districts to effect such purpose, constitute appropriate legislation to enforce the Equal Protection Clause within the purview of the Fifth Section of the Fourteenth Amendment?

4. Does the order entered by the District Court and affirmed in part by the Circuit Court usurp and exercise the authority of the Charlotte-Mecklenburg Board of Education to devise and implement a non-discriminatory assignment plan conforming to the Equal Protection Clause, and require the Charlotte-Mecklenburg Board of Education to violate the Equal Protection Clause by treating in a different manner students similarly situated and by denying students admission to their neighborhood schools because of their race?

The amicus curiae insists that the first, third, and fourth questions must be answered in the affirmative and that the second question must be answered in the negative.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The case involves the first and second sections of the Fourteenth Amendment; the first and second sections of Article III of the Constitution; and Title IV of the Civil Rights Act of 1964. These constitutional and statutory provisions are printed in the Appendix.

STATEMENT OF THE CASE

A. The Charlotte-Mecklenburg Public School System

The writ in No. 281 and the writ in No. 349 present to the Supreme Court for review the judgment entered by the United States Court of Appeals for the Fourth Circuit on May 26, 1970, in the civil action entitled James E. Swann and others, Plaintiffs, v. Charlotte-Mecklenburg Board of Education and others, Defendants. For ease of narration and understanding, James E. Swann and his associates in this litigation are hereafter called the plaintiffs, and the Charlotte-Mecklenburg Board of Education is hereafter designated as the School Board.

The School Board operates the Charlotte-Mecklenburg Public School System in Charlotte and Mecklenburg County, North Carolina, political subdivisions of North Carolina. Charlotte, which is the county seat of Mecklenburg County, is inhabited by 239,056 persons who are concentrated within the 64 square miles embraced by its city limits, an area larger than the District of Columbia. Mecklenburg County embraces 550 square miles, has an east-west span of 26 miles, a north-south span of 36 miles, and has a population of 352,006, exclusive of those residing within the area embraced by Charlotte.

In the discharge of its state-assigned duties, the School Board operates 10 high schools, 21 junior high schools, and 72 elementary schools to house and instruct the 84,500 school children residing in Charlotte and Mecklenburg County. Of these school children, 24,000, or 29 percent, are black, and 60,500, or 71 percent, are white. Approximately 95 percent of all the black children who reside within the limits of the City of Charlotte live in predominately black residential sections in northwest Charlotte, and a substantial portion of the other black children in Mecklenburg County reside in predominately black residential areas adjacent to it. (293a-298a).

Prior to *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), the School Board operated the public schools of Charlotte and Mecklenburg County as racially segregated schools in conformity with the interpretation then placed upon the Equal Protection Clause of the Fourteenth Amendment. Subsequent to the *Brown Case* and prior to 1965, the School Board established an effective system of determining admission to its public schools on a non-racial basis. It did this, and thus converted its formerly dual system into a unitary system by establishing non-discriminatory attendance districts or zones, and assigning the school children subject to its jurisdiction to their neighborhood schools irrespective of race.

Inasmuch as some of the attendance districts or zones in rural Mecklenburg County and some of its suburban residential districts or zones in or adjacent to Charlotte are extremely large, the School Board voluntarily established a transportation system for the sole purpose of carrying children residing in these geographically large districts or zones to the nearest available schools. As a consequence, it now uses 280 buses to bus some 23,000 school children to rural and suburban schools. (864a)

In 1965 the plaintiffs brought the instant action against the School Board in the United States Court for the Western District of North Carolina seeking to obtain a compulsory desegregation decree. After hearing the evidence in the case, the District Court found that the School Board had complied with the requirement of the Equal Protection Clause and denied the decree sought by them. *Swann* v. *Charlotte-Mecklenburg Board of Education*, 243 F.Supp. 667 (1965). This ruling was affirmed by the Circuit Court. *Swann* v. *Charlotte-Mecklenburg Board of Education*, 369 F.2d 29 (1966).

B. The plan submitted by the Charlotte-Mecklenburg Board of Education

Subsequent to the decision of *Green* v. *County School Board of New Kent County*, 391 U.S. 430 (1968), the plaintiffs filed a motion in the cause seeking further desegregation. (2a)

Although it found as a fact that the "location of schools in Charlotte has followed the local pattern of residential development, including its de facto patterns of segregation" (305a), and that the School Board members "have achieved a degree and volume of desegregation of schools apparently unsurpassed in these parts and have exceeded the performance of any school boards whose actions have been reviewed in the appellate court decisions" (311a–312a), the District Court resumed hearings in the case on the ground that the *Green Case* had changed "the rules of the game." (312a)

It is to be noted that subsequently the District Court on its own motion reversed its previous findings that any racial imbalance in the Charlotte-Mecklenburg public schools was the result of de facto segregation by asserting that "there is so much State action imbedded in and shaping these events that the resulting segregation is not innocent or 'de facto' and the resulting schools are not 'unitary' or 'desegregated'." (662a) The amicus curiae submits with all due deference that there is no testimony in the record to sustain this particular finding.

Pursuant to the orders entered by the District Court on April 23, 1969 (285a), June 20, 1969 (448a), August 15, 1969 (579a), and December 1, 1969 (698a), the School Board filed desegregation plans (330a, 480a, 670a) which were rejected by the District Court.

Meanwhile on December 2, 1969, the Court appointed Dr. John Finger, a resident of Rhode Island, as a special consultant to devise a desegregation plan for the guidance of the Court, (819a) Dr. Finger had originally entered the case as a partisan witness for the plaintiffs, and for this reason a good case

can be made for the proposition that he lacked the impartiality which is desirable in one selected for the task of assisting a judge in keeping the scales of justice evenly balanced between adverse litigants. (1279a)

While the District Court orders and the School Board plans mentioned above shed light on the School Board's devotion to the neighborhood school concept, and its reluctance as an elected public body to engage in excessive and expensive busing of school children, the subsequent School Board plan of February 5, 1970, and the subsequent District Court order of February 5, 1970, relating to it really illuminate the issues which now confront the Supreme Court. (726a-748a, 819a-839a).

By this plan, the School Board proposed that attendance districts or zones should be drastically gerrymandered in such a manner as to include as many blacks as possible in each district or zone, and that all school children subject to its jurisdiction should be required to attend the school appropriate to their educational standings in the district or zone of their residence. The plan would have accomplished a racial mixture of school children in all of the 103 schools in the system, except three elementary white schools located in neighborhoods inhabited exclusively by members of the white race. (726a-748a)

The School Board plan contemplated that from 17 percent to 36 percent of the student body in nine of the ten senior high schools in the system would be black; that not more than 38 percent of the student body in 20 of the 21 junior high schools in the system would be black; and that not more than 40 percent of the student body in 60 of the 72 elementary schools in the system would be black.

Under the School Board plan, the remaining high school, Independence High, would be 2 percent black and 98 percent white; the remaining junior high school, Piedmont Junior High, would be 90 percent black and 10 percent white; and all of the 12 remaining elementary schools, except the three white elementary schools, would be 83 percent to 1 percent black. (726a-748a)

The School Board judged it to be impossible to desegregate the three white elementary schools, and to further desegregate the nine predominately black elementary schools by geographic districting or zoning because of the de facto segregation prevailing in the residential areas in which the children assigned to these 12 elementary schools lived. (730a-732a) The District Court made a specific finding in its Supplemental Findings of Fact of March 21, 1970, which establishes the validity of the School Board's conclusion concerning Independence High, Piedmont Junior High, and the 9 predominately black elementary schools, all of which are located in northwest Charlotte or its environs.

The District Court expressly found that "both Dr. Finger and the School Board staff appear to have agreed, and the Court finds as a fact that for the present at least there is no way to desegregate the all-black schools in northwest Charlotte without providing (or continuing to provide) bus or other transportation for thousands of children. All plans and all variation of plans considered for this purpose lead in one fashion or another to that conclusion." (1208a)

The amicus curiae submits that it beggars imagination to conjecture how any plan could have obtained a greater degree of racial integration by gerrymandering attendance districts or zones in a political subdivision where white children outnumber black children 71 to 29, and where most of the black children are concentrated residentially in an area inhabited exclusively by members of their race.

The School Board plan did not stop with proposing such a high degree of racial integration among the student bodies in the schools subject to its jurisdiction. It made these three additional proposals:

1. That the faculty of each school should be assigned in such a manner that the ratio of black teachers to white teachers in each school would be approximately 1 to 3 in accordance with the ratios in the entire faculty of the system (737a);

2. That the School Board should furnish 4,935 additional students in-district or in-zone transportation to the schools in the proposed gerrymandered attendance districts or zones in accordance with the North Carolina law which forbids such transportation within one and one-half mile distances (736a); and

3. That any black child in any school having more than 30 percent of his race in its student body should be allowed to transfer to any school having less than 30 percent of his race; whereas a white child should be permitted to transfer to another school only if the school he is attending has more than 70 percent of his race and the school to which he seeks transfer is less than 70 percent white. (734a-735a)

At the same time, Dr. Finger submitted to the District Court his plan of desegregation which contemplated that the School Board should be required by the Court to deny approximately 23,000 additional children admission to the neighborhood schools in the districts or zones of their residence, and to transport them by bus or otherwise substantial distances in order to produce a greater racial mixture in student bodies. (819a, 825a-827a, 829a-839a, 1198a, 1208a-1214a, 1231a-1234a, 1268a-1269a)

C. The Order of the District Court

On February 5, 1970, the District Court entered an order approving the School Board plan, subject to certain drastic conditions and revisions recommended by Dr. Finger. (819a-839a) By adopting these conditions and revisions, the District Court commanded the School Board to do these things:

1. To deny hundreds of black high school students admission to a nearby high school which would have had a racial composition of 36 percent black and 64 percent white under the School Board plan, and to bus them from their residences in northwest Charlotte through center-city traffic a distance of some 12 or 13 miles to Independence High School, which is located in a white suburban residential area;

2. To deny several thousands of black junior high school students admission to their neighborhood junior high schools in the inner city, and to bus them substantial distances to nine predominately white suburban schools located in other attendance districts or zones; and

3. To deny thousands of black and thousands of white elementary school children admission to 31 elementary schools located within their respective attendance districts or zones, and to bus them distances approximating 15 miles to elementary schools situated in other attendance districts or zones.

The sole purpose of the District Court in ordering the School Board to dislocate and bus the hundreds of black high school students to Independence High School was to make Independence High less white, and the sole purpose of the District Court in ordering the School Board to dislocate and bus several thousands of junior high school students was to reduce the percentage of blacks in Piedmont Junior High from 90 percent to 32 percent. (825a-826a)

The sole purpose of the order of the Court commanding the School Board to dislocate and bus thousands of elementary school children was to alter the racial composition of the student body in 9 predominately black inner-city schools and in 24 predominately white suburban schools. To accomplish this purpose, the District Court commanded the School Board to dislocate and bus thousands of black first, second, third, and fourth grade students from 9 predominately black inner-city schools to 24 predominately white suburban schools, and to dislocate and bus thousands of white fifth and sixth grade students from the 24 predominately white suburban schools to the 9 predominately black inner-city schools. (826a)

The order of the District Court did not stop with these things. It further ordered the School Board to establish and implement a continuing program of assigning students throughout the school year "for the conscious purpose of maintaining each school * * * in a condition of desegregation." (824a)

The record clearly discloses the reasoning which prompted the District Court to seek to achieve the purposes of its order.

Prior to its order of February 5, 1970, namely, on April 24, 1969, the District Court manifested its disapproval of the School Board's adherence to the neighborhood school concept by this statement: "Today people drive as much as 40 or 50 miles to work; 5 to 10 miles to church; several hours to football games; all over the country for civic affairs of various types. The automobile has exploded the old-fashioned neighborhood * * * If this Court were writing the philosophy of education, he would suggest that educators should concentrate on planning schools as educational institutions rather than as neighborhood proprietorships." (306a)

When it entered its order of February 5, 1970, the District Court justified adding the conditions and revisions recommended by Dr. Finger on the ground that the School Board plan "relies almost entirely on geographical attendance zones," while "the Finger plan goes further and produces desegregation of all the schools in the system." (819a)

What has been said makes it manifest that the District Court entertained the opinion that the Equal Protection Clause of the Fourteenth Amendment makes it obligatory for a school board to mix student bodies racially in every school subject to its jurisdiction if children are available for mixing, and that a school board must deny a sufficient number of school children admission to their neighborhood schools and bus them to schools elsewhere either to overcome racial imbalances in their neighborhood schools or in the schools elsewhere, regardless of whether such racial imbalances are produced by arbitrary or invidious discrimination on the part of the school board or simply result from adventitious de facto residential segregation or other cause.

The amicus curiae has not undertaken to state with exactitude the number of additional school children which the District Court ordered the School Board to deny admission to their neighborhood schools and to bus from one school to another or from one school district to another, or the additional cost which the carrying out of the District Court's order in this respect will impose upon the School Board.

This action of the amicus curiae has been deliberate because these matters are in serious dispute between the School Board and the District Court.

When the District Court entered its order of February 5, 1970, and thereby adopted the Finger plan in virtually its entirety, the School Board estimated that the order required it to bus 23,384 additional students an average round trip of 30 miles each school day, and that to do this the School Board would have to acquire 526 additional buses and additional parking spaces at an original capital outlay of $3,284,448.94; and thereafter expend each year an additional $1,065,391.98 in employing additional personnel and defraying other operating costs. (853a, 866a)

On March 3, 1970, the District Court modified its order of February 5, 1970. (921a) The School Board then calculated that the order as modified will require it to transport 19,285 additional students and to purchase for such purpose 422 additional buses and additional parking spaces at an original capital outlay of $2,369,100.00; and thereafter to expend each year for additional personnel and operating expenses of such buses $284,000.00. (1269a–1270a)

The Court estimated that the execution of its order as modified would require the School Board to bus 13,300 additional students and to purchase for use 138 additional buses at an original capital outlay of $745,200.00; and to expend thereafter annually $266,000.00 for operating costs of such additional buses, exclusive of what it will have to expend to compensate any additional personnel necessary for their operation. (1259a–1261a, 1269a)

The Court arrived at its figures by suggesting that the School Board could reduce its estimate of the expenses incident to busing the thousands of children affected by its order by drastically staggering school openings and closings. The School Board replied to this suggestion by asseriting that the suggested staggering of school openings and closings would require some children to leave home as early as 6:30 a.m. and prevent some of them from returning home before 5:00 p.m. (864a–865a)

D. The Judgment of the United States Court of Appeals for the Fourth Circuit

At the instance of the School Board, the United States Court of Appeals for the Fourth Circuit reviewed the orders of the District Court. On May 26, 1970, the Circuit Court rendered its judgment affirming the orders of the District Court insofar as they related to the assignment and busing of senior high school and junior high school students, and remanding to the District Court for further consideration the provisions of the District Court relating to the assignment and busing of elementary school students. (1262a–1304a)

In making this remand, the Circuit Court adjudged that "not every school in a unitary system need be integrated," and adopted a "test of reasonableness—instead of one that calls for absolutes." (1267a)

The writ of certiorari granted to the School Board presents for review the validity of the Circuit Court ruling approving the orders of the District Court relating to the assignment and busing of senior high school and junior high school students and the writ of certiorari granted to the original plaintiffs presents for review the question of the validity of the ruling of the Circuit Court vacating the order of the District Court relating to the assignment and busing of elementary school students.

Subsequent to these events, namely, on August 3, 1970, the District Court reinstated and reaffirmed its order of February 5, 1970, in respect to the assignment and busing of the elementary school students. (1320a) While the validity of this particular order may not be before the Supreme Court, the question which it raises is involved in the matter to be reviewed under the writ granted to James E. Swann and those associated with him in this litigation.

The amicus curiae understands that the School Board has filed an yet unprinted motion with the Supreme Court for a stay of the order entered by the District Court on August 3, 1970, after the hearing of the case in the Circuit Court.

SUMMARY OF AGREEMENT

In the final analysis, the questions presented for review in this case do not arise out of any real controversy in respect to the testimony. They arise out of a fundamental disagreement between the School Board, on the one hand, and the District Court and some of the Circuit Court Judges, on the other, with respect to how the Equal Protection Clause applies to the assignment of students to public schools.

The view of the School Board may be epitomized in this fashion:

The Equal Protection Clause applies only to State action which is arbitrary or invidious, and, hence, it leaves a public school board, acting as a State agency, entirely free to assign students to its schools by any method satisfactory to itself if such method is not arbitrary or invidious. A public school board acts arbitrarily or invidiously if it assigns students to its schools for racial reasons, but a public school board does not act arbitrarily or invidiously if it assigns students to its schools for non-racial reasons, such as the promotion of the efficiency of school administration, the economy of school administration, or the convenience of the students or their parents. This being true, the Equal Protection Clause does not impair in any way the power of a public school board to create fairly drawn geographic attendance districts or zones, and to assign all students without regard to their race to neighborhood schools in the respective districts or zones in which they reside even though such action may result in some racial imbalances in the schools serving areas predominantely inhabited by members of one race.

The view of the District Court and some of the Circuit Court Judges may be summarized in this way:

It is highly desirable from an educational viewpoint to mix students in public schools racially in the highest possible degree. Hence, the Equal Protection Clause imposes upon a public school board the positive duty to balance racially all the schools it operates if black and white children are available for this purpose; and to deny school children admission to their neighborhood schools and bus them to other schools in other areas, no matter how distant, in sufficient numbers to effect such racial balancing.

The School Board refutes this proposition by saying that the Equal Protection Clause does not require action which may be desirable; it merely prohibits action which is arbitrary or invidious.

When it is stripped of irrelevancies and surmises, the record discloses a surprisingly simple state of facts which are relatively free of conflict insofar as they relate to the crucial issues.

After the first *Brown Case*, 347 U.S. 483 (1954), the School Board converted its previously dual system of schools into a unitary system of schools within which no child was excluded because of the child's race. The School Board did this by a geographic assignment plan applicable in like manner to all children without regard to their race. Its action in this regard was adjudged to be in compliance with the Equal Protection Clause by both the District Court and the Court of Appeals.

Subsequent to the *Green Case*, 391 U.S. 430 (1968), the District Court ordered the School Board to submit another plan for the desegregation of its schools. Pursuant to this order, the School Board proposed a plan which was reasonably designed to secure the maximum amount of racial mixture obtainable in the student bodies in its schools without abandonment of the neighborhood school concept by restructuring its geographic attendance districts or zones, and assigning all of the children subject to its jurisdiction without regard to their race to their respective neighborhood schools in the districts or zones in which they reside.

The Court rejected the School Board plan simply because it did not racially balance one senior high school out of the system's ten senior high schools, one junior high out of the system's 21 junior high schools, and nine predominately black and three predominately white elementary schools out of the system's 72 elementary schools.

Instead of approving the reasonable plan submitted by the School Board, the District Court, in essence, adopted the Finger Plan which requires the School Board to deny thousands of children admission to their neighborhood schools, and to bus them to other schools in other areas merely to eliminate the racial imbalances in these particular schools. The School Board insists that the action of the District Court was not only inconsistent with the Equal Protection Clause, but violates Title IV of the Civil Rights Act of 1964, and that the Circuit Court erred insofar as it approved the action of the District Court.

ARGUMENT

I

"The Charlotte-Mecklenburg Board of Education has complied with the Equal Protection Clause of the Fourteenth Amendment and the Supreme Court decisions interpreting it by establishing and operating a unitary public school system, which receives and teaches students without discrimination on the basis of their race or color. Any racial imbalance remaining in any of the schools under the jurisdiction of the Board represents de facto segregation, which results from the purely adventitious circumstances that the inhabitants of particular areas in and adjacent to the city of Charlotte are predominantly of one race."

The Equal Protection Clause of the Fourteenth Amendment, which was certified to be a part of the Constitution on July 28, 1868, forbids a state to "deny to any person within its jurisdiction the equal protection of the laws."

By these words, the Equal Protection Clause requires a state to treat in like manner all persons similarly situated. *State Board of Tax Commissioners of Indiana v. Jackson*, 283 U.S .527 (1931); *Maxwell v. Bugbee*, 250 U.S. 525 (1919). The clause does not require identity of treatment. *Walters v. St. Louis*, 347 U.S. 231 (1934). It permits a state to make distinctions between persons subject to its jurisdiction if the distinctions are based on some reasonable classification, and all persons embraced within the classification are treated alike. It merely outlaws arbitrary or invidious discrimination. *Avery v. Midland County*, 390 U.S. 474 (1968); *Missouri Pacific Railway Co. v. Mackey*, 127 U.S. 205 (1888).

From July 28, 1868, until May 17, 1954, the Equal Protection Clause of the Fourteenth Amendment was interpreted to sanction the "separate but equal doctrine," which permitted a state to segregate school children in its public schools on the basis of race when it furnished equal facilities for the education of the children of each race. *Gong Lum v. Rice*, 275 U.S. 78 (1927); *Cumming v. Richmond County Board of Education*, 175 U.S. 528 (1899); *Plessy v. Ferguson*, 163 U.S. 537 (1896).

On May 17, 1954, the Supreme Court handed down its historic decision in *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), adjudging "that in the field of public education the doctrine of 'separate but equal' has no place" and holding that a state violates the Equal Protection Clause if it denies any child admission to any of its public schools on account of the child's race.

On the same day the Supreme Court handed down *Bolling v. Sharpe*, 347 U.S. 497 (1954), ruling that the Due Process Clause of the Fifth Amendment imposes the same inhibition on the public schools of the District of Columbia that the Equal Protection Clause does on the public schools of a state, and one year later the Supreme Court announced its implementing decision in second *Brown*, which is reported as *Brown v. Board of Education of Topeka*, 348 U.S. 294 (1955).

Since these decisions the Supreme Court has applied the Equal Protection Clause to varying factual situations arising in various Southern public school districts in the following cases: *Cooper v. Aaron*, 358 U.S. 1, 20

(1958); *Shuttlesworth v. Birmingham Board of Education*, 358 U.S. 101 (1958); *Bush v. Orleans Parish School Board*, 364 U.S. 500 (1960); *Watson v. City of Memphis*, 373 U.S. 526 (1963); *Goss v. Board of Education of Knoxville*, 373 U.S. 683 (1963); *Griffin v. County School Board of Prince Edward County*, 377 U.S. 218 (1964); *Bradley v. School Board of City of Richmond*, 382 U.S. 103 (1965); *Rogers v. Paul*, 382 U.S. 198 (1965); *Green v. County School Board of New Kent County*, 391 U.S. 430 (1968); *Raney v. Board of Education of the Gould School District*, 391 U.S. 443 (1968); *Monroe v. Board of Commissioners of the City of Jackson*, 391 U.S. 450 (1968); *United States v. Montgomery County Board of Education*, 395 U.S. 225 (1969); *Alexander v. Holmes County Board of Educaton*, 396 U.S. 19 (1969); *Dowell v. Board of Education of the Oklahoma City Public Schools*, 396 U.S. 269 (1969); *Carter v. West Felicana Parish School Board*, 396 U.S. 226 (1969); *Carter v. West Felicana Parish School Board*, 396 U.S. 290 (1970); and *Northcross v. Board of Education of the Memphis City Schools*, 397 U.S. 232 (1970).

Besides, individual Supreme Court Justices, acting as Circuit Justices, have expressed opinions on the subject in these cases: *Board of School Commissioners of Mobile County v. Davis*, 11 L. ed. 2d 26 (1963); *Keyes v. School District No. 1, Denver*, 396 U.S. 1215 (1970); and *Alexander v. Holmes County Board of Education*, 396 U.S. 1218 (1969).

The record in the instant case embraces hundreds of pages of evidence, orders, and judgments, and for that reason, the case lends itself to much writing. But the issues arising in the case are simple, and it would complicate that simplicity to analyze the cited decisions in detail. In their ultimate analysis, they interpret the Equal Protection Clause as follows:

1. The Equal Protection Clause makes it unconstitutional for a state to deny any child admission to any public school it operates on account of the child's race.

2. In consequence, the Equal Protection Clause imposes upon a State, acting through its appropriate agencies, the responsibility to establish a system of determining admission to its public schools on a non-racial basis.

3. A state, which operated a racially segregated system of public schools on May 17, 1954, fulfills this responsibility by converting its dual public school system into a unitary public school system.

4. A unitary public school system is one "within which no person is to be effectively excluded from any school because of race or color."

When the Equal Protection Clause as thus interpreted is applied to the facts in this case, it is obvious that the School Board has fully converted its *Pre-Brown* dual school system into a unitary school system within which no child is actually excluded from any school because of race or color. The School Board has done this by creating non-discriminatory attendance districts or zones and assigning all children, black and white, to neighborhood schools in the district or zone in which they reside without regard to their race.

These conclusions are explicit in the rulings made by the District Court and the Circuit Court in 1965 and 1966. *Swann v. Charlotte-Mecklenburg Board of Education*, 243 F.Supp. 667 (1965), *Swan* v. *Charlotte-Mecklenburg Board of Education*, 369 F.2d (1966). They are implicit in the findings made by the District Court in its order of April 23, 1969, that the School Board had "achieved a degree of desegregation of schools apparently unsurpassed in these parts" and had "exceeded the performance of any school board whose actions have been reviewed in the appellate court decisions," (311a–312a) and that the Schools of Charlotte, in essence, conform to de facto patterns of residential segregation. (305a)

To be sure, the District Court, acting *sua sponte*, undertook to recall these findings in its Memorandum Opinion of November 7, 1969, and to assert that racial imbalances in the Schools of Charlotte are "not innocent or *de facto*." (662a)

The amicus curiae submits in all earnestness that there is no evidence in the record to sustain the District Court's assertion in this respect. Be this as it may, the Supreme Court is empowered in cases of an equitable nature and cases involving constitutional questions to review the evidence and make its own findings. If it follows this course in this case, the Supreme Court will be impelled to the conclusion that there is not a vestige of state-imposed segregation in the Charlotte-Mecklenburg School System.

Besides, the District Court's assertion that racial imbalances in the schools of Charlotte are "not innocent or *de facto*" is totally repudiated by its subsequent finding that there is no way to desegregate the black schools in northwest Charlotte without transporting thousands of children by bus or other means. (1208a)

When all is said, the School Board went far beyond the call of any duty imposed upon it by the Equal Protection Clause when it proposed in its plan of February 2, 1970, to gerrymander attendance districts or zones in order to achieve the highest degree of desegregation obtainable without virtual abandonment of the neighborhood school concept. The amicus curiae expresses no opinion as to whether this proposal is repugnant to the constitutional or legal rights of any child.

II

"The Equal Protection Clause of the Fourteenth Amendment does not require or empower a Federal Court to order a public school board to assign children to the schools it operates merely to balance the student bodies in such schools racially, or to bus children outside reasonable geographic attendance districts or zones to effect such purpose. The District Court ordered the Charlotte-Mecklenburg School Board to do both of these things, and the Circuit Court erred insofar as it affirmed the District Court order."

The facts make it clear that the order entered by the District Court on February 5, 1970, requires racial balancing in the Charlotte-Mecklenburg School System and the busing of thousands of children outside their geographic attendance districts or zones to effect such balancing.

Indeed, the District Court virtually admits this to be true by setting forth in its Supplemental Findings of Fact of March 21, 1970, a specific finding that there is no other way to desegregate the black schools in northwest Charlotte. (1208a)

Upon the entire record, the conclusion is inescapable that the District Court fell into error because it honestly believed that the Equal Protection Clause and certain decisions interpreting it impose upon a public school board an absolute duty to do these things:

1. To balance racially to the highest degree possible all the schools subject to its control if black and white children are available for that purpose anywhere within the territory subject to its jurisdiction, no matter how vast such territory may be; and

2. To effect such racial balancing by denying both black and white children admission to their neighborhood schools and busing them to other schools in other areas in sufficient numbers to overcome racial imbalances either in their neighborhood schools or in the other schools, regardless of whether the racial imbalances result from de facto residential segregation or other cause, and regardless of these other factors: the distances the children are to be bused, the time required for their busing, the impact of their exclusion from their neighborhood schools and their busing upon their minds and hearts, the effect of thees things upon the management of the homes which must nurture them, the traffic hazards involved, and the additional expense foisted upon heavily burdened taxpayers.

There is no other rational explanation for the court order which disrupts the lives of thousands of school children and the management of the thousands of homes from which they come, and diverts tremendous sums of tax-raised moneys from the enlightenment of their minds to the busing of their bodies.

The Equal Protection Clause does not require any court to enter any such order. It does not empower any court to enter any such order. Indeed, it forbids any court to do so.

As interpreted in the first *Brown Case*, 347 U.S. 483 (1954), and all subsequent Supreme Court decisions relevant to the subject, the Equal Protection Clause forbids a public school board, which acts as a state agency, to deny any child admission to any school it operates on account of the child's race. A public school board obeys the Clause by maintaining a unitary school system, i.e., a school system "within which no person is to be effectively excluded from any school because of race or color." *Northcross* v. *Board of Education of the Memphis City Schools*, 397 U.S. 232 (1970); *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19 (1969). See also the opinion of Mr. Justice Black, acting as Circuit Justice, in *Alexander* v. *Holmes County Board of Education*, 396 U.S. 1218 (1969).

The power to assign children to state supported schools belongs to the public school board which operates them. The Equal Protection Clause does not undertake to transfer this power to the Federal Courts. It merely subjects the exercise of the power by the public school board to this limitation: The board must not exclude any child from any school it operates because of the child's race.

If it faithfully observes this limitation upon its power, a public school board has the right to assign children to the schools it operates in any non-discriminatory fashion satisfactory to itself.

The School Board exercised this right when it created nondiscriminatory attendance districts or zones and assigned all children, whether black or white, to neighborhood schools in the districts or zones of their residence without regard to race.

Since the children are similarly situated and the School Board treats them exactly alike, its action is in complete harmony with the Equal Protection Clause. It accords, moreover, with the implementing decision in the second *Brown Case*, 349 U.S. 294 (1955), which expressly recognizes that a school board may employ non-discriminatory geographic zoning of school districts "to achieve a system of determining admission to the public schools on a nonracial basis."

As is true in respect to virtually every city of any size in our land, the different races are concentrated to a substantial degree in separate residential areas in Charlotte, and for this reason the School Board's non-discriminatory geographic zoning and assignment program necessarily results in some racial imbalances in some schools.

Notwithstanding this, the order of the District Court commanding the School Board to exclude thousands of children from their neighborhood schools and to bus them long distances to other schools to overcome these racial imbalances is without support in the Equal Protection Clause.

This is true for an exceedingly plain reason. The Equal Protection Clause does not prohibit any discrimination except that which is arbitrary or invidious.

It inevitably follows that where school attendance areas are not arbitrarily or invidiously fixed so as to include or exclude children of a particular race, the Equal Pro-

tection Clause does not prohibit a state or local school board from requiring that the children living in each attendance area attend the school in that area, even though the effect of such a requirement, in a locality where the different races are concentrated in separate residential areas, is racial imbalance or de facto segregation in the schools.

The conclusion that the Equal Protection Clause does not impose upon a public school board any mandate to remove any racial imbalance in its schools occasioned by de facto residential segregation or non-discriminatory geographic assignments is expressly supported in *Bell* v. *School City of Gary, Ind.* (7 CA–1963), 324 F.2d 209, and *Downs v. Board of Education of Kansas City, Kansas* (10 CA–1964), 336 F.2d 998. Moreover, it is compelled by first *Brown*, 347 U.S. 483 (1954), and all the subsequent Supreme Court cases applying its holding, as well as by the language of the Equal Protection Clause itself.[1]

Despite the fact that the Charlotte-Mecklenburg School System is in the South, racial imbalances produced in its schools by de facto residential segregation are just as innocent as racial imbalances produced in the public schools of the North by the same cause, and are equally exempt from federal interference, whether legislative, executive, or judicial, under the Equal Protection Clause, which, as already pointed out, condemns no discrimination except that which is arbitrary or invidious.

The amicus curiae is confident that the Supreme Court will so adjudge. Indeed, it must do so if the United States is truly one nation under one flag and one Constitution.

It no longer comports with intellectual integrity to call all racial imbalances in the public schools of the South de jure, and all racial imbalances in the pubic schools of the North de facto.

There is now no de jure school segregation anywhere in our land. Racial imbalances in public schools are either arbitrary or invidious and, hence, constitutionally impermissible, both North and South, or innocent and, hence, constitutionally permissible, both North and South. Racial imbalances resulting from de facto residential segregation or non-discriminatory districting or zoning, whether in the North or in the South, are clearly innocent and constitutionally permissible.

Moreover, it no longer comports with reality, common sense, or justice to apply one rule to the North and another to the South because the South did not precede the Supreme Court in discovering that the "separate, but equal doctrine" had ceased to be the law of the land.

III

"The Fifth Section of the Fourteenth Amendment Empowers Congress to Enforce the Equal Protection Clause by Appropriate Legislation, the First Section of Article III of the Constitution Empowers Congress to Regulate the Jurisdiction of United States District Courts and United States Circuit Courts of Appeals, and the Second Section of Article III of the Constitution Empowers Congress to Regulate the Appellate Jurisdiction of the Supreme Court. Congress Exercised all of These Powers in an Appropriate Fashion When it Enacted Title IV of the Civil Rights Act of 1964, Which Prohibits the Assignment of Students to Public Schools to Balance the Student Bodies in Such Schools Racially, and to bus Them From Some Schools to Other Schools, or From Some School Districts to Other School Districts to Effect Such Purpose. The Act's Prohibition on Busing is Absolute and Deprives Federal Courts of Jurisdiction to Compel School Boards to Bus Students to Overcome Racial Imbalances in Schools, Even if Such Imbalances Result From Discriminatory School Board Action. The District Court Order Violated This Act by Commanding the Charlotte-Mecklenburg School Board to do the Things Prohibited by it, and the Circuit Court Joined in Such Violation Insofar as it Affirmed the District Court Order."

The Equal Protection Clause is limited in objective and operation. It imposes this duty and this duty only on a state, i.e., to treat in like manner all persons similarly situated.

In consequence, it forbids a public school board, acting as a state agency, to exclude any child from any school because of the child's race.

Further than that it does not go. It does not rob any public school board of its inherent authority to assign children of any race to their neighborhood school if the school board acts for reasons other than racial reasons, such as a purpose to promote ease of school administration, convenience of the children and the homes from which they come, or economy of operation.

Hence, it does not empower federal courts to deny children of any race admission to their neighborhood schools and to bus them to other schools in other areas to remedy racial imbalances in their neighborhood schools or the other schools arising out of the residential patterns of their neighborhoods or of the other areas.

And, above all things, the Equal Protection Clause does not intend that little children, black or white, shall be treated as pawns on a bureaucratic or judicial chess board.

When it enacted Title IV of the Civil Rights Act of 1964 to enforce the Equal Protection Clause, Congress recognized the validity of these observations concerning the meaning of the Equal Protection Clause. Moreover, it was not oblivious to the inescapable reality that the different races are concentrated to substantial degrees in separate residential areas throughout the nation, and that it would be virtually impossible to keep the public schools of the country racially balanced, even if the Equal Protection Clause did not prohibit such action.

For these reasons, Congress vested in the Commissioner of Education, the Attorney General, and the Federal Courts certain responsibilities regarding what it called the desegregation of public education, but limited the powers of the Commissioner of Education and the Attorney General, and the jurisdiction of the Federal Courts to keep them within constitutional bounds.

Congress was authorized to do these things by the Fifth Section of the Fourteenth Amendment, which expressly empowers Congress to "enforce, by appropriate legislation" the Equal Protection Clause; the First Section of Article III of the Constitution, which authorizes Congress to prescribe the jurisdiction of the inferior courts created by it, *Chisholm v. Georgia*, 2 Dall. (U.S.) 419, 432 (1793); *Turney v. Bank of North America*, 4 Dall. (U.S.) 8 (1799); *Ex Parte Bollman*, 4 Cranch (U.S.) 75, 93 (1807); *Cary v. Curtis*, 3 How. (U.S.) 236, 245 (1845); *Sheldon v. Still* 8 How. (U.S.) 441 (1850); *Kline v. Burke Construction Co.*, 260 U.S. 226, 234 (1922); *Lauf v. E. G. Skinner & Co.*, 303 U.S. 323, 330 (1938); *Lockerty v. Phillips*, 319 U.S. 182 (1943); and *Yankus v. United States*, 321 U.S. 414 (1944); and the Second Section of Article III of the Constitution, which vests Congress with legal power to regulate the appellate jurisdiction of the Supreme Court, *Wiscart v. D'Auchy*, 3 Dall. (U.S. 321, (1796); *Durousseau v. United States*, 6 Cranch 309 (1810); *Barry v. Mercein*, 5 How. (U.S.) 103, 119 (1847); *Daniels v. Railroad Co.*, 3 Wall. (U. S.) 250, 254 (1866); *Ex Parte McCardle*, 6 Wall. (U.S.) 318 (1868); *The Francis Wright*, 105 U.S. 381, 386 (1882); *Kuntz v. Moffitt*, 115 U.S. 487, 497 (1885); *Cross v. Burke*, 146 U.S. 82, 86 (1892); *Missouri v. Pacific Railway Co.*, 292 U.S. 13, 15 (1934); and *Stephan v. United States*, 319 U.S. 423, 426 (1943).

The conclusion that Title I of the Civil Rights Act of 1964 is designed to enforce the Supreme Court rulings that the Equal Protection Clause forbids a school board, acting as a state agency, to deny any child admission to any school it operates because of the child's race is vindicated by the legislative history of the Act, as well as by its language.

During the course of the debate on the bill which became the Civil Rights Act of 1964, Senator Byrd of West Virginia addressed this question to Senator Humphrey, the floor manager of the bill, and received this reply from Senator Humphrey:

"Mr. BYRD, of West Virginia. Can the Senator from Minnesota assure the Senator from West Virginia that under Title VI school children may not be bused from one end of the community to another end of the community at the taxpayers' expense to relieve so-called racial imbalance in the schools?"[2]

"Mr. HUMPHREY. I do."[3]

Senator Humphrey made these further statements relating to the purposes of the bill:

"Mr. HUMPHREY. Mr. President, the Constitution declares segregation by law to be unconstitutional, but it does not require integration in all situations. I believe this point has been made very well in the courts, and I understand that other Senators will cite the particular cases.

"I shall quote from the case of Bell against School City of Gary, Ind., in which the Federal court of appeals cited the following language from a special three judge district court in Kansas: 'Desegregation does not mean that there must be intermingling of the races in all school districts. It means only that they may not be prevented from intermingling or going to school together because of race or color.' *Brown v. Board of Education*, D. C. 139 F. Supp. 468, 470.

"In *Briggs* v. *Elliott* (EDSC), 132, Supp. 776, 777, the Court said: 'The Constitution, in other words, does not require integration. It merely forbids discrimination.' In other words, an overt act by law which demands segregation is unconstitutional. That was the ruling of the historic *Brown* case of 1954."[4]

The language of the Act discloses this twofold Congressional intent:

1. To enforce the Supreme Court rulings that the Equal Protection Clause prohibits the State from denying to any child admission to any school it operates because of the child's race; and

2. To keep overzealous bureaucrats and federal judges from straying beyond constitutional limits in cases involving the desegregation of public schools.

Since no action of his is involved in this case, the amicus curiae pretermits discussion of the provisions of the Civil Rights Act of 1964 relating to the Commissioner of Education.

In phrasing the Act, Congress uses the terms "desegregation" and "discrimination" interchangeably to express the concept made familiar by the prevalent use of the word "discrimination" to mean state action deny-

[1] While such action may not be customary in briefs, the amicus curiae wishes to note that this conclusion is supported by the text writer in 15 Am. Jur. 2d, Civil Rights, Section 39, Page 433, and by one of the most recent commentaries on the Constitution of the United States, i.e., Bernard Schwartz's "Rights of the Person," Volume II, Section 501, Page 593–596.

[2] Senator Byrd was evidently referring to Title IV, instead of Title VI.

[3] Congressional Record, Volume 110, Part 10, Page 12,714, June 4, 1964.

[4] Congressional Record, Volume 110, Part 10, Page 13,821, June 15, 1964.

ing persons admission to public colleges or public schools because of their race.

This observation is made indisputable by Section 401(b) which expressly declares that "desegregation" merely means "the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin"; Section 407(a)(1) and (2) which refer to children who "are being deprived by a school board of the equal protection of the laws" and individuals who have "been denied admission" to a public college or permission "to continue at a public college by reasons of race, color, religion, or national origin"; Section 409 which directs its attention to "discrimination in public education"; and Section 410 which stipulates that "nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin."

There is not a single syllable in Title IV of the Civil Rights Act of 1964 giving any support to a different interpretation.

Section 401(b) merits further consideration because it specifies not only what Congress means by the term "desegregation," but also what Congress does not mean by that term.

Section 401(b) consists of two clauses. The first clause provides that "desegregation" as used in Title IV "means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin," and the second clause provides that "desegregation" as used in Title IV "shall not mean the assignment of students to public schools in order to overcome racial imbalance."

As a law made by Congress, Title IV is binding on federal judges, and defines their jurisdiction in respect to public schools operated by public school boards acting as state agencies.

The first clause of Section 401(b) commands school boards to ignore race, color, religion, and national origin as factors in assigning students to public schools. Since federal judges have no power to add anything to the laws they enforce, this clause merely confers upon federal judges the limited jurisdiction to enforce its command by decrees which prevent recalcitrant school boards from denying otherwise eligible children admission to schools on account of their race, color, religion, or national origin.

Since federal judges do not have power to subtract anything from laws they enforce, the second clause of Section 401(b) denies to federal judges jurisdiction to compel school boards to assign "students to public schools in order to overcome racial imbalance." By this clause, Congress forbids federal judges to make decrees compelling school boards to take affirmative steps to commingle black and white children in public schools in proportions satisfactory to themselves to remedy racial imbalances occasioned by de facto residential segregation or non-discriminatory action on the part of school boards.

This interpretation of Section 401(b) is completely confirmed by Section 407, 409, and 410 of Title IV.

Before the enactment of Title IV of the Civil Rights Act of 1964, only the individuals aggrieved thereby had legal standing to make complaint in federal courts concerning state-imposed segregation in public education. They were restricted to seeking relief for themselves and their children and other persons similarly situated. They did not have the right to demand that federal courts should substitute federally coerced integration for state-imposed segregation.

When it drafted Title IV, Congress decided to extend to the Attorney General standing to sue for "such relief as may be appropriate" in behalf of two groups of people if he believes their complaints to be "meritorious" and concludes that they are "unable * * * to initiate and maintain appropriate legal proceedings for" their own "relief." These groups of people are described, in essence, as children who "are being deprived by a school board of the equal protection of the laws" and individuals who have been "denied admission" to a public college or "permission to continue in attendance at a public college by reason of race, color, religion or national origin." To this end, Congress inserted Section 407(a) in Title IV.

At the same time, however, Congress decided to preserve intact the existing rights of individuals to sue in their own behalf for relief against state-imposed segregation. To accomplish this purpose, Congress stipulated in Section 409 that nothing in Title IV "shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education."

Congress was determined, however, not to increase the powers of federal judges when it gave the Attorney General standing to seek relief against discrimination in public education in behalf of the aggrieved persons designated in Section 409(a). Moreover, Congress was equally as determined that federal judges should not have jurisdiction to compel school boards to deny children admission to their neighborhood schools and transport them hither and yon to achieve racial balances in public schools, regardless of whether the racial imbalances sought to be removed to accomplish such purpose arise out of innocent causes or discriminatory action on the part of school boards.

Congress made these purposes manifest by inserting in Section 409(a) language expressly providing "that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards."

By so doing, Congress deprived all federal courts of the jurisdiction to order public school boards to bus children from one school to another or from one school district to another to remedy racial imbalances in public schools regardless of whether such imbalances arise out of innocent causes or discriminatory school board action. As appears from the cases which the amicus curiae has previously cited, Congress has undoubted power to do this under the First Section of Article III of the Constitution, which empowers it to define the jurisdiction of inferior federal courts, and under the Second Section of Article III of the Constitution, which expressly provides that "the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

It necessarily follows that the District Court violated the provisions of the Civil Rights Act of 1964 when it ordered the Charlotte-Mecklenburg School Board to bus thousands of children from some schools to other schools and from some school districts to other school districts to overcome racial imbalances in any of its schools regardless of the origin of such racial imbalances; and that the Circuit Court erred in affirming the provisions of the District Court order relating to the transportation of senior high school and junior high school students.

While such statutes apply to the Executive Department of the Federal Government only, and for that reason are not controlling in this case, it seems not amiss to direct the attention of the Supreme Court to congressional hostility to the busing of children to achieve racial balancing in public schools. Congress manifested its hostility to such action by the Eelemenary and Secondary Education Act of 1965, as amended in 1966, which forbids "any department, agency, officer, or employee of the United States * * * to require the assignment or transportation of students or teachers in order to overcome racial imbalance," (P.L. 89-10, Title VIII, Section 804; 20 U.S.C. Section 884); the Department of Labor, and Health, Education, and Welfare Appropriation Act of 1969, which provides that "no part of the funds contained in this Act shall be used to force busing of students * * * in order to overcome racial imbalance as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school", (P.L. 90-557, Title IV, Sec. 410); and the Office of Education Appropriation Act of 1971, which provides that "no part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students" (P.L. 91-380, Title II, Section 210).

IV

"A School Board has the Power to Devise and Implement any Non-discriminatory Plan for the Assignment of Children to the Public Schools it Operates. The District Court not Only Rejected a Non-discriminatory Assignment Plan Submitted by the Charlotte-Mecklenburg School Board, but it Usurped and Exercised the Authority of the School Board in this Respect by Devising a Plan of its Own Which Commands the School Board to Deny Thousands of Children Admission to Their Neighborhood Schools, and to bus Them to Other Schools to Mix the Races in the Various Schools in Numbers or Proportions Satisfactory to the District Court. By so Doing, the District Court Ordered the School Board to Deny to the Thousands of Children Affected by its Order Admission to Their Neighborhood Schools in Violation of the Equal Protection Clause, and to Bus Them to Other Schools or Other School Districts in Violation of Section 407(a)(2) of the Civil Rights Act of 1964. The Circuit Court Concurred in These Violations, and Erred Insofar as it Affirmed the Order of the District Court."

A school board, acting as a state agency, has the power to assign children to the public schools it operates free from interference by the Federal Judiciary as long as it obeys the Equal Protection Clause and does not exclude any child from any school because of the child's race.

When a school board violates the Equal Protection Clause, a Federal Court has jurisdiction to order the school board to devise and implement a plan sufficient to remedy its discriminatory assignment of children to its schools, and to punish the members of the school board for contempt of court if they fail to obey the order. Nevertheless, the power to devise and implement a plan to remedy the discriminatory assignment continues to reside in the school board, and the Federal Court is without power to reject a non-discriminatory plan submitted by the school board because such non-discriminatory plan will not mix the races in the schools in numbers or proportions satisfactory to the Federal Court.

Besides the Federal Court cannot usurp and exercise the power of the School Board to devise a non-discriminatory assignment plan because the Federal Court wishes to mix the races in the schools in greater numbers or proportions than the non-discriminatory plan of the School Board envisages.

The District Court violated all of these principles when it made its order of February 5, 1970 (819a-839a), its supplemental findings of fact of March 21, 1970 (1198a-1220a), and its supplemental memorandum of March 21, 1970 (1221a-1238a).

Pursuant to the order which the District Court had entered on December 1, 1969, the

Charlotte-Mecklenburg School Board submitted to the District Court on February 2, 1970 its plan for desegregation of schools (726a–742a). By this plan the School Board undertook to restructure its geographical attendance districts or zones in such a manner as to promote the highest degree of racial integration obtainable by geographical districting or zoning, and to assign all school children, black or white, to the neighborhood schools in the district or zone of their residence, regardless of race. The plan undertook to further augment desegregation by a transfer system heavily weighted in favor of permitting black children to transfer from predominantly black schools to predominately white schools.

Inasmuch as it treated all children similarly situated exactly alike and did not exclude any child from any school on account of the child's race, the plan submitted by the School Board on February 2, 1970, was in complete harmony with the Equal Protection Clause and it was obligatory for this reason for the District Court to approve it and permit the School Board to implement it.

Instead of doing so, the District Court rejected the nondiscriminatory plan submitted by the School Board, and usurped and exercised the power vested in the School Board by adopting a plan of its own. The District Court accomplished this purpose by engrafting upon the plans of the School Board drastic alterations and revisions recommended by Dr. Finger, which commanded the School Board to deny thousands of children admission to their neighborhood schools, and to bus them long distances from some schools to other schools, and from some school districts or zones to other school districts or zones.

When all is said, the District Court commanded the School Board to take this action to remedy racial imbalances in black schools in northwest Charlotte arising out of de facto residential segregation in that area, and to produce racial commingling in these schools of northwest Charlotte and other schools in other areas in numbers or proportions greater than those envisaged by the plan of the School Board.

The District Court virtually confesses that its order was designed to effect these purposes by this recital which appears in its supplemental findings of fact of March 21, 1970:

"Both Dr. Finger and the school board staff appear to have agreed, and the court finds as a fact, that for the present at least, there is no way to desegregate the all-black schools in Northwest Charlotte without providing (or continuing to provide) bus or other transportation for thousands of children. All plans and all variations of plans considered for this purpose lead in one fashion or another to that conclusion." (1208a)

In addition to usurping and exercising power vested by law in the School Board, the District Court order commands the School Board to violate rights vested in thousands of school children by the Equal Protection Clause and the Civil Rights Act of 1964.

Since the power to assign children to public schools belongs to the school board administering such schools, no child has the constitutional or legal right in the first instance to attend any particular school, but when a school board adopts a non-discriminatory system for assigning children to neighborhood schools in the attendance district or zone of their residence, children acquire, as against every governmental agency except the school board, the legal right to attend the schools to which they have been so assigned. This right is additional to their right not to be excluded from such schools because of their race.

By its previous practices and its plan of February 2, 1970, the School Board had assigned thousands of senior high school, junior high school, and elementary school children to their neighborhood schools in a wholly non-discriminatory fashion.

By its order of February 5, 1970, the District Court commanded the School Board to do two things which clearly offend the Equal Protection Clause. In the first place, the District Court commanded the School Board to treat differently children similarly situated by allowing thousands of children to attend their neighborhood schools, and by excluding thousands of other children from admission to their neighborhood schools; and in the second place, the District Court commanded the School Board to bus the thousands of children excluded from their neighborhood schools to some other schools in other districts or zones to desegregate both their neighborhood schools and the other schools in numbers or proportions satisfactory to the District Court.

No amount of sophistry can erase the plain truth that the second group of children were denied admission to their neighborhood schools on account of their race.

Manifestly, the Equal Protection Clause does not confer upon any Federal Court jurisdiction to enter a wondrous order to compel a school board to obey the Equal Protection Clause by violating it. Congress apparently realized this bizarre result of busing children from one school to another, or from one school district or zone to another district or zone, when it prohibited any officer or Court of the United States to require such action to achieve the racial balancing of schools.

The Circuit Court erred in affirming the order of the District Court rejecting the plan submitted by the School Board, and in affirming, in part, the order of the District Court excluding children from their neighborhood schools and requiring them to be bused to other schools and other school districts in other areas.

CONCLUSION

For the reasons stated, the Court should reverse the provisions of the judgment of the Circuit Court insofar as they relate to the assignment and busing of senior high school and junior high school students; approve the provisions of the judgment of the Circuit Court insofar as they vacate the order of the District Court relating to the assignment and busing of elementary school children; and grant the motion of the School Board to stay the order of the District Court reinstating its previous orders relating to the assignment and busing of elementary school students.

Respectfully submitted,

SAM J. ERVIN, Jr.
CHARLES R. JONAS.
ERNEST F. HOLLINGS.

APPENDIX

Constitutional provisions involved

1. The First Section of the Fourteenth Amendment, which reads, in pertinent part, as follows: "nor (shall any State) deny to any person within its jurisdiction the equal protection of the laws."

2. The Fifth Section of the Fourteenth Amendment, which specifies that "The Congress shall have power to enforce, by appropriate legislation, the provisions of this Article."

3. The First Section of Article III, which states, in pertinent part, that "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish."

4. The Second Section of Article III of the Constitution, which reads, in pertinent part, as follows:

"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; - to all Cases affecting Ambassadors, other public Ministers and Consuls; - to all Cases of Admiralty and maritime Jurisdiction; - to Controversies to which the United States shall be a Party; - to Controversies between two or more States; - between a State and Citizens of another State; - between Citizens of different States; - between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

"In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

Statutory Provisions Involved

1. Title IV of the Civil Rights Act of 1964 which originally appeared in Title IV of Public Law 88–352 of the 88th Congress and is now codified as 42 USC 2000c–2000c–9. This statute reads as follows:

"Title VI—Desegregation of Public Education Definitions

"Sec. 401. As used in this title—

"(a) 'Commissioner' means the Commissioner of Education.

"(b) 'Desegregation' means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but 'desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance.

"(c) 'Public school' means any elementary or secondary educational institution, and 'public college' means any institution of higher education or any technical or vocational school above the secondary school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

"(d) 'School board' means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

Survey and Report of Educational Opportunities

"Sec. 402. The Commissioner shall conduct a survey and make a report to the President and the Congress, within two years of the enactment of this title, concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States, its territories and possessions, and the District of Columbia.

Technical Assistance

"Sec. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

Training Institutes

"Sec. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute on a full-time basis may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for travel to attend such institute.

Grants

"Sec. 405. (a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

"(1) giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation, and

"(2) employing specialists to advise in problems incident to desegregation.

"(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him, the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

Payments

"Sec. 406. Payments pursuant to a grant or contract under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

Suits by the Attorney General

"Sec. 407. (a) Whenever the Attorney General receives a complaint in writing—

"(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

"(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin, and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

"(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

"(c) The term 'parent', as used in this section includes any person standing in loco parentis. A 'complaint' as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code.

"Sec. 408. In any action or proceeding under this title the United States shall be liable for costs the same as a private person.

"Sec. 409. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education.

"Sec. 410. Nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin.

LOW WAGE WORKERS AND THE FAMILY ASSISTANCE PLAN

Mr. JAVITS. Mr. President, in connection with the Senate's consideration of the administration's proposed new Family Assistance Act, I should like to call attention to a recent policy statement made by the New York Urban Coalition entitled "Low Wage Workers in New York City."

The policy statement, which was issued on September 17, 1970, concludes that there may be as many as 263,500 families in New York City containing an employed member with incomes too low to provide a minimally adequate standard of living. That total includes 180,500 families with incomes below the Federal poverty index—$3,720 for a family of four—and an additional 83,000 "near poor," families with income below the cutoff line, for New York State Home Relief, supplementary assistance, which is $5,050 for a family of four for New York State Home Relief.

While 6 percent of the city's white labor force were full-time employed family heads with income insufficient to sustain an adequate standard of living, 12 percent of the black labor force and 16 percent of the Puerto Rican labor force were in this category; a survey of Harlem-East Harlem, Bedford-Stuyvesant and South Bronx indicated that 78 percent of Puerto Rican men and 30 percent of black men earned under that amount per year.

The Urban Coalition statement noted, at page 9:

There is a continual two-way movement between the "working poor" and the "non-working poor" categories. Statistics show that 80% of the mothers receiving Public Assistance had some work experience before they applied for welfare, and 30% of those who had worked were employed for at least 10 years. Furthermore, over 30% of the welfare caseload leaves the rolls each year, most because someone in the household has become employed.

Clearly there is no wall separating the "working poor" from the "non-working poor"—only a revolving door. The central concern of this report is, however, the status of the poor *while they are working* and the problem of increasing their earnings and incomes while they are employed.

Mr. President, the administration's proposed new family assistance would permit working poor families—whether headed by male, or female—to be eligible for the basic $1,600 family assistance payment, as they increase their own incomes through employment.

However, under the administration's bill, a working poor family that is headed by a fully employed male of an intact family—would remain ineligible for the State supplementary requirements required to be maintained under the Family Assistance Act, and States wishing to make such payments to these families would not have the benefit of the 30 percent Federal sharing otherwise applicable to the supplemental payments.

I submitted on August 20, 1970, amendment No. 854 to H.R. 16311, the Family Assistance Act, which would mandate the application of the State supplements to the working poor.

While the coalition statement refrains—in conformity with the provisions of the Tax Reform Act of 1969—from taking a position in respect to the Family Assistance Act it urges an educational campaign to inform low-wage workers of their eligibility under law and notes a general need to raise the benefits to the working poor either by increasing the general family assistance payment or with State supplements to the Federal FAP payments, as I have proposed.

Mr. President, I believe that the inclusion which my amendment would mandate is necessary if we are to encourage the permanent movement of poor persons into the category of the working poor. There are more than 1.4 million working poor families in the Nation; almost 200,000 work their way off the welfare rolls each year. The amendment would also reduce the incentive for desertion which will still be applicable under the Family Assistance Act if fully employed female-headed families are eligible for State supplementary payments; while similar male-headed families are not.

The administration has indicated that the proposed amendment would cost an additional $1,000,000,000. However, that estimate is based upon the assumption that all of those eligible will participate. To the contrary, experience in the six States that now provide income supplements to the working poor indicates that participation will most likely be only a third of those eligible. In that connection, the Urban Coalition report states, at page 23:

It is difficult to envision circumstances in which an educational campaign would result in more than a third of the eligible families applying for income supplements.

The coalition also recommended:

(1) that there be an expansion of efforts on the part of the City and the State to deal

with the problem of combatting the "collusive practices" of "racket unions" and employers who cooperate with them to keep wages down.

(2) that land-use policy, public investment and technical assistance be applied in such a manner as to encourage industries with higher paying jobs to remain, expand, and to establish new facilities in the city and stimulate growth of private housing construction.

(3) that Federal, state and city manpower programs concentrate on developing job opportunities for low-wage workers in the better paying industries and occupations.

(4) that the Department of Labor develop more current and detailed information about economic conditions of the working poor, particularly those in the City's Black and Puerto Rican communities.

(5) that minimum wages be equalized across the Nation so as to eliminate the potential harmful effects of the minimum wage differential now in effect between New York and the rest of the Nation.

The statement notes that "there is nothing mutually exclusive" between the approaches of providing income supplements to low-wage workers and supporting national minimum-wage standards.

Mr. President, I hope that the administration and the Congress will give consideration to these programs, and that the House of Representatives will take action to adopt manpower legislation, as the Senate did on September 17. As the Urban Coaltion report notes, training programs are "an important part of both the long-range and the short-term strategy for improving the opportunities of the least well-educated workers."

I ask unanimous consent that the full text of the statement, entitled "Low Wage Workers in New York City" be printed in the RECORD.

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

LOW WAGE WORKERS IN NEW YORK CITY

PREFACE

This report on the problem of low-wage workers in New York City is presented not as the definitive analysis of a very complex and disturbing issue, but rather in an effort to bring to the consciousness of government and concerned citizens a pressing dilemma, and some possible solutions. There may be as many as 263,500 families in New York City which contain employed members—individuals who have readily accepted the American ethic of work and self-support—with incomes too low to provide a minimally adequate standard of living.

New York's many low-wage jobs primarily represent unskilled and semi-skilled labor in intensely competitive businesses. The households of the workers in these positions depend on such wages for their livelihoods; and we cannot ignore the impact on these families of any measure, such as increased State minimum wages in the absence of parallel Federal standards, which could result in the flight of marginal employers and their payrolls from the City. Given current inflationary trends, both employer and employee are experiencing a money squeeze, and this factor too must enter into our deliberations. While precise data are lacking on the dimensions and characteristics of the working poor and their employers, we have ben able to arrive at useful estimates. On this basis, we have come to the conclusion that the problem is sufficiently widespread that we cannot ignore its harmful effects solely because of our desire for further information. The recommendations at the close of the report are offered with the realization that, although we have been unable to come up with a comprehensive solution, the immediacy of the needs of the working poor will brook no delay in efforts at alleviating their condition.

Perhaps the most controversial of our recommendations is that of income supplements to low-wage workers. In part, we propose such an approach in response to the speech by Daniel Moynihan before the National Urban Coalition's Action Council, on July 1, in which he requested support for the Family Assistance Act. We understand full well that this use of taxpayers' money to "subsidize" indirectly the operations of low-paying, marginal employers will meet with opposition in some quarters; and we know that many would prefer increased National minimum-wage standards. There is nothing mutually exclusive between these two approaches. We would hope that higher wage levels, resulting from increased productivity and appropriate legislation, will eventually obviate the need for income supplements (such as those embodied in the Family Assistance Act for all but the largest of working-poor families.

In the meantime, until we find better solutions and legislation, we feel that it is incumbent upon the Urban Coalition to point the way toward ameliorating the situation of the working poor. It is to such an end that this report was prepared.

SUMMARY OF FINDINGS

1. How Poor is Poor? Due to the high cost of living in New York City, the Social Security Administration's national poverty standard for a non-farm family of four $3,720 annually, is too low. New York City's eligibility cutoff line of $5,050 (on the average) for a family of four, for supplementary public assistance under Home Relief, is a more realistic poverty index.

2. The Dimensions of the Problem. There are perhaps as many as a quarter-million New York City families containing a full-time employed head of household with a total income below the Home Relief poverty index. Only 6% of the City's White labor force were full-time employed family heads figures for the Black and Puerto Rican labor force were 12% and 16% respectively.

3. Working Poor and Welfare Poor—"The Revolving Door". 80% of the mothers receiving Public Assistance had some work experience; 30% of the welfare caseload leaves the rolls each year, many of them to take a job. Family responsibilities, long-term disabilities, poor health, old age, and seasonal unemployment are major factors that keep people out of work. Unable to develop a financial cushion while working, their only recourse is to turn to welfare. There is no wall separating the "working poor" from the "non-working poor"—only a revolving door.

4. *Who are the Low-Wage Employers?* Manufacturing: Toys, Jewelry, Novelties, Leather Products, Electrical Equipment, Apparel and Textile Mill Products; Non-Manufacturing: Retail Trade, Restaurants, and Personal Services (Laundry, etc.).

Among the reasons these industries pay relatively low wages is the fact that manufacturing industries are subject to price competition from manufacturers located in low-wage regions of the U.S. and abroad. The low-skilled nature of the work in these industries also dictates the inadequate wage scales which they adopt. Being, for the most part, "labor intensive", increased wages in these industries have a larger and more direct influence on their products' prices than is the case in "capital intensive" industries such as steel manufacturing where labor costs contribute less to the total costs of production. Non-manufacturing industries such as retail trade, restaurants and personal services are also highly labor-intensive.

Furthermore, some unions do not legitimately bargain for better wages. These "racket" unions—many of them independent, unaffiliated, bargaining agents—have been willing to enter into collusive or "sweetheart" contracts with low-wage employers.

5. *Long-Range Trends* There will be a continuing supply of low-wage jobs in the foreseeable future. While high- and intermediate-wage manufacturing has declined in New York City over the past decade, lower-wage manufacturing employment has actually increased, albeit slightly. According to the New York State Department of Labor's estimate, 133,000 *unskilled* jobs are to be filled during the 1965–75 decade. A substantial proportion of these unskilled jobs pay low wages.

I. How Poor is "Poor"?

There is no single, standard definition of "low income." All definitions are, however, related to family size and composition, on the assumption that the larger the family, the greater its expenses for food, clothing, shelter, etc. The "typical" family of four is commonly used as a reference point for comparing the various poverty indices, but all include standards for larger and smaller families and for single individuals.

Three commonly used definitions of low income are: (1) The Social Security Administration's Poverty Index, which established a Poverty Line, now at $3,720, for all U.S. non-farm, 4-person families; (2) the eligibility cutoff line for supplementary Public Assistance (Home Relief) to working families in New York State, which averages about $5,050 here for a working man with a wife and two children; (3) the Bureau of Labor Statistics' (BLS) three standards of living for the New York metropolitan area. The average "Lower" Standard BLS Budget now exceeds $7,000 per year for a four-person family.

These three definitions of low income yield, for the 4-person family, approximate weekly equivalents of $70 for the Social Security Administration's Poverty Index, $95 for the Income Supplement cutoff, and $135 for the BLS Lower Standard Budget.

II. The dimensions of the problem

The New York State Department of Labor (DOL), using a methodology developed by the U.S. DOL's Manpower Administration, has prepared an estimate of the number of persons in New York City's labor force (i.e., persons who are either working or seeking work) whose family incomes fall below the Social Security Administration's Poverty Index.

The State DOL also calculated the number of families with full-time employed heads of household that fall within an income level one-third higher than the Poverty Index, called "Near Poor". The Near-Poor level approximates the Income Supplement (Home Relief) cutoff points. Some 263,500 families with a full-time employed head of household fall within the Poor and Near-Poor income levels.[1]

Furthermore, according to the State DOL estimates, while only 6% of the City's White labor force were full-time employed family heads with Poor or Near-Poor incomes, the corresponding figures for the Black and Pu-

[1] This estimate may be on the high side, because data seem to indicate that the State DOL's methodology incorrectly included some 2- and 3-person families in the "Poor" and "Near-Poor" categories.

erto Rican labor force were 12% and 16%, respectively. It should be noted, however, that over half of all the working-poor families are White, as can be seen in the table below.

FULL-TIME EMPLOYED FAMILY HEADS IN NEW YORK CITY 1970-71 (ANNUAL MANPOWER PLANNING REPORT, NEW YORK STATE DEPARTMENT OF LABOR)

	White	Black	Puerto Rican	Total
Poor	97,500	51,200	31,800	180,500
Near-poor	47,200	22,100	13,700	83,000
Poor and near-poor	144,700	73,300	45,500	263,500
Percent of group's total labor force	6	12	16	8
Percent of working-poor families	55	28	17	100

The recent Bureau of Labor Statistics' survey of Harlem-East Harlem, Bedford-Stuyvesant, and the South Bronx, confirms the greater frequency of low earnings among the City's Black and Puerto Rican workers. (Relatively few Whites live in the three areas.) The BLS survey found that, among all full-time, year-round workers, Puerto Rican women were the worst off—78% of them earned under $4,500 per year and 30% earned under $3,200 per year. Likewise, among the full-time, year-round working men, Puerto Ricans had a lower earnings-profile than did Black workers: 42% of the Puerto Rican men (vs. 30% of the Black men) earned under $4,500 per year; and 12% of the Puerto Ricans (vs. 10% of the Blacks) earned under $3,200.

ANNUAL EARNINGS OF FULL-TIME, YEAR-ROUND WORKERS IN BLS SURVEY AREAS, 1968-69

	Percent earning under $4,500 per year	Percent earning under $3,200 per year
Total, men and women	45	17
Women:		
Puerto Rican	78	30
Black	63	28
White	44	22
Men:		
Puerto Rican	42	12
Black	30	10
White	26	11

III. Working poor and welfare poor

There is a continual two-way movement between the "working poor" and the "non-working poor" categories. Statistics show that 80% of the mothers receiving Public Assistance had some work experience before they applied for welfare, and 30% of those who had worked were employed for at least 10 years. Furthermore, over 30% of the welfare caseload leaves the rolls each year, most because someone in the household has become employed.

The BLS survey found that, to a great extent, family responsibilities, long-term disabilities (physical and mental), poor health, old age, and seasonal unemployment are the major factors that keep people out of the labor force. Having been unable to develop a financial cushion while working, their only recourse is to turn to welfare. For many of them, however, their non-working status is only temporary. Close to 30% of the men who were classified as "Not in the Labor Force" (i.e., they were neither working nor looking for work at the time of the survey) indicated that they would like a job "now." Although poor health and other factors were preventing them from working at the time they were interviewed, over half of the men said that they intended to look for work within the next 12 months.

Clearly there is no wall separating the "working poor" from the "non-working poor"—only a revolving door. The central concern of this report is, however, the status of the poor *while they are working* and the problem of increasing their earnings and incomes while they are employed.

IV. Low-wage employers

A recent New York DOL report (*Estimated Structure of Earnings in 1969 in New York State and New York City Industries*) estimated that, in October, 1969, 451,000 full-time (30 hours per week or more) jobs in New York City paid less than $90 per week, with 274,000 of them paying under $80 per week, and 135,000, under $70 per week. According to this report, there were 45,000 full-time jobs which, in late 1969, paid less than $60 per week.[2]

Some of those employed in these low-wage jobs are second wage-earners, whose earnings help to insure that their total family incomes stay above the poverty level. Nationally, in 1967, the BLS found that one-third of the families with $5,000–$7,000 annual incomes had two wage-earners. (For nonwhites, 50% of the families in this income bracket required two wage-earners.) However, many families, especially female-headed ones, do not have two wage-earners; and even moderately well-paying jobs leave very large families below the poverty line. The result, as noted previously, is that an estimated 263,500 New York City family heads with full-time jobs may have total family incomes low enough for them to fall below the Home Relief eligibility cutoff line.

It should be recognized, however, that the existence of low-skill jobs is not entirely a negative factor in the City's economy. They supply a source of "second income" employment, for housewives, young adults, and retirees, which supplement family earnings. In addition, these jobs, as a vital part of the economic linkage, may supply support for single individuals in New York City. In many cases they offer "entry-level" opportunities which provide valuable work experience to serve as a "springboard" into job opportunities with other employers. Where individuals are forced to support families in such jobs, however, it is apparent that such incomes are inadequate.

The State DOL's report gives detailed tables on the hourly wages paid by the City's industries. Although, the detailed industry-wage tables do not distinguish between full-time and part-time jobs, it is noteworthy that eight major New York City industries which, as a group, contributed only one third of the jobs covered by the report, accounted for two thirds of the 280,000 jobs that paid less than $1.85 per hour.

The New York City Department of City Planning has found that Black and Puerto Rican workers are disproportionately concentrated in the City's lower-wage industries. Thus, among manufacturing industries covered in the Department's recent Industrial Survey, Printing, Food Processing, Air Transportation, and Wholesale Trade—all relatively high-wage industries—were overwhelmingly White, while a substantial proportion of employees in lower-wage industries such as Rubber, Plastic, and Leather Products, Textiles, Apparel, Miscellaneous Manufacturing (Toys, Jewelry, Novelties, etc.) and Services (Laundries, Cleaners, etc.) were Black and Puerto Rican.

MAJOR LOW-WAGE INDUSTRIES IN NEW YORK CITY, OCTOBER 1969

Lower-wage industries manufacturing industries	Total number of jobs	Number of jobs paying $1.85 per hour or less	Percent of total jobs
Apparel	214,200	30,400	14.2
Miscellaneous manufacturing industries (toys, jewelry, etc.)	65,700	24,700	37.5
Leather products	30,600	10,000	32.6
Electrical equipment	40,500	8,300	20.5
Textile mill products	32,900	7,100	21.6
Nonmanufacturing industries:			
Retail trade	278,900	59,000	21.1
Restaurants	116,200	25,900	22.3
Personal services	54,200	15,200	28.0
Citywide total (all industries)	2,468,000	280,000	11.3

Among the reasons that some employers pay relatively low wages is the fact that the manufacturing industries here are subject to price competition from manufacturers located in low-wage regions of the U.S. and abroad. Being, for the most part, "labor-intensive" (i.e., a relatively large part of their total costs go to wages), increased wages in these industries have a larger and more direct influence on their products' prices than is the case in "capital-intensive" industries such as steel or automobile manufacturing, where labor costs contribute less to the total costs of production. To a large extent, Retail Trade, Restaurants, and Personal Services are also highly labor-intensive, and their customers have a wide range of choice among alternative suppliers: they can always shop at cheaper stores, eat in less expensive restaurants, and do their own laundry. The unskilled and semi-skilled nature of the jobs in some of these industries and businesses, as well as their flat organizational structures with little room for advancement, also contribute to the low wage-scales which characterize them.

Labor unions have, of course, traditionally bargained for better wages, fringe benefits and working conditions for their members. In doing so, they have to take account of the economic factors listed above. They also face extra difficulties in organizing industries in which many of the employers are marginal and have high turnover rates, or industries in which large numbers of part-time workers and secondary wage-earners (e.g., Retail) are employed.

However, some unions—many of them independent, unaffiliated, bargaining agents—have been willing to enter into collusive or "sweetheart" contracts with low-wage employers. These contracts usually call for a wage settlement of only a few cents an hour above the legally required minimum wage, and this is then checked off at payroll time as union dues for the benefit of the union "leaders". In turn, the racket unions promise employers not to negotiate for higher wages, fringe benefits, job security, or better working conditions. Such collusion violates both State and Federal laws.

The courts, however, generally review complaints about unfair labor practices only in terms of the strict legality of the contracts in question, without considering the broader intent of the law, which is to insure that unions are responsive to the desires of their members, and act in their best interest. The reason for this "strict construction" approach is, of course, the difficulty in estab-

[2] The report did not cover taxi, air, rail and water transportation, the Federal Reserve Bank, schools and colleges, religious, non-profit institutions, government, private households, farms and janitors.

lishing the fact that a union does not really represent its membership, except in cases where there is an open revolt by union members against their "leaders". Unfortunately, such rank-and-file rebellion against unrepresentative union leaders is relatively rare, largely because the workers in the low-wage industries, in which many of these unions are found, are often the least well-educated members of the labor force and are usually unaware of their rights as union members. The findings of a 1969 survey in ghetto areas, conducted by the Association of Catholic Trade Unionists (ACTU), under the sponsorship of the City of New York, show that union members residing in these areas participate only to a limited extent in union activities. Very few union members surveyed had seen their union constitution or labor contract, knew the names of their business agent or union officials, attended union meetings, or were even able to identify their union properly.

The City's Central Labor Council (AFL–CIO) estimates that there are some 60,000-plus union members here who are victims of these collusive practices. Although racket unions account for only part of the working-poor problem, their continued existence helps to depress generally the earnings of the City's workers, blocks the efforts of legitimate unions to fight for the interests of their workers, places ethical employers at a competitive disadvantage, and, indirectly, increases Public Assistance expenditures.

V. Long-range trends

Manufacturing employment in New York City has declined over the last decade. However, contrary to widely held opinion, the number of manufacturing industries with lower average wages has declined less (down 8.9%) than have those with high- and intermediate-level wages (down 10.8% and 16.7% respectively). In fact, the lower-wage manufacturing industries have, as a group, actually increased their total employment slightly (1.1%) in the last five years, while those with relatively high wages declined 5%, and those in the intermediate range lost 6%, of their total number of jobs.

The economic forces behind these trends are complex and interrelated. The City's tax structure, for example, influences the directions of the City's economy. In 1966, New York City revised its business tax structure by replacing the gross-receipts tax, which tended to bear down heaviest on the labor-intensive, low-wage industries, with a corporate income tax that shifted the burden more to the capital-intensive, high-wage concerns. Although some analysts had maintained that this revision could lead to a loss in higher-paying employers, such as that indicated above, others were disturbed by the disproportionate levy being imposed on the marginal employer, not only with the gross-receipts tax, but with other measures as well, such as the experience-rated tax for unemployment insurance.

Many of New York City's low-wage workers perform tasks that, while low-skilled, are important to the City's economy, and will continue to be needed in the foreseeable future. In 1968, the New York State DOL estimated that there would be *133,000 unskilled jobs* to be filled during the 1965–75 decade, most of which paid less than $100 per week in 1969. Even with overall improvements in wage levels, such jobs will continue to be at the bottom of the City's pay scale; and they will, in all likelihood, continue to be filled primarily by Black and Puerto Rican workers. On the other hand, BLS found a significant shift in the occupational pattern of young people, when compared to the adult labor force, in the survey areas. Over half of the employed teenagers (aged 16–19) were in white-collar occupations, while only one-third held the kind of semi- and unskilled blue-collar and service jobs in which three-fifths of the adults were employed. In the coming years, however, this third will form the pool of unskilled and semi-skilled labor from which the City's low-wage jobs will be filled.

VI. Approaches to solutions

The problem of low wages in New York City is a large and difficult one, and it is rooted in the economic and social structure of the City. There are no simple solutions. Some of the approaches, and their limitations, are:

1. *Minimum Wage Legislation.*—The increase in the State's minimum wage to $1.85 per hour, which took effect July 1, 1970, will be of some benefit to workers in the 280,000 full- and part-time jobs that paid less than this in 1969. It will not, however, lift many of them out of poverty; even a $2.50 hourly minimum would leave a working man with a wife and four or more children not only below the Home Relief Poverty line but below the Social Security Administration's Poverty Index as well. This example highlights the fact that wages are not geared to family size. Furthermore, State legislators must consider the same economic realities as labor unions when they revise minimum-wage legislation. In the absence of comparable nationwide standards, a substantial increase in New York State's minimum wage might encourage low-wage manufacturers to relocate their plants in neighboring states, or to flee the area entirely for the Southern states or the Caribbean. Indeed, the 25-cent hourly differential already in effect between New York and the rest of the Nation could contribute to such a trend, right now, which some suggest might be avoided by a higher Federal level.

2. *Exposing Racket Unions.*—Some steps have been taken to expose racket unions by Federal, State and City governments. Eleven years ago, Jay Kramer, Chairman of the New York State Labor Relations Board, called a conference of Federal, State and County prosecutors to formulate a program to eliminate the illegal activities of racket unions. In New York City, the Mayor's Committee on Exploitation of Workers, consisting of 23 labor, business, church and civic leaders has a mandate to "operate as a mediation service, using powers of persuasion and public interest" to achieve settlement of individual cases of exploitation brought before it. Local labor leaders and government officials report, however, that "sweetheart" contracts between low-wage employers and racket unions continue to exist in New York City.

While communication and coordination between the law enforcement agencies improved for a period of time as a result of the Kramer conference, it is apparent a sustained effort is required. Without funds and investigatory and subpoena powers, the Mayor's Committee's ability to investigate aggressively corrupt union activities is limited. In addition, it is apparent that a city-wide program, in conjunction with legitimate unions, to educate workers of their rights as union members is needed.

However, inroads into illegal union activities, while important, will have only a limited impact on the City's wage structure and on the problem of low wages.

3. *Economic and Manpower Development.*—Opportunities for the working poor, and for Blacks and Puerto Ricans in particular, are increasing in many of the better-paid industries, due to a variety of factors including local labor shortages, government anti-discriminatory measures, the efforts of the National Alliance of Businessmen and Coalition JOBS, and the constantly improving levels of educational attainment among younger Black and Puerto Rican workers. However, these long-range trends do little to benefit older, full-time employed, low-wage workers, many of whom already have large families to support.

Training programs are an important part of both the long-range and short-term strategy for improving the opportunities of the least well-educated workers. The remediation provided by Basic Education, and the skills learned in On-the-Job Training can mean a second chance for a young high-school dropout. But they can have only a limited impact on the total problem of low wages, for the following reasons:

A. There are not enough well-paying, entry-level job openings in the City's better-paying firms to absorb all of the low-wage earners, even if they could all be trained.

B. The low-wage firms themselves generally have rather "flat" organizational structures, with little or no opportunity for large-scale upgrading within each firm. (The opportunity for better economic return for persons in such firms generally is to find other employment, which is not always easy to accomplish unless one has acquired needed skills through training.)

C. Some of the low-wage workers—especially the older, least well-educated ones—have educational, cultural, language, health, and other handicaps too severe to be remedied by presently existing training programs. In addition, the most seriously "disadvantaged" applicants are often screened out by the better-paying companies, even after these companies have reduced their hiring criteria.

D. The number of training opportunities for the disadvantaged worker is highly dependent on the existence of a "tight" labor market. When business slows down, as is presently the case, training opportunities in the private sector are greatly reduced. The firm that is curretnly evaluating the five major government-sponsored training programs (MDTA, Job Corps, Neighborhod Youth Corps, New Careers, and JOBS) reports (unofficially) that hiring under the MA Contract portion of the JOBS program has practically ceased outside of New York City. Locally, Coalition JOBS itself has found increased difficulty in marketing the MA Contract in recent months.

4. *Family Assistance.*—Income supplements that increase with family size represent the only type of program that offers, in the foreseeable future, a possibility of improving significantly the economic status of large numbers of working-poor families. President Nixon's Family Assistance Program (FAP) is designed to benefit the working poor, and it includes incentives for the poor to work, rather than sliding into the full dependency of Public Assistance. Such an approach is buttressed by a research project under the Office of Economic Opportunity, in which preliminary findings indicate that income supplements are not a disincentive to work, and that they may even promote greater job stability among the working poor.

There are inadequacies in FAP, even in the recently revised version. The use of taxpayers' money to "subsidize" indirectly the inefficient operations of marginal employers, through wage supplements to their employees, is not a pleasant prospect; nor is the greater tax allocation required for such a program, especially in this time of budget deficits and increasing demand for all types of government services. On the other hand, that FAP would supplement only those working-poor families with total annual incomes under, for example, $3,920 for a 4-person unit is also obviously inadequately in New York, where Home Relief presently offers benefits to a 4-person unit with an income approaching $5,000. This discrepancy could be eliminated by increasing the benefits to the working poor in areas characterized by a high cost of living, either with greater FAP payments or with State supplements to the Federal FAP payments.

Currently, less than 30,000 working-poor families, or 11% of all those eligible in the City, are receiving welfare supplements. Ignorance is one significant factor in the underutilization of such benefits, as has been

shown in the various campaigns of the National Welfare Rights Organization. The working poor typically have little contact with the community and government agencies that could provide information about income supplements. If assistance is made possible by law, then this potential resource should be explained to its intended beneficiaries. The logical place to reach the working poor with such information is through their place of employment; but, with the exception of Project Rehab of the Central Labor Council, this concept has never been operationalized in a meaningful fashion.

It is difficult to envision circumstances in which an educational campaign would result in more than a third of the eligible families applying for income supplements. In the U.S. Postal Service, for example, virtually all its employees in New York City are aware of Home Relief, and a substantial majority are eligible; but less than 20% have availed themselves of the benefits.

The total cost of income supplements to one-third of the City's working-poor families eligible under FAP's $3,920 cutoff would be about $20 million; and the comparable cost under a $5,050 cutoff would be about $108 million. Just how much, if any, of the total cost would be shared by the State and City depends on the Family Assistance Act that finally passes in Congress, and on the State Government, which would not be prohibited from authorizing its own supplements to the Federal benefits, if they were deemed inadequate.

5. *The Data Gap.*— One of the most serious handicaps confronting those who attempt to develop and recommend sound policies with regard to the New York City economy is the lack of timely and relevant data on the local labor force. The estimates provided by the State Department of Labor give only an approximate idea of the dimensions of the problem of low wages in New York City; various other sources help to provide a more detailed, but still incomplete, picture.

Especially valuable in establishing the relative severity of this problem among the City's Black and Puerto Rican residents is the Bureau of Labor Statistics' recent Urban Employment Survey of Harlem-East Harlem, Bedford-Stuyvesant, and the South Bronx. This BLS program is, in fact, the only current source of detailed data on the status of Puerto Ricans in New York City. Unfortunately, it now appears that the U.S. Department of Labor intends to discontinue this program before it is completed.

New York City's policy-makers need *more* information on employment, unemployment, earnings, and other significant labor force and economic conditions, in order to permit an ongoing analysis of the dynamics of the local economy; more and better current data is also needed to assess the degree to which manpower programs and economic policies are making a significant impact on the City's economic structure. The discontinuation of the Urban Employment Survey program represents a step backward, in terms of New York City's data needs.

VII. Recommendations

Having reviewed the findings and recommendations of its Special Committee on the Problem of Low-Wage Workers in New York City, the Board of Directors of the New York Urban Coalition directs the Coalition to address itself to the issue of low-wage workers by taking the following steps:

1. *Family Assistance through Income Supplements.*[3]—Concluding that income supplements represent a significant means of improving the economic status of large numbers of working-poor families, and realizing that such an approach entails yet-unresolved issues, such as the need for higher supplementation levels in a State, like New York, with a high cost of living, we therefore call for an educational campaign to: (1) inform low-wage workers of their eligibility, under law, to income supplements, and to training opportunities for upgrading skills and thus improving income; and (2) apprise citizens and officials alike of the dimensions of the problem of the working poor, and of possible solutions to the problem.

Staff should be assigned to the Manpower Task Force of the New York Urban Coalition for the purpose of preparing this educational campaign, which should be coordinated with employers, legitimate unions, government agencies, and community organizations.

2. *Combatting Racket Unions and Employers.*—Call for an increase in the staff resources and investigatory powers of the Mayor's Committee on Exploitation of Workers, for the purpose of combatting the collusive practices of both racket unions and those employers who cooperate with them. In addition, the Mayor and the City Council should provide the Committee with a mandate to carry out, in conjunction with legitimate unions, a campaign to educate the City's workers about their rights as union members, encouraging them to register their complaints with the Committee.

Call upon the Governor to organize a permanent task force to coordinate activities of the numerous agencies with legal jurisdiction over collective-bargaining agents and protection of the civil rights of union members and individual workers. This task force should be similar to the one organized in 1959 by Jay Kramer, Chairman of the New York State Labor Relations Board; and the U.S. Attorney's Office should be involved, on a regular basis, in the work of the task force.

3. *Economic Development.*—Recommend that land-use policy, public investment, and technical assistance be applied in such a manner as to: (1) encourage industries with higher-paying jobs—without destroying existing job opportunities in New York City—to remain, to expand, and to establish new facilities, in the City; and (2) stimulate the growth of private-housing construction, which is at a critically low level, thus creating even more higher-paying job openings.

Companies benefiting from such public policies—i.e., builders, suppliers, and users of these facilities—should institute Affirmative Action Programs, if necessary to ensure an equitable distribution of minority-group employees throughout their work-forces.

This recommendation should be referred to the State's Job Development Authority, the City's Planning Commission and Economic Development Administration, and both the Public Development Corporation and the Urban Development Corporation.

4. *Manpower Development.*—Recommend that Federal, State, and City manpower programs concentrate on developing job opportunities for low-wage workers in the better-paying industries and occupations, and on training programs, including in-house upgrading, that will enable the working poor to qualify for these jobs. The Coalition's representative on the Cooperative Area Manpower Planning System's local CAMPS Committee should advocate this position for inclusion in the CAMPS FY 1971 Plan for New York City.

Urge appropriate agencies to investigate the feasibility of providing technical assistance to low-wage employers, for the purpose of increasing their employees' productivity and, therefore, their wage-scales. The appropriate State, Federal, and private agencies should be involved in this effort, along with the appropriate City agencies.

In short, increased productivity and earning power must be the goal of manpower development programs. Specific training for employees, and technical assistance for employers, offer useful solutions at short range. It must not be forgotten, however, that the long-range answer to this problem will reside in a school system made more effective in its ability to provide all students with the basic knowledge and skills which will enable them to acquire marketable ability and thus find their own way to rewarding employment in the economy of today and tomorrow.

5. *Closing the Information Gap.*—Call upon the U.S. Department of Labor to continue, rather than cancel, the Urban Employment Survey, the only source of current and detailed information about economic conditions in the City's Black and Puerto Rican communities. The Regional Bureau of Labor Statistics Office should also be provided with the resources to obtain and analyze New York area data gathered by the Bureau of the Census in its current Population Survey. This data, while collected monthly, is not now available to local policymakers.

Call for ongoing analyses on the structure and dynamics of the City's economy, in order to assist policymakers in measuring the impact of local economic policies and manpower programs. These studies should be conducted by the New York City Planning Commission, the Economic Development Administration, and the local Federal Reserve Bank. In conjunction with this, call upon the Economic Development Administration and other appropriate public and private agencies to explore the effect of alternative tax policies on different sectors of the business community, and on the flow of goods and services to and from the City.

6. *Equalizing Minimum Wages.*—Bring to the attention of the National Urban Coalition the potentially harmful effects of the minimum-wage differential now in effect between New York and the rest of the Nation; and call upon the National Urban Coalition, as a proper forum, to develop a policy proposal for equalization of minimum wages across all the States. At the same time, transmit to the National Urban Coalition the position of those New York labor and community representatives who wish to accomplish this equalization by means of increasing minimum wages nationally, and the concern of some of the New York business representatives on the Special Committee that higher minimum wages without greater productivity could, in their own right, do substantial harm to the economy.

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UNEMPLOYMENT DUE TO TIGHT MONEY, NOT MILITARY CUTBACKS

Mr. PROXMIRE. Mr. President, one of the most insidious arguments we hear today is that we must continue excessive defense spending in order to reduce unemployment. That argument is false for two reasons.

The first is that the present level of unemployment is the direct result of the Nixon administration economic policies. They pledged to bring down prices without excessive unemployment. A 4.3 percent level was predicted for this year. Instead we are now at the 5.5-percent level, which means there are 1,760,000 men and women to be jobless today who had jobs in January 1969.

The second is that spending money for needless military weapons, bases, or manpower is the worst of all possible ways to provide jobs. If we are to have a Federal public works or jobs policy, let us build houses, subways, antipollution devices, and goods which satisfy consumer needs. Our needs are so overwhelming that it would be criminal to pour money out for needless weapons when those needs are still unmet.

Sylvia Porter, one of the Nations most astute writers on business and consumer affairs, has put this matter in perspective. To the subtle argument that defense spending should continue merely to provide jobs, and that the recession is one induced by defense cutbacks, she provides the facts. She writes,

> The fact is, however, the recession of 1969–70 is primarily the result of the tight money policy adopted by the Federal Reserve System to prevent businessmen from getting all the money they wanted; to force them to curb inflationary spending, to postpone inflationary projects, to lay off workers.

We are now suffering from an administration-induced recession. With proper monetary policies, and policies which cut back space, defense, and other wasteful spending while inducing housing and spending in the private sector, we would have jobs seeking the men and women who left defense industries instead of having to add many of them to the unemployment rolls.

I ask unanimous consent that Sylvia Porter's article published in the Washington Evening Star for Monday, September 5, 1970, be printed in the RECORD.

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

WAR SPENDING; NEEDED FOR JOBS?

(By Sylvia Porter)

One of the most evil economic propaganda weapons that we could hand the communists would be a voluntary admission that the United States needs record and rising war spending to support prosperity. This is propaganda the Russians have been trumpeting since Lenin's day. It is not true. Peace would be the most bullish thing that could happen to us.

One of the most explosive economic weapons that we could hand America's destructive young radicals would be the argument that the United States cannot cut war spending and still maintain reasonably full employment. This is an argument the young who hate America advance to prove our society is not worth preserving. It is false.

It is hard to believe that the Nixon administration would make this dangerous admission or argument. Yet, this is precisely what high administration officials are doing.

DEFENSE CUTS CITED

Recently Secretary of Defense Melvin Laird invited some columnists to luncheon at the Pentagon that included Deputy Secretary of Defense David Packard. Laird introduced the conversation by summarizing how much the defense budget has been cut.

Defense spending in this fiscal year will be around $71 billion, down about $18 billion from the 1968 Vietnam war peak and only about $4.2 billion above the pre-escalation level of 1964.

The defense budget is about 7 percent of the Gross National Product, down 2.7 percent from the 1968 peak and well below the 1964 level too.

Defense spending now represents 34.6 percent of the total federal budget, down 8.6 percent from 1968 and down 8.8 percent from the pre-Vietnam escalation of 1964.

No small achievement this.

Laird went on to report that since mid-1969, employment in the military, defense-products and defense-related industries has decreased 840,000 as against an over-all rise in joblessness of 1.3 million. And he remarked:

"This is what happens when you move so rapidly from a war to a peacetime economy." The implication was unmistakable; the defense cuts are a prime reason for the recession and unemployment.

The fact is, however, the recession of 1969–70 is primarily the result of the tight money policy adopted by the Federal Reserve System to prevent businessmen from getting all the money they wanted; to force them to curb inflationary spending, to postpone inflationary projects, to lay off workers.

TIGHT MONEY BLAMED

Tight money has been the crucial factor behind the stock market crackup and business bankrupticies—not defense cuts.

Even in areas hit hardest by the cutbacks, this holds true—for had the aim not been to control inflation by compelling a business slowdown, the administration could have cushioned the defense spending reductions by non-defense spending increases.

But the sound policy objective was to curb inflation, and so the defense cutbacks were not offset.

You may criticize 1970's anti-inflation policies as crude and cruel, but you can't criticize their aim. You can argue that joblessness could be cushioned far more effectively, but you cannot use unemployment as an excuse for military spending.

By shifting spending priorities, we would create more jobs and more worthwhile ones.

ENDORSEMENT OF SENATOR SYMINGTON

Mr. PROXMIRE. Mr. President, the senior Senator from Missouri (Mr. SYMINGTON) has one of the genuinely distinguished records of accomplishment and service in the U.S. Senate. His contributions to our country have been particularly noteworthy in the military, scientific, and diplomatic fields.

His accomplishments have not gone unnoticed. Now one of the country's great newspapers have deemed him deserving of continued service in the Senate.

Mr. President, I ask unanimous consent that an editorial published in the St. Louis Post-Dispatch be printed in the RECORD.

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

SYMINGTON AND DANFORTH

The most important political contest in Missouri this year is that between U.S. Senator Stuart Symington, candidate for re-election to a fourth term, and John C. Danforth, Missouri Attorney General, one of the most attractive young men to emerge in the Republican party for a long time.

Because Mr. Danforth is the kind of broad-minded and progressive person we would like to see assume leadership of the Republican party in Missouri, we were happy to recommend his election as attorney general. We welcome his rise in the ranks as heartily as it is detested by the reactionary moss-backs who have dominated his party for so long.

Unfortunately for purposes of reforming the Missouri GOP, Mr. Danforth is running for the wrong office. The place to revitalize the party and reorient it to contemporary realities is in state politics, not in the U.S. Senate. Instead of directing so much of his present campaign irrelevantly against the Hearnes Administration, Mr. Danforth ought to be getting ready to run for Governor in fact. That as that law stands he will not meet Missouri's anachronistic residence requirements in 1972 is regrettable; but even if he has to wait until 1976, he would then be only 40, and in the meantime he could accomplish much at the state level to consolidate his party leadership.

It is understandable enough that a rising young politician should want to try his wings in Washington, where the glamor is. But Missouri cannot send him to the Senate simply because he is available, or simply because the Nixon Administration is so anxious to eliminate a knowledgeable critic who is a thorn in its side. There are strong reasons why, at this particular juncture, Senator Symington should be re-elected.

One reason is the able representation he has given all sections and economic interests of the state, urban and rural alike, before Congress and the administrative agencies. Another is his consistent and forceful support of progressive domestic legislation. In this sphere his record is certified not by rhetoric but by 18 years of solid votes on specific measures. He has consistently taken the liberal side on major issues of civil rights, education, housing, health care and urban reconstruction.

But the decisive consideration is the Senator's extraordinary position of influence in foreign and military affairs, and the uses to which he has put that position during the national agony over Vietnam and the struggle to shift resources from the arms race to domestic needs. As the only Senator to sit on both the Foreign Relations and Armed Services committees, one whose three terms of service enable him to outrank 85 per cent of his colleagues in a rank-dominated body, he occupies a unique place of influence.

To replace Senator Symington with Mr. Danforth would be to exchange a man with important power in the most critical areas of national policy for one who, whatever his merits, would have but minor impact on the course of events. Naturally enough, the Nixon Administration would like it this way; that is why their journeymen are working so strenuously for Mr. Danforth's election. But

Missouri's interests are not identical with the Administration's.

It is much to Senator Symington's credit that his perspective on Vietnam, foreign intervention and military affairs has changed during his third term. Instead of narrowing his horizons from term to term, as many Senators do, he has notably broadened his, and now emerges as the thoughtful proponent of a sensible reordering of foreign commitments to fit our resources and domestic priorities. He is one of the best informed critics of the ABM in particular and the military budget in general. He throws his weight on the side of the earliest and most complete troop withdrawal from Vietnam, as witnessed by his vote for the McGovern-Hatfield amendment to set a deadline for troop operations in Indochina. Mr. Danforth's opposition to that amendment, despite his stated opposition to the war, tells us much about the two candidates and their political situations.

The Pentagon and the State Department bureaucracies, as well as the Nixon Administration, would be delighted with the Senator's defeat. He is an embarrassment to them because as head of a subcommittee on overseas commitments he has fought to break through the curtain of secrecy that has so long kept the people in ignorance of the price they pay for a foreign policy of containment and unlimited military intervention. Yet it is precisely for such invaluable work as this that the Senator should be returned for another term.

THE GENOCIDE CONVENTION: HOW IT WORKS

Mr. PROXMIRE. Mr. President, there have been many false assumptions concerning the actual workings of the Genocide Convention. For example, a few of the detractors of the convention have maintained that it could subject American citizens to trial in an international court of law.

Let me clear up any misunderstandings on this. Enforcement of the Convention depends on the states involved, as is the case with all international law.

Once the crime of genocide has been committed, the offender must be brought to trial in the nation in which the offense occurred, not in an international court. This does mean, however, that legislation must have been enacted to prevent and punish genocide by that particular nation. Article VI of the convention does allow for an individual to be tried in an international penal tribunal. However, there is none presently in existence. It would take a U.N. treaty of which we were a party for any of our citizens to be affected by such a tribunal.

However, if the nation involved failed to bring the individual or individuals involved to trial, or take adequate preventative measures, another signatory nation may ask for the case to be brought before the International Court of Justice. This Court cannot try the crime. It can only provide jurisdiction in disputes between the contracting nations as to "interpretation, application and fulfillment of the Convention." The Court's powers are limited to ruling that the state involved is obliged to abide by the convention and try those accused of genocide in its own courts.

The only alternative open if the offending nation fails to abide by the decision of the International Court of Justice, is an appeal to the U.N. Security Council. The U.N. Security Council could be asked to do what it can to see that the Court's decision is fulfilled. Realistically, the alternatives open to the Security Council include investigation, publicity, persuasion, and economic sanctions. I think that it is most important that we all realize that the United States is a member of the Security Council of the U.N.

I hope this brief summary of the workings of the Genocide Convention will help to clear up any misunderstandings that might be held. It is my belief that we should discuss the facts about the Convention, not false interpretation as has often been the case.

NOTICE OF POSTPONEMENT OF HEARINGS ON PRIVACY, COMPUTERS, AND DATA BANKS

Mr. ERVIN. Mr. President, I regret to announce that the Constitutional Rights Subcommittee has postponed hearings scheduled to begin today on privacy, computers, and Government data banks, including the Army's civil disturbance program for surveillance of civilians.

This action was made necessary by the unforeseen introduction Friday afternoon of a third cloture petition on direct election. This development, coming on top of the stepped-up pressure on Members of the Senate to consider and vote on short notice on many complex and controversial measures has made it impossible to devote to our hearings the full time and attention they require.

A number of Senators who had desired to participate in the hearings but who have also felt the pressure of the end-of-session rush concur in the advisability of a postponement. Nevertheless, I made this decision most reluctantly because the growing public concern over Government data banks has made these hearings imperative. I hope that the hearings can be rescheduled for November, subject again to the Senate's schedule.

In the interim, the subcommittee will continue its efforts to make sense out of the executive branch responses to our inquiries about Government data banks. In particular, I have asked Secretary of Defense Laird to declassify the reams of directives and regulations in which Defense Department agencies have buried their response to our questionnaire asking what surveillance programs they maintain for monitoring activities of law-abiding civilians.

LAW AND ORDER—EDITORIAL BY GLENN HARDEN, SENATE PAGE

Mr. KENNEDY. Mr. President, in the year's first edition of the Courier, a student publication of the Capitol Page School, which was just published today, Editor Glenn Harden is the author of an excellent and insightful editorial entitled "Law and Order." I am pleased to say that I am responsible for Mr. Harden's appointment as a page.

I ask unanimous consent that the editorial be printed in the RECORD, so that all Senators might have the opportunity to read it.

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

LAW AND ORDER

(By Glenn Harden)

Our Nation is filled with uncertainty and unrest, and our leaders have promised to "bring us together." During their search for a unifying factor which would bring us all a little closer, they came upon the poetic phrase "law and order." Not since "Remember the Maine" or even "We shall overcome," has a phrase so strongly affected the lives of the people of this nation.

Every "political animal" who now works to gain the vote of the "silent Majority" and/or the so called "red-neck" vote, has now found a new fear upon which he can ultimately gain. They refer to this meaningful yet ambiguous slogan with inspired patriotism, and if against them you are against a peaceful, law-abiding society. This statement has indeed been grossly presented, with the help of George Wallace, Ronald Reagan, John Mitchell and others, to the American people.

True! The crime in the streets has reached an all time high, and true—direct and positive action must be taken toward reaching an end to this rising and insulting crime rate. But this does not mean to use this issue as a base for assaulting any particular group of people, whether racial or political. This tedious question of crime prevention must be discussed and solutions formed for alleviating the cause as well as the crime.

As stated before, many of our politicians are stereotyped by this phrase "Law and Order" and today many of our speeches sound like this:

"The streets of our country are in turmoil. The universities are filled with students rebelling and rioting. Communists are seeking to destroy our country. Russia is threatening us with her might and the republic is in danger. Yes, danger from within and from without. We need law and order. Yes, without law and order, our Nation cannot survive. Elect us and we shall restore law and order."

This was a political speech delivered over thirty years ago, in Hamburg, Germany, by Adolf Hitler.

Many of us will quickly rationalize to ourselves and others that this could never happen here in the United States. But in 1932, when Hitler made this speech, I'm relatively sure that the German people felt the same way. Born in the midst of this "L & O" tinge, a perfect case in point would be the newly passed D.C. Crime Bill. It has many sections which have been publicly proclaimed as "repressive and unconstitutional."

If this select group of politicians feels such a great love for combating injustice, let us ask them why hasn't the enforcement of the school desegregation laws taken place, or why haven't the fair housing laws or the equal opportunity acts been enforced, while anti-riot laws have captured their "energy and imagination"?

If the present attitude toward this subject is not changed, the only way we will be brought together will be in open conflict and a total disregard for "Law and Order."

LEADING ROLE OF SENATOR WARREN MAGNUSON IN HEALTH AFFAIRS

Mr. KENNEDY. Mr. President, the distinguished senior Senator from Washington (Mr. MAGNUSON) is a leader in many legislative fields, including the environment, consumer protection, transportation and oceanography, but in no field is his leadership more timely and more significant than in the field of health.

I have frequently called the attention of the Senate to Senator MAGNUSON'S

outstanding record in health affairs. Indeed, the passage of a number of his major health proposals in recent weeks attests to his increasing role in helping to shape the health policies of the Nation.

In September, for example, the Senate passed unanimously Senator MAGNUSON's National Health Service Corps Act, a landmark piece of legislation designed to bring needed doctors and other health professionals to isolated rural communities and inner city ghettos.

In the same week, the Senate passed Senator MAGNUSON's amendments to the Flammable Fabrics Act—amendments designed to improve the enforcement of this important act, which itself is also his work. Earlier the Senate passed Senator MAGNUSON's Poison Protection Packaging Act, a major bill in the series of consumer protection legislation he has sponsored to protect the health and safety of millions of Americans.

In prior years in Senator MAGNUSON's legislative career, he sponsored the legislation that established the National Cancer Institute, the National Institutes of Health, and the National Science Foundation. Much of the ongoing medical research in the United States today is a direct result of his foresight in offering this legislation years ago, long before health had become a major issue of public policy in America.

Now that the health crisis has become one of the most important social problems confronting the people of the United States and their Government, Senator MAGNUSON is playing an increasingly important role in guiding the Nation's health policy. At the beginning of this Congress, he became chairman of the Senate Appropriations Subcommittee dealing with health matters—the Subcommittee on the Departments of Labor and Health, Education, and Welfare, and Related Agencies.

This extremely important position has special significance at this time because of the disparity between the health needs of America and the priorities of the present administration. In his position as subcommittee chairman, Senator MAGNUSON has been diligent and perceptive. He has been sensitive to the urgent needs of the Nation's health community. More than any other person in public life today, he has helped to achieve a wise allocation of Federal resources to vital health programs. Because of Senator MAGNUSON's energy and leadership, all aspects of health care in the Nation—services, manpower, and basic research—have been the beneficiary.

One of the most important health issues now before the Congress of the United States is the issue of national health insurance. Here, too, we are fortunate to have the benefit of Senator MAGNUSON's experience and leadership. Recently, along with Senator YARBOROUGH, Senator COOPER, Senator SAXBE, and a number of other Senators, I introduced S. 4297, the Health Security Act, to establish a program of comprehensive national health insurance for the United States, capable of bringing the same high quality health care to every man, woman, and child in the Nation.

Two weeks ago, under the leadership of the distinguished Senator from Texas (Mr. YARBOROUGH), the Committee on Labor and Public Welfare held a series of hearings on this legislation and significantly advanced its prospect of enactment in the near future.

Senator MAGNUSON joined as a cosponsor of this legislation at the time we opened our hearings. In a thoughtful letter stating his support, Senator Magnuson made the important point that national health insurance cannot be simply a question of financing health care. It must also insure that adequate health services are actually available to all Americans.

Because national health insurance can play a major role in improving our health system, it holds great promise for improving the standard of health for every citizen. The fact that Senator MAGNUSON, with his years of experience and knowledge in health matters, has joined as a cosponsor of this legislation is extremely significant. I believe that his support very clearly demonstrates the importance and need for this legislation.

Mr. President, I ask unanimous consent that Senator MAGNUSON's letter be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., September 18, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, D.C.

DEAR TED: Because I have long been an advocate of the concept of national health insurance, and because I believe that the issues surrounding this concept deserve the most thorough study and examination, I would like to add my name as a co-sponsor of S. 4297, your national health insurance bill.

As Chairman of the Appropriations Subcommittee dealing with health, I have long believed that reform of our system of payment for medical services is essential if those services are to be delivered more effectively and equitably. National health insurance must be carefully studied, so that the program we ultimately enact will have a beneficial impact on the medical profession and on its ability to provide health care to all segments of the population.

After hearings have been concluded on your legislation, and after we have had an opportunity to study it further, it is quite possible that I will have some legislative recommendations of my own in this field. By joining as a co-sponsor of your important proposal at this time, it is my hope that the proposal will receive full scrutiny, and that we will consequently be better prepared to achieve enactment of some form of this concept in the next Congress.

Again, let me offer my congratulations on your leadership in this, and other matters in the health field, and my sincere hope that the hearings on your bill this week will set the stage for implementation of national health insurance in the near future. I pledge my complete cooperation and support in achieving this goal.

Sincerely,

WARREN G. MAGNUSON,
U.S. Senator, Chairman, Appropriations Subcommittee on the Departments of Labor, Health, Education, and Welfare, and Related Agencies.

RETIREMENT OF DR. SIDNEY FARBER

Mr. KENNEDY. Mr. President, a short time ago, it was announced that one of the great figures of American medicine, Dr. Sydney Farber, is retiring as professor of pathology at Harvard Medical School.

Dr. Farber's contributions to the field of medical research have earned him a place in the most exalted ranks of medicine. To millions of citizens, however, he is best known as the founder and director of the Jimmy Fund—the Children's Cancer Research Foundation.

For more than 20 years, Dr. Farber and the Jimmy Fund have brought hope and comfort to thousands of young children afflicted with cancer. His dedicated efforts and devoted service to these children have been matched only by his extraordinary contributions to cancer research and treatment.

If we see farther today, if we are closer to the goal we seek of the conquest of cancer, it is because we stand on the shoulders of giants like Sidney Farber. Fortunately, although he is now retiring from his high faculty position, Dr. Farber will continue as director of research of the Jimmy Fund. I know that I join millions of other Americans in paying tribute to this distinguished American for his brilliant career, and in wishing him a happy and fruitful retirement.

Mr. President, a recent editorial from the Boston Globe spoke eloquently of Dr. Farber's services and accomplishments. I ask unanimous consent that it be printed in the RECORD.

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

[From the Boston Globe, Sept. 16, 1970]

DR. FARBER: MEDICAL LEGEND

The one cheering note in Dr. Sidney Farber's retirement after 41 years on the faculty of medicine at Harvard University is that he will continue, this indefatigable man, as director of research of the Children's Cancer Research Foundation.

There is no known cure for cancer. But when (not if, but when) a cure is found it will be either Dr. Farber himself or one of the hundreds of researchers he has inspired who will find it. Dr. Farber is one of those rare human beings who becomes a legend in his lifetime, and a legend he is indeed although to hear it said would be an embarrassment to him.

There are hundreds of boys and girls who will attest to it, they and the parents so sorely grieved by the wasting away of their children until they were introduced to Dr. Farber's skills and his humanity. Dr. Farber IS the Jimmy Fund—amongst other things. He founded it in 1948 and called it the Children's Cancer Research Foundation after he had worked virtually alone in a basement room of Children's Hospital for two decades.

The Jimmy Fund does not save lives. Cancer is too savage a killer. But, under the genius of Dr. Farber and the other miracle men he has trained, it relieves little sufferers of their agony and in hundreds of instances it has prolonged their lives into adulthood.

"These children," he says of the 300 and 400 who are brought to him each year, "must be given a chance. It may mean one more trip to a fire station or a ball game. It may

mean life, for as long as the child lives his cancer is not incurable."

It is this indomitability of the man as well as his advanced techniques in the treatment of cancer that entitles him to a revered place in medicine's list of its illustrious. But his energy and genius go way beyond cancer and chemotherapy. Modern heart surgery, owes him a sizeable debt, as do so many of the advances (and the practitioners) in all of pathology's and bacteriology's many mystifying facets. The medical societies and universities who have honored this first S. Burt Wolbach Professor of Pathology at Harvard are worldwide. But the esteem in which he is held by his colleagues is as great an honor as a man could ask.

ORDER FOR CALL OF CALENDAR ON TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of the reading of the Journal on tomorrow, it may be in order to call up any unobjected-to bills on the legislative calendar.

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

ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of such disposition of any unobjected-to items on the legislative calendar tomorrow, the able Senator from New York (Mr. JAVITS) be recognized for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the able Senator from New York (Mr. JAVITS) tomorrow, 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.

LIMITATION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business tomorrow not exceed 30 minutes.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, it is my understanding that, under the previous order, at the request of the very distinguished majority leader (Mr. MANSFIELD), the unfinished business, the so-called equal rights for women amendment, will be laid before the Senate at the conclusion of the morning business—not the morning hour, but at the conclusion of morning business.

The PRESIDING OFFICER. The Senator is correct.

LIMITATION OF DEBATE ON EQUAL RIGHTS AMENDMENT TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that discussion of the equal rights amendment on tomorrow be limited to not to exceed 1 hour.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at that time, when not to exceed 1 hour has transpired for discussion on the equal rights amendment, the pending business, H.R. 18583, be then laid before the Senate.

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

Mr. BYRD of West Virginia. I understand that the pending question before the Senate at that time will then be——

The PRESIDING OFFICER. Agreeing to the amendment offered by the Senator from Iowa.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

ADJOURNMENT TO TOMORROW AT 10 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 8 o'clock and 39 minutes p.m.) the Senate, in accordance with the order of yesterday, adjourned until tomorrow, Wednesday, October 7, 1970, at 10 a.m.

NOMINATION

Executive nomination received by the Senate October 6 (legislative day of October 5), 1970:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

David Ogden Maxwell, of Pennsylvania, to be General Counsel of the Department of Housing and Urban Development, vice Sherman Unger.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 6 (legislative day of October 5), 1970:

U.S. CIRCUIT COURTS

Max Rosenn, of Pennsylvania, to be a U.S. circuit judge for the third circuit.

U.S. DISTRICT COURTS

Cornelia G. Kennedy, of Michigan, to be U.S. district judge for the eastern district of Michigan.

HOUSE OF REPRESENTATIVES—*Tuesday, October 6, 1970*

The House met at 12 o'clock noon.

Bishop William R. Cannon, bishop of the Raleigh area of the United Methodist Church, Raleigh, N.C., offered the following prayer:

O God, who art ever more able to help us than we are to help ourselves and whose resources are infinitely greater and more effective than are our own, grant us, we beseech Thee, a clearer and better understanding of Thy will, the resolution of mind and heart always to obey Thee, and Thy grace which alone can empower us as a free people to do what we ought to do and to fulfill our destiny in history and among the families of men.

Deliver us, we pray, from factionalism and from a petty concern for party and the sectional and local interests of those we represent if they impair the well-being of the Nation as a whole, compromise our basic unity as one people, and divide and weaken us at a time when we need to be united and strong in the face of hosts of evil which inflict and threaten to destroy mankind. In an election year, help us to be at our best, not at our worst, to behave like statesmen, not like politicians, and to conduct the business of this country in a way that merits Thy favor and wins Thy recognition: "Well done, good and faithful servant. Thou hast been faithful over a few things; I shall make thee ruler over many things. Enter thou into the joys of thy Lord."

We pray for our people, the citizens of this country, that they may be optimistic, confident, courageous, and compassionate. Help those who are affluent and prosperous constantly to be concerned about the welfare of those who live in poverty and deprivation, while at the same time help the poor to see that the solution to their problems is not to dispossess the rich and covet the resources of others but rather to cultivate the means to acquire resources of their own. Help us all to realize that nothing worthwhile is ever accomplished through the selfish disruption of an orderly society, through angry agitation in the streets and on the campuses of schools and universities, and through hate and violence in which one race or class is set in opposition to another. We pray with all our hearts for the moral reformation and spiritual renewal of all our people, majorities and minorities, blacks and whites, rich and poor, that we may live together in unity, understanding, mutual respect for one another, and in charity and brotherhood, that all the world may