United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, SECOND SESSION

SENATE—*Monday, November 16, 1970*

The Senate met at 12 o'clock meridian and was called to order by the Vice President.

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

O God, by whose providence we have been brought to this hour, we thank Thee for Thy guiding hand upon the Nation and Thy care of those who serve Thee in this place. As we renew our work may we renew our faith in Thee.

God of our fathers and our God, we beseech Thee to draw together the diverse and discordant elements of the Nation into one united people strong in the Lord and in the power of His might. May every victory be sanctified by deeper devotion. May every defeat be redeemed by a fresh commitment to a holier servanthood. Sweep away all bitterness, heal hurt spirits, restore broken friendships, and in reconciliation and warm comradeship may the people be blessed with wise leadership.

May a mighty tide of the spirit sweep over the Nation for moral regeneration and renewal. Make us one in purpose and dedication for the healing of the nations and the making of peace with mercy and justice. To Thy servants here give abundant grace to lift high the banner of freedom and peace for all mankind.

Through Him whose love never fails. Amen.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of October 14, 1970, the Secretary of the Senate received the following messages from the House of Representatives:

On October 15, 1970:

That the House had agreed to the amendments of the Senate to the following bills:

H.R. 4182. An act to authorize voluntary admission of patients to the District of Columbia institution providing care, education, and treatment of mentally retarded persons; and

H.R. 18086. An act to authorize the Commissioner of the District of Columbia to sell or exchange certain real property owned by the District in Prince William County, Va.

On October 16, 1970:

That the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President on October 21, 1970, under authority of H. Con. Res. 557, as amended:

S. 2755. An act for the relief of Donal N. O'Callaghan;

S. 2846. An act to amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to assist the States in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood, to assist the States in the provision of such services in accordance with such plan, to assist in the construction of facilities to provide the services needed to carry out such plan, and for other purposes;

S. 3116. An act to authorize each of the Five Civilized Tribes of Oklahoma to popularly select their principal officer, and for other purposes;

S. 3586. An act to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes;

H.R. 4182. An act to authorize voluntary admission of patients to the District of Columbia institution providing care, education, and treatment of substantially retarded persons;

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;

H.R. 9311. An act to declare that certain lands shall be held by the United States in trust for the Makah Indian Tribe, Washington;

H.R. 12475. An act to revise and clarify the Federal Aid in Wildlife Restoration Act and the Federal Aid in Fish Restoration Act, and for other purposes;

H.R. 14678. An act to strengthen the penalties for illegal fishing in the territorial waters and the contiguous fishery zone of the United States, and for other purposes;

H.R. 15069. An act to authorize the Thousand Islands Bridge Authority to construct, maintain, and operate an additional toll bridge across the St. Lawrence River at or near Cape Vincent, N.Y.;

H.R. 16710. An act to amend chapter 37 of title 38, United States Code, to authorize guaranteed and direct loans to eligible veterans for mobile homes and lots therefor if used as permanent dwellings, to remove the time limitation on the use of entitlement to benefits under such chapter, and to restore such entitlements which have lapsed prior to use or expiration, to eliminate the guaranteed and direct loan fee collected under such chapter, and for other purposes;

H.R. 16811. An act to authorize the Secretary of the Interior to declare that the United States holds in trust for the Eastern Band of Cherokee Indians of North Carolina certain lands on the Cherokee Indian Reservation heretofore used for school or other purposes;

H.R. 17570. An act to amend titles III and IX of the Public Health Service Act so as to revise, extend, and improve the programs of research, investigation, education, training, and demonstrations authorized thereunder, and for other purposes;

H.R. 17849. An act to provide financial assistance for and establishment of a national rail passenger system, to provide for the modernization of railroad passenger equipment, to authorize the prescribing of minimum standards for railroad passenger service, to amend section 13a of the Interstate Commerce Act, and for other purposes;

H.R. 18086. An act to authorize the Commissioner of the District of Columbia to sell or exchange certain real property owned by the District in Prince William County, Virginia;

H.R. 18260. An act to authorize the United States Commissioner of Education to establish education programs to encourage understanding of policies, and support of activities, designed to enhance environmental quality and maintain ecological balance;

H.R. 18298. An act to amend the Central Valley reclamation project to include Black Butte project; and

H.R. 18583. An act 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.

ENROLLED BILLS PRESENTED

The Secretary of the Senate announced that, on October 21, 1970, he presented to the President of the United States the following enrolled bills:

S. 2755. An act for the relief of Donald N. O'Callaghan;

S. 2846. An act to amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1969 to assist the States in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood, to assist the States in the provision of such services in accordance with such plan, to assist in the construction of facilities to provide the services needed to carry out such plan, and for other purposes;

S. 3116. An act to authorize each of the Five Civilized Tribes of Oklahoma to popularly select their principal officer, and for other purposes; and

S. 3586. An act to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of October 14, 1970, messages from the President of the United States were communicated to the Senate on November 10 and 13, 1970, respectively, by Mr. Leonard, one of his secretaries, as follows:

REPORT ON IMPLEMENTATION OF THE AUTOMOTIVE PRODUCTS TRADE ACT OF 1965—MESSAGE FROM THE PRESIDENT

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

To the Congress of the United States:

I hereby transmit the fourth annual report on the implementation of the Automotive Products Trade Act of 1965. The report contains information with respect to the United States-Canada Automotive Products Agreement, including automotive trade, production, prices, and employment in 1969. Also included is other information relating to the activities under the Act.

RICHARD NIXON.

THE WHITE HOUSE, *November 10, 1970.*

REPORT ON OFFICE OF ALIEN PROPERTY, DEPARTMENT OF JUSTICE—MESSAGE FROM THE PRESIDENT

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

To the Congress of the United States:

I herewith transmit the annual report of the Office of Alien Property, Department of Justice, for the fiscal year ended June 30, 1969, in accordance with section 6 of the Trading With the Enemy Act.

RICHARD NIXON.

THE WHITE HOUSE, *November 13, 1970.*

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT—APPROVAL OF BILLS AND JOINT RESOLUTIONS

Under authority of the order of the Senate of October 14, 1970, messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that the President had approved and signed the following acts and joint resolutions:

On October 13, 1970:

S. 3730. An act to extend for 1 year the act of September 30, 1965, as amended by the act of July 24, 1968, relating to high-speed ground transportation, and for other purposes

On October 14, 1970:

S. 1461. An act to amend section 3006A of title 18, United States Code, relating to representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States;

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

S. 3138. An act for the relief of Ruth E. Calvert; and

S. 4235. An act to continue the jurisdiction of the U.S. District Court for the District of Puerto Rico over certain cases pending in that court on June 2, 1970.

On October 15, 1970:

S. 30. An act relating to the control of organized crime in the United States;

S. 378. An act for the relief of Peter Rudolf Gross;

S. 583. An act to provide for the flying of the American flag over the remains of the U.S.S. *Utah* in honor of the heroic men who were entombed in her hull on December 7, 1941;

S. 732. An act for the relief of Mrs. Nimet Weiss;

S. 1123. An act for the relief of Ah Mee Locke;

S. 3154. An act to provide long-term financing for expanded urban mass transportation programs, and for other purposes;

S. 3167. An act for the relief of Kimoko Ann Duke;

S. 3263. An act for the relief of Maria Pierotti Lenci; and

S. 3265. An act for the relief of Mrs. Anita Ordillas.

On October 16, 1970:

S. 1628. An act granting the consent of Congress to the Western Interstate Nuclear Compact, and related purposes;

S. 1933. An act to provide for Federal railroad safety, hazardous materials control, and for other purposes;

S. 2264. An act to amend the Public Health Service Act to provide authorization for grants for communicable disease control and vaccination assistance;

S. 2314. An act to amend section 4 of the Revised Organic Act of the Virgin Islands relating to voting age;

S. 2661. An act for the relief of Kathryn Talbot;

S. 3212. An act for the relief of Curtis Nolan Reed;

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.

On October 19, 1970:

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 nondischargeability of provable debts, and to provide additional grounds for the revocation of discharges.

On October 21, 1970:

S. 2916. An act to establish the Plymouth-Provincetown Celebration Commission;

S. 3529. An act for the relief of Johnny Mason, Jr. (Johnny Trinidad Mason, Jr.); and

S.J. Res. 242. Joint resolution to provide for the temporary extension of the Federal Housing Administration's insurance authority.

On October 22, 1970:

S. 1708. An Act to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes.

S. 3116. An act to authorize each of the Five Civilized Tribes of Oklahoma to popularly select their principal officer, and for other purposes; and

S.J. Res. 165. Joint resolution granting the consent of the Congress to an agreement between the State of Florida and the State of Georgia establishing a boundary between such States.

On October 23, 1970:

S. 3014. An act to designate certain lands as wilderness.

On October 26, 1970:

S. 2695. An act to provide for the retirement of officers and members of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the Executive Protection Service, and of certain officers and members of the United States Secret Service, and for other purposes; and

S.J. Res. 223, Joint resolution to authorize and request the President to issue a proclamation designating January 1971 as "National Blood Donor Month".

On October 30, 1970:

S. 2846. An act to amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to assist the States in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood, to assist the States in the provision of such services in accordance with such plan, to assist in the construction of facilities to provide the services needed to carry out such plan, and for other purposes.

On November 2, 1970:

S. 3586. An act to amend title III of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes.

REPORTS OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of October 14, 1970, Mr. BIBLE, from the Select Committee on Small Business, submitted the following reports, which were ordered to be printed:

On November 10, 1970:

A report entitled "Twentieth Annual Report of the Select Committee on Small Business, United States Senate, for the Ninety-First Congress, First Session" (Rept. No. 91–1343).

On November 13, 1970:

A report entitled "Impact of Franchise on Small Business" (Rept. No. 91–1344).

MESSAGES FROM THE PRESIDENT

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

REPORT OF THE NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91–407)

The VICE PRESIDENT laid before the Senate the following message from the President of the United States,

which, with the accompanying report, was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I herewith transmit the Fourth Annual Report of the National Advisory Council on Extension and Continuing Education.

This Council, established under Public Law 89–329, is required to report annually on the administration and effectiveness of the Community Service and Continuing Education Programs under Title I of the Higher Education Act and of all federally supported extension and continuing education programs.

Although the Council's report expresses its concern over the fact that the Administration did not request any funds for the Title I program in its fiscal year 1971 budget submission, I believe it should be made clear that there is no dispute about the purpose of the program. This Administration shares the objective of solving community problems by employing the resources of our institutions of higher education.

However, there is a question as to whether the Title I program, as presently constituted, provides the most effective vehicle for achieving this purpose.

This Administration is committed to curbing the proliferation of Federal grant programs. Only through such actions can we assure that the citizens of this country actually receive the benefits promised—but too often not delivered—by our present array of Federal programs of financial assistance.

In my March 19 Message on Higher Education, I proposed to apply this principle to community services and university extension programs. I noted that "the time has come for the Federal Government to help academic communities to pursue excellence and reform in fields of their own choosing * * * and by means of their own choice."

Accordingly, I proposed that Congress establish a National Foundation for Higher Education. This Federal agency would provide funds for institutions of higher education to assist them in encouraging reform and innovation, and thereby aid them in responding more effectively to their internal and external missions.

My legislative proposal would give the Foundation authority for support of activities to achieve the purposes of the present Title I program. I believe the Foundation offers a new, creative and more promising means of developing effective programs to solve community problems than does the existing Title I program.

RICHARD NIXON.

THE WHITE HOUSE, *November 16, 1970.*

EXECUTIVE MESSAGES REFERRED

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

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

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 the bill (S. 3630) to amend the joint resolution establishing the American Revolution Bicentennial Commission, with an amendment in which it requested the concurrence of the Senate.

SENATOR FROM ALASKA—ADMINISTRATION OF OATH

Mr. SCOTT. Mr. President, I have a telegram from the acting Governor of Alaska, certifying to the election of the senior Senator from Alaska, TED STEVENS, which I send to the desk and ask that it be read.

The assistant legislative clerk read as follows:

NOVEMBER 11, 1970.

FRANCIS R. VALEO,
Secretary of the Senate,
U.S. Senate,
Washington, D.C.:

This is to inform you of the reelection of senior Senator TED STEVENS to the United States Senate. Other documents for transmittal to the Senate will be forwarded to you, as they become available.

ROBERT W. WARD,
Acting Governor.

Mr. SCOTT. Mr. President, I ask that it be in order now to swear in the Senator from Alaska (Mr. STEVENS) at this time, even though the certificate of election has not yet been received; but since there is nc question of his election, I take it there is no objection.

The VICE PRESIDENT. The Chair hears no objection, and if the senior Senator from Alaska, TED STEVENS, will present himself at the desk, the oath of office will be administered to him.

Mr. STEVENS of Alaska, escorted by Mr. GRAVEL, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the Vice President; and he subscribed to the oath in the official oath book.

[Applause, Senators rising.]

DEATH ON GEN. CHARLES DE GAULLE, FORMER PRESIDENT OF THE FRENCH REPUBLIC

Mr. MANSFIELD. Mr. President, the death of Charles de Gaulle during the past week is cause for reflection. This outstanding leader of our times possessed extraordinary political qualities and his perceptive views give relevance to certain Senate deliberations involving U.S. policy.

For his own country, the impact of his death was stated with eloquent simplicity by President Pompidou: "France is a widow," he said.

Although not always held in affectionate regard by General de Gaulle, the United States, it might be added, is a bereaved relative. President Nixon emphasized the point by his personal presence at the Paris memorial services. This Nation stood with the rest of the world in paying full final homage to a distinguished statesman.

Charles de Gaulle rose to the leadership of war and postwar France out of the deep resources of his inner resolve. He did not seize power; power gravitated to him in times of confusion, stress, conflict and uncertainty. In two great crises, once in 1944 and more definitively in 1958, he literally fashioned a structure of French Government out of chaos.

Although he operated, at times, as though his person were synonymous with the French State, he was by no stretch of the word a political totalitarian. He held himself and the military forces which extolled him in subordination to the civil state. Twice he relinquished great power on his own initiative. True, he may have seen himself as the incarnation of a France he sought to save or, rather, to recreate in greatness. In the final analysis, however, it was always the nation and not the man whose destiny took precedence. He was humble before no man but he was as a bondsman to his beloved France.

This complex man, this towering and dramatic person, in the end, is seen more accurately as a very decent and unpretentious human being. That is as I remember him from a recent personal encounter. The man, De Gaulle, in the shadow of De Gaulle, the statesman, is revealed by the simple funeral which he had ordered to be held in his village church at Colombey.

That simplicity is as much a part of the legacy which he leaves as is the hard body of his pragmatic political thought. His views were intensely nationalistic and European. They were often abrasive and blatantly self-serving for France. At times, they even appeared antagonistic to American interests. In historical retrospect, however, for the most part, De Gaulle's views may well resound with an increasingly solid ring of truth. The fact is that, at th core, Charles de Gaulle was quite free of delusions and possessed of a sweeping sense of history. He was, in a phrase attributed to one of his countrymen:

A man for the day before yesterday and the day after tomorrow.

For many of the 26 years after France was liberated, De Gaulle spoke more accurately and expressively than anyone else for the hearts and minds of the French people. Time and again, he was able to assess correctly the tides of national and international events and the needs to which they gave rise. He did so by a sureness of comprehension which to some was an infuriating sense of certitude. When he was right, it was because his decisions were based on clear logic, stripped bare of myth, and on correct assumptions about the nature of the world around him. And he was right about many of the central issues of his time:

He was correct in his assumptions about the need for a Free French Gov-

ernment in exile in 1940 and in his decision to lead the opposition to the Vichy government.

He was correct in his recognition of the need to reconstitute the fragmented political structure of France into "a regime capable of action and responsibility" with an effective executive; indeed, his constitutional reform in this area may prove to be his greatest achievement.

He was realistic in his recognition of the need for independence in Algeria and in his determination to free France "from the subjections that her empire imposed upon her"—even though, as he later declared in his memoirs "for a man of his age and upbringing, it was really cruel to become the mastermind of such a change."

He was right, in my view, in his recognition of the realities in Southeast Asia, a recognition which led him to warn President Kennedy that U.S. intervention would be an "entanglement without end," and to reiterate the substance of that warning time and again as our involvement deepened.

He may well prove to have been right, in large measure, too, by seeking to move in the direction of an all-European unity—East and West—set largely apart from both the Soviet Union and the United States and, in connection therewith in his calling for a revision in NATO concepts. His views were ridiculed and ignored at the time but the fact is that the revision is taking place in any event. The European contribution to NATO, insofar as it costs money and men, has not materialized to any great extent and, may I add, that it is high time that our expenditures for NATO be curtailed and our forces in Europe reduced.

As all of us here know only too well, in the end, political leaders can only contribute constructively to their times to the extent that they correctly perceive situations and anticipate accurately future courses of events. In that sense, Charles de Gaulle stands as one of the modern masters of international politics. He had a great capacity to grasp the changing needs of France and, I believe, to a considerable degree, the needs of Europe "the day after tomorrow."

He had the will and the wit to lead his people along the tortuous paths which circumstances required and to make bold and innovative decisions. This Nation was not frequently the beneficiary of his actions. Conversely, however, he was not frequently the object of our affection. Nevertheless, Charles de Gaulle is to be recognized ungrudgingly as an outstanding leader of modern France and Europe. History may well record him as a leader as simple in his person as he was great in his achievements.

Mr. President, I send to the desk a resolution on behalf of the distinguished minority leader and myself and ask for its immediate consideration.

The VICE PRESIDENT. The resolution will be read.

The assistant legislative clerk read the resolution, as follows:

S. RES. 481

Resolved, That the Senate of the United States has learned with profound sorrow of the death of General Charles Andre Joseph Marie de Gaulle, former President of the French Republic.

Resolved, That the Senate express its deepest sympathy to the family and the people of France in their great loss.

Resolved, That the President of the United States be requested to communicate this expression of sentiment to the widow and members of his family assuring them of the condolence of the people of our Nation in their irreparable bereavement; and be it further

Resolved, That when the Senate adjourns today, it does so as a further mark of respect for the former President.

The VICE PRESIDENT. Without objection, the resolution is considered and unanimously agreed to.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask consent that the reading of the Journal of the proceedings of Wednesday, October 14, 1970, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

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

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION THIS WEEK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the sessions of the Senate for the rest of this week.

Mr. SCOTT. Mr. President, reserving the right to object—and I will not object at this time—I should like to say that I will agree to this request, subject to the right of individual Senators to object to special committees meeting later on in the week, if they first will be good enough to consult with the majority and minority leaders.

Mr. MANSFIELD. I understand the position of the distinguished minority leader. May I point out that a number of committees will be holding hearings today, tomorrow, and in the remainder of the week, and that witnesses have come in from various parts of the country.

The Democratic caucus asked me today to make the suggestion that all committees be accorded the same privilege as the Appropriations Committee for the rest of this session because of its limited duration. I have, on my own, just asked that committees be accorded the privilege for this week.

Mr. HRUSKA. Well, Mr. President, reserving the right to object—and I shall not object—it would be a little unusual to ask for that blanket authority and that blanket waiver, although I do not know of any objections.

Mr. President, normally, this kind of request is made from day to day, or for a couple of days. I would not know of any urgent or pressing reason why that practice should be abandoned at this time.

Mr. MANSFIELD. If the Senator has questions, I can understand them. We are doing this only in the interest of time because this will be a limited, post-election session. We thought that if committees had this assurance—not to take up new legislation necessarily but old and needed legislation—it might be helpful.

Mr. HRUSKA. We will go on the suggestion of the minority leader and we will go on from there.

The VICE PRESIDENT. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

LIMITATION OF STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for recognition, and ask unanimous consent that I be allowed to speak for about 5 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

CONFERENCE REPORT ON FARM BILL

Mr. MANSFIELD. Mr. President, on October 14, the last day the Senate was in session before the election, in response to questions raised by various Members on both sides of the aisle, I gave assurances that the conference report on the farm bill would be taken up the day the Senate reconvened. I made those assurances in good faith, fully expecting that that would be the case.

Since that time, a number of events have occurred, not the least of which is the absence of the distinguished chairman of the Committee on Agriculture and Forestry on official business. Under his original schedule he was due to arrive in Washington yesterday. His original schedule was changed, however, through no fault of his own and he is now expected back later this week.

Therefore, with the concurrence of the Senate, I would like to be forgiven for the solid assurances I made. I did not foresee some of the events that have made it now impossible to have the Agriculture conference report pending as the very first order of business. Out of deference and courtesy to the chairman of the Committee on Agriculture and Forestry, I would like to suggest that the Senate consider taking up the conference report upon his return, which I understand will be Wednesday or Thursday.

I regret having to make a request of this sort in view of the positive statement concerning the scheduling of this matter I made on October 14. However, as sometimes happens, circumstances do

develop and in this instance they have colored the picture a little bit differently.

As most of us know, the leadership does not have it totally within its power—and this applies to both leaders—to call up a conference report. Conference reports are privileged matters and under the practice of the Senate they are handled ordinarily by the Senator who manages the measure in question in the first place. In this instance, it is the Senator from Louisiana who assumed that responsibility and I only ask that the Senate and the farmers of the Nation who are so vitally interested in the proposal understand the position in which the leadership finds itself at this moment. It is a difficult position, indeed, and once again I express my apology and ask the indulgence of all concerned for the 2 or 3 day's delay this has occasioned.

Mr. President, I ask unanimous consent that certain excerpts of what I had to say on October 14 be printed at this ponit in the RECORD.

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. MANSFIELD. I yield.

Mr. DOLE. Mr. President, I appreciate the remarks of the Senator from Montana. I think that perhaps the Senator refers to the debate and the colloquy that was had on the last day prior to election adjournment with the Senator from Kansas.

Mr. MANSFIELD. The Senator is correct.

Mr. DOLE. Mr. President, it is my understanding that when the Senator from Louisiana does return this matter will be the first order of business.

Mr. MANSFIELD. The Senator is correct. It is the first order of business.

Mr. DOLE. Mr. President, the Senate will not consider the conference report at this time as much as the Senator from Montana and the Senator from Kansas would like to dispose of it today.

Mr. MANSFIELD. Mr. President, I appreciate the understanding remarks of the distinguished Senator from Kansas.

The VICE PRESIDENT. Without objection, it is so ordered.

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

THE FARM BILL

Mr. DOLE. Mr. President, I take this time to ask a question about the conference report on the farm bill. As Senators know, there was some discussion late yesterday about action on the conference report. The Senator from Kansas is still hopeful—not very hoepful, but still hopeful—that there may be some action yet today on it, but I take this opportunity to ask a question of the distinguished majority leader because I have read with great interest a statement attributed to the majority leader that it will be the first matter of business on November 16, and also here was some assurance from the majority leader that, without a doubt, the Senate would approve the confence report.

I ask the question now, not in any partisan way, of the Senator from Montana, who comes from a winter wheat producing State because to his State and to my State of Kansas, which is a winter wheat producing State, this matter is highly important. In fact, I have stated my hope to the Secretary of Agriculture that perhaps, on the basis of assurances on the Senate floor, at least some provisional regulations and recommendations might be made to American winter wheat producers.

Therefore, I would be most grateful if the Senator from Montana would comment on that at this time.

Mr. MANSFIELD. Mr. President, I would be most happy to respond to the distinguished Senator from Kansas, who comes from one of the great wheat-producing States in the Nation, and may I say that Montana is quite a wheat producer, too.

Because of the situation which has developed, I find myself, as the majority leader, in a somewhat embarrassing position. The bill itself is not all that I desired. I thought that the Senate bill was very superior to the House-passed bill. The conference report did not do everything that those of us from the wheat-producing States desired. But, all things considered, it is a good bill, and with a $1.25 base for wheat, with the rest to be made up through certification, with what has been done to take care of the woolgrowers, the stockmen, the situation relative to Public Law 480, and other factors, it is the kind of bill I will vote for.

Furthermore, I think it should be brought out that both Houses unanimously have passed an extension of the wheat referendum from the 12th of October, last Monday, when it should have taken place, to 30 days after the Congress adjourns sine die, which takes it into January of next year, 1971.

There have been rumors to the effect that certain Senators have approached me with the request that I take no action on the conference report. I wish to state, without equivocation, that no Senator has approached me, on the basis of the reports which have become current, asking me to hold back, to retard, or to delay this conference report; and I want that stated specifically because I have noticed on the ticker that the names of Senators SYMINGTON and BURDICK have been mentioned.

I have had no contact with them whatsoever with respect to action on this conference report. They have made no request of me. And, as far as I know, they have been ready, able, and willing to be on the floor at any time when the conference report on the farm bill was to be taken up.

There is a situation within the committee itself, and it relates to the highest source in that committee, which I think has to be brought out and understood as to the situation in which the majority leader, and for that matter the Senate, finds itself at the present time.

It appears as of now that we will not get to the conference report on the farm bill today; and, speaking personally, I must express my own disappointment. But if such is the case, I wish to assure the distinguished Senator from Kansas and the Senate that one of the first orders of business when we return on November 16 will be the conference report on the farm bill. And I think I can say with full assurance that the Senate will agree to that conference report. There may be a little debate on it; I would not expect too much. By that time, the ripples will have dissolved, and it is my firm belief that the farmers affected by this bill can go ahead on all fronts with the assurance that the conference report will be considered as soon as possible on or about November 16, the day that we return, and passed as soon as possible thereafter.

May I say that I have no hesitation whatever in making this statement. I have no doubt but that the Senate will overwhelmingly approve the conference report. I have been assured by the distinguished Senator from Kansas that the President will sign the extension resolution having to do with the wheat referendum, very likely today.

So, with that statement, I give to the Senator from Kansas an answer long drawn out, but I hope explicit enough and definite enough to show where the Senator from Montana stands, the position he finds himself in, and what he proposes to do as a result of it.

Mr. DOLE. I appreciate the response of the Senator from Montana, and feel that the assurances given with reference to the action when we return will be helpful, not only to those of us in the Senate and to the Secretary of Agriculture, but most importantly to the farmer.

Mr. MANSFIELD. Yes.

Mr. DOLE. Because even though in many cases—and I assume in Montana—he has planted 80 to 90 percent of his wheat—

Mr. MANSFIELD. Yes, indeed.

Mr. DOLE. This is a set-aside provision in the farm bill, a new provision, and some adjustments may need to be made. But in any event, I also feel that the conference report will be agreed to. It will be adopted, I would suggest, by a very large margin, because I detect no flat, outright opposition to the report.

Many farmers, regardless of the views of some farm leaders, understand that this may be the last farm bill we will have, because of the question of farm payments and payment limitations. But in any event, there is still some hope; the Senate is still in session, and may be in session for some time yet this afternoon. It is my understanding that at the hour of 2 o'clock, the distinguished minority leader will read a letter from the President of the United States with reference to possible action on the conference report.

So the Senator from Kansas hopes that the matter may yet be resolved; but notwithstanding that, I appreciate very much the statement of the distinguished majority leader, the Senator from Montana, with reference to early action in the event action is not taken today. This assurance, I would hope and would think, would set minds at ease across America, particularly of those farmers who are still waiting to plant. So I appreciate the response very much.

Mr. MANSFIELD. I thank the Senator for his courtesy. I appreciate his comments. I yield to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, I thank the distinguished majority leader for yielding to me. He is to be commended for the very fine, frank, and statesmanlike report that he has given with respect the conference report on the farm bill.

My primary interest in the farm bill is in how it affects cotton. I was well pleased with the Senate bill, and had hoped that the conferees would agree on the Senate bill.

I do not approve of many of the provisions in the conference report with respect to cotton. I do not like the 28 percent set-aside. I do not like the reduction, in effect, in the support price. I do not like the reduction in the number of acres that are to be planted with support payments.

Yet I feel that the conference report, as inferior as it is to the Senate version of the bill, is a vast impovement over the 1958 act, with its two-price system for cotton, with its bulging warehouses full of cotton on which loans had been made, and with the building up of tremendous surpluses of cotton. So I would much prefer the conference report to getting no farm bill at all, and certainly I shall support the conference report when it is before the Senate for consideration.

The very frank and candid statement of the majority leader with respect to the inevitable

eventual passage of the conference committee report would certainly make a tempest in a teapot of the statements that were made of this floor from the other side of the aisle with respect to the dire results of a delay in consideration at this time of the farm bill conference report. I was certainly pleased to hear the distinguished majority leader say that he had not been asked by any Senator to delay consideration of the conference report, because intimations of that sort were made on the Senate floor yesterday.

So it would certainly seem to me that we are going to get a farm bill, and that any farmer who wishes to plant cotton, wheat, or feed grains can do so with full assurance that his crop will have the support of the Federal Government, according to the formula provided by the conference committee report.

It seems to me that on November 16 or 17, we will, insofar as Congress can act, have a farm bill and one which is a vast improvement over the 1958 act through it does not come up to the level of the Senate bill passed recently.

Some days ago, the distinguished majority leader urged the Senate conferees to stick by the Senate bill, and I took the floor and made the same request. Though our pleas were unsuccessful, we do have a farm bill that is on the very threshold of being enacted. It will not be enacted today, but in all likelihood on the 16th or 17th of November it will be enacted. So the country can feel sure that action will be taken by the Senate; and certainly it would be the wish of the junior Senator from Alabama that at that time we have speedy action on the conference report.

I thank the distinguished majority leader for yielding to me.

Mr. MANSFIELD. I thank the distinguished Senator from Alabama, and I assure him that this conference report will have speedy action.

* * * * *

Mr. MANSFIELD. Mr. President, the distinguished minority leader has read a letter which he has received from the President of the United States, and it is a good letter; it is not an intemperate letter and in this area, of course, he is expressing the views of the President.

In a colloquy with the distinguished Senator from Kansas earlier, I referred to the highest source on the Committee on Agriculture and Forestry in refuting allegations which have appeared in the press that certain Senators who are running for reelection supposedly had approached me and asked me to delay consideration of the conference report. I denied that allegation unequivocally; there is nothing to it. I have not seen those Senators who are mentioned in the press for well over a week, but the "highest source" I was referring to was the chairman of the Committee on Agriculture and Forestry, the distinguished senior Senator from Louisiana, who is highly regarded by Members of this body, whose knowledge of things agricultural is unexcelled, whose probity and integrity are not questioned, and who I think was treated very shabbily during the course of the conference. So that is the "source" of the majority leader's predicament at this time, and he would be the man who would handle the conference report.

With that explanation let me say, Mr. President, because of the element of time and not because of a lack of importance, final action on the conference report on H.R. 18546, the Agricultural Act of 1970, will be impossible prior to the ordered recess this evening. It is not an action by the leadership that prevents the completion of this report today. It was the hope of the Senate leadership to consider and dispose of this measure today but we were unable to do so. The scheduling of conference reports—unlike bills reported from committees—is not within the exclusive jurisdiction of the leadership. We work with the conferees on these matters but the conferees maintain the right to call up a conference report at any time they wish. Although the leadership has been unsuccessful in obtaining agreement for final action prior to the recess tonight, I want to assure farmers and others that this legislation will be the first order of business after recess and that it is my firm belief and expectation that this measure will pass in its present form when considered by the Senate.

Although I am not fully satisfied with every provision of this bill, I believe the farm community needs assurances of the structure of the farm program for planning purposes. I give to the farm community my strong conviction that the bill reported by the conferees will be enacted into law and that the farm community may rely upon its provisions as the basic farm program for the remaining 3 years. However dissatisfied any of the farmers may be with the provisions, or any part of them, it is only realistic to state that these provisions will be the law and actions should be taken by the farmers based upon these provisions.

We have heard references to wheat, feed grains, and cotton in connection with the farm program, but we should keep in mind that other provisions are, and will continue to be, of utmost importance to the farm community and the Nation as a whole. I refer to payment limitations, dairying, extension of Public Law 480, extension of the Wool Act, rural development, including cropland conversion, as well as the so-called greenspan program, and other provisions which would be of special importance to the small farmers.

I want to assure the Senate that it is only the time factor that prevents action prior to recess. The rules of the Senate permit delay very readily. When an adjournment or recess has been ordered, it is very easy for any Senator to prevent action prior to a deadline. Measures of great controversy can be delayed very easily.

As I said before, the farm bill will be the first order of business when we return; it shall pass the Senate—like the Occupational Health and Safety bill, another controversial measure delayed just this week from consideration during the postelection session. I hope after the election there will be a greater spirit of cooperation so that all important measures can be considered and disposed of one way or the other by the Senate.

Mr. President, I honor the President for the interest he has taken in this most important program, this most significant conference report. I have tried to set the record straight as far as I could, and I want to assure the President that I will do everything I possibly can to see that this matter is the first order of business on our return on the 16th of November.

EQUAL RIGHTS FOR MEN AND WOMEN

Mr. BAYH. Mr. President, I asked the majority leader if he would permit me to make a brief statement with respect to the pending order of business, the equal rights amendment.

Despite the efforts made by the Senator from Kentucky, the Senator from Indiana and others, this amendment has been significantly amended, so as to change the general thrust of the amendment.

I have asked the majority leader if he would permit us to put this matter aside for a day or two in an effort to get together with the leaders of the various women's organizations.

I for one feel that the time has come for us to eliminate the vestiges of second-class citizenship which still exist on the law books of the land. We must really make an effort to achieve equal opportunity for all our citizens.

There are differing opinions about the proposal made by the Senator from Indiana to change the wording of the equal rights amendment language which has been essentially unchanged since 1942.

I would like to have a chance to discuss these differences personally with some of the leaders of women's organizations in an effort to see if we cannot reconcile some of the differences that exist.

The Senator from Indiana is not wedded to every word, comma, or period in his proposed amendments or in the statements made in an effort to try to move the equal rights amendment forward. As it now stands, it does not represent a move forward. It is simply the step backward that has been made every time the Senate of the United States has been confronted with this issue.

The distinguished Representative from Michigan, Representative GRIFFITHS, has made significant progress in the House. I would not like to see all of her efforts and all of the efforts of the Senate go for naught.

I would like to ask for a few days in which to see if we cannot reconcile some of the differences and move forward instead of giving up and retreating again. For 47 years, we have been saying that women should not move ahead, that we want to require them to carry the burden of second-class citizenship. It is time to take positive action and pass the equal rights amendment.

I have already discussed this matter with the leadership. The majority leader is not here now. However, I understand that he has agreed.

Mr. KENNEDY. Mr. President, the leader has discussed this matter with the distinguished Senator from Indiana. As the Senator from Indiana knows, the majority leader has at every opportunity attempted to expedite the consideration of the amendment. The Senator from Montana has indicated that the day or two that has been requested by the Senator from Indiana is consistent with the program and the scheduling of Senate business. He looks forward to the other communication and an early consideration and determination of the questions, along the lines explained by the Senator from Indiana.

Mr. BAYH. Mr. President, I appreciate the comments of the majority leader, the Senator from Massachusetts.

Speaking as one Member of the Senate, the Senator from Indiana is willing to fight the battle until he is out of breath. But we have to look carefully at what

we are doing. In my judgment the measure which is pending before us now is not a step forward but a step backward. It contains some measures that are not even germane. They are very controversial and will greatly increase the chances that the whole measure will fail.

I am hopeful that over the next few days, during the discourse we will have with several of the women's groups, we can reconcile some of these differences and then come back to the floor of the Senate and pass the amendment in the Senate. Then we can try to get it accepted by the House.

There are many rather obvious examples of second-class citizenship. In many States women are not given equal pay for equal work. In many State schools girl students are blatantly discriminated against. Some States require women to go to court and get a court order before they can go into business.

This is what we are striving for. We are trying to see that women, as citizens of this country, are treated equally under the law. Even the most critical or the most casual examination of the law of the land today will show that this is not the case in many instances.

I thank the Senator from Massachusetts and the Senator from Montana who, along with many others, have been in the forefront of this effort. The Senator from Montana has particularly been one of the leaders in sweeping away some of the parliamentary obstacles that have been thrown in our way time after time.

I appreciate his continued willingness to cooperate.

I must say that I do not agree with what the Senator from North Carolina has just said. I do think, however, that he feels the way he does in good conscience and is motivated by only the finest spirit.

I have not said that, since the Supreme Court has struck down discrimination under the 14th amendment and the 15th amendment, there is not any need for the effort we have been making. The RECORD should show that the Senator from Indiana puts a different interpretation on this subject than does his friend, the Senator from North Carolina. However, I am always glad to continue this discussion with the Senator from North Carolina, and hopefully we will be able to resolve some of our differences. However, as I see it now, although we have a great deal of common agreement on language, the Senator from Indiana and the Senator from North Carolina currently differ as to the interpretation of this language and the need for it.

KENT STATE UNIVERSITY

Mr. SAXBE. Mr. President, I have observed this morning in the New York Times and yesterday in the Washington Post quite a bit of coverage on the president of Kent State University and his comment on the grand jury and the indictments returned by the grand jury. The attitude of this grand jury, which came as somewhat of a shock to the president, reflects on the entire Kent State incident. No more need be said about the fact that we all deplore that the violence got out of hand.

I call to the attention of President White and others who have gone on at great length about this matter, that this is a community with a grand jury of the people of that community and that they had fairly presented to them, as I have observed, evidence of what went on that day. They returned these indictments as a result of that evidence. There was a balance of testimony, I felt, that gave this grand jury a pretty good idea of exactly the events that led up to this violence. I think that President White and others in the academic community must recognize that they are a part of this community, that they are subject to all of the legal and other administrative bodies operating in that community, that this grand jury operated in our best democratic fashion, that this is their belief as to what happened that day, and that the trials which will follow this will give them every opportunity—that is, the indicted—to present their case.

Now, I do not think we need to go into great length to say that once violence is unleashed it cannot be recaptured. We know that the things that led up to this incident were not well managed, that they got out of hand, that the guardsmen had been on duty on a particularly dangerous mission where there was a Teamsters strike in northern Ohio, that there were articles such as concrete blocks being thrown off of bridges into trucks, that there were deaths and injuries and they had been in a dangerous situation, and that they had had little sleep.

I spent 30 years in the National Guard. I have commanded a battalion called out on strike duty. We are dealing with young men not completely trained. Anyone who says they are does not understand Army training. These men had reached the limit of their endurance. They believed they were in danger. I do not see anything wrong in a grand jury believing these things that were told to them by witnesses and by members of this National Guard.

The fact that they were poorly led, or the fact they were poorly trained, or the fact that they were perhaps not in danger are things that surely come into it, but the shots were fired because there was an emotional response that we too often get in our imperfect society.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. SAXBE. Mr. President, I ask unanimous consent that I may proceed for 3 additional minutes.

The VICE PRESIDENT. The Senator is recognized for 3 additional minutes.

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

Mr. SAXBE. I yield.

Mr. METCALF. I think it should be mentioned, too, that the distinguished Senator from Ohio has been an attorney general of Ohio. He knows that the grand jury system is a system whereby only one side of the testimony is presented in an ex parte proceeding. The prosecutor goes into the grand jury room and presents his testimony. So evidence has been adduced that convinced the grand jury of this material, but this is not the final answer.

Mr. SAXBE. I would most thoroughly agree with the Senator from Montana. I had hoped to point this out.

Mr. METCALF. I am sorry.

Mr. SAXBE. I also point out they will have their day in court, and those people who now say that this grand jury went completely wrong in trying to present an indictment must recognize that this is a part of our legal system in this country; that they felt, and I think the Senator will agree, that there was reason that these persons should be tried for their part in what happened on that sorry day.

Mr. METCALF. And the grand jury has had no opportunity to hear the other side of the case. That is a matter for the consideration of a petit jury when the matter comes up for trial.

Mr. SAXBE. Exactly.

Mr. METCALF. So it must be emphasized that this is only a consideration and a decision based upon a presentation of one side of the case.

Mr. SAXBE. Exactly. The reason I bring this matter up is because of President White's statements that law is breaking down in this community, and that because these indictments were returned it reflected on the inability of the university to control matters and there was a complete miscarriage. There was not. These facts were presented, as the Senator has said, by a prosecutor who convinced a grand jury that these facts constituted grounds for a charge that they should be tried.

If we follow the thinking in some of these editorials and news items one would think that somehow the system of justice has broken down. They are sadly mistaken. This is a community that has a grand jury, prosecutor, a court, and a judge that are competent. Those who have been indicted will have every opportunity to make their case but the fact that they were indicted shows that our system is working and that it has not broken down.

Mr. METCALF. I agree.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. METCALF. Mr. President, I ask unanimous consent that we may proceed for 1 additional minute.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. METCALF. I rose only to point out that the system is working, that the grand jury system is only a presentation of evidence on one side of the case, and that this is not decisive, whatever happens on the other side.

Mr. SAXBE. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "The Voice That Failed," which was published in the New York Times on November 16, 1970.

There being no objection, the editorial

was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 16, 1970]

THE VOICE THAT FAILED

President Robert I. White of Kent State University has issued a reminder that the campus tragedy which snuffed out four students' lives six months ago needs some response more fundamental than just the indictment by a special Ohio grand jury of students and faculty members charged with unlawful acts during the disorders.

Defense Secretary Melvin Laird, in a constructive move that touches on the issue, has authorized provisions to give National Guard units more effective anti-riot training and protection, as well as nonlethal weapons. But that step falls short of any effective assurance that the Guard's leadership will not ignore sensible rules against the use of excessive force, in the same way that the Ohio Guard ignored Federal guidelines issued long before the events at Kent State.

Unquestionably, those at Kent State who committed criminal acts must be brought to justice. But thus far the grand jury's words are the only ones that have been listened to, even though there are growing doubts about the thoroughness and impartiality of its inquiry. The President's Commission on Campus Unrest, the Federal Bureau of Investigation and the Justice Department disagree with the jury's conclusion that the National Guard acted in justifiable self-defense when it fired at the students.

Dr. White touched on the essence of the lingering suspicions when he warned that the grand jury's view of the campus could undermine the foundations of civil liberties and academic freedom. Thus, the antagonisms between town and gown, between student radicalism and local conservatism, between the limited vision of the grand jury and the broader view of Federal law-enforcement agencies have become even more polarized

This is precisely what the President's commission tried to prevent when it appealed to the Chief Executive to speak out in the name of reconciliation. The continued absence of Presidential leadership leaves universities vulnerable to pressure from the left and the right and thus undercuts the forces of sanity and justice.

NOMINATION HELD AT THE DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent, because of a question pertaining to the responsibility of various committees, that the presidential nominations of William D. Ruckelshaus, to be Administrator of the Environmental Protection Agency, be held at the desk while these matters are being worked out.

The VICE PRESIDENT. Without objection, it is so ordered.

What is the will of the Senate? Is there further morning business?

EAST TEXAS STATE UNIVERSITY STUDENT GROUPS AND ARLINGTON BRANCH OF AMERICAN ASSOCIATION OF UNIVERSITY WOMEN ENDORSE BIG THICKET NATIONAL PARK PROPOSAL, AND REQUEST ACTION NOW

Mr. YARBOROUGH. Mr. President, almost 4 years have passed since I first introduced legislation to establish a Big Thicket National Park. During this period I have been continually encouraged by the growing support this legislation has received from all sections of the country. One prominent group after another has joined what is now a long and impressive list of individuals and organizations who want to preserve this splendid wilderness area in southeastern Texas. Unfortunately, this broad-based support has yet to translate itself into meaningful legislative action.

Time is growing short. We simply cannot afford the luxury of dealing leisurely with this matter—or with any matter that concerns conservation of our natural resources. The Big Thicket, which once covered over 3½ million acres, has quite literally been cut down to a few hundred thousand, and during the time the bill has been before this body, that figure has been further reduced. This senseless and systematic destruction of one of America's most unique wilderness areas must be halted, and we can only effectively do this if we enact the Big Thicket National Park bill, now, during this session.

Mr. President, I ask unanimous consent to have printed in the RECORD the resolutions of the Ecology Club and the American Association of University Women, Arlington Branch of East Texas State University, endorsing a 100,000-acre Big Thicket National Park.

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

RESOLUTION OF ECOLOGY CLUB OF EAST TEXAS STATE UNIVERSITY ON THE BIG THICKET NATIONAL AREA

The Ecology Club of East Texas State University does hereby adopt the Policy Statement on The Big Thicket National Area, a copy of which is attached hereto and made a part hereof for all purposes, and urges the President of the United States, the Congress, the Department of the Interior, the U.S. Corps of Engineers (as to Dam B), and the appropriate state agencies (as to supplemental state and historic parks) to take appropriate action to implement this policy as soon as possible.

ECOLOGY CLUB OF EAST TEXAS STATE UNIVERSITY, COMMERCE, TEX.

SHEILA J. RAGSDALE, PRESIDENT.

RESOLUTION OF A.A.U.W., ARLINGTON BRANCH, ON THE BIG THICKET NATIONAL AREA

A.A.U.W., Arlington Branch does hereby adopt the Policy Statement on The Big Thicket National Area, a copy of which is attached hereto and made a part hereof for all purposes, and urges the President of the United States, the Congress, the Department of the Interior, the U.S. Corps of Engineers (as to Dam B), and the appropriate state agencies (as to supplemental state and historic parks) to take appropriate action to implement this policy as soon as possible.

A.A.U.W., ARLINGTON BRANCH,
———— ————, *President.*

POLICY STATEMENT ON BIG THICKET NATIONAL AREA

We favor a Big Thicket National Park or area which would include not only the minimum of 35,500 acres proposed in the Preliminary Report by the National Park Service study team, but also the following modifications and additions:

1. Extend the Pine Island Bayou section southward and eastward down both sides of Pine Islands Bayou to its confluence with the Neches River.

2. Extend the Neches Bottom Unit to cover a strip, a maximum of three miles, but not less than four hundred feet wide on both sides of the Neches River from Highway 1746, just below Dam B, down to the confluence of Pine Island Bayou.

3. Extend the Beaumont Unit northward to include all the area between the LNVA Canal and the Neches.

4. Incorporate a Village Creek Unit, comrising a strip up to one mile where feasible, and no less than 400 feet wide on each side of Big Sandy-Village Creek from the proposed Profile Unit down to the Neches confluence. Where ever residences have already been constructed, an effort should be made to reach agreement with the owners for scenic easements, limiting further development on such tracts and preserving the natural environment. Pioneer architecture within these areas should also be preserved.

5. Incorporate a squarish area of at least 20,000 acres so that larger species such as black bear, puma and red wolf may survive there. An ideal area for this purpose would be the area southeast of Saratoga, surrounded by Highways 770, 326 and 105. Although there are pipeline crossings in this area, they do not destroy the ecosystem; therefore the National Park Service should revise its standards pertaining to such incumbrances, in this case, leaving them under scenic easement rules instead of acquiring them.

6. Connect the major units with corridors at least one-half mile wide, with a hiking trial along each corridor but without new public roads cutting any forest. A portion of Menard Creek would be good for one such corridor. The entire watershed of Rush Creek would be excellent for another.

Such additions would form a connected two-looped green belt of about 100,000 acres (there are more than 3 million acres in the overall Big Ticket area) through which wildlife and people could move along a continuous circle of more than 100 miles.

We recommend that the headquarters be in or near the line of the Profile Unit.

We are absolutely opposed to any trading or cession of any National Forest areas in the formation of the Big Thicket National Park or Monument.

In addition, but not as a part of the Big Thicket National Monument, we recommend: (a) the establishment of a National Wildlife Refuge comprising the lands of the U.S. Corps of Engineers around Dam B, (b) a state historical area encompassing communities of typical pioneer dwellings, farms, etc., such as that between Beech and Theuvenins Creeks off Road 1943 in Tyler County, and (c) other state parks to supplement the national reserve.

SENATOR MUSKIE SPEAKS OUT ON NATIONAL UNITY: ADDRESS BY SENATOR EDMUND MUSKIE TO THE MILK PRODUCERS ASSOCIATION IN CHICAGO, ILL., SEPTEMBER 4, 1970

Mr. YARBOROUGH. Mr. President, recently I had the pleasure of listening to a speech delivered before the Milk Producers Association by my distinguished friend and colleague from Maine, Senator MUSKIE. Although the speech was directed to an audience composed primarily of dairy producers, I was impressed by the universal quality of its message. The 25,000 persons in the audi-

torium composed the largest convention ever held in America of one single agricultural producing commodity.

In an era that is characterized by an unprecedented avalanche of destructive and divisive rhetoric, it was indeed refreshing and most heartening to hear a speech that sounded the call for unity, reason, and renewed national purpose. To an electorate that has endured one of the most abrasive political campaigns in our history and who are bone weary of the divisive verbiage that has spread cancerlike across this country, this speech should be a most welcome relief.

For the benefit of my colleagues and all Americans, I ask unanimous consent that the text of Mr. MUSKIE's speech be printed in the RECORD at this point.

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

REMARKS BY SENATOR EDMUND S. MUSKIE, MILK PRODUCERS ASSOCIATION, CHICAGO, ILL., SEPTEMBER 4, 1970

This is an audience of fathers and mothers and sons and daughters from rural America—very much like my people back home in Maine.

As far as I know, no one has ever before had the opportunity to speak to so many people representing a single farm commodity group.

This is because the movement toward agriculture self-help—of the scope you represent—is unique in the history of agriculture.

I have observed with great interest your attempt in the dairy industry—under the leadership of Harold Nelson and Dave Parr—to form a marketing organization large enough to develop commodity group policy.

Farmers have never before really tested their ability to conduct the marketing programs necessary to improve their relative economic position.

But they should—and they are doing so now through this organization.

Although they have sometimes been taken for granted, the efficiencies of American agriculture are a source of great national strength.

We are proud—and we should be—that our production per man hour . . . per acre . . . and per animal . . . has progressed to the point where Americans can buy their food for a smaller percentage of their income than ever before in this country or in any other country in world history.

Without the productivity gains of agriculture, more Americans would have to devote their time, their financial resources, and their mental energies to produce the basic necessities of life.

We have been to the Moon.

We have found cures to many diseases.

We have expanded educational opportunities to an extent never before achieved.

And only because we could first of all produce the materials we needed to feed and clothe the Nation.

Agricultural people have served another great purpose. They have strengthened our moral fiber.

They have preserved the spiritual values which are America.

And they have established the basis for a whole society.

An out-of-stater crossing the New Hampshire border into Maine, reached an intersection—he saw two roads pointing north—and he asked someone at the side of the road to take. "Does it make any difference?" "Not to me it don't," was the reply. That homely little story reflects America's greatest problem—over 200 years we learned that it does make a difference to each of us what happens to the rest of us—but we have forgotten that in recent years.

I am speaking of the need for all Americans to begin working together again . . . to cooperate with each other . . . to form a more perfect union.

That has been the promise of our country for almost 200 years. And it is a promise we must fulfill.

And yet, for several years now, Americans have been turning away from each other, instead of towards each other . . . younger people from older people . . . black Americans from white Americans . . . city folk from farmers.

The Nation has become divided. Its people have become angry. And their dreams for the future are fading away.

More than a century ago, a man spoke here in Illinois. He was seeking political office in a troubled time. And he quoted the gospel according to St. Mark: "A house divided against itself cannot stand."

That warning came from Abraham Lincoln. And what he said is as true now as it was in 1858.

The foundations of this house . . . our house . . . the house in which every American lives . . . are trust and fairness and understanding and compassion.

And these very foundations are under attack—not from without, but from within . . . not from unfriendly words, but from ugly acts . . . not from a great many people, but from an extreme few.

I submit that the violence which we hear about and read about is contrary to liberty; is contrary to justice; is contrary to life itself.

Free men must condemn it in the strongest terms.

And those who commit it must be held accountable for their actions, as swiftly as possible.

But even that is not nearly enough.

For the climate of America . . . of bitterness and fear and division . . . must itself be changed if we are ever to reduce the level of violence in any substantial degree.

You may know that I have traveled across much of this country in the last 20 months . . . visiting some 45 States . . . getting exposed to different people, different problems, different attitudes . . . and speaking with thousands of Americans of every generation, and occupation, and political persuasion.

And frankly, I have not found people as optimistic as they used to be . . . about the prospects for building a better life as time goes on.

And why?

Why do we have divisions?

Why are we tearing each other apart?

Why can't we work together as we used to?

Certainly, there is a tragic war . . . that we *must* end.

There is a stagnant economy . . . that we must revitalize.

There is a barrier of misunderstanding and mistrust . . . that we must bring down.

But above all else, there is a courage we seem to have misplaced—the courage to talk sense . . . to exercise restraint and moderation . . . to try crossing the borders that divide us.

It is a courage we need in rural America as well as urban America . . . on campuses as well as on the streets . . . in every section of this country.

It is a courage that young people need as much as their elders, I have talked to hundreds of thousands of them—they want to improve America, not reject her.

They want America to be united, not insecure.

They want to be proud of America, not ashamed of her.

And they must be asked to help out, not be told to keep still. And if they are asked, they will respond. And if they are not asked, there may be no future.

Bear in mind that many of them will not reach the ages of many of us here, until after the year 2000—a spread of thirty years.

And thirty years in this rapidly changing world means the same as centuries in an earlier time.

The changes which have taken place make it possible for man to know more . . . to travel at greater speeds . . . to reach out into the heavens.

And they also make it possible for man to destroy his natural environment . . . to destroy his fundamental values . . . and to destroy himself.

Our young people must live with these changes longer than we will. And they will have to live with the even more awesome changes that will surely come.

What concerns them is whether it will be possible for human beings to remain human in such a world. They are afraid they may lose what we have worked so long and hard to preserve . . . the freedom to grow and build and develop one's self in peace.

They are America's future—the only future America has—whether at home or on a distant battlefield.

Perhaps you remember an incident in the '68 campaign . . . when a young man named Rick Brody chose to confront me on an October day in a village square in the small town of Washington, Pennsylvania.

He was very intent on speaking his mind, from the middle of the crowd. And I felt he should have his say.

So he came up to the microphone . . . said what was on his mind . . . and then stepped down to let me respond.

Whether or not it was pleasant to listen to him . . . to hear him out . . . it was important, for both of us.

What he wanted was what we all want: A beginning of peace; a beginning of respect for each other; a beginning of a more liveable world.

And then I heard no more from him, until he came to see me in my office several weeks ago.

He said he wanted to talk things over. He still considered himself a radical. But he was against violence. And he asked me how I thought we could ever change for the better.

Specifically—what could he do?

I told him I thought he had three choices: (1) to seek violent change; (2) to ignore the problems; (3) to develop the skills, the abilities, and to try reasoning with people . . . persuading them in a sensible way . . . and joining with them to work toward common objectives—objectives which are based on values we share, and on a mutual appreciation of what is right and what is not.

He was still uncertain about the future when we finished talking.

But he said he would try to learn for himself, and he would let me know.

I think that attitude is good. It is honest. And it reflects an independence of character that has developed in America since 1776.

We must find our bearings again.

We must reach out to each other.

And we must apply ourselves and our resources to the urgent talks which confront us.

All Americans are in the process of sorting out their values—of considering not only our traditions, but what lies ahead.

And we've got what it takes to build lives of promise for every man, woman and child.

Whenever I go home to Maine . . . to spend some quiet and unhurried days with the people I have come to know over the

years . . . I realize that our most fundamental values are still alive—of patience and perseverance and endurance; of reflection and contemplation and reason; of a deep and abiding sense of our limitations as well as our potential.

In Maine, our towns and our cities and our rural communities are still places where each person can preserve and develop his or her own special character; where, even so, neighbors tend to look out for one another; and where, after many years of working the land and engaging in industry and building a State, people know that life is worth living.

I am convinced we can build one country . . . by working together . . . and believing together . . . and talking together.

That is the kind of America we grew up in, and it is the kind of America all of us—including young people want.

Someone once said, "My interest is in the future because I am going to spend the rest of my life there."

Nothing could be more true.

Thank you.

DR. JONATHAN E. RHOADS OUTLINES PROGRESS OF THE AMERICAN CANCER SOCIETY

Mr. YARBOROUGH. Mr. President, the retiring president of the American Cancer Society, Dr. Jonathan E. Rhoads of the University of Pennsylvania, made a speech early this month which I think will be of interest to the Members of the Senate. Dr. Rhoads set forth the accomplishments of the American Cancer Society during his term of office and described the progress made by the society. He went on to discuss the overall cancer problem and list the accomplishments in the field of cancer as well as the hopes in research leads which needs to be pursued.

The most important part of the speech, I believe, is the plea for a more vigorous attack on cancer with greatly increased support from the Federal Government.

Dr. Rhoads, who is a member of the panel appointed by me under Senate Resolution 376 to report to the Labor and Public Welfare Committee on the cancer problem, suggests that the panel will have a very significant and very interesting report to make later this month.

I ask unanimous consent that this speech, given at the annual meeting of the American Cancer Society on November 5, 1970, be inserted at this point in the RECORD.

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

CANCER CONTROLS IN THE 1970's

Thank you Mr. Adams, members of the American Cancer Society, friends and supporters of this organized attack on the cancer problem.

It is the happy custom of this organization to permit the President the platform as he completes the term of office and this not only gives him the opportunity of thanking all of you for the great honor of this position, which I do most sincerely, but of thanking the staff, my colleagues on the National Board of Directors, the members of the House of Delegates and all of the cancer family, for their wonderful support of the cause during the past year.

I am happy to report that the total funds raised continue to go upwards despite foul economic weather to a new high of nearly 65 million dollars. For this I would thank particularly Fess Parker, our National Crusade Chairman, and his partner, Mrs. William W. Talman; Charles Beusing, Chairman of the National Crusade Committee, with whom a person could scarcely have lunch without revising his will, and John Ewing, Vice President for Crusade of the American Cancer Society. Actually I think our thanks should go to the nearly 2 million volunteers in more than 3,000 communities throughout the country.

In my role as President I would also pay tribute to the executives and administrators who constantly endeavor to improve the efficiency of staff and effectiveness of volunteers. One example of these efforts has been the adoption of a uniform system of accounting and auditing, making it possible through a single accounting firm to present a full accounting to the public which has placed great confidence and trust in us.

The next step which the Society management is undertaking is a system of modern financial management, employing the efficiency and speed of computerization to bring our organization the benefits of science as applied to financial recording and reporting. I sincerely hope that every division and unit will welcome an opportunity to participate in this activity.

This occasion gives the President the opportunity of reporting in some sense his stewardship during the preceding year, and more importantly, affords an opportunity to look at the present status on the fight against cancer, the recent accomplishments and the more compelling opportunities for the years ahead. Statistics would indicate that approximately one-sixth of the 323,000 deaths from cancer in 1969 would not have occurred had it not been for cigarette smoking. This is an area in which the Society has excelled far beyond expectation.

The fact that there are now 29 million ex-cigarette smokers who have responded to the appeal of our organization and others that their lives would be shortened if they continued to smoke, is a statistic that few would have predicted a few years ago. In addition, the cessation of cigarette advertising on radio and TV two months from now could be termed a sociological milestone in altering a life-style that has taken countless and needless lives for a half century and more.

In 1969, the Society gave birth to the new Clinical Investigation program—authorized by the Board of Directors to shorten the distance from the laboratory to the bedside and to provide vital information about cancer by study of the patient himself. That this is a rich area for attracting productive people in research is seen in the award statistics for the first year of operation. Out of 146 applications for Clinical Investigation, 104 received scientific approval although it was financially possible to grant only 32 of the most promising.

I could well describe progress and effectiveness of many other programs if time permitted but accounts of these are available to you in various reports being made here this week.

In summarizing where we are at the beginning of the Decade of the Seventies, two points appear to be significant:

One, cancer is not a single disease but a whole group of diseases and the hope for a single cause, or a single cure is unrealistic.

It is not necessary to describe the scope of the cancer problem here—52 million cases among those Americans now alive, 34 million deaths at present cure rates—enormous hospitalization expenses and a loss of productivity estimated at more than 20 billion dollars. Against this Goliath of an enemy, we have only the little David of a one-dollar per-person per-year national budget for cancer research—for the effort to avert all this suffering and grief.

So long as we believe that the giant had a vulnerable spot, as Goliath did, and that some bright young man could hit it with a single shot, perhaps it did not make much sense to spend more. Now that most of us are convinced that this is not the case, and that cancer is a multitude of problems which will require separate solutions, we need to re-evaluate our priorities.

Second, cancer research is paying off. As evidence of this we have seen:

A fifty per cent reduction in the death rate from cervical cancer.

A chemical treatment for choriocarcinoma, effecting 75 per cent five-year cures; and almost as much for Burkitt's lymphoma.

A remarkable improvement in the results of treatment of acute lymphatic leukemia using new techniques of chemotherapy.

Apparent cure of Hodgkins Disease by new radiological techniques for early disease and extended survival for advanced disease using chemotherapy.

The ever clearer proof that cigarette smoking causes the bulk of lung cancer and research studies with dogs which show that the filter significantly reduces pathological changes in the lung.

Development of a blood test to aid the diagnosis of the commonest of the internal cancers, those of the large bowel.

I believe the first point about the multiple nature of cancer is essential to a realistic approach to solving the problem. The hope that some sudden and dramatic approach to the cancer problem will quickly emerge weakens the will to fight cancer on a broad front; it weakens the will to organize a massive attack; it weakens the will to gird for the long fight by preparing fresh minds for research in the cancer field.

Point two—that cancer research is now paying off—is essential because the American people cannot rationally support a truly massive attack on cancer without the evidence that the millions of dollars already spent—even though they have not solved the cancer problem entirely—have, in fact, solved a highly significant part of it and have yielded a very rich return in human productivity.

Where do we go from here? I believe the directions are clear. The ACS programs constitute the bulk of the effort in public information and, public education. We underwrite a major part of the effort in professional education. And the nearly 22 million dollars we devote to research this year support some of the most significant and promising projects in 30 years of cancer research.

The cancer problem breaks down into prevention, early diagnosis, treatment, and the study of increased resistance in the host.

In the area of prevention, of course, it has already been amply demonstrated that thousands of lives can be saved by removing the factors in the environment which cause cancer. An example is cigarette smoking as a cause of lung cancer; or sensible protection from ultraviolet rays of the sun; or the control of pre-cancerous lesions such as certain types of moles; or the constant vigilance of government agencies in identifying and removing possible cancer-causing substances from the marketplace.

We must continue to emphasize these procedures, looking to the day when more direct methods of prevention will go a step further by developing vaccines that will establish immunity against carcinogens.

Of equal importance today is early diagnosis. We surely have seen evidence of this through the development of exfoliative cytology which produced the Pap test. But better

diagnostic procedures alone are not enough. The program to increase public consciousness about the warning signals and the annual checkup program must be strengthened. Here, I would say that the practicing physician, and the specialist as well, play a vital role. As evidenced in one of the studies conducted for the Society, at least 90 per cent of the public will respond to the plea for an annual checkup if people are convinced that their physicians are in favor of the annual checkup.

As for increasing man's resistance to cancer, there is the possibility that new modalities will be developed to achieve this goal. In recent years a foundation has been laid in fundamental research to open new avenues to practical methods of applying immunology against cancer. Recent studies have emphasized the relation between cancerous growths and their blood supply in experimental animals. These observations yield still another point of attack.

At the beginning of this decade then, the scope of progress made by this organization is impressive and I think it is necessary now to make this fact ever more visible to the people of this nation, that we may summon more participation and more support in this promising era of cancer control.

One of the most significant developments in 1970 has been the passage in the United States Senate of a resolution by Senator Ralph Yarborough of Texas, sponsored by 53 Senators, calling for a program for a solution to the cancer problem in the Seventies. Senator Yarborough hopes that the problem can be cracked by the bi-centennial year of 1976.

Under this resolution, a panel of consultants was organized—13 from the professions and 13 from the laity. It was my privilege to serve as one of the consultants in this group. We have worked very hard over the summer to prepare a blueprint for the Senate indicating how we felt an all-out program against cancer could be developed. The Committee report is not yet final but is to be submitted to the Senate prior to the end of the year.

There is general agreement, that the present program is good, and that any new developments proposed should not be permitted to interfere with continuing and expanding present programs and goals. It is also clear that there is much manpower and many facilities for cancer research which are not being put to work at existing funding levels.

Therefore we believe that appropriations should be immediately increased to take advantage of the efforts of these individuals, many of whom have been developed and trained in cancer research through fellowships provided by the American Cancer Society, and the National Institutes of Health.

During the course of this study I have come to believe that there are in this country a number of notable institutions where the problem of cancer can be attacked, both at the patient level, the animal level and the cellular level, and, indeed, the sub-cellular level. It would seem in order to increase the number of these institutions and to increase their geographic distribution.

Beyond this it appears that great gains can be made through earlier diagnosis and it is hoped that it will be possible to expand a system of local diagnostic clinics possibly related more closely to the major cancer facilities to bring the newest diagnostic aids closer to patients and thus to increase the chances of earlier diagnosis.

The larger cancer centers should:

1. Provide examples for the best possible care and diagnosis;

2. Make possible the best treatment of complicated cancers requiring specialized facilities;

3. Bring together under one roof with the patients who have the actual problems, scientists at all levels who are working on these problems.

Problems found in dealing with patients will not infrequently be of interest to both the clinical investigators and basic scientists.

Information obtained through these centrally coordinated facilities should make it possible to evaluate new drugs, new methods of diagnosis, new methods of treatment more rapidly—and read this information back to the individuals planning treatment and planning future investigations.

Such a group of facilities should also increase and improve studies in the psychology of health maintenance examinations, and it should facilitate the best possible follow-up for patients who have had cancer and who have been treated. It should also facilitate the study of the problem of the delivery of health care as it affects cancer, utilizing a number of different patterns as may seem appropriate to different sections of the country.

I am not prepared to say that the problem of cancer can be solved within six years or ten years or any finite time, but it is the opinion of many of those who have studied the problem a long time that the gains already obtained in cancer can be continued at an accelerated rate and the great progress in basic research in the last two decades makes it highly probable that curative methods will be developed for a number of additional forms of the disease.

Eventually prevention is likely to save the most lives as it has in so many of the infectious diseases. Many and probably most of the occupational cancers are already being prevented.

The studies of epidemiology of cancer in this country and in other nations strongly suggest that environmental factors are dominant in a majority of cancers, and I believe that continued and careful search will identify the critical factors, most of which now elude us.

Too little attention has been paid to the human patterns of resistance to cancer. And more emphasis in this field will advance the goal of cancer control.

Finally I believe we should remind ourselves that this annual meeting of the Society is again evidence of the unity of spirit of a determined people from all 50 states to make cancer control a reality. Again and again we recognize the need for a national effort to overcome cancer. The strength and success of the fight against cancer is many times enhanced through concerted effort. Our greatest ideal is the support of *all* the people with the same goals, the same direction and the same leadership.

So much depends on science in the Decade of the Seventies—improvements ranging from better means of testing the validity of its own findings to the intricacies of human cell chemistry. But the final testing place for the fight against cancer will be the human spirit. The final conquest of this disease depends on man's will to improve his own lot, and his willingness to devote the resources and make the sacrifices necessary to win. What we win will not be for ourselves alone but for all mankind.

THE POSTELECTION SESSION OF THE 91ST CONGRESS

Mr. GRIFFIN. Mr. President, as we resume the business of Congress today, I am gratified that we can do so in an atmosphere of relative calm so far as the outlook for labor-management peace is concerned.

As a Senator from the State most grievously wounded and most responsible for settlement of the automobile strike, I am relieved that this tragic and costly strike appears to be near an end. The strike has been a very great loss not only for the workers and the company, but for the people of Michigan and the Nation.

We are setting out today, Mr. President, on the first postelection session—what the press calls a "lame duck" session—since 1950.

Paging through a historical dictionary of American political terms published by Detroit's Wayne State University, I learned that the term "lame duck" dates back to the 1700's in England. Then it applied to financiers who had gone bankrupt.

By 1839 there were references in this country to "lame ducks" obliged to "waddle" out of Wall Street.

By Civil War times, the "lame duck" had been transformed into a "broken down politician." This meaning survived until the 20th amendment, introduced by Nebraska's Senator George Norris, was passed in 1933. It reduced the "lame duck" period for Members of Congress from 13 months to the present 2 months.

Back in March 1927, when Senator Norris' amendment was half way through its 10-year incubation, Representative EMANUEL CELLER was a principal advocate. He worried about the influence of "lame duck" Members in both the House and the Senate who frequently were so numerous they could help push through key legislation long after their constituents had repudiated them. Political lame ducks, he said, "are very tractable, very docile, and usually under the promise of a job will vote any way demanded of them." Furthermore, he found these lame ducks were "sore ducks," disgruntled, dissatisfied, with bad tempers.

Forty-three years later, that is not true of the shorter term lame ducks among us.

Today, the derogatory connotations of "lame duck" have largely disappeared. None of us, on either side of the aisle, look upon our "lame ducks"—either those who stood for reelection unsuccessfully or those who did not run for reelection—with anything but the highest regard. And we will value their help in completing the work of the 91st Congress.

The ACTING PRESIDENT pro tempore (Mr. METCALF). What is the pleasure of the Senate? Is there further morning business?

Mr. SCOTT. Mr. President, I make a point of order that a quorum is not present.

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

The assistant legislative clerk proceeded to call the roll.

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

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

THE KENT STATE TRAGEDY

Mr. YOUNG of Ohio. Mr. President, it happens that I just came into the Senate Chamber, and I was not in the Chamber when my distinguished colleague and good friend, the junior Sen-

ator from Ohio, made some remarks about the tragedy at Kent State University last May 4.

The facts are, Mr. President, that on May 4, a beautiful, sunshiny day, shortly after high noon, a terrible tragedy occurred on the campus of Kent State University in Ohio.

I have said before and I say now that the Governor of Ohio made an abominable mistake in calling to the city of Kent and to the Kent State University a wornout, tired group of National Guardsmen who had been called out in the Cleveland and Akron area on April 29, due to the fact that there was an unruly wildcat strike of two factions of the Teamsters Union in the Akron-Cleveland area.

It is stated to me that those guardsmen who were in the Cleveland-Akron area had had but about 4 hours' sleep in 3 nights, and some of them had been injured by Teamsters.

However, in the evening of Saturday, May 2, the factions settled their strike, which had been a bloody strike.

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

Mr. YOUNG of Ohio. I ask unanimous consent to proceed for 10 additional minutes.

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

Mr. YOUNG of Ohio. Governor Rhodes could have sent to Kent two companies of National Guard Military Police from Warren, Ohio, in the adjoining county. He did not choose to do that. He should not have called any National Guard unit that night. Hindsight is better than foresight, but he should have had sense enough to call into Kent and on Kent State campus our State highway patrol, which is a highly respected law enforcement agency. Instead of doing that, unfortunately, he called in the National Guard.

On Monday, May 4, there were no riots whatever on the campus of Kent State University. Shortly after noon, the guardsmen, angered no doubt because when they hurled tear gas canisters some of the students hurled the canisters back and the tear gas was escaping suddenly shot to kill, firing 61 shots.

Four Kent State students, two girls and two boys, were killed. One of them, Sandy Schever was on the university commons on her way to a speech therapy class. Sandy was one of the first killed. She was shot and killed at a distance of 130 yards from the front line of guardsmen. Her school books lay on the ground beside her bloodstained body.

Mr. President, I am not defending President White of Kent State University. I do not know him. But I do know that he never requested the National Guard to come there. I do know that he was shocked when he learned that the guardsmen had live ammunition in their guns. He did not ask the Governor to send in any guardsmen to his campus. But on that afternoon, four students were killed and nine were wounded.

Of all those 13 boys and girls killed and wounded by National Guardsmen, only two were struck in the front. One of them was Jeffrey Miller who was shot and killed at a distance of 85 to 90 yards from the first line of guardsmen. The other was Joseph Lewis who was wounded and the closest of all the students to the front line of guardsmen. He was about 60 feet from the front line of the guardsmen. He had thrown no rocks. He had resorted to no violence whatever. He made an obscene gesture and a guardsman named Shafer shot him. All others were struck in the side or back.

Dean Kahler, who is hospitalized, paralyzed from his waist down, was facing away from the National Guardsmen. He was struck at a distance of 300 feet. Another boy, Robert Stamps, of my city of Cleveland, was 609 feet distant from the foremost National Guardsmen, more than two football fields away. The guardsman's bullet struck him in the buttocks, penetrated his entire body, missed his spinal column by less than an inch, and exited in front. How could any grand jury say that he was to blame for that?

Mr. KENNEDY. May we have order, Mr. President?

The ACTING PRESIDENT pro tempore. Will the Senator suspend while the Chair tries to obtain order? The Senate will be in order.

The Senator may proceed.

Mr. YOUNG of Ohio. I will not dwell on this at length, Mr. President. I seldom find myself in complete agreement with any statement made by Vice President AGNEW. But on May 7, less than a week after the Kent State tragedy, the Vice President was interviewed on television and questioned about the tragedy on the campus of Kent State University. When asked if he thought the guardsmen "went too far" in their response, the Vice President replied, "Oh yes, there is no question about that."

He stated:

> The officers and guardsmen responsible for the shooting and for the killing of those four students, should be charged with murder—not murder in the first degree. Where there is no premeditation but simply an overresponse in the heart of anger, that results in killing, it's murder.

Those are the words of the Vice President of the United States. In Ohio, Mr. President, we term that second degree murder.

We have regular grand juries; we have regular Federal grand juries. But the attorney general of Ohio, at the request of Governor Rhodes, convened a special Portage County grand jury.

I report that the two special counsel appointed to direct it and assist it are political friends and supporters of Governor Rhodes.

He appointed as special prosecutors Seabury Ford, Republican chairman of the Executive Committee of Portage County, and Robert Balyeat, a lawyer and a close political friend of Governor Rhodes.

Mr. President, that Portage County special grand jury was a fakery from the start.

Approximately 100 FBI investigators, over a 2-week period, interviewed thousands of students, professors, and National Guard officers and men, and they reported:

> We have reason to believe that the claim of the National Guard that their lives were endangered by the students was fabricated subsequent to the event.

But these friends of Governor Rhodes, who wanted to clear him for declaring martial law and sending in the Guard never submitted to the special grand jury nor placed before it this information.

The Republican prosecuting attorney of Portage County, Robert Kane, and the two special counsel were there to whitewash the National Guard. If they had done otherwise, they would have been condemning their political friend, Governor Rhodes, the man who appointed them. This was fakery. Not one guardman was indicted. The special grand jury was directed by these friends of Governor Rhodes and they indicted 24 students and one professor.

There had been rioting in the town of Kent on the preceding Saturday night and on that night the ROTC building was burned.

I have said on the floor of this Chamber and I say now that any student who burns an ROTC building or breaks store windows should not only be expelled from the university but also prosecuted and indicted by a regular grand jury.

Mr. President, I ask unanimous consent to proceed for an additional 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the Senator from Ohio is recognized for 10 additional minutes.

Mr. KENNEDY. Mr. President, will the Senator from Ohio yield for a question?

Mr. YOUNG of Ohio. Yes, indeed; I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. I missed the earlier comments of the Senator from Ohio. All of us who have read the CONGRESSIONAL RECORD on this matter realize that the distinguished Senator from Ohio has made an extraordinary contribution to the Members of this body in the detailed study he has made of this whole tragic problem from its earliest days. He has made many valuable statements and comments. He has been interviewed by reporters who have written many newspaper articles which I believe have illuminated our understanding in the Senate of these events.

I want to commend the Senator from Ohio for the fine work he has done in this area and for his responsiveness once again today in making additional comments.

I should like to ask the Senator, in the remaining time which has been made available to him, whether he intends to talk a little bit about the Scranton Commission report on the Kent State tragedy and what value he places on that report. It could very well be material which has escaped my attention, but I would be interested in those comments and whatever he might be able to add because it was clearly my impression that the Commisssion's report did present extremely useful and helpful comments which I thought were of great value and upon which I would be interested in the Senator's point of view.

Mr. YOUNG of Ohio. May I express my thanks to the distinguished senior Senator from Massachusetts. I appreciate the personal reference he made to me. I am glad the Senator asked me to advert to the report of the President's Commission on Campus Unrest. Following a lengthy investigation, the Commission reached its conclusion, which is exactly the opposite, of course, of the special grand jury appointed to whitewash the National Guard and to pat Governor Rhodes on the back.

Here is the conclusion of the President's Commission on Campus Unrest:

> Even if the guardsmen faced danger, it was not a danger which called for lethal force. The 61 shots by 28 guardsmen certainly cannot be justified. The Kent tragedy must surely mark the last time that loaded rifles are issued as a matter of course to guardsmen confronting student demonstrators.

Mr. President, after an extensive investigation by 100 FBI agents on the campus at Kent State University, and in Kent and elsewhere in Ohio in which they interviewed guardsmen, students, and townsmen, over a period of 2 weeks, the FBI reported:

> Most of the National Guardsmen who did fire their weapons do not specifically claim they fired because their lives were in danger. Rather, they generally state in their narrative that they fired after they heard others fire.
>
> We have reason to believe that the claim by the National Guard that their lives were endangered by the students was fabricated subsequent to the event.

Mr. KENNEDY. If the Senator from Ohio would yield further, I was wondering whether the Senator knew about Police Chief Allen from New Haven, one of the most respected law enforcement officials in this country, who was appointed to the Commission for that reason—and I think that those who have been associated with his record would certainly reach that same assumption. I believe Chief Allen made some comments on this subject and I believe it would be useful—I do not know whether the Senator has those references at hand—but I was wondering, in a general way, whether the Senator was familiar with Chief Allen's comments, and whether the Senator would characterize those comments at this time.

Mr. YOUNG of Ohio. Chief Allen is a nationally known and highly respected law enforcement officer. He blamed the National Guardsmen. He and others said that the National Guard fabricated their stories that it was necessary for them to fire. The facts are, and I believe he is familiar with those facts, that not one guardsman was injured on Monday, May 4, 1970, at any time that afternoon. I believe that one of them fainted, perhaps from the tear gas. Another one had a heart attack. But not one of the Guardsmen required even first aid treatment.

As to the nine students who were wounded and the four who were killed, none of them was a radical. Not one of them had participated in any disorders either on the campus, or in downtown Kent the previous Saturday night. There was disorder in the city on Saturday night, because the mayor of the city suddenly changed the curfew time from 9 p.m. to 8 p.m., so that many of those who were walking the streets of the city of Kent anytime after 8 p.m.—the night when the students at Kent State University like to go downtown—were arrested and thrown into jail and manhandled by the city police.

They were held in jail all that night and were not permitted to telephone their parents. In the morning, those who had spent that night in jail were all compelled to pay a $50 fine to the Kent city police.

Mr. KENNEDY. Chief Allen's comments, who, as I said, is really one of the great law-enforcement men in this country today, and who made a detailed study of this matter, came up with the right conclusion, as was correctly stated by the Senator from Ohio.

Now I would like to ask the Senator, is it not a fact that the parents of a considerable number of the young people who were shot in the back and who had very little to do with any of the demonstrations going on at that time, incurred enormous medical bills running into the tens of thousands of dollars, many of the fathers having served with distinction in the Second World War, all hard-working people, incurring these very expensive medical bills; and we find out how difficult it is for any of them not only to pay those bills but also the extraordinary expensive legal fees which will have to be paid. Fortunately, they have a number of volunteer lawyers and others, trying to help represent them. But anyone knows that legal fees run into considerable cost for them to get any kind of compensation for their heavy expenses.

I can make some brief comment on this, because I had the opportunity to work with a number of young people from Kent State, as well as Jackson State, in trying to develop some availability of resources for the continuing medical and legal expenses, and, what is most tragic, the burial expenses incurred by these families. These are often facts that are overlooked.

I wonder if the Senator from Ohio could make any comments about these matters.

Mr. YOUNG of Ohio. Mr. President, it is most unfortunate that Dean Kahler, one of the first shot, was 300 feet from the front line of guardsmen. He is still hospitalized. He is paralyzed from the waist down. He was facing away from the National Guardsmen at that distance of 300 feet. The expense to his family up to the present time has exceeded $15,000 for his care alone.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senator from Ohio may be permitted to continue for 3 additional minutes.

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

Mr. YOUNG of Ohio. Joseph Lewis was closest to the front line of guardsmen. He was 60 feet distant. Only Jeffrey Miller, who was 85 to 90 yards distant, and Joseph Lewis were shot from the front. Donald MacKenzie was shot in the back of his neck. He was 750 feet distant from the guardsmen. His family has incurred expense of more than $7,000 to date.

Mr. KENNEDY. Mr. President, was that the young boy who was paralyzed?

Mr. YOUNG of Ohio. No. Dean Kahler was the boy who is paralyzed. His ambition was to be a football coach. He was a well-beloved boy on the campus. He was shot in the back at a distance of 300 feet. He will be paralyzed for the rest of his life.

Robert Stamps was shot at a distance of 609 feet. That is twice the distance of a football field. The bullet struck him in the back.

Mr. President, all I have to say regarding Robert White of Kent State University is that he had a right to resent, as any person has a right to resent, guardsmen taking over the campus of that university which was then in complete operation.

Governor Rhodes made an abominable blunder. He was a candidate for the Republican nomination for U.S. Senator, and the primary election was the next day. Of course, that gave Governor Rhodes the chance to say, "I am for law and order. I sent the National Guard in to take over." And they did take over with a vengeance.

I am glad to report that Governor Rhodes was defeated the next day, even if it was by only 3,000 votes, by Robert Taft, who will be a Member of the Senate next January.

Governor Rhodes deserved to be defeated. He had other alternatives to pursue. All he had to do if he was fearful of disorders on the campus was to order the university closed. However, he did not choose to do that.

That special county grand jury is a fakery and a fraud. It is a dread portent, indeed, when a group of friends of the Governor—who will soon be an ex-Governor—including his close political friend, Adjutant General Del Corso—who will be out like a light next January—could, through this special grand jury, exonerate the National Guardsmen who did the killing.

I have said there was violence in the city of Kent on the preceding Saturday night. However, the FBI agents made a complete report following 2 weeks of thorough investigation and said that not one of those students who were killed or wounded was a radical and that not one had participated in any riots downtown. Of course, there was no riot whatever on the campus of Kent State University on Monday, May 4.

It was a terrible thing that this happened and that 11 of the 13 students were shot in the back at a considerable distance and that four of those 13 were killed.

A special grand jury was then called and that term "grand jury" should be spelled with small letters, that is for sure, because their only job was to whitewash the National Guard of my State and favor Gov. James Rhodes of Ohio, who made the most abominable blunder he has ever made in his long political career, and he has made a great many of them.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 902) to amend section 1162 of title 18, United States Code, relating to State jurisdiction over offenses committed by or against Indians in the Indian country.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 14984) to provide for the disposition of funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 359–363, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 17970) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. SIKES, Mr. MCFALL, Mr. PATTEN, Mr. LONG of Maryland, Mr. MAHON, Mr. CEDERBERG, Mr. JONAS, Mr. TALCOTT, and Mr. BOW were appointed managers on the part of the House at the conference.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Acting Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report to the Committee on Aeronautical and Space Sciences of the U.S. Senate setting forth certain information on grants (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

REPORT OF AGREEMENTS FOR FOREIGN CURRENCIES UNDER PUBLIC LAW 480

A letter from the General Sales Manager, Export Marketing Service, reporting, pursuant to law, no foreign currency agreements under Public Law 480 were entered during the period September and October (with an accompanying paper); to the Committee on Agriculture and Forestry.

REPORTS ON REAPPORTIONMENT OF AN APPROPRIATION

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Agriculture for "Forest protection and utilization," Forest Service, for the fiscal year 1971, has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Justice for the Federal Bureau of Investigation, for "Salaries and expenses," for the fiscal year 1971, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORTS OF ASSISTANT SECRETARY OF DEFENSE

A letter from the Assistant Secretary of Defense, reporting in accordance with the provisions of section 536 of the Department of Defense Appropriation Act, 1969, and section 109 of the Military Construction Appropriation Act, 1969, that no use was made of funds appropriated in the aforementioned appropriation acts during the period January 1–June 30, 1970, to make payments under contracts for any program, project, or activity in a foreign country except where, after consultation with a designee of the Secretary of the Treasury, it was determined that the use, by purchase from the Treasury, of currencies of such country acquired pursuant to law was not feasible for the reason that the Treasury Department was not holding excess foreign currencies in the country involved; to the Committee on Appropriations.

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a secret report on: First, support of the Vietnamese and other Free World forces in Vietnam, and second, support of local forces in Laos and Thailand, for the first quarter of fiscal year 1971 (with an accompanying report); to the Committee on Appropriations.

REPORT OF RECEIPTS AND DISBURSEMENTS PERTAINING TO THE DISPOSAL OF SURPLUS MILITARY SUPPLIES, EQUIPMENT AND MATERIEL

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and materiel, and for expenses involving the production of lumber and timber products, for fiscal year 1970 (with an accompanying report); to the Committee on Appropriations.

REPORT OF INDIAN CLAIMS COMMISSION

A letter from the Chairman, Indian Claims Commission, transmitting, pursuant to law, a report of the Commission on the final conclusion of judicial proceedings regarding the Assiniboine Tribes of Indians (with an accompanying report and papers); to the Committee on Appropriations.

REPORT ON LOCATION, NATURE, AND ESTIMATED COST OF FACILITIES PROJECT PROPOSED TO BE UNDERTAKEN FOR THE ARMY RESERVE

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on the location, nature, and estimated cost of a facilities project proposed to be undertaken for the Army Reserve at the Army Reserve Center, Corpus Christi, Tex.; to the Committee on Armed Services.

REPORT ON LOCATION, NATURE, AND ESTIMATED COST OF FACILITIES PROJECT PROPOSED TO BE UNDERTAKEN FOR THE NAVAL RESERVE

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on the location, nature, and estimated cost of a facilities project proposed to be undertaken for the Naval Reserve at the Naval Reserve Training Center, Baltimore, Md.; to the Committee on Armed Services.

REPORT OF ACTUAL PROCUREMENT RECEIPTS FOR MEDICAL STOCKPILE OF CIVIL DEFENSE EMERGENCY SUPPLIES AND EQUIPMENT PURPOSES

A letter from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, actual procurement receipts for medical stockpile of civil defense emergency supplies and equipment purposes for the quarter ended September 30, 1970; to the Committee on Armed Services.

REPORT ON STRATEGIC AND CRITICAL MATERIALS STOCKPILING PROGRAM

A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting, pursuant to law, the semiannual report to the Congress on the strategic and critical materials stockpiling program for the period January 1 to June 30, 1970 (with an accompanying report); to the Committee on Armed Services.

REPORT OF NUMBER OF OFFICERS ON DUTY WITH HEADQUARTERS, DEPARTMENT OF THE ARMY AND DETAILED TO THE ARMY GENERAL STAFF

A letter from the Secretary of the Army, transmitting, pursuant to law, a report of number of officers on duty with Headquarters, Department of the Army and detailed to the Army General Staff on September 30, 1970 (with an accompanying report); to the Committee on Armed Services.

REPORT OF OFFICE OF CIVIL DEFENSE

A letter from the Director of Civil Defense, transmitting, pursuant to law, a report of Federal Contributions Program Equipment and Facilities for the quarter ended September 30, 1970 (with an accompanying report); to the Committee on Armed Services.

PROPOSED ALLOWANCE FOR RECRUITING EXPENSES

A letter from the Acting Secretary of the Navy, transmitting a draft of proposed legislation to amend chapter 7 of title 37, United States Code, to authorize reimbursement to members of the Armed Forces who are assigned recruiting duties for expenses incurred in recruiting of personnel (with an accompanying paper); to the Committee on Armed Services.

REPORT ON DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense Procurement From Small and Other Business Firms for July–August 1970 (with an accompanying report): to the Committee on Banking and Currency.

NINETY-SECOND QUARTERLY REPORT ON EXPORT CONTROL

A letter from the Secretary of Commerce, transmitting, pursuant to law, the 92d Quarterly Report on Export Control covering the second quarter of 1970 (with an accompanying report); to the Committee on Banking and Currency.

REPORT ON BORROWING AUTHORITY

A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting, pursuant to law, the Report on Borrowing Authority for the period ended June 30, 1970 (with an accompanying report); to the Committee on Banking and Currency.

MAJOR NATURAL GAS PIPELINES

A letter from the Chairman, Federal Power Commission, transmitting for the information of the Senate, a copy of a map showing major natural gas pipelines, as of June 30, 1970 (with an accompanying paper); to the Committee on Commerce.

REPORT ON COMMISSARY ACTIVITIES OUTSIDE THE CONTINENTAL UNITED STATES

A letter from the Assistant Secretary of Commerce, transmitting, pursuant to law, a report of the Department on commissary activities outside the continental United States, for the year ended June 30, 1970 (with an accompanying report); to the Committee on Commerce.

ELECTRIC UTILITY DEPRECIATION PRACTICES, 1966

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a copy of the publication, "Electric Utility Depreciation Practices, 1966" (with an accompanying paper); to the Committee on Commerce.

REPORT ON THE MEDICARE PROGRAM BY THE HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the second annual report on the Medicare program by the Health Insurance Benefits Advisory Council (with an accom-

panying report); to the Committee on Finance.

REPORT OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE OF GRANTS APPROVED

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Department of grants approved which are financed wholly with Federal funds, for the period July 1, 1970 to September 30, 1970 (with an accompanying report); to the Committee on Finance.

REPORT OF THE UNITED STATES TARIFF

A letter from the Presiding Commissioner, U.S. Tariff Commission, transmitting, pursuant to law, the 20th report of the Commission on the operation of the trade agreements program (with an accompanying report); to the Committee on Finance.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report on U.S. Assistance in Liberia (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of financial statements of the Government National Mortgage Association for fiscal year 1969 and the Federal National Mortgage Association for the 2-month period ended August 31, 1968, Department of Housing and Urban Development, dated October 15, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improvements needed in management of Department of Defense communications, dated October 19, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improvements needed in the administration of the Iowa and Kansas medicaid programs by the fiscal agents, Social and Rehabilitation Service, Department of Health, Education, and Welfare, dated October 20, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report regarding the need for improved administration of the Government-wide Service Benefit Plan—Blue Cross and Blue Shield for Federal employees, by the Civil Service Commission, dated October 20, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need to improve the administration of fees and charges of regulatory agencies, dated October 23, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on overstatement of contract target cost for the first stage of the Saturn V launch vehicle, National Aeronautics and Space Administration, dated October 26, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on savings from joint use of spectrometric oil analysis equipment by the military departments, Department of Defense, dated October 27, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on a case history showing the need for improvements in the management of overseas military construction contracts, Department of Defense, dated October 28, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on problems related to restricting the use of motorized equipment in wilderness and similar areas, Department of Agriculture, Department of the Interior, dated October 29, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on savings through increased screening of registrants with medical conditions at local draft boards, Selective Service System, dated November 9, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on savings attainable by eliminating duplicate stocks in the U.S. Marine Corps, dated November 10, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need for improved controls to insure the identification and reporting of excess land by the Veterans Administration, dated November 12, 1970 (with an accompanying report); to the Committee on Government Operations.

PROPOSED GRANT AGREEMENT WITH THE UNIVERSITY OF IDAHO

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a copy of a proposed grant agreement with the University of Idaho, Moscow, Idaho, for a research project entitled "A Case Study of In-Situ Rock Deformation Behavior for the Design of Ground Support System (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT ON DONATIONS RECEIVED AND ALLOCATIONS MADE FROM THE FUNDS CONTRIBUTED FOR ADVANCEMENT OF INDIAN RACE, BUREAU OF INDIAN AFFAIRS

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, on donations received and allocations made from the fund "14X8563 Funds Contributed for Advancement of Indian Race, Bureau of Indian Affairs" during the fiscal year ended June 30, 1970; to the Committee on Interior and Insular Affairs.

PROPOSED EXTENSION OF CONCESSION CONTRACT

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed extension of a concession contract under which McCulloch Properties, Inc., will be authorized to continue to operate Lake Mead Marina and provide related facilities and services for the public within Lake Mead National Recreation Area, Nevada, for a 1-year term from January 1, 1970, through December 31, 1970 (with an accompanying paper); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION TO DECLARE THAT CERTAIN FEDERALLY OWNED LAND IS HELD BY UNITED STATES IN TRUST FOR THE FORT BELKNAP INDIAN COMMUNITY

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that certain federally owned land is held by the United States in trust for the Fort Belknap Indian Community (with an accompanying paper); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION TO DECLARE THAT CERTAIN FEDERALLY OWNED LAND IS HELD BY THE UNITED STATES FOR THE PUEBLO OF COCHITI

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that 3.308 acres, more or less, of federally owned land is held by the United States in trust for the Pueblo of Cochiti (with an accompanying paper); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION TO DECLARE THAT CERTAIN FEDERALLY OWNED LANDS ARE HELD BY THE UNITED STATES IN TRUST FOR THE PAIUTE-SHOSHONE TRIBE OF THE FALLON RESERVATION AND FALLON COLONY, NEVADA

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that certain federally owned lands are held by the United States in trust for the Paiute-Shoshone Tribe of the Fallon Reservation and Fallon Colony, Nevada (with an accompanying paper); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION TO DECLARE THAT CERTAIN PUBLIC LANDS ARE HELD IN TRUST BY THE UNITED STATES FOR THE SUMMIT LAKE PAIUTE TRIBE

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that certain public lands are held in trust by the United States for the Summit Lake Paiute Tribe, and for other purposes (with an accompanying paper); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION TO DECLARE THAT CERTAIN FEDERALLY OWNED LANDS WITHIN THE WHITE EARTH RESERVATION SHALL BE HELD BY THE UNITED STATES IN TRUST FOR THE MINNESOTA CHIPPEWA TRIBE

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT OF THE DEPARTMENT OF THE INTERIOR

A letter from the Assistant Secretary for Administration, Department of the Interior, reporting, pursuant to law, receipts and expenditures of the Department in connection with the administration of the Outer Continental Shelf Lands Act of 1953, for fiscal year 1970; to the Committee on Interior and Insular Affairs.

REPORT REQUIRED BY THE WATER RESOURCES RESEARCH ACT OF 1964

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report on projects selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations or other institutions, and with private firms (with an accompanying report); to the Committee on Interior and Insular Affairs.

PRELIMINARY REPORT OF THE FIRST CONSTITUTIONAL CONVENTION, TERRITORY OF GUAM

A letter from the President, Constitutional Convention, Territory of Guam, transmitting, pursuant to law, the Preliminary Report of the First Constitutional Convention of the Territory of Guam (with an accompanying report); to the Committee on Interior and Insular Affairs.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens, together with a statement of the facts and pertinent provisions of law pertaining to each alien, and the reasons for ordering such suspension (with accompanying papers); to the Committee on the Judiciary.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

Two letters from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classifications for certain aliens (with accompanying papers); to the Committee on the Judiciary.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursant to law, copies of orders granting admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

ADMISSION INTO THE UNITED STATES OF CERTAIN DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting admission into the United States of certain defector aliens (with accompanying papers); to the Committee on the Judiciary.

ADJUSTMENT OF STATUS TO PERMANENT RESIDENCE OF A CERTAIN ALIEN

A letter from the Commissioner, Immigration and Naturalization Service, relating to the application for permanent status of Mrs. Sypros Economides; to the Committee on the Judiciary.

REPORT ON CLAIMS OF EMPLOYEES SETTLED BY THE DEPARTMENT OF COMMERCE

A letter from the Assistant Secretary of Commerce, reporting, pursuant to law, on the claims of employees for damage to or loss of personal property sustained by them incident to their service which the Department settled during fiscal year 1970; to the Committee on the Judiciary.

PROPOSED APPOINTMENT OF ADDITIONAL JUDGES IN FIVE U.S. DISTRICT COURTS

A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide for the appointment of additional U.S. district judges (with an accompanying paper); to the Committee on the Judiciary.

THIRD ANNUAL REPORT OF THE FEDERAL JUDICIAL CENTER

A letter from the Director, the Federal Judicial Center transmitting, pursuant to law, the Third Annual Report of the Center, dated October 1, 1970 (with an accompanying report); to the Committee on the Judiciary.

PROPOSED LEGISLATION TO EXTEND THE AUTHORITY OF THE ADMINISTRATOR OF VETERANS' AFFAIRS TO ESTABLISH AND CARRY OUT A PROGRAM OF EXCHANGE OF MEDICAL INFORMATION

A letter from the Administrator of Veterans' Affairs, Veterans' Administration, transmitting a draft of proposed legislation to amend section 5055 of title 38, United States Code, in order to extend the authority of the Administrator of Veterans' Affairs to establish and carry out a program of exchange of medical information (with accompanying papers); to the Committee on Labor and Public Welfare.

BORDER STATION AT CALEXICO, CALIF.

A letter from the Assistant Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which contains an amendment to the authorized Border Station at Calexico, Calif. (with an accompanying paper); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the VICE PRESIDENT:

A resolution of the Legislature of the State of California; to the Committee on Interior and Insular Affairs:

"HOUSE RESOLUTION No. 232

"(Relative to Pinnacles Wilderness Area)

"Whereas, The Pinnacles National Monument is an area of unique natural beauty and historical importance; and

"Whereas, The National Park Service, in consultation with Gordon K. Patterson, Superintendent of Pinnacles National Monument, has made a study of the area; and

"Whereas, It was suggested that 5,330 acres in the southeast and southwest portions of the park be set aside as a wilderness area, with a visitors' center and through road; and

"Whereas, This proposal has met the approval of Congressman Gubser, Congressman Talcott, and the San Benito County Chamber of Commerce; and

"Whereas, This proposal is now threatened by an alternate proposal which would hinder the timely and proper development of the Pinnacles; now, therefore, be it

"*Resolved by the Assembly of the State of California,* That the Members respectfully request the Congress and the National Park Service to continue with all possible speed its plans for preservation and improved visitor use of the Pinnacles National Monument; and be it further

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

A resolution adopted by the Quarterly County Court, of Knox County, Tenn., praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the Village Board of the Village of Tonica, Ill., praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the City Council of Gibson City, Ill., praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the City Council of Herrin, Ill., praying for enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the Board of Trustees of the Village of Morton Grove, Ill., praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the Saipan, Mariana Islands Legislature, praying for the early termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands; to the Committee on Foreign Relations.

A resolution adopted by the Detroit Lithuanian Organizations Center, Detroit, Mich., praying for the continued support given against the Soviet Union's colonialism in Eastern Europe; to the Committee on Foreign Relations.

A resolution adopted by the Miami International Airport Lions Club, endorsing Supreme Court Chief Justice Burger's suggestion of updating our nationl court system; to the Committee on the Judiciary.

A resolution adopted by the Supreme Council of the Orders Sons of Italy in America, Philadelphia Pa., praying for the enactment of legislation relating to equal rights for men and women; ordered to lie on the table.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. ANDERSON, from the Committee on Interior and Insular Affairs, with an amendment:

H.R. 471. An act to amend section 4 of the act of May 31, 1933 (48 Stat. 108) (Rept. No. 91–1345).

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. YOUNG of North Dakota:

S. 4488. A bill for the relief of Maria Josefina Granara Castillo;

S. 4489. A bill for the relief of Filyne Villareul; and

S. 4490. A bill for the relief of Joy Isabel Pateman; to the Committee on the Judiciary.

By Mr. METCALF:

S. 4491. A bill to provide for division and for the disposition of the funds appropriated to pay a judgment in favor of the Blackfeet Tribe of the Blackfeet Indian Reservation, Mont., and the Gros Ventre Tribe of the Fort Belknap Reservation, Mont., in Indian Claims Commission docket No. 279–A, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McGOVERN (for himself, Mr. BAYH, Mr. BURDICK, Mr. EAGLETON, Mr. HART, Mr. HUGHES, Mr. MCCARTHY, Mr. METCALF, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. YARBOROUGH, and Mr. HARRIS):

S. 4492. A bill to establish an improved program for the benefit of producers and consumers of dairy products and other commodities, to extend the Food and Agriculture Act of 1965 for 1 year with respect to wheat, wool, feed grains, and cotton, and for other purposes; to the Committee on Agriculture and Forestry.

(The remarks of Mr. McGOVERN when he introduced the bill appear below in the RECORD.)

By Mr. EAGLETON:

S. 4493. A bill for the relief of Kyriaki (Carol) Froumi; to the Committee on the Judiciary.

By Mr. TOWER:

S.J. Res. 245. A joint resolution to authorize the National Aeronautics and Space Administration to conduct a study of the solar rays with a view to determining the potential of such rays as an alternative source of electrical energy; to the Committee on Aeronautical and Space Sciences.

S. 4492—INTRODUCTION OF AGRICULTURAL ACT OF 1970

Mr. McGOVERN. Mr. President, the agricultural conference report that is now pending before the Senate is a bad bill. It is a bill that is not in the interest of either agriculture or urban America. It would have the effect, to put it very bluntly, of reducing the income of the farmers of this country over the next 3 years by approximately $1.2 billion, a loss of some $400 million to farm families, at a time when the average per capita

income of the farmer is only two-thirds that of the rest of the country.

This can only have one impact as far as the urban areas of the country are concerned, and that is to accelerate the migration that has been going on over the last 15 or 20 years of people being driven off the land into cities that are already overcrowded and suffering from the cost of excessive congestion.

Mr. President, it is my hope that when the conference report comes up for consideration in the Senate, we will give very serious thought to the possibility of rejecting that conference report and instructing the Senate conferees to ask for a new conference with the House to see if we cannot restore some of the provisions that had previously been added by the Senate, which were lost in conference.

It is my own judgment that we lost those provisions that the Senate had succeeded in adding because of the stubborn opposition of the administration which fought every effort made in the Senate to strengthen the parity principle in the field of agriculture.

The key vote in the Senate came on Senator MONTOYA'S motion to provide 77 percent parity floor under feed grains, which was lost not so much because of the opposition of urban State Senators, but from a really strong vote on the minority side of the aisle, and the heavy effort on the part of the administration to strike the parity guarantees at every point in the bill.

I have already expressed deep disappointment over the terms of the conference report on H.R. 18546.

The Senate bill was not an elaborate or costly proposal. It sought only to maintain farm returns at or near present levels, with some built-in protection against escalating costs. The feed grains minimum was 75 percent of parity, compared to current national average of about 77 percent. The wheat provisions would have continued the present program for 1 year, after which farmers would have had an opportunity to choose between it and the administration's set-aside approach.

The income provisions of that Senate bill were still short of the goals we set in the coalition farm bill last year. That measure would have moved corn returns up to 90 percent of parity, through slight advances in both loan rates and payments. It would have assured 65 percent of parity on export wheat. Again the objective was a modest one—to make at least some progress toward the parity goal which has so long eluded the farm economy.

I remain convinced, Mr. President, that either one of those bills—the coalition bill or the Senate version of this legislation—could have won the approval of substantial majorities in both Houses of the Congress.

They did not do so for one reason. Because the Secretary of Agriculture not only opposed them but marshaled the full force of the administration to fight them and demand their defeat. Indeed, it is a sad commentary that this administration's influence on agriculture has been almost entirely negative, to force lower prices and to oppose all serious congressional initiatives aimed at improving the outlook.

In March of this year the Secretary told the Agriculture Committee what he saw as the conditions precedent to a good farm bill:

> This surely is a time when farmers and farm groups, acting through their enlightened self-interest, must find as much common ground as possible. Farmers now comprise only 5 percent of the population; 30 years ago it was 24 percent. We can no longer afford the deep divisions that have so long characterized debates on farm programs.

His message was that the Nation's farmers should expect disinterest and neglect from an urban dominated Congress, that Senators and Congressmen with mostly consumers for constituents will be unsympathetic to actions to improve producer returns.

The Secretary either badly misread or conveniently ignored urban America's interest in a healthy farm economy. It needs to keep low cost, abundant food supplies coming. And it needs to stop the flow of people who have been coming, forced out by a depressed farm economy, to aggravate the enormous problems of overcrowded cities.

I submit that urban Senators and Congressmen understand the folly of this migration just as well as those of us representing rural States. And the farmers who hammered out a coalition position—fully complying with Secretary Hardin's demand for farm unity—were not let down by the cities. This bill is not the product of consumer hostility; it is the bitter fruit of administration obstructionism.

The crucial rollcall in the Senate, for example, was on the Montoya amendment to assure a minimum of 77 percent of parity on feed grains. It was defeated. But the margin of defeat did not come from heavily populated urban States. It came from Republican Senators from middle America who voted in line with the administration's unyielding opposition to the amendment.

That same opposition—expressed both in letters from the Secretary and through USDA officials who sat in on the conference—forced deletion of virtually every meaningful income improvement added by the Senate. Advance payments are gone. The 75 percent of parity grains guaranteed is gone. The guaranteed wheat blend price is gone.

The administration's aim throughout was to wipe farm return floors out of the law, and it nearly succeeded.

Acceptance of the report would virtually guarantee a 3-year farm income loss of about $1.2 billion. It would mean an even more rapid rate of decline in the farm economy, and an accelerated migration from rural to urban America. We simply cannot afford it.

There is probably too little time remaining in this session to start all over again on a new farm bill. Hence, I believe the proper course is to hold the issue open for action next year.

I am, therefore, introducing a new bill designed to serve that objective. It includes the undisputed sections of the conference report—those on payment limitations, dairy, rural development, Public Law 480—"Food for Peace" and others—to preserve what positive accomplishments there have been this year. But in the case of wheat, feed grains, cotton, and wool, it simply extends the 1965 farm law for 1 year.

Since it contains no unfamiliar provisions, I see no reason why this bill cannot be handled expeditiously by both the House and the Senate prior to adjournment. The sections from the conference report were, of course, before the Senate just a few weeks ago. The sections from the 1965 law have operated successfully for 4 years.

This bill will eliminate uncertainty among farmers—particularly those who grow winter wheat—over the shape of next year's program, thus solving a problem which would be worsened if we simply rejected the conference report and waited until next year.

It will assure that the dairy provisions, which have the strong support of milk producers, will be retained and enacted for 3 years in terms identical to those of the conference bill. This and other provisions on which there is a consensus would be fully protected.

Action on this bill, coupled with rejection of the unsatisfactory conference report, will prevent reversion to the old "permanent" farm law, which would entail an annual income loss of some $2 billion on wheat and feed grains alone.

And my proposal would set the stage for an effort in 1971 to draft new legislation which truly reflects the views of Senators, Representatives, and farmers as well as those of the Nixon administration.

Our deliberations on this issue this week will be backdropped by a deteriorating farm economy, with an adjusted parity ratio down to 75 from 80 1 year ago. They will come in the wake of elections in which farmers gave an unmistakeable sign of their displeasure over the administration's performance on the farm front. Surely there is compelling reason for us to get serious about adopting a good farm bill.

I hope, therefore, that the Senate will reject the conference report. If so, I will move that the Senate further insist upon its amendments and that a further conference be requested, to determine whether the House might be willing to move in the direction of the Senate bill. In the absence of such action, the best alternative I can see is to adopt the new proposal which I am offering today.

Mr. President, I think the election results on November 3 in the agricultural sections of the Nation indicated the manifest unhappiness of farm families with the pending agricultural bill that was identified so closely with the administration. Twelve of the 17 seats that were picked up in the House of Representatives by the majority party were won in predominantly agricultural districts, two in my own State. Not since 1934 has South Dakota elected two Democratic Congressmen and a Democratic Governor in any one year. Similar developments were taking place in Nebraska, North Dakota, Wyoming, and elsewhere in so-called mid-America where, I think, farmers

were indicating their unhappiness with the drift of agricultural policy under the present administration.

I am grateful that the leadership of the Senate agreed this morning to defer action on the conference report until the return of the Senator from Louisiana (Mr. ELLENDER), the chairman of the Committee on Agriculture and Forestry on Thursday of this week. At that time it is my further hope that we can have a thorough discussion of the weaknesses in the present agricultural conference report and that we will be able to see what can be done to give both the farmers of the Nation and the citizens of the Nation as a whole more equitable treatment. I think it is in the national interest that we do that, and I am very hopeful the Senate will so respond.

Joining in the cosponsorship of the bill I introduce today are Senators BAYH, BURDICK, HARRIS, METCALF, MONDALE, and YARBOROUGH.

Mr. President, I yield the floor.

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

The bill (S. 4492) to establish an improved program for the benefit of producers and consumers of dairy products and other commodities, to extend the Food and Agriculture Act of 1965 for 1 year with respect to wheat, wool, feed grains, and cotton, and for other purposes, introduced by Mr. MCGOVERN (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

ADDITIONAL COSPONSOR OF A BILL

S. 4348

At the request of the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Maryland (Mr. TYDINGS) was added as a cosponsor of S. 4348, to prohibit assaults on State law enforcement officers, firemen, and judicial officers.

SENATE RESOLUTION 481—RESOLUTION SUBMITTED AND AGREED TO EXPRESSING SYMPATHY AND PROFOUND SORROW TO THE FAMILY OF GENERAL DE GAULLE AND TO THE PEOPLE OF FRANCE

Mr. MANSFIELD (for himself and Mr. SCOTT) submitted a resolution (S. Res. 481) expressing sympathy and profound sorrow to the family of General de Gaulle and to the people of France, which was considered and agreed to.

(The remarks of Mr. MANSFIELD when he submitted the resolution appear earlier in the RECORD under the appropriate heading.)

PROPOSED AMENDMENT OF THE CONSTITUTION RELATIVE TO EQUAL RIGHTS FOR MEN AND WOMEN—AMENDMENTS

AMENDMENTS NOS. 1064 THROUGH 1067

Mr. ERVIN. Mr. President, I ask unanimous consent to submit four amendments to the second edition of the proposed amendment. I ask unanimous consent that they be printed in the RECORD and lie at the desk until called up.

The VICE PRESIDENT. The amendments will be received and printed, and will lie on the table; and, without objection, the amendments will be printed in the RECORD.

The amendments read as follows:

AMENDMENT NO. 1064

On page 2, strike out lines 5 and 6, and insert in lieu thereof the following:

"SEC. 2. The Congress and the several States shall have power, within their respective jurisdictions, to enforce this article by appropriate legislation.".

AMENDMENT NO. 1065

On page 2, strike out lines 3 and 4, and insert in lieu thereof the following "shall make any law treating men and women differently unless the difference in treatment is based on physiological or functional differences between them.".

AMENDMENT NO. 1066

On page 2, strike out lines 3 and 4, and insert in lieu thereof the following: "shall make any law treating men and women differently unless the difference in treatment is based on physiological or functional differences between them.".

On page 2, strike out lines 5 and 6, and insert in lieu thereof the following:

"SEC. 2. The Congress and the several States shall have power, within their respective jurisdictions, to enforce this article by appropriate legislation.".

AMENDMENT NO. 1067

On page 2, strike out lines 3 and 4, and insert in lieu thereof the following: "shall deny to any woman any right or protection sanctioned by the Fifth or Fourteenth Articles of Amendment to the Constitution.".

On page 2, strike out lines 5 and 6, and insert in lieu thereof the following:

"SEC. 2. The Congress and the several States shall have power, within their respective jurisdictions, to enforce this article by appropriate legislation.".

Mr. ERVIN. Mr. President, I would like to say to my good friend, the Senator from Indiana, that the third edition of the amendment drawn by the Senator from Indiana was accompanied by a statement which clearly demonstrates that there is no necessity for any amendment of this character. He cites cases under the equal protection clause which show exactly what the Supreme Court said in the Hoyt case—that any discrimination created by the law of any State between men and women is not unconstitutional unless it is based upon a reasonable classification.

The truth is that the amendment in the original form tried to make men and women identical legal beings. We cannot do that by constitutional amendment.

Mr. BAYH. Mr. President, I appreciate the comments of the Senator from North Carolina. I have read with a great deal of interest the articles in the press. I think that most of our friends in the press try their best to accurately interpret what is said. I am not certain that the Senator from North Carolina said some of the things attributed to him, but I am always glad to have his support.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION BILL, 1971—AMENDMENTS

AMENDMENT NO. 1068

Mr. JAVITS. Mr. President, I submit jointly, for myself and for Senators CRANSTON, NELSON, MONDALE, BAYH, CHURCH, HART, HARRIS, GOODELL, KENNEDY, MCGOVERN, and YARBOROUGH, an amendment to H.R. 18515, the Labor-HEW and related agencies appropriations bill for fiscal year 1971.

The PRESIDING OFFICER (Mr. HUGHES). The amendment will be received and printed, and will lie on the table.

Mr. JAVITS. The amendment is designed to provide additional funds for three central purposes:

First, to provide for the Headstart program at a level sufficient to provide preschool education to children consistent with commitments made in previous years.

Second, to provide for manpower training activities at the levels which the administration originally requested, in order to help alleviate the individual hardships imposed by the current economic situation, which hits especially hard the young, the disadvantaged and the black.

Third, to provide for the Director of the Office of Economic Opportunity sufficient funds to maintain past commitments in such essential antipoverty efforts as local initiative, food, health, legal services, economic development, and rural programs; and to provide the amount which the administration requested for research development and evaluation.

The amendment would appropriate a total of $2,245,500,000 to the Office of Economic Opportunity for programs conducted under the Economic Opportunity Act of 1964, an increase of $181,600,000 over the $2,063,900,000 recommended by the Senate Committee on Appropriations. The administration originally requested $2,080,200,000; the House of Representatives cut that request by $34,000,000 to $2,046,200,000. The Economic Opportunity Act Amendments of 1969 authorized a basic authorization of $2,295,500,000. Out of that basic authorization, $50 million has been appropriated for desegregation assistance, leaving $2,245,500,000 of the basic authorization unappropriated.

Of the $2,245,500,000 which the amendment would accordingly appropriate, $398,000,000 is earmarked for the Headstart program, and $802,000,000 is earmarked for work and training opportunities.

These earmarkings would result in the application of $59,000,000 of the aggregate increase of $181,600,000 to the Headstart program and $41,900,000 to work and training activities, leaving $80,700,000 of the increase to be allocated among the other essential poverty programs.

I ask unanimous consent that there be inserted at this point in the RECORD

a chart which details the effect of the amendment as compared with fiscal 1970 obligations, the President's budget request, allocations at the House-passed level and the Senate Committee on Appropriations' recommendation.

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

FUNDING FOR ECONOMIC OPPORTUNITY PROGRAMS UNDER JAVITS-NELSON-MONDALE-CRANSTON AMENDMENT TO HEW-LABOR-OEO APPROPRIATIONS BILL (H.R. 18515)

[Dollars in millions]

	Fiscal year 1970 actual obligations	President's budget request	Allocations at House-passed level	Senate Appropriations Committee report	Javits-Nelson-Mondale-Cranston proposed amendment to appropriations bill in Senate [1]
Work and training (title I, pts. A, B, and E)	$753.9	$802.0	$760.1	$760.1	$802.0
Headstart	326.0	339.0	321.3	339.0	398.0
Followthrough	70.3	69.0	70.4	70.4	76.5
Research, development, and evaluation	76.5	118.3	114.6	114.6	118.3
Health and nutrition programs	155.2	176.8	195.3	195.3	215.5
Legal services programs	53.8	63.4	61.4	61.4	63.4
Community action operations	$382.1	$384.6	$388.6	$388.6	$388.6
Special impact program	36.8	32.1	37.1	37.1	39.1
Migrant program	30.9	35.5	35.5	35.5	35.5
VISTA	35.0	38.5	36.5	36.5	38.5
Rural loan program	9.4	5.0	9.4	9.4	10.2
General support	16.0	16.0	16.0	16.0	16.0
Other purposes	3.0				[2] 43.9
Total	1,948.0	2,080.2	2,046.2	2,063.9	2,245.5

[1] Minimum allocations of funds for Economic Opportunity programs under Javits-Nelson-Mondale-Cranston amendment based on administration's budget request except where provisions for earmarking and adjustments in authorizing legislation or this amendment would result in a higher amount.

[2] Unallocated.

Mr. JAVITS. Mr. President, I shall now indicate in detail why we believe these amounts to be necessary, capable of being put to effective use during the remainder of this fiscal year and—in fact—should not be regarded as "increases" at all, but as the minimum necessary to maintain previous commitments to these essential programs.

HEADSTART NEEDS

In his February 19, 1969, message to the Congress, recommending the extension of the Economic Opportunity programs, President Nixon stated:

Much of our knowledge is new, but we are not on that ground absolved from the responsibility to respond to it. So crucial is the matter of early growth that we must make a national commitment to providing all American children an opportunity to healthful and stimulating development during the first 5 years of life.

The Congress, in subsequently extending the Economic Opportunity Act, authorized the amount of $398,000,000 for the Headstart program—the mainstay of early childhood education efforts; the amendment, as I indicated, would earmark that basic amount.

The amount which we seek would provide a Headstart experience for 529,406 children this year, only 57,806 more than served last year. Even with this nominal increase, the program will reach only approximately one-third of the children who could benefit therefrom; indeed the full-year program component will reach less than 1 in 4 of those who should be served.

The amount which we seek still will provide experiences for 134,594 less children than were reached by the program in fiscal year 1969.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD summary tables prepared by the Department of Health, Education, and Welfare, detailing the facts in detail.

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

HEAD START SUMMARY TABLES

[Information supplied by HEW Office of Child Development]

	Number of programs	Cost (million)	Number of children year-round program	Number of children summer program	Total number of children served
Fiscal year 1970	891	$326	262,900	208,700	471,660
Needed to maintain program level		350	262,900	208,700	471,600
Administration Headstart cut based on House appropriation		321	251,000	125,000	376,000
Administration fiscal year budget request, reported by Senate Appropriations Committee		339	262,900	145,990	408,800
Javits-Nelson-Mondale-Cranston amendment		398	[1] 320,706	[1] 208,700	529,406

[1] Estimated.

Note: Cost per child: year-round, $1,091.00; Summer $231.00.

MANPOWER TRAINING NEEDS

Mr. JAVITS. Mr. President, while the national unemployment rate hit 5.6 percent in October, the unemployment rate for teenagers was a full 17.1 percent, with unemployment in urban poverty neighborhoods at 24.1 percent. In the third quarter of this year, unemployment among black teenagers in poverty areas was 34.9 percent. The effects of the current unemployment are by no means limited to younger persons; in fact, although persons 55 years of age and above constitute 17 percent of the civilian labor force, they constitute 25 percent of the persons who now face very long-term unemployment.

The manpower training programs—which are conducted under the authority of the Economic Opportunity Act of 1964, as well as under the Manpower Development and Training Act of 1962—are useful tools in alleviating the harmful individual effects of such conditions—for young and old alike. This was recently recognized by the Senate in its overwhelming adoption of the Employment and Training Opportunities Act, originally introduced by Senator GAYLORD NELSON. In addition to a basic authorization of $2 billion for fiscal year 1972, the Senate-passed bill contains provisions which I submitted on behalf of the administration authorizing additional appropriations of up to $400 million for manpower training and related activities at the very levels of unemployment which we face today. We are now awaiting House and conference action on that authorizing legislation.

We seek through this amendment merely to restore the amount originally requested by the administration for manpower training activities.

The administration originally requested $1,549,494,000 comprised of $747,494,000 under the Manpower Development and Training Act and $802,000,000 under the Economic Opportunity Act. The Senate Committee on Appropriations has recommended $1,504,794,000, comprised of $744,694,000 under the Manpower Development and Training Act and $760,100,000 under the Economic Opportunity Act, which results in an amount $44,700,000 short of the original request. Of the $44,700,000, reductions in manpower training program activities accounts for $41,900,000.

Restoration of the latter amount would make the following proposed cutbacks unnecessary: $6,500,000 from the concentrated employment program—which focuses on specific concentrations of unemployed or underemployed disadvantaged persons; $5,200,000 from the public service careers program—which provides entry-level opportunities for those who are unable to obtain employment; $3,300,000 from the Neighborhood Youth

Corps "in-school" program—which is designed to reduce the number of dropouts; $7,830,000 from the Neighborhood Youth Corps summer program—which as I shall note later would be funded below last year even if the full administration request is granted; $7,200,000 for the Neighborhood Youth Corps "out-of-school" program—designed to provide youths with employment to assist them in returning to school; $9,610,000 for the Job Corps—which provides a unique experience for many youths who need special counseling, remedial education and related services; $2,200,000 for Operation Mainstream, which provides employment opportunities for older persons.

Mr. President, we should be expanding—not cutting—our commitments to manpower training activities under the present and anticipated conditions of employment and job opportunity.

OTHER POVERTY PROGRAM NEEDS

Mr. President, on September 16, 1969, in response to a letter from myself and Senator GAYLORD NELSON, chairman of the Subcommittee on Employment, Manpower, and Poverty, President Nixon, reaffirmed the administration's intention to "see that the vital community action programs are pressed forward."

In addition to providing an adequate amount for the Headstart program and restoring the amount requested by the administration for manpower training activities, the amendment would permit the Director of the Office of Economic Opportunity to fund the other essential antipoverty programs and activities at levels approaching those which the Congress intended, through the earmarking contained in the Economic Opportunity Amendments of 1969. Those earmarked levels, incidentally, were based on the administration's own estimates of priorities during that year.

Mr. President, it is clear that those earmarked amounts suggest the very minimums needed in order to continue programs at meaningful levels and consistent with past commitments. This is evident from a review of the needs in programs which necessarily will be funded below earmarked levels in the event that this amendment is not adopted:

The follow-through program—which focuses on the education of disadvantaged children in the early primary grades—has been designed to provide continuing experience for children previously enrolled in Headstart programs. Yet, the program will reach only 74,000 children under administration requests while the number of Headstart graduates will approach 408,800 under the administrations' projections. Accordingly, the program will cover only 17 percent of its target population.

Health and nutrition programs must be funded at meaningful levels if we are to reach the causes that hold so many persons in poverty. Without the additional funds that would be available through this proposed amendment, comprehensive health services programs will reach only 6.5 percent of those in need and will provide funds for the establishment of only a handful of new neighborhood health centers—against a demonstrated need of 600 additional centers. Alcoholic and drug programs will reach only 4.4 and 1.7 percent, respectively, of those who need help.

The emergency food and medical services program—providing essential outreach of food programs for the poor—will be funded at about the same level as last year. Even with the new food programs proposed by the administration, little more than half the poor will be reached.

Local initiative programs—the backbone of community action operations—will have some $7 million less for programs this year than last.

Special impact programs—which support economic development in slums in our major cities—will be unable to refund a number of existing programs and unable to fund new programs in the eight major cities which have not had the benefit of assistance.

Mr. President, in a number of cases where the administration's budget requests equalled or exceeded the earmarked amounts, these levels will not be reached under the Senate Committee on Appropriations' recommendations:

Research, development, and evaluation—which the administration has emphasized and which is so crucial in the development of new approaches to poverty—will fall $3.7 million short of the request.

Legal services programs—which are so essential if the poor are to seek solutions within the context of our system of justice—will be $3 million short, resulting in the closing of a number of legal services offices in New York City and in other urban and rural areas of the country. Even if the full request is restored, only 17 percent of the "target" population will be reached.

The VISTA program—Volunteers in Service to America—which seeks the essential involvement of youth—will be $2 million short. The cut, coupled with inflation, will mean that the program will barely be able to enlist the same number of volunteers as last year.

Mr. President, the administration's request that the Appropriations Committee limit the application of the earmarking provisions has not been adopted. However, under this amendment, the funds appropriated would exceed the level of earmarking, thus giving the Director of the Office of Economic Opportunity considerable flexibility to make allocations in the manner which he considers desirable. In that connection, I should note that while earmarking would apply, the economic opportunity amendments of 1969 also gave the Director the authority to make transfers of up to 15 percent of the amount appropriated or allocated for each program from that program to another, with certain liberal provisions as to the amount that could be added to a program depending upon its size.

Accordingly, the administration would have freedom under this amendment to make allocations to particularly successful or needy programs in excess of the earmarked amounts. Should this amendment provide these additional funds, I hope that the administration will effect an additional allocation of $36,400,000 for the Neighborhood Youth Corp summer jobs program in order to bring it up to the level of funding available during this past summer. The administration has requested only $121,500,000—which would become available if the full total request is restored—compared with the $146,500,000 available last summer. The result will be a short-falls of $36,400,000 and at least 100,000 opportunities. The program provides summer job opportunities for disadvantaged youths, 14 to 21 years of age. We can expect fully that the needs for next summer will at least equal those of last and indeed that the worsening economic conditions will have the dual effect of increasing the number of applicants and of making it difficult for the private sector to take up the slack. We need to keep up with this need, not make for inefficiency by waiting until every summer before we face it.

Mr. President, the Senate Committee on Appropriations chose to appropriate funds for Headstart, Followthrough, and manpower training directly to the departments which administer the programs. While the future legislative consolidation of programs in these areas may effect this purpose, it is premature to make such direct appropriations in light of the fact that the Office of Economic Opportunity still retains, under the Economic Opportunity Act and delegation agreements, a special responsibility to insure that these programs are funded and conducted in such a way as to benefit the poor. Accordingly, the proposed amendment reinstates the past practice of making the appropriation directly to the Director of the Office of Economic Opportunity.

Mr. President, under this amendment, we have proposed an increase in funding, this year over last, which only approximates the increases proposed in such other areas as water pollution control, crime control, and transportation. We consider it to be an amount which the the agencies involved put to effective Senate can reasonably adopt and which use.

This amendment supersedes amendment No. 858, which I submitted on August 24 on behalf of myself and Senators NELSON, BAYH, BROOKE, CRANSTON, GOODELL, HARRIS, HART, and MCGOVERN, and No. 875, which I submitted on September 1 for myself and Senator NELSON. Each was submitted prior to the action of the Senate Committee on Appropriations.

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

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

AMENDMENT NO. 1068

On page 42, line 1, strike out "$894,400,000" and insert in lieu thereof "$2,245,500,000" and insert after *"Provided,"* the following: "That of such amount $802,000,000 shall be for work and training programs under such parts A, B, and E of title I of such Act pursuant to delegation arrangements under section 602(d) of such Act and $398,000,000 shall be for the Project Headstart program under section 222 (a)(1) of such Act pursuant to delegation arrangements under section 602(d) of such Act: *Provided further,*".

On page 2, strike out all beginning with the word "and" the first place it appears on line 11 through the word "of" on line 13 and strike out all beginning with the word "appropriated" on line 14 through the word "shall" on line 15 and insert in lieu thereof the word "to".

Strike out all beginning with the colon on line 23 of page 2 through the last word on line 10 of page 3.

On page 25, strike out lines 16 through 20.

On page 33, strike out lines 14 through 17, and insert in lieu thereof the following: "Conference on Children and Youth, $7,417,000."

Mr. JAVITS. Mr. President, I ask unanimous consent that there be printed in the RECORD at this point, two recent statements by the Department of Labor on the unemployment situation—one entitled "The Employment Situation: October 1970" and the other "The Employment Situation in Poverty Neighborhoods, Third Quarter, 1970," together with letters dated May 7, 1970, and August 27, 1970, from the U.S. Conference of Mayors, indicating the need for additional funds for summer job programs.

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

THE EMPLOYMENT SITUATION: OCTOBER 1970

The employment situation was basically unchanged in October except for the effects of the strike in the automobile industry, the U.S. Department of Labor's Bureau of Labor Statistics reported today.

At 5.6 percent in October, the overall unemployment rate was about the same as in September, when it had risen sharply. The number of unemployed workers was 4.3 million in October, unchanged from September. For most major groups in the labor force, jobless rates showed little or no change over the month, although the rate for married men continued to edge up. Some unemployment rates, however, were raised slightly by the secondary effects of the strike in the auto industry.

Total employment, which includes workers in agriculture, the self-employed, unpaid family workers, and private household workers as well as wage and salary workers in nonfarm industries, edged up in October on a seasonally adjusted basis. However, nonfarm payroll employment decreased by 480,000 over the month, after seasonal adjustment. There was an even greater decline in manufacturing, centered in the durable goods industries. These declines were largely the result of the strike in the automobile industry. Employment increases in the service-producing industries helped to counter the decrease in manufacturing employment. (In the figures on total employment from the household series, workers on strike are counted as "employed—with a job but not at work" rather than as unemployed; in the series on nonfarm payroll employment, strikers are not on payrolls and are thus not counted as employed.)

INDUSTRY PAYROLL EMPLOYMENT

Nonagricultural payroll employment, which usually rises between September and October, declined this October to 70.6 million. After seasonal adjustment, payroll employment was down 480,000 over the month, following a 200,000 increase in September (as revised). Most of the October job loss was attributable to the strike in the automobile industry. Sizeable job gains in the service-producing industries provided a partial offset to the very large employment reduction in manufacturing.

In manufacturing, employment declined by 610,000, seasonally adjusted, between September and October. Most of this decline resulted from the primary effects of the strike, which involved an estimated 325,000 workers; a significant part of the remaining employment reductions were secondary effects of the strike.

The employment drop in manufacturing was greatest in the durable goods sector—525,000. Although all durables industries showed a decline, the largest occurred in the five metals and metal-using industries which were most heavily affected by the strike. Employment fell by 280,000 in transportation equipment, 70,000 in electrical equipment, 55,000 in primary metals, 45,000 in machinery, and 40,000 in fabricated metals. In nondurable goods, a decline of 85,000 was concentrated in food processing (30,000), rubber (20,000), apparel (15,000), and textiles (10,000).

Employment in contract construction was 3.2 million, seasonally adjusted, about unchanged from the September level. Over the year, construction employment was down by 210,000, or 5.8 percent.

Among the service-producing industries, job pickups took place in services (60,000), trade (45,000), State and local government (15,000), and finance, insurance, and real estate (15,000). After showing little or no growth this past summer, employment in the services industries has increased substantially in the past 2 months.

UNEMPLOYMENT

The actual number of unemployed workers totaled 4.3 million in October. After seasonal adjustment, unemployment was little changed, following a sharp rise in September.

Since last October, the number of unemployed persons has risen by 1.4 million—725,000 adult men, 400,000 adult women, and 300,000 teenagers. Nearly 85 percent of the over-the-year increase was among full-time workers, mostly persons who had lost their last jobs.

Over the month, jobless rates for most major groups in the labor force were unchanged. Rates for adult men (4.1 percent), adult women (5.1 percent), and teenagers (17.1 percent) were all essentially the same as in September, when they reached or equaled their highest levels since 1964. Unemployment rates for both full-time workers (5.0 percent) and part-time workers (8.2 percent) also showed little change over the month, following increases in September. However, the unemployment rate for married men, at 3.1 percent, edged up over the month, continuing the upward trend in evidence since last winter.

For both Negro and white workers, unemployment rates were also virtually unchanged in October. The Negro rate was 9.3 percent and the white rate 5.2 percent.

The unemployment rate for workers covered by State unemployment insurance programs moved up from 4.2 to 4.4 percent in October, following a greater rise in September. The October increase reflected the impact of the automobile strike and brought the rate to twice that of October 1969 and the highest since January 1964.

Among the major occupational groups, the rate for white-collar workers rose from 2.8 to 3.2 percent, primarily reflecting increased joblessness among clerical workers. The October rate for white-collar workers was the highest since November 1961. The jobless rate for operatives, many of whom work in manufacturing, rose to 8.5 percent. On the other hand, unemployment rates for craftsmen (4.1 percent) and nonfarm laborers (10.7 percent) fell in October, after increasing significantly in September. Both rates returned to approximate their August levels.

Among the major industry divisions, the jobless rate for persons who last worked in manufacturing rose in October to 6.7 percent. Rates in construction and the finance and service industries moved down over the month.

The number of persons unemployed 15 weeks and over totaled 745,000 (seasonally adjusted) in October, down very slightly from September. The average duration of unemployment fell from 8.9 to 8.3 weeks, the lowest level in 6 months.

The number of persons who worked part time for economic reasons in nonagricultural industries but wanted full-time jobs increased by 315,000 (seasonally adjusted) in October to 2.4 million; this was also a reflection of the production cutbacks and short workweeks resulting from the automobile strike. The ratio of labor force time lost by persons working part time involuntarily as well as by the unemployed rose to 6.2 percent, the highest point since January 1964. (Labor force time lost is a measure of man-hours lost to the economy through unemployment and involuntary part-time employment, taken as a percent of total man-hours offered by those in the labor force.)

CIVILIAN LABOR FORCE AND TOTAL EMPLOYMENT

The civilian labor force increased in October more than it usually does at this time of year and, after seasonal adjustment, was up by 325,000, to 83.4 million. The over-the-month increase was concentrated among adult women. Compared with October 1969, the civilian labor force has grown by 1.7 million—775,000 adult women, 750,000 adult men, and 140,000 teenagers.

Total employment rose by 265,000, seasonally adjusted, in October. The increase brought the total to 78.7 million, the same as in July but well below the peak reached in March. Over the year, total employment has risen by 250,000, with only adult women showing an increase.

HOURS OF WORK

The average workweek for all rank-and-file workers on private nonagricultural payrolls was 36.9 hours in October, unchanged on a seasonally adjusted basis. In September, average weekly hours had fallen sharply because of the inclusion of the Labor Day holiday in the reference week. Hours generally failed to rebound from this artificially low level, a reflection of the production cutbacks and the consequent shorter work schedules resulting from the automobile strike. However, the workweek did return to August levels in many of the manufacturing industries not affected by the strike.

In manufacturing, the average workweek was 39.4 hours, seasonally adjusted, up 0.1 hour from the low September level. The October workweek was 0.4 hour below the August level and 1.1 hours lower than a year ago. The small September-October increase in manufacturing took place in nondurable goods, where the workweek rose from 38.6 to 38.9 hours. Overtime hours in manufacturing were unchanged over the month at 2.7 hours, the lowest level since 1963.

EARNINGS

Average hourly earnings of production and nonsupervisory workers on private payrolls remained unchanged in October at $3.28. Compared with a year ago, average hourly earnings were up 16 cents, or 5.1 percent.

Average weekly earnings decreased by 33 cents over the month to $121.03, as a result of a small actual decline in the workweek. Declines in manufacturing trade more than offset gains in the other major industry divisions. Compared with October 1969, weekly earnings increased by $3.72, or 3.2 percent.

Over the year ending in September 1970, average weekly earnings rose by 3.0 percent; after adjustment for consumer price changes, however, earnings were down by 2.5 percent.

THE EMPLOYMENT SITUATION IN URBAN POVERTY NEIGHBORHOODS: THIRD QUARTER 1970

Unemployment in the poverty neighborhoods of the Nation's 100 largest metropolitan areas rose over the year about in line with unemployment in the nation as a whole, the U.S. Department of Labor's Bureau of Labor Statistics reported today. The unemployment rate in the poverty neighborhoods rose from 5.7 percent in the third quarter of 1969 to 8.3 in the third quarter of 1970, while the national rate rose from 3.7 to 5.2 percent.

Jobless rates for both whites and blacks from poverty neighborhoods were up sharply over the year. The jobless rate for whites moved from 4.4 to 6.6 percent and that for blacks from 7.5 to 10.8 percent, a slightly greater relative rise for whites. In the nation as a whole, jobless rates for whites also rose relatively more than for blacks.

Most of the increased joblessness in poverty neighborhoods over the year took place among adult men, both white and black. The jobless rate for black men rose from 3.9 to 7.9 percent while the rate for white men rose from 2.8 to 5.1 percent. Jobless rates also rose among white and black adult women but not at the same extent as for males. There was little change in the unemployment rate for white teenagers over the year (17.7 percent in the third quarter of 1970), but that for black teenagers rose from 29.3 to 34.9 percent.

The number of unemployed persons in poverty neighborhoods averaged 510,000 in the third quarter of 1970, up about 150,000 from the third quarter of 1969. Slightly more than half of this increase occurred among white workers.

The civilian labor force in urban poverty neighborhoods declined by 230,000 over the year. Part of the labor force decline is probably traceable to the movement of workers out of poverty neighborhoods, as the number of persons 16 years of age and over living in these neighborhoods has been declining in recent years. On balance, whereas the proportion of the poverty neighborhood population that is in the labor force has remained relatively stable over the year, the proportion employed has fallen and the proportion unemployed has risen.

(Tables 1 and 2 follow Senator JAVITS' correspondence from the U.S. Conference of Mayors.)

U.S. CONFERENCE OF MAYORS,
Washington, D.C., August 27, 1970.

Hon. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: In response to your recent inquiry, we have consulted with the Mayors and Youth Coordinators across the country and it is their considered judgment that the number of Neighborhood Youth Corps applicants for positions in the summer of 1971 will exceed those in the current summer.

In every instance local officials have urged that we do everything possible to encourage you and the Administration to see to it that 1971 fund commitments are made available at the earliest possible time, preferably before the end of the calendar year. This would permit more effective utilization of the program and funds next summer.

Sincerely,

JOHN J. GUNTHER,
Executive Director.

U.S. CONFERENCE OF MAYORS,
Washington, D.C., May 7, 1970.

Hon. JACOB K. JAVITS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: In response to your request for information, we have made inquiries as to the cities' 1970 needs for the summer Neighborhood Youth Corps slots beyond those allocated to them to date. The information we have received from the fifty largest cities shows that the total number of additional slots that these cities could effectively utilize this summer is 165,298.

On the basis of our contacts with a sample of the smaller cities, we estimate their need and capacity to utilize additional slots to be approximately 30 percent above their present allocation. This would mean an additional 61,875 slots needed by the smaller cities.

Combining these figures, the present real need for summer 1970 is 227,173 additional slots nation-wide.

I trust that these statistics will be helpful to you in pointing up the critical need for an enlarged appropriation for the summer Neighborhood Youth Corps program.

Sincerely,

JOHN J. GUNTHER,
Executive Director.

1970 SUMMER NEIGHBORHOOD YOUTH CORPS PROGRAM

[The needs of the 50 largest cities]

City	Total need, 1969	1970 allocation	Total city needs, 1970	Additional required	City	Total need, 1969	1970 allocation	Total city need, 1970	Additional required
Akron	612	378	765	387	Milwaukee	1,925	1,317	2,406	1,089
Atlanta	2,267	1,460	2,840	1,380	Minneapolis	1,750	1,080	2,188	1,108
Baltimore	7,000	4,255	8,000	3,745	Newark	4,180	2,707	12,000	9,293
Birmingham	1,390	894	1,738	844	New Orleans	8,490	1,136	10,613	9,477
Boston	2,200	1,588	2,750	1,162	New York	50,000	25,419	62,500	37,081
Buffalo	2,845	1,750	3,557	1,807	Norfolk	1,750	1,148	2,188	1,040
Chicago	31,000	19,676	38,750	19,074	Oakland	3,857	2,407	4,821	2,414
Cincinnati	1,935	1,198	2,419	1,221	Oklahoma City	1,270	782	1,588	806
Cleveland	6,900	4,211	8,000	3,789	Omaha	1,455	886	1,819	933
Columbus	1,100	675	1,378	703	Philadelphia	4,105	3,380	12,500	9,120
Dade County (Miami)	2,150	1,592	2,688	1,096	Phoenix	3,285	2,005	4,106	2,101
Dallas	1,520	986	1,900	914	Pittsburgh	3,915	3,366	4,894	1,528
Dayton	620	453	775	322	Portland, Oreg	1,066	777	1,328	551
Denver	800	522	1,000	478	Rochester	1,225	744	1,531	787
Detroit	7,780	5,873	9,725	3,852	St. Louis	1,834	1,335	4,000	2,665
El Paso	719	427	900	473	St. Paul	683	324	854	530
Fort Worth	785	499	981	482	San Antonio	3,742	2,297	4,678	2,381
Gary	1,380	1,073	1,725	652	San Diego	2,689	1,679	2,616	937
Honolulu	1,461	889	1,826	937	San Francisco	2,625	1,663	3,291	1,618
Houston	2,844	1,739	3,555	1,816	Seattle	1,496	1,048	1,500	452
Indianapolis	650	481	812	331	Tampa	1,925	1,523	2,406	883
Jersey City	1,275	853	1,594	741	Toledo	700	432	825	393
Kansas City, Mo	1,400	989	2,225	1,236	Tulsa	420	261	525	264
Los Angeles (including Long Beach)	12,828	9,629	16,000	6,371	Washington, D.C	12,805	8,530	30,000	21,470
Louisville	2,605	1,574	3,256	1,680	Total	214,758	130,903	296,201	165,298
Memphis	1,500	993	1,875	882					

TABLE 1.—EMPLOYMENT STATUS OF PERSONS 16 YEARS AND OVER, IN URBAN POVERTY AND OTHER URBAN NEIGHBORHOODS [1] BY COLOR

[In thousands]

Employment status	Total		White		Negro and other races	
	3d quarter 1970	3d quarter 1969	3d quarter 1970	3d quarter 1969	3d quarter 1970	3d quarter 1969
Total United States:						
Civilian labor force	83,821	82,099	74,409	72,907	9,412	9,192
Unemployment	4,341	3,003	3,517	2,381	824	622
Unemployment rate	5.2	3.7	4.7	3.3	8.8	6.8
Urban poverty neighborhoods:						
Civilian labor force	6,180	6,409	3,725	3,798	2,454	2,611
Unemployment	511	365	247	169	264	196
Unemployment rate	8.3	5.7	6.6	4.4	10.8	7.5
Other urban neighborhoods:						
Civilian labor force	40,781	39,414	37,151	36,100	3,631	3,314
Unemployment	1,970	1,319	1,730	1,142	240	177
Unemployment rate	4.8	3.3	4.7	3.2	6.6	5.3

[1] Pertains only to standard metropolitan statistical areas (SMSA's) with populations of 250,000 or more.

TABLE 2.—EMPLOYMENT STATUS OF PERSONS 16 YEARS AND OVER, IN URBAN POVERTY AND OTHER URBAN NEIGHBORHOODS [1] BY COLOR, SEX, AND AGE

[In thousands]

Employment status, sex, and age	Total		White		Negro and other races	
	3d quarter 1970	3d quarter 1969	3d quarter 1970	3d quarter 1969	3d quarter 1970	3d quarter 1969
Males, 20 years and over:						
Urban poverty neighborhoods:						
Civilian labor force	3,368	3,494	2,121	2,206	1,246	1,289
Unemployment	208	111	109	61	99	50
Unemployment rate	6.2	3.2	5.1	2.8	7.9	3.9
Other urban neighborhoods:						
Civilian labor force	23,441	22,776	21,561	21,056	1,881	1,720
Unemployment	790	442	702	385	88	57
Unemployment rate	3.4	1.9	3.3	1.8	4.7	3.3
Females, 20 years and over:						
Urban poverty neighborhoods:						
Civilian labor force	2,192	2,341	1,244	1,275	949	1,066
Unemployment	149	123	73	53	76	71
Unemployment rate	6.8	5.3	5.9	4.2	8.0	6.7
Other urban neighborhoods:						
Civilian labor force	13,533	12,948	12,075	11,644	1,458	1,303
Unemployment	638	476	557	423	81	53
Unemployment rate	4.7	3.7	4.6	3.6	5.6	4.1
Teenagers, 16 to 19 years:						
Urban poverty neighborhoods:						
Civilian labor force	619	573	360	317	259	256
Unemployment	154	130	64	54	90	75
Unemployment rate	24.9	22.6	17.7	17.2	34.9	29.3
Other urban neighborhoods:						
Civilian labor force	3,807	3,689	3,515	3,398	292	291
Unemployment	543	399	471	333	72	66
Unemployment rate	14.3	10.8	13.4	9.8	24.5	22.8

[1] Pertains only to SMSA's with populations of 250,000 or more.

AMENDMENT NO. 1069

Mr. SAXBE. Mr. President, I submit an amendment for the distinguished Senator from Illinois (Mr. PERCY) to the Labor-HEW appropriations bill, H.R. 18515. The amendment would make available $3.5 million, the same amount approved by the Senate annd House last year, for the construction of rehabilitation facilities for severely disabled people. The bill in its present form makes no provisions for such funds for the coming fiscal year.

Both the Senate and the House have long supported one project that would be directly affected by this amendment, the Rehabilitation Institute of Chicago. In 1967 the Chicago Institute developed plans for construction of a new rehabilitation research and training center, to provide the necessary quarters, equipment, and staff for a combined program of advanced research into severe disability, training of professionals in rehabilitation, and furnishing patient care needed for clinical research.

In 1967 both the Senate and the House supported this proposal, authorizing funds to proceed with the planning; and a grant of $182,000 was made to the Institute. In 1969 again both the Senate and the House supported this project and a grant of $2 million to bring the project to the actual construction stage, was approved by the agency.

Now the Rehabilitation Institute of Chicago faces the next crucial stage, in which the funds must be available or the project will halt in the middle of construction. By August 1971, another grant of $2 million will be needed so that construction can proceed uninterrupted. Since next year's appropriations bill will, in all probability, still be pending before Congress in August, I urge that the necessary funding be included in this year's bill.

Let me point out that for every dollar we approve here, the institute in Chicago must raise $2 million from private sources. So far, the response of business, commercial, and professional groups has been phenomenal, and the matching funds are assured. But the project must have the continued support of Congress in order to proceed. The amendment I offer will assure the uninterrupted progress of this worthwhile undertaking. I, therefore, urge the Senate to accept this amendment which will have such a decisive effect on the lives of thousands of disabled people in the whole Midwest area.

Mr. President, I ask that the text of the amendment be printed in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. HUGHES). 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. 1069) is as follows:

AMENDMENT NO. 1069

On page 27, line 18, strike out "$575,640,000" and insert "$579,140,000";

On page 27, line 22, strike out "and" and insert $3,500,000 for construction grants under Section 12; and".

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary: Sam H. Roberts, of Texas, to be U.S. marshal for the western district of Texas for a term of 4 years, vice Jesse L. Dobbs.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, November 23, 1970, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ANNOUNCEMENT OF HEARINGS ON LEAD-BASED PAINT

Mr. YARBOROUGH. Mr. President, I would like to announce that on Tuesday, November 24, 1970, I will hold hearings involving lead-based paint elimination in Federal housing. The bills will be H.R. 19172 and S. 3216. This is a disease that potentially affects 400,000 children each year, causing disastrous side effects such as mental retardation, and I consider these hearings very significant in trying to eliminate that dreaded sickness.

The hearings will be held in room 4232 at 10 a.m. by the Senate Subcommittee on Health of the Labor and Public Welfare Committee.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

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

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

ADDITIONAL STATEMENTS OF SENATORS

TRIBUTE TO CHIEF HOSPITAL CORPSMAN HARRY L. KAPINOS FOR OUTSTANDING SERVICE

Mr. MANSFIELD. Mr. President, I wish to extend my sincere appreciation to Chief Hospital Corpsman Harry L. Kapinos, of the Attending Physician's Office in the Capitol, for his outstanding service to his country during his many years in the Navy, but in particular for his service to all Members of the Senate while he was assigned duties in the Attending Physician's Office at the U.S. Capitol. During his nearly 10 years of service at the Capitol, we in the Senate have come to rely upon him for many of our medical needs. I have always been impressed by his thoughtfulness, judgment, and performance during these years, and I wish him the greatest success in all his future undertakings. He is presently being transferred to the Naval Fleet Reserve and will ultimately retire.

It is a source of great satisfaction to those of us who have spent so many years in public service to be joined in that calling by men of such high caliber. Chief Kapinos may rightly take great pride in the performance of a job well done.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter to Chief Kapinos from Dr. Pearson,

the Attending Physician, and also a summary of the Chief's public service record.

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

THE ATTENDING PHYSICIAN,
CONGRESS OF THE UNITED STATES,
November 17, 1970.

From: Attending Physician, U.S. Capitol, Washington, D.C.
To: HMC Harry L. Kapinos, USN.
Subj: Letter of Appreciation.

1. Upon the occasion of your transfer to the Naval Fleet Reserve and ultimate retirement from the naval service, I take this opportunity to express my appreciation for the outstanding manner in which you have performed your duties while assigned to the Office of the Attending Physician, U.S. Capitol.

2. From May 1961 to the present, you have been assigned as personal secretary to the Attending Physician to Congress. In that assignment you have been an outstanding representative of the U.S. Navy on Capitol Hill.

3. Since I became the Attending Physician over four years ago, I have had the opportunity to observe closely your performance of the many duties connected with your job. I am proud that you have consistently demonstrated keen knowledge and excellent judgment. Your discretion in dealing with Members of Congress, their staffs, visitors to our office, and other personnel from government agencies and professional societies has resulted in many letters of praise. Your assistance during my years at the Capitol has aided enormously in my performance as Physician to the Congress.

4. As you leave, you should take pride in the contribution you have made in the moulding of this office into an efficient medical facility. On behalf of the staff and myself, I take this opportunity to wish you and your fine wife, Josephine, and your truly outstanding family, good health, success and "smooth sailing" in your future endeavors.

R. J. PEARSON,
Rear Admiral, MC, U.S. Navy.

SUMMARY

Harry L. Kapinos, a Chief Hospital Corpsman in the U.S. Navy has been assigned to the Office of the Attending Physician, U.S. Capitol since May 1961.

From 1961 to 1966, he served as personal secretary to Dr. George W. Calver, the first Attending Physician to the Congress, and subsequently, Dr. R. J. Pearson, the present Attending Physician. In this capacity he has acted as liaison with representatives of the American College of Cardiology, the American Medical Association, the Navy Department, the Congressional staffs on Capitol Hill and other government agencies. He has prepared voluminous correspondence with U.S. Ambassadors throughout the world arranging appropriate ceremonies for the delivery of Certificates of Fellowship in the American College of Cardiology earned by foreign physicians.

He has served the Attending Physician's office well, assisting in an outstanding manner with first aid, artificial resuscitation, serving in the pharmacy, and supervising junior corpsmen. His quiet, personal charm and eagerness to serve has endeared him to the entire staff of the Attending Physician and to many visitors to that office.

The following is a summary of his naval service:

He enlisted in the U.S. Navy 23 November 1951. He advanced through the enlisted rates of the Hospital Corps and attained the rate of Chief Hospital Corpsman on 16 July 1963. While in the U.S. Navy he was stationed at Naval Hospital, Portsmouth, Virginia, Naval Air Station, Guantanamo Bay, Cuba, Naval Dispensary, Washington, D.C., and the Attending Physician's Office, U.S. Capitol, Washington, D.C. Chief Kapinos has been awarded the Good Conduct Medal with four subsequent awards and the National Defense Service Medal.

His family consists of his wife, the former Josephine Ullom of Portsmouth, Virginia and five children, Michael L., Robert A., Harry L., Jr., Mary S., and Jonathon E.

It is noteworthy that Chief Kapinos is highly talented, musically, having played the baritone base horn in high school and with a Navy band. Two of his children, Michael and Robert are exceptional musicians. Michael Kapinos is studying with the Prince Georges County Orchestra on a musical scholarship.

Chief Kapinos is an outstanding representative of the naval service. He has served the Navy and the U.S. Congress well and in the highest of naval tradition.

A retirement ceremony will be held for him at 10 a.m. on November 17, 1970, in the office of the Attending Physician. The enclosed letter of appreciation will be presented to Kapinos by Dr. Pearson.

Kapinos, Harry Linnae, Chief Hospital Corpsman, U.S. Navy.

Born: 8 April 1931. Canby, Minnesota.

Parents: Adolph B. Kapinos (deceased), Mary Kapinos, R.R. No. 4, Canby, Minnesota.

Married: Josephine Ullom, 14 November 1953, at Portsmouth, Va.

Children: Michael L. Kapinos—Born 11 September 1954. Robert A. Kapinos—Born 15 October 1955. Harry L. Kapinos, Jr.—Born 1 October 1957. Mary S. Kapinos—Born 28 October 1958. Jonathan E. Kapinos—Born 4 March 1964.

Enlisted: U.S. Navy, 23 November 1951. Navy Recruiting Station, Minneapolis, Minnesota.

Promotions: Hospital Corpsman Third Class, 16 May 1953; Hospital Corpsman Second Class, 1 January 1955; Hospital Corpsman First Class, 16 July 1961; Chief Hospital Corpsman, 16 July 1963.

Duty: Naval Training Center, Great Lakes, Illinois, 25 November 1951—4 March 1952. Hospital Corps School, Portsmouth, Virginia, 6 March 1952—15 August 1952. Naval Hospital, Portsmouth, Virginia, 25 August 1952—14 November 1955. Naval Air Station, Guantanamo Bay, Cuba, 26 December 1955—20 December 1957. Naval Dispensary, Washington, D.C., 4 January 1958—20 May 1961. Attending Physician's Office, U.S. Capitol, 20 May 1961—17 November 1970.

Medals: Good Conduct Medal—Five awards. National Defense Service Medal—Two awards.

A GLEAM OF HOPE IN POW SITUATION

Mr. SCOTT. Mr. President, there is a faint gleam of hope that the Communist leadership of North Vietnam may be taking a more rational and reasonable approach to the treatment of prisoners of war.

This hope lies in the fact that this year Christmas messages from their families may be sent to the known prisoners of war being held in the north.

One recalls the heartbreak and frenetic activity last year when the families of prisoners were trying to get Christmas packages and messages through to their loved ones without success. The proposed setup this year is much improved and may signify an easing of the stance of the Communists toward the entire prisoner problem.

It is the course of wisdom on our part, however, to view this change in attitude with caution because we have been overoptimistic before, only to have our hopes shattered.

THE ELECTION AND THE CONGRESS

Mr. RANDOLPH. Mr. President, for more than a month Congress has been in adjournment while the Nation went about the serious business of conducting an election.

The election is now behind us, but its impact will influence the outlook of Congress and its actions for several years. Indeed, although the newly elected Members will not take their seats until January, the issues discussed and the passions aroused during the campaign will to some degree influence our work in these closing weeks of the 91st Congress.

Political victory has been claimed from the election by both of our major parties, and I believe the fact that the results were such that these claims can be made indicative of the unwillingness of the people to move to extreme positions of either the left or right. By the judicious exercise of their voting rights, American voters have chosen moderation over extremism. They have cast a collective vote of confidence in our system of government as the best means of dealing with a troubled country in uncertain times.

The election is over, and we in Government must now return to the important work before us. All branches of Government are faced by monumental challenges that must be approached with understanding and statesmanship. We must heal the breaches that divide us and continue with the business of strengthening and broadening the American system of Government and the American way of life.

Mr. President, the challenges of the postelection period were discussed in a perceptive editorial in the Sunday Star of Washington, D.C., on November 8, 1970. I ask unanimous consent that excerpts from that editorial be printed in the RECORD.

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

EDITORIAL: THE MANDATE FOR NATIONAL RECONCILIATION

At the end of a noisy, confused and rather squalid off-year election, the people, in the main, chose well. If they wisely ignored a partisan demand from the White House for a hard-nosed Senate and House, refusing to be stampeded by the politics of fear, they turned an equally frigid shoulder on candidates of the opposite extreme, men and women who reject the mainstream of the nation's domestic heritage and repudiate its every action abroad. Instead, they picked to represent them candidates whose ideological home is fundamentally centrist. The election results were, at least in a partisan sense, inconclusive, with each side claiming victory and both denying defeat.

In the event, that may well have been the best of all possible conclusions to a bitter and bileful campaign. For a pronounced move toward either extreme of the political spectrum would, in our view, have been bad for the country, emphasizing a spurious doctrinal supremacy at the expense of pragmatism, common sense and compromise, the tripod upon which rests moderate government.

When the leaders of the two major parties have done with claims of partisan triumph, we think the lesson of the 1970 election should be clear to them: The people want and expect more of their leaders; they are ready to see the country turned into

neither a permissive funny-farm nor a concentration camp; they want order, but not at the expense of liberty.

In ordinary times, it might be understandable if not commendable for politicians to behave like politicians. But these times are anything but ordinary. Abroad, we are faced with two Communist superpowers which in neither word nor deed have indicated any alteration in their professed design to secure world hegemony. At home, our economic and social problems multiply daily. Neither this country nor the world can afford the luxury of excessive partisanship in the White House, the Supreme Court, the Senate or the House of Representatives.

This time has come, then, for statesmanship rather than politicking, for candor rather than dissimulation, for hard work rather than posturing, for co-operation rather than conflict.

Because he is the President, the first step toward reconciliation must come from Mr. Nixon. The man who occupies the White House necessarily sets the tone for the nation. The nation and the generations, the races and the parties, may not become reconciled with his help; but it is clear that there is no hope of such reconciliation without it.

We believe that this was the mandate from the people of this country on November 3: Give us an honorable peace at home and abroad, give us work to do, help us to recapture our belief in ourselves and our faith in our country, give us good government and an equitable social order. We respectfully request the President to accept this challenge and adjure the Democratic leadership, if he does so, to respond in kind. The salvation not only of the two major parties but of the nation may depend upon it.

MAXIMUM SAFETY OF FLIGHT MUST BE ACHIEVED

Mr. PEARSON. Mr. President, another staggering aviation tragedy, unbelievably, has taken the lives of a football team, its supporters, and friends. Other families, other neighbors, another university and State suffer unspeakable sorrow.

As one U.S. Senator from Kansas, I extend to the families stricken by the Marshall University tragedy deepest, personal sympathies on behalf of the families of Wichita State University, its supporters and friends, the people of Kansas, Mrs. Pearson and me. Our sorrow is born of experience, deepened by understanding. We grieve for our own. We grieve for all.

The Senate should be aware, I suggest, that the circumstances surrounding these two recent crashes of chartered aircraft are apparently distinct. Weather conditions, type and size of aircraft, appropriate regulations, and other factors differ from those of the Wichita State disaster. However, Secretary Volpe should be encouraged to continue the Department of Transportation investigation, led by Admiral Smith, of air charter operations. The Federal Aviation Administration and the National Transportation Safety Board should press ahead with their studies and recommendations. Moreover, as I have previously indicated, the Senate must fulfill its responsibilities through hearings and appropriate action when the various agency reports are forthcoming hopefully at an early date.

Mr. President, the Nation has demonstrated its ability to master flight between continents and between planets. We must similarly demonstrate our ability to achieve maximum safety of flight.

GROWTH WITH SOCIAL JUSTICE— ADDRESS BY HON. L. K. JHA, AMBASSADOR FROM INDIA

Mr. MILLER. Mr. President, on November 6, the Ambassador from India to the United States, the Honorable L. K. Jha, delivered a most perceptive address entitled "Growth With Social Justice" before the Executives' Club of Chicago.

He develops his thesis that it is a mistake to think of growth and social justice as if they were alternatives between which a choice must be made, and he makes an impressive argument that the development process in the developing countries must include both.

Ambassador Jha underscores that the whole socioeconomic process is concerned with human beings "on the world canvass," a point which the specialized agencies of the United Nations have long stood for but one to which more individual citizens of the world community should address themselves.

I ask unanimous consent that the address be printed in the RECORD.

GROWTH WITH SOCIAL JUSTICE

LUNCHEON ADDRESS TO THE EXECUTIVES' CLUB OF CHICAGO

(By Ambassador L. K. Jha, Friday, November 6, 1970)

Soon after independence, India embarked on a programme of economic development. It has been my good fortune to be involved in this task in more than one capacity over the last two decades. Now though I have donned a diplomatic disguise, I keep speaking of development because it is so much easier to talk with an air of authority and confidence of what you did in the past than of what you are doing—unless of course you happen to be in politics when the easiest thing is to talk of what you are going to do than of what you have done.

Let me begin by posing a fundamental question: What is development? In the early post-war years, economists, bankers and legislators were all convinced that the major problem before all countries, developed and developing, was that of securing as rapid an increase as possible in their G.N.P. A statistical method was devised to measure this increase in G.N.P. All the goods and services produced by a country in a year are expressed in terms of their money value and the rate at which this figure increases from year to year is the rate of growth. So great was the euphoria about a high rate of growth that the term 'growthmanship' had acquired currency by the mid-50s. On the principle that what is sauce for the gander is sauce for the goose, it was taken for granted that the development which countries like India talked of was synonymous with growth.

The thinking in India on development had a much wider spectrum. Of course, everybody recognized the importance of growth, of raising the national income. At the same time, there were other imperatives which were in the peoples' minds and which were succinctly expressed in Article 33 of the Constitution of India. It reads:

"The State shall strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice, social, economic and political, shall inform all the institutions of national life."

In more concrete terms, the Constitution lays down that it is the State's responsibility to make effective provision for securing the right to work, to education, and to public assistance in cases of unemployment, old age, sickness and disablement.

There were many, within India and outside, who argued that to think of these objectives for a country whose G.N.P. was so low was to put the cart before the horse. Surely, one must concentrate all the nation's resources to step up the national income, and only when, with a step up in the G.N.P., the tightness of resources eased could one think of the poorer sections of society or worry about those particular parts of the country which were specially backward.

This view was born of the historical experience of the developed countries. When the industrial revolution took place, a feudal system still prevailed in the Western world. Changes, political and social, which came about, were on the whole gradual. The Trade Union Movement came into being only after new tools and techniques of production had firmly taken root.

When India launched her development effort, conditions were very different. The need for education, for better health for the people, in the second half of the twentieth century could not be given the kind of low priority that it had in the period before World War I. One of the problems which arises in taking the rate of growth as the index of development is that the contribution to development made by things like education and health enter the growth index only in terms of the salaries of teachers, doctors and nurses—which are never very high. Then, again, in developing country very large investments had to be made in bringing up the infrastructure, the transport system and power supply and the availability of water. These facilities, which in developed countries are taken for granted, are an essential prerequisite to growth. But the immediate and direct return on investments in these areas tends to be much lower, and, therefore, if the sole focus was on a higher rate of immediate growth, they would get neglected to the ultimate detriment of the developmental effort.

Quite apart from these considerations there was yet another element which necessitated the emphasis in India on social justice. Its significance cannot be appreciated without pausing for a moment to consider the kind of body politic India has. It is not enough to think of India as a country where the Taj Mahal is, or simply as one of the very large number of countries which attained their independence after World War II.

Even after the partition, which brought into being Pakistan as a separate country, India still remains a vast country, bigger than western Europe, fully as diverse in terms of language, ethnic groups, religious and geographic sub-regions. If we leave aside China, it is not only the largest among the developing countries, but is almost five times as large as the next largest, namely, Indonesia. After the adoption of the Constitution, every Indian above 21, regardless of sex, religion, education or property holding acquired the right to vote in elections both for the State Legislature as well as the Central Parliament. While Europe is even now struggling to come together politically, India was able to achieve full political integration between different linguistic and ethnic groups as well as with the 500 odd princely States—some of them very odd—within a period of 2½ years after independence, through strictly democratic and constitutional procedures, bringing into being the world's largest democracy. At the same time India created a vast common market which, again, Europe is still in the process of evolving and perfecting. Without the cementing forces of social justice, without the feeling that the better-off sections of the community and the better-off areas of the country were doing what they could to help their less-fortunate neighbors, this great democracy could not have survived as it has,

dealing with tensions, with stresses and strains, exclusively through democratic processes. When we see in how many of the newly independent developing countries democracy has degenerated into dictatorship, we realize the magnitude of Indian achievement.

It has been possible because right from the beginning India stood committed both to growth and to social justice. Today, in the light of the experience of two decades in India and also in other developing countries, and the evolution of thinking among economists and statesmen the world over, I put forward the thesis that it is a mistake to think of growth and social justice as if they were alternatives between which one had to make a choice. I believe as Gunnar Myrdal has so cogently argued that growth and social justice are really inter-linked, one sustaining the other, and it is a fallacy to think of social justice as an act of charity, a distraction from the growth effort, which only a rich society can afford. Leaving aside all sentimentality and applying the hard-headed logic of economics, a discipline in which I have been brought up, I would argue that over the long haul, growth in developing countries is, to a very large extent, dependent upon social justice. Let me explain.

Firstly, let us recognise that the one source which most developing countries have in abundance for their growth is manpower. They are chronically short of capital. They must rely on labour intensive techniques rather than capital intensive techniques to step up their production level. However, a man who is illiterate or under-nourished, or who does not have the necessary motivation is not really an asset but a liability. The fact that the worker in most developed countries is living in far better conditions than his forefathers did, is not only the result but also the cause of the prosperity which we see in the United States and Western Europe. If spending money on education, on public health, and on social security, does not immediately contribute to growth, it does in the second round and over time become the most important accelerator of growth.

When I was Governor of the Reserve Bank of India, I asked two of my officers—one a brilliant economist and one a statistician—whether it would be possible to attempt to measure and to evaluate the growth potential which is built up by investments which do not immediately contribute to growth.

I do not want to go into the technical details of their work, but they did come up with an index of growth potential as distinct from growth. I am referring to this only as a matter of interest. The validity of the point which I have made does not rest upon the measurability in statistical terms of the contribution which things like better health and better education make to future growth.

I do believe that sufficient visual evidence is now available in India to demonstrate the truth of the view which I have out forward. The number of young Indians anxious to set themselves up in business, whether in trade or industry or as self-employed people, has shown a tremendous increase in recent years. In the past only those who belonged to the very rich families could entertain such aspirations. Of course, these new entrepreneurs, many of whom are technical men, do face a problem of finding capital. What they can muster on their own, is inadequate, even for the small scale enterprises that they want to set up. It is in this context of helping the smaller man, who could not offer adequate security but who had a viable project in view, that the nationalisation of the larger banks received the widest welcome and support in India. Far from being a measure to stifle private initiative it has in fact resulted in a larger availability of credit to the smaller industrialist and the small farmer who had previously to rely on usurers of one kind or other.

Yet another economic consideration which makes me argue that social justice is as much a pre-requisite as a consequence of a high rate of growth is the fact that in a developing country, where income levels are low, people with the lowest incomes must contribute to the pool of savings in order to have the capital base necessary for growth. Now you cannot expect the poor to contribute to the savings of the community, to forego current consumption when the levels of consumption are already miserably low, if the pattern of growth which emerges seems to benefit only others and not them. I concede that this problem arises really in a democracy, where taxes have to be imposed on people with the people's consent. Under dictatorship, it is possible to keep the levels of consumption down and to acquire control over resources by compulsion. How this works in a dictatorship and at what price, I am not in a position to say as I have no experience of living under such a regime. Given a democratic framework, I see no possibility of attaining a good rate of growth if there is no equitable sharing of its fruits.

In most developing societies the distributive machinery is already geared to the accepted social concept of equity. If a new factory goes up, the process through which it benefits the economy and the people as a whole is well established and generally accepted. The Indian economy and indeed most developing economies do not have a similar, well established apparatus. Since wealth, properly used, generates more wealth, there is an in-built tendency in an economy in which the wealthy are few for the rich to get richer and the poor to be poorer. When people in India talk of a socialist pattern of society they are not thinking, as is believed in this country, in terms of a programme of wholesale nationalisation. No doubt the public utilities and some large key industries for which adequate capital is, anyhow, not available in the private sector are being set up by the State. But there is an equal concern, as I said a few moments ago, with helping the small man in industry, agriculture and trade. Many of the restrictions on large scale enterprises and on the larger business houses are intended, in fact, to stimulate smaller enterprises and to bring in new-comers into business and industry.

I have heard many Indians say to Americans that the United States is more socialistic than India. While this shocks the average American, because, in this country, for various reasons socialism is regarded as a dirty word, what the Indian is really trying to express in his own terminology is that, in this country, there is far greater equality of opportunity for less of disparity between the rich and the poor and far greater active concern for the problems of the poor and the jobless.

When these are neglected, there must be a great deal of popular discontent which can thwart the growth process. We have had such discontent in India. People have sometimes referred to it as a revolution of rising expectations. I think this is a misnomer. It is not a case of appetite growing with eating—the more one has, the more one wants. It is much more due to the sense of the frustration which comes about when people see that others like them can prosper and have too much of everything, while they cannot have their basic needs. When such an atmosphere prevails, it is not possible for a democracy to enlist the kind of popular support which is essential for growth.

In saying all this today I am perhaps preaching to the converted. There was a time when many of my American friends who talk about or write about Indian economic development criticised us for paying too much attention to social justice and too little to growth. Today I often hear criticism of a different kind. Many articles, and even books, are being written in this country telling Indians to pay greater attention to social tensions, warning them that the green revolution, which has led to an upsurge in the production of food grains, may turn into a red revolution if enough attention is not paid to the needs and interests of the smaller farmer and the landless labour working on the farms. Often, when I hear such advice, I am reminded of the man who boarded a plane for Florida, pointed a gun at the pilot and asked him to go to Florida—just to make sure that the plane was not hijacked to Cuba.

In saying all this I am not trying to belittle the importance of growth. Of course, it is vital. The inter-relationship between growth and social justice is a chicken and egg situation. The doctrine of growth before social justice cannot be replaced by the doctrine of social justice before growth. The two have to go together. Obviously the growth cannot be allowed to be anything but higher than the rate of increase in population. I am happy to say that the rate of growth in India despite all the difficulties and the magnitude of the problem has kept ahead of the rate of population increase and has shown an acceleration. In the fifties we had a growth rate of around 3½%. In the sixties we averaged around 4½%. Currently we are having for the last three years a growth rate of 5% and are hoping for a minimum of 5½% rate of growth during the first half of this decade.

The important thing to remember is that the objective is not mere growth. Let us not forget that the developing countries are trying to do what their basic objectives are. It has been aptly expressed by President Nixon in his message on foreign assistance for the seventies, when he says they are trying "to fulfil their aspirations for justice, dignity and a better life". Not by growth alone can this be achieved. Something more is needed, not as a separate exercise but as an integral part of the developmental effort. It is growth and social justice going together which result in development.

This sentiment was expressed by the Prime Minister Mrs. Indira Gandhi when presenting her budget to Parliament for the current year in the following words:

"It is generally accepted that social, economic and political stability is not possible without the growth of productive forces and the augmentation of national wealth. Also, that such growth and increase in wealth cannot be sustained without due regard to the welfare of the weaker sections of the community."

Before I conclude I should like to argue that the point I have made about the importance of economic justice within the national framework has equal validity internationally. The whole world is now interlinked in a hundred different ways. Not only does the entire human race share the common pool of water and air and soil that the earth has to offer, but even on the narrower plane of trade, industry and commerce we are all intimately inter-dependent. Although the United States has a fairly small dependence on foreign trade, not more than about 8%, something like the equivalent of a quarter of America's Gross National Product is produced overseas by American corporations. No country in the world can sustain its own standard of living or rate of growth in isolation from other nations. It is equally clear that, from recent experience, when any country gains in prosperity the countries with whom it has economic ties also benefit as a result. The very high rates of growth attained in West Germany and now in Japan, would not have been possible if the United States was not prosperous and rich. The converse is equally true. If real income and the standard of living rise in countries like India and in the third world generally

there would be still greater prosperity in the developed world.

Positive measures to stimulate the development process—growth and social justice—in the developing countries of the world should, therefore, be viewed not as an exercise in donor-donee relationship, but as an act of partnership and as an application of the principle of social justice on the world canvass. This implies not merely a psychological change in outlook but a change in practical terms in the technology of what is popularly referred to as aid and its purposes. It is not enough to think in terms of helping the growth process in developing countries by making new productive units come into being. The flow of capital to developing countries must aim at a general lifting of the standard of life for the people in the countries. Let us not forget that, while for reasons of convenience we talk of countries, the whole socio-economic process is in the last analysis concerned with human beings, who no doubt have material wants but who can never be happy if they feel that society is not being just to them.

OREGONIANS CONCERNED ABOUT PRISONERS OF WAR

Mr. HATFIELD. Mr. President, recently I visited with a delegation from the Oregon League of Families and discussed the continuing plight of American prisoners of war in North Vietnam. In light of their courageous efforts to aid their loved ones, I invite attention to a resolution adopted by the Portland City Council urging identification and humane treatment of American prisoners in North Vietnam. I ask unanimous consent that the resolution be printed in the RECORD.

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

RESOLUTION No. 30801

Whereas citizens of the city of Portland, listed as missing in action or as prisoners of war in Southeast Asia, are imprisoned and being treated as criminals by the Government of North Vietnam and the Viet Cong; and

Whereas the government of North Vietnam subscribed to the documents of the Geneva Conventions in 1957, thereby promising to abide by the covenants therein contained, particularly those covenants providing for the humane treatment of prisoners; and

Whereas the government of North Vietnam has ignored the said covenants and has imposed upon American prisoners indignities to which no human should be subjected; now, therefore, be it

Resolved that the Portland City Council, speaking in behalf of all citizens of Portland, hereby protests the inhumane treatment accorded prisoners of the Government of North Vietnam and the Viet Cong, particularly:

1. In failing to immediately identify and make known all prisoners held captive;

2. In refusing to return those prisoners who are seriously wounded or ill;

3. In refusing to permit all prisoners to correspond freely with their families;

4. In failing to protect all prisoners from public abuse;

5. In using prisoners for propaganda purposes, such as by demeaning photographs, parading in public, coerced statements, or by other methods;

6. In releasing false information relating to prisoners, collectively and individually; and

7. In failing to permit inspection by a neutral agency, such as the International Red Cross, of all places where prisoners are held; and be it further

Resolved that the United States Government and the United Nations hereby are urged to exert every possible influence to insure that the Government of North Vietnam and the Viet Cong immediately cease subjecting their prisoners to the foregoing abuses; and be it further

Resolved that certified copies of this resolution be sent by the City Auditor to the Oregon Congressional Delegation, the United States Ambassador to the United Nations, the Secretary General of the United Nations, and to such other officials, governmental representatives, departments and agencies, and interested organizations as the Mayor may direct.

Adopted by the Council Sep. 30, 1970.

PITTSBURGH PRESS, PITTSBURGH POST-GAZETTE, AND PENNSYLVANIA EDUCATION LEADERS ENDORSE DR. SIDNEY MARLAND FOR COMMISSIONER OF EDUCATION

Mr. SCHWEIKER. Mr. President, on Thursday, November 19, the Committee on Labor and Public Welfare will hold hearings on the nomination of Dr. Sidney P. Marland, as the new Commissioner of Education. He was nominated for this post by President Nixon on September 23.

In Pennsylvania Dr. Marland is especially well known because he was superintendent of the Pittsburgh public schools from 1963 to 1968. Since his nomination was announced, he has received the support, in editorials, of both daily newspapers in Pittsburgh, the Press and the Post-Gazette.

In addition, I have received letters and telegrams from numerous leaders in education in Pennsylvania giving their backing to Dr. Marland. These include: Dr. David H. Kurtzman, the State secretary of education; Dr. Louis Kishkunas, the current superintendent of the Pittsburgh public schools; Mr. Robert J. Kibbee, president of the Pittsburgh Board of Public Education; Dr. Mark Shedd, superintendent of the Philadelphia public schools; Dr. John B. Hirt, president of the Beaver County Community College and chairman of the Pennsylvania Community College Presidents' Council, and Dean Paul H. Masoner, of the School of Education, University of Pittsburgh, who also serves as president of the American Association of Colleges for Teacher Education.

Since all of us in the Senate want to give the fullest consideration to Dr. Marland's qualifications for the important post of Commissioner of Education, I wish to bring these editorials, telegrams, and letters to the attention of the Senate. I ask unanimous consent that they be printed in the RECORD.

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

[From the Pittsburgh (Pa.) Post-Gazette, Sept. 30, 1970]

CONFIRM DR. MARLAND

Pittsburgh's former superintendent of public schools, Dr. Sidney P. Marland, is a good choice to be U.S. Commissioner of Education and the Senate should confirm him. He is apolitical and has impressive academic qualifications.

Two roadblocks stand in the way of early confirmation. One is the lateness of the congressional session and the fact that the chairman of the Senate Labor and Public Welfare Committee, Ralph Yarborough, of Texas, is a lame duck. Senator Yarborough is said to have many items of business he wishes to tidy up before he leaves Washington. The Marland appointment is an added starter. We hope, however, that the senator will appreciate the need to fill promptly this important position left vacant by the dismissal of Dr. James E. Allen Jr., last June 10.

The Office of Education is no longer the somnolent statistical agency that it was prior to 1958, when Congress first authorized federal aid to education on a major scale with passage of the National Defense Education Act. The office expanded even more rapidly after enactment in 1965 of the Elementary and Secondary Education Act, a multibillion dollar program which earmarked enormous sums for special programs to raise the educational achievement of pupils from disadvantaged homes. Now the office is a large establishment administering more than 100 programs and channeling billions of dollars.

The second hurdle facing Dr. Marland's confirmation is the more serious of the two. It is the hostility of the AFL–CIO, whose leadership has branded him as an "avowed enemy of collective bargaining for teachers." Labor leaders cite public statements by Dr. Marland as the basis for the fight they will wage against his confirmation.

It is true that Dr. Marland has opposed the unionization of the teaching profession. He has explained, however, that his opposition to the unionization of this city's teachers reflected a state law (subsequently changed) that forbade him to bargain exclusively with any one group of teachers.

Whatever Dr. Marland's attitude toward teacher unions, we believe it is irrelevant to the duties he now proposes to assume. The U.S. Commissioner of Education will not deal directly with teachers or unions. He is involved in the administration of federal programs aimed at upgrading education nationally.

Dr. Marland is exceptionally well qualified for that assignment. Over a long career in public schooling he has become well versed in the operations of the vast educational establishment. He is widely known as a successful educational innovator and administrator. He is not hostile to the teaching profession from whose ranks he sprang. On the contrary, he is the teacher's staunch ally. It would be a pity if union prejudice and opposition should prevent his confirmation.

[From the Pittsburgh (Pa.) Press, Sept. 27, 1970]

THE MARLAND NOMINATION

To hear his critics tell it, Dr. Sidney P. Marland Jr. would be a disaster as U.S. commissioner of education.

"We're going to fight him all the way," vowed a spokesman for the AFL–CIO after Dr. Marland's name was sent to the Senate by President Nixon.

The reason for this implacable opposition is that Dr. Marland, when he was superintendent of schools in Pittsburgh, said some negative things about collective bargaining for teachers—an area, by the way, in which he would play no direct role as commissioner of education.

It also has been pointed out that Dr. Marland has a reputation for "educational gimmicks" (new ideas). And we can't have any of that, can we?

What the critics fail to mention is that Sidney Marland, whatever his faults, is one of the more energetic, innovative, tough-minded and widely respected men in public education.

His leadership capabilities are so obvious that even the president of the AFL–CIO

Pittsburgh Federation of Teachers (who often disagreed with Dr. Marland) once described him as an "excellent and very competent superintendent."

Dr. Marland probably is as well qualified as anyone to make some sense out of a federal education complex that spends $4 billion a year on 80 different programs that range all the way from nursery schools (Head Start) to graduate schools.

One of his special assets in Pittsburgh was a talent for getting and using federal and foundation funds in poverty neighborhoods—where the schools needed all the help they could get.

The U.S. Office of Education has been operating without a commissioner for more than three months. That's too long. Unless his critics can make a better case than they have so far, Dr. Marland should be given a chance to do the job.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF EDUCATION,
Harrisburg, Pa., September 23, 1970.

Hon. RICHARD S. SCHWEIKER,
Senate Office Building, Washington, D.C.

DEAR DICK: I am pleased to personally endorse President Nixon's selection of Sidney P. Marland as Commissioner of the United States Office of Education.

When I was Chancellor of the University of Pittsburgh, Dr. Marland was Superintendent of the Pittsburgh School District. This proximity provided me the opportunity to observe the dedication of this man to the solution of difficult problems in education in large city school districts. His perception of the underlying causes of many of these problems enabled him to introduce changes in administration and curriculum at Pittsburgh that made the school program much more effective in elementary and secondary schools.

I believe you can be confident that Dr. Marland would serve our nation with distinction and honor, and I urge your support of his confirmation.

This letter was not solicited. In fact, Dr. Marland does not know that I am writing to you.

Sincerely yours,
DAVID H. KURTZMAN,
Secretary, Department of Education.

PITTSBURGH, PA.,
September 26, 1970.

Senator RICHARD SCHWEIKER,
U.S. Senate,
Washington, D.C.:

Strongly urge that you support confirmation of Doctor Sidney P. Marland, Jr., as Commissioner of Education. His urban and suburban school experience make him ideally suited for that position.

LOUIS J. KISHKUNAS,
Superintendent, Pittsburgh Public Schools.

THE BOARD OF PUBLIC EDUCATION,
Pittsburgh, Pa., September 28, 1970.

Hon. RICHARD SCHWEIKER,
Senate Office Building,
Washington, D.C.

DEAR SENATOR SCHWEIKER: I would like to urge you to support President Nixon's nomination of Dr. Sidney Marland as Commissioner of Education. Dr. Marland has a long and distinguished record as a superintendent, both in relatively small suburban communities and a large urban area.

Although I was not a member of the Board of Education during Dr. Marland's tenure in Pittsburgh, I had numerous occasions to deal with him on public school matters. I found him a most articulate spokesman for the public schools and a persuasive recruiter of exceptionally able young administrators.

I must confess that I am extremely confused by the stance taken by the AFL–CIO regarding Dr. Marland's appointment. It is true that when the American Federation of Teachers was in the process of organizing the public school system, Dr. Marland expressed a view shared by most professional educators questioning the wisdom of unionizing a highly professional group of people. His position on this question, however, was no different from that held by virtually every superintendent I know; and I have no question in my mind that, at that point when the teachers themselves decided that they would accept unionization, Dr. Marland would have dealt with them in that context to the extent permitted by the laws of Pennsylvania at that time.

I did not always agree with Dr. Marland's educational philosophy or with specific administrative decisions, but I believe that he held his position in all honesty and that it was a position shared by many people who are active in educational administration. Certainly there is nothing in Dr. Marland's performance in the past that I can believe justifies withholding consent to his nomination if he is the choice the President wishes to make.

Sincerely yours,
ROBERT J. KIBBEE,
President.

PHILADELPHIA, PA.,
September 24, 1970.

Hon. RICHARD SCHWEIKER,
Rayburn Building,
Washington, D.C.:

Urge your support of Sidney P. Marland for the Position of U.S. Commissioner of Education. Despite any opposition that special interest groups may have, he is a person eminently qualified to hold the position and provide the necessary leadership at this time in the history of American education, especially urban education. I am sure he will exercise the duties of the office without prejudice or bias concerning any interest group public or private.

Sincerely yours,
MARK R. SHEDD,
Superintendent of Philadelphia Public Schools.

FREEDOM, PA.,
September 29, 1970.

Senator SCHWEIKER,
Senate Office Building,
Washington, D.C.:

The Penna Community College president's council strongly urges your support of Dr. Sidney P. Marland, Jr. as the next commissioner of education. The council unanimously feels Dr. Marland's background and experience are ideally suited for this position. Thank you.

Dr. JOHN B. HIRT,
Chairman, Penna Community College President's Council.

AMERICAN ASSOCIATION OF
COLLEGES FOR TEACHER EDUCATION,
Washington, D.C., September 30, 1970.

Senator RICHARD S. SCHWEIKER,
Senate Office Building,
Washington, D.C.

DEAR SENATOR SCHWEIKER: This letter is written to convey my strong endorsement on behalf of the nomination of Dr. Sidney P. Marland Jr. as United States Commissioner of Education. So you will know how strongly I feel about the importance of this appointment, I am enclosing a copy of a news release which was issued in Washington last week and which states clearly my beliefs about Dr. Marland's excellent qualifications for educational leadership on the national level.

I sincerely believe that the confirmation of this nomination is most important to American education.

Sincerely,
PAUL H. MASONER,
President, AACTE, Dean, School of Education, University of Pittsburgh.

PRESIDENT OF AACTE ENDORSES MARLAND NOMINATION

Dr. Paul H. Masoner, president of the American Association of Colleges for Teacher Education—an organization of 846 universities and colleges which prepare annually approximately 95 percent of all professional personnel for the schools of the nation, today strongly endorsed President Nixon's nomination of Dr. Sidney P. Marland, Jr. as U.S. Commissioner of Education. Dr. Masoner, who worked closely with the nominee for a number of years on cooperative educational programs, made the following statement on the President's choice:

"The appointment of Dr. Sidney P. Marland to the position of U.S. Commissioner of Education brings to the Office of Education leadership of the highest quality.

"Dr. Marland, in his long and successful career as an educator, has clearly demonstrated his excellence as an educational leader. As a chief school administrator, he pioneered in significant innovations and improvements in school programs and practices. His accomplishments as superintendent of schools in a major urban center, Pittsburgh, and more recently as president of the Institute for Educational Development in New York clearly show his concern for and knowledge of the problems of minority groups and the difficulties of inner city education—both critical in the role of the federal government in education.

"As one who has had the opportunity to observe very closely the educational efforts and achievements of the commissioner-nominee, I have every confidence in his ability to give new and effective leadership to education on the national level. The American Association of Colleges for Teacher Education looks forward to Dr. Marland's new role and pledges its complete cooperation as he undertakes this major responsibility on behalf of the children and youth of America."

Currently president of AACTE, headquartered in the National Center for Higher Education in Washington, Dr. Masoner is dean of the School of Education at the University of Pittsburgh. He and Dr. Marland worked on programs involving both the Pittsburgh schools and the university. Dr. Masoner is also a member of two national commissions whose efforts are concerned with federal level thrusts in education—the National Advisory Council on Education Professions Developments and the National Reading Council.

THE WORKINGS OF THE LIBERTY LOBBY

Mr. McGEE. Mr. President, the Washington Post, on Sunday, provided a good service to its readers by exposing at length the workings of Liberty Lobby, which, the Post headlines, "does all right by itself."

Liberty Lobby, as this article points out, has grown from a hole-in-the-wall operation to a professionally staffed, $800,000 to $850,000 political machine with a computer in the basement constantly whirring out mailings for its wide assortment of propaganda.

I commend the Post and reporter Paul W. Valentine for the article, and wish to draw attention to it in this Chamber and throughout the land. I ask unanimous consent that, toward this purpose, the article, entitled "Liberty Lobby Does All Right By Itself," be printed in the RECORD.

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

LIBERTY LOBBY DOES ALL RIGHT BY ITSELF

(By Paul W. Valentine)

Liberty Lobby, a conservative pressure group, has grown in a decade from a $10,000-a-year, hole-in-the-wall operation to a professionally staffed, $800,000 to $850,000 political machine.

Its 41 employees work in a gleaming white, 30-room converted apartment building at 3d Street and Independence Avenue SE. There, they sort mail, count financial contributions, research political issues, prepare legislative testimony, visit and pressure individual congressmen and urge 250,000 subscribers on their computerized mailing list to support generally conservative legislation in Congress.

They take credit for helping bring about much "pro-American" legislation in the past 10 years.

The effort has run the gamut from defeat of gun-control measures and passage of the anti-ballistic missile defense program to the resignation of Abe Fortas from the Supreme Court.

Liberty Lobby activities range beyond direct lobbying and related supporting action. Through a complex of associations and interlocking directorates, it also helps raise campaign funds for conservative candidates, lends moral and political support to the white-controlled government of Rhodesia and backs a number of ultra-conservative publications, including the American Mercury.

In all, the organizations and its leaders maintain a constant cry against "socialist do-gooders," "one-worlders," welfarism and other "liberal" phenomena that they say are dooming America to degeneration and defeat.

Liberty Lobby is less vocal about a skein of racial and historical philosophy that undergirds some of the public positions taken by its top officials.

Direct comments about Jews and Negroes are infrequent. References usually come in legalistic arguments against mandatory school busing, for example, or polemics about a conspiracy of "international money lenders" to emasculate American sovereignty and create a "one-world" dictatorship.

Occasionally, however, Liberty Lobby leaders are more specific.

"Without exception," said Col. Curtis B. Dall, chairman of Liberty Lobby's board of policy, in a Springfield, Ill., speech last July 30, "all of these (American ethnic groups) have pledged their loyalty to America . . . save a small percentage of one segment which consists of some avid pro-Zionists, some financially aggressive Jews and atheists, along with their entourage of satellites."

"Negro equality," says Liberty Lobby founder and treasurer Willis A. Carto in an introduction to the recently republished book, "Imperium," "is easier to believe in if there are no Negroes around to destroy the concept."

"Imperium," written by Francis Parker Yockey, is a philosophical treatise that praises Western European culture and describes Jews, Negroes, Indians and other minorities as "'culture distorters."

A "Save Our Schools" pamphlet published by Liberty Lobby inveighs against "mongrelized" public schools and warns that the "great majority of interracial dating involves black males dating white females."

Carto, the hard-traveling, hard-working treasurer and apparent chief power in Liberty Lobby, was known privately among employees as "Little Hitler," says a former employee, Marie Murphy.

An apartment in the basement of the Liberty Lobby building, used by a Carto when he is in town, is called "the bunker," Mrs. Murphy said, a reference to Hitler's shelter in Berlin.

Several former employees said Liberty Lobby personnel are initially drawn to the organization to contribute to the conservative political effort in America but then are "turned off" by what they consider to be the institution's underlying racism and anti-Semitism.

Liberty Lobby officials have consistently denied such "isms" and contend that any references to Jews or Negroes, especially statements on Zionism as anti-American, are simply accurate reflections of historical facts.

It also has denied charges brought by the late columnist Drew Pearson that it is operated by a secret neo-Nazi organization called the Francis Parker Yockey Movement, named after the author of "Imperium."

"How could we be National Socialists (Nazis)?" says Liberty Lobby attorney Warren Richardson. "They're for government ownership of industry, unions, farms and land. "We're for private ownership and free enterprise. How this position can be twisted to show a similarity with the Nazis is really infathomable."

"I'm not against anybody if he's good American, but I'm against anybody who's not a good American," explains Col. Dall, Liberty Lobby board chairman.

"We have a large ethnic group here whose Americanism is questionable. . . emotionally, a lot of Jewish people have dual citizenship," he said, referring to the Zionist movement. "If that makes me anti-Semitic, then let 'em come at me with sticks and stones."

Dall stressed that he feels there is a crucial difference between being opposed to American Zionists (who, in his view, are required to split their loyalty between the United States and Israel) and simply being prejudiced against Jews in general.

"A lot of Jews are my good friends," he said.

Dall, 74, is a former son-in-law of President Franklin Delano Roosevelt and a retired Wall Street investment banker. A tall, energetic, hospitable man, he attended Mercersburg Academy and Princeton University, then married Anna Roosevelt, President Roosevelt's only daughter, in the 1930s. They were later divorced. For several years, he worked for the Fenner & Beane brokerage house, a predecessor of Merrill Lynch Pierce Fenner & Smith.

In 1968, Dall wrote "FDR, My Exploited Father-in-Law," a book outlining what he contends were the schemes of international banking interests to undermine the American monetary system, impose socialistic legislation and drag an unwilling America into World War II during the Roosevelt administration.

Willis Carto, though reputed to be the real guiding force at Libby Lobby, is less well known than Dall. An enigmatic and generally inaccessible man, he is said to work 17 and 18 hours a day, seven days a week.

A California resident in his mid-40s, he is seldom mentioned in the regularly published "Liberty Letter" and other Liberty Lobby literature. He has consistently declined press interviews since he founded Liberty Lobby more than 10 years ago.

Dall is heralded as the functioning chief of Liberty Lobby, but former employees and executives of the organization say his position is largely titular.

Leo Don Phillips, acting executive director of Liberty Lobby until he quit in March, 1969, said Dall, for example, could not sign checks for the organization, while Carto and others could.

Harold Shifflet, the lobby's business manager from 1967 to October, 1969, says, "I had the title of business manager—but that's all. Carto ran the place."

Phillips, Shifflet and several other persons quit Liberty Lobby during 1969 and formed their own conservative group called American Lobby.

"A lot of people have left Liberty Lobby because they couldn't take the political philosophy," says Charles Hall, another ex-employee now with American Lobby.

HUSBAND, WIFE TEAM

Two who have not left are the husband-and-wife team, Gerald and Carol Dunn, both former organizers in the Patriotic Party, political arm of Robert DePugh's paramilitary Minutemen organization. Dunn is chief researcher for Liberty Lobby, his wife is corresponding secretary.

Mrs. Dunn, who was acting national secretary of the Patriotic Party in 1966, said she quit because the "third party approach" to political action failed to work, largely because of "smears and connections made with the Mintuemen."

Meanwhile, Liberty Lobby continues to thrive.

A large computer whirs in the basement night and day, grinding out addresses for a wide assortment of mailings, newsletters and pleas for money to about 250,000 supporters across the country.

Upstairs, clerks open mail, file news clippings, count incoming money, update massive financial pledge lists and prepare testimony for presentation to congressional committees. The building buzzes with industry weekdays, and all male employees are additionally required to work four hours on Saturdays.

The lobby's two most common pressure tactics are to make personal visits to offices of individual congressmen (a skilled three-man team is active in the congressional office buildings three or four days a week) and to organize its quarter-million subscribers to flood congressmen with mail on specific issues.

A central organizational element of Liberty Lobby is its "board of policy," a group now numbering more than 22,000 persons throughout the nation who are periodically polled by Liberty Lobby for their views on current political issues or legislation. Their responses form Liberty Lobby's official position on issues.

Persons can become policy board members by pledging a minimum of $12 a year to Liberty Lobby, rather than the $2 that regular mailing list subscribers pay.

Liberty Lobby says it has no big angels to help underwrite its annual budget of more than $800,000.

Records filed by the organization with the clerk of the House under the federal lobby registration statute show that a total of 14 persons each donated $500 or more in the first quarter of 1969, for example. Most of these gifts were $1,000 or less. The largest was $5,500. In the first quarter this year, by contrast, only two persons were listed as giving $500 or more; one for $1,000 and one for $500.

"Our average contribution is $4 and change," says attorney Richardson. "It takes a lot of little old ladies in tennis shoes to support this operation."

The operation has been in almost unfailingly good financial health. Liberty Lobby leases the big white building at 3d Street and Independence Avenue from a corporation called Government Educational Foundation (GEF). Carto is listed as GEF chairman and treasurer in incorporation papers.

Liberty Building, purchased by GEF in 1965 from Arlington real estate dealer C. D. Kelley for $115,000 with two deeds of trust totaling $100,000, is now completely paid for. Phillips, Shifflet and other ex-employees say Liberty Lobby was paying GEF $3,500-a-month rent for the building in 1969.

In March, 1969, Liberty Lobby sent out an urgent letter to subscribers signed by Dall announcing that one of the loans (for $55,000) was being called and the building would be lost unless supporters helped pay it off immediately. Money poured in, and the loan

was paid within a few weeks. The other loan (for $45,000) was paid in full about the same time, according to records at the D.C. recorder of deeds.

Rep. Dowdy of Texas, indicted last spring on federal bribery charges, has also benefited from Liberty Lobby largesse. Through a massive letter campaign to its supporters, the lobby raised $26,000 for Dowdy's legal defense fund and presented it to him in May.

Liberty Lobby, as a registered lobby, cannot by law raise funds for the election campaigns of political candidates. Thus, like many other lobby and pressure groups in the country, both conservative and liberal, it participates in a specially designed association of nonpartisan organizations called a "political committee" that, when registered under the Federal Corrupt Practices Act, can legally solicit and distribute campaign funds.

Liberty Lobby's political committee is called the United Congressional Appeal (UCA), headed by former conservative Texas congressman Bruce Alger.

Liberty Lobby and the eight other constituent members of UCA raised $90,000 in the 1968 congressional campaign, for example, spreading it thinly among 66 candidates.

This year, UCA fell below its goal of $250,000 and distributed only about $65,000 among 20 candidates, ranging from Reps. John R. Rarick (D-La.) and Thomas G. Abernethy (D-Miss.) in the Deep South to Republicans Howard W. Pollock of Alaska and Louis C. Wyman of New Hampshire. Fourteen of the 20 UCA-backed candidates lost.

Not all UCA contributions have been met with eager hands. In 1968, Rep. Lawrence Hogan (R-Md.) received $1,000 and promptly returned it. "We found out UCA was a front for Liberty Lobby," explained Hogan's press aide, Ilona Modly. "Liberty Lobby is pretty much a racist and anti-Semitic group, so we returned the money."

Though UCA is technically an association of groups, it is controlled almost entirely by Liberty Lobby, say Phillips and Shifflet. Liberty Lobby officials deny this, saying the functions of the two, especially their finances, are maintained separately.

Lobby personnel perform most UCA duties, say Phillips and Shifflet, and the lobby's enormous mailing list is used to make UCA solicitations. Clara Sandahl, who is listed as UCA treasurer in records at the clerk of the House, is also a Liberty Lobby employee. Her late husband, Clifford, was the lobby's public relations director.

UCA's Board of Awards includes Dall, novelist Taylor Caldwell (president of the Friends of Rhodesian Independence), Stanley M. Andrews (chairman of Americans for National Security) and Gen. Richard B. Moran (chairman of the Congress of Freedom).

Andrews, Moran and Miss Caldwell have also been listed as member of Liberty Lobby's board of policy. Another UCA board member, La Vonne D. Furr, is managing editor of American Mercury, a magazine pushed energetically by Liberty Lobby, containing articles on Zionism and "scientific racism" as well as other more conventional conservative subjects.

Liberty Lobby also maintains ties with the newly created National Youth Alliance (NYA), the reconstituted leftovers of the 1968 Youth for (George) Wallace movement.

NYA is headed by ex-John Birch Society functionary Louis T. Byers, a close friend of Carto. With offices in the Dupont Circle Building here, NYA has aimed at organizing young persons to fight drugs, hippies, racial integration and leftist radicalism in general. It counsels the use of force, gives instruction in karate and other "martial arts."

Its bible is Yockey's "Imperium." Its newspaper, Attack!, is openly anti-Zionist, anti-Nixon and generally anti-Establishment. Its language sometimes is oddly similar to that found in radical left underground newspapers: "Smash the system! Death to the Establishment!" urges the current issue.

The current issue, more strident and overt in its anti-Zionism than previous issues, was financed by Carto according to NYA chief Byers.

"He personally read and approved all the articles," Byers said. "He went a little hard on the Zionist issue this time, but that's the way he wanted it . . And I think it was good judgment."

Charles Hall, former office personnel manager at Liberty Lobby, says lobby employees assisted NYA during its formative months and NYA used the lobby's mailing list.

Most of Liberty Lobby's "professional staff" were given copies of "Imperium" to read, according to Phillips, former acting executive director. "Imperium" has been advertised at least once in the widely circulated Liberty Lobby newsletter. Dozens of copies of the 619-page book are stored in the basement of the Liberty Building.

(Yockeyist literature is difficult to find outside the offices of Liberty Lobby and NYA. However, "Imperium," Attack!, and a wide assortment of "Western culture" books and pamphlets are on sale in the Arlington bookstore of the National Socialist White Peoples Party, formerly the American Nazi Party. Several of the books are published by Noontide Press, a Los Angeles publishing house in which Carto has a financial interest.)

Liberty Lobby attorney Richardson, who described NYA as "far over to the right from us," says NYA has been "very independent" of Liberty Lobby for the past six months.

NYA is "hard-core right," he said. "We have none of their trappings. They have a different political orientation. Our function, which is to lobby, is different, too."

NYA's advisory board is filled with Liberty Lobby friends whose efforts in conservative causes are frequently cited and praised by the lobby.

Board members include retired Adm. John G. Crommelin, sharp critic of what he calls the "Jewish-Communist conspiracy"; Austin J. App, specialist in Nazi Germany apologetics, who contends the estimate of 6 million Jews exterminated by Nazis in World War II is vastly exaggerated; retired Marine Lt. Gen. Pedro del Valle, who praised Mussolini's "sagacious leadership" in the invasion of Ethiopia in the 1930s, and Revilo P. Oliver, University of Illinois classics professor who says America's once-noble "Indo-European or Aryan" civilization is now "covered with alien slime."

Many NYA and UCA board members are also contributing editors to American Mercury.

In its public position on crucial issues, Liberty Lobby displays contrasting views, with standard conservative declarations standing side-by-side with a number of traditionally liberal or popular utterances.

Its official handbook, "The How," states, for example, that Liberty Lobby is opposed to minimum wage laws, urban renewal programs, foreign aid and recognition of Communist China.

On the other hand, it also favors tax reform against big corporations, the right of privacy for citizens, realignment of political parties along conservative-liberal lines, independence for Puerto Rico and an end to foreign military entanglements.

Lobby attorney Richardson says that Liberty Lobby—which he describes as "dead center constitutionalist, not right wing"—is opposed to a variety of government actions from wire tapping to school busing because "they violate the Constitution and minimize individual freedom."

He noted, for example, that civil liberties groups have called for repeal of Title II of the 1950 McCarren Act, the so-called "concentration camp" statute empowering the government to intern suspects without specific charges in emergency detention centers in the event of war or internal insurrection.

"We favor retention of the act," he said, "because it specifies and guarantees the civil rights of the detained people, including the right to have a hearing, a lawyer, habeas corpus and appeal . . . If you repealed it, those rights would be gone and the President would have broader sweeping powers to do almost anything."

"In a way," Richardson concluded, "we're the true libertarians."

A CANDID LOOK AT THE ACADEMIC WORLD

Mr. MILLER. Mr. President, writing in the Washington Post of November 8, an eminent sociologist and professor of higher education, Andrew M. Greeley, took a most candid look at the academic world. What he said merits the attention of the readers of the RECORD.

I ask unanimous consent that the article, entitled "Some Profs Bent on Remaking Man," be printed in the RECORD.

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

SOME PROFS BENT ON REMAKING MAN

(By Andrew M. Greeley)

(NOTE.—A sociologist, Greeley is program director of the National Opinion Research Center at the University of Chicago and professor of higher education at the University of Illinois. The following is excerpted by permission from Change magazine.)

It was a bad summer for the academy. In a recent Gallup Poll the campuses found themselves described as the most serious problem the country faces, bar none. They rank ahead of Vietnam, inflation and the Black Panthers as a cause of national concern.

The academy has been appalled to discover that the majority of Americans thought that the Kent State murders were the fault of the students, and it has been amazed to learn that its support for a political candidate could easily become the kiss of death. Convinced as it was in the spring, as indeed it has been these several springs past, that it was the avant garde of a great popular revolution, the academy now finds itself wondering about its very survival, about the survival of its institutions, about the survival of education itself.

Characteristically, it blames the situation on "the hard hats" or "the silent majority" or "the fascist mass" and does not pause to ask whether it is remotely possible that its own course has gone awry somewhere in between.

A look back: In a great burst of social consciousness, the academy in the last five years has striven passionately to be relevant. It has enlisted its students from minority groups and turned a sensitive ear to the aspirations of black and Third World peoples and to students as a whole. It has turned its considerable energies to the remaking of society, in particular to the causes of peace and racial justice.

It would now appear that not merely have its efforts failed, but its efforts may even have become counterproductive to the very causes it has tried to support. Surely the academic peace movement, because of its tactics rather than its sentiments, has consistently hardened the stand of hawks in American society. It may very well turn out that academic support for the so-called black revolution has slowed down rather than accelerated the pace of social improvement for American Negroes.

Some of the more thoughtful academics

who labored through the summer in the difficult task of trying to re-establish communication with the rest of American society are now trying to figure out what went wrong. What exactly did go wrong? The root of the problem is that the "world outside" did not react the way it was supposed to react.

INFLUENTIAL MINORITY

In this context, the word "academic" is not used to represent all, or even a majority of, college professors but rather the influential minority that sets the tone and the style and the fashion of the academy at a given time in its development. One must certainly include the allies of the academy in the mass media who tend to feel guilty vis-a-vis the full-fledged academic who presumably knows more and is morally purer than the huckster in the media.

But the crisis in the relationship between the academy and the world outside is not simply that the academic does not understand the world outside, not even that he does not think it worthwhile to attempt to understand the world outside, but in fact that he is only barely aware that the world exists. The attitude was exquisitely summarized by a distinguished California political scientist at the time of Ronald Reagan's gubernatorial victory: "I'm astonished that the man won; nobody that I know voted for him."

Given the nature and the social functions of the academy, such unawareness is not surprising. The academic is expected to be deeply involved in his own teaching and research; the rest of the world not only tolerates but encourages his isolation.

Whether the isolation is ever really desirable may be a matter for questions, but it creates no serious problems until the academic discovers, usually with an overwhelming sense of guilt, that there are many things wrong with the rest of the world. Looking around and discovering the injustice and immorality outside, he righteously decides something must be done about it. He asks, "If something must be done, then who better to do it?"

Perhaps the best possible answer to that question is, "Just about anyone." For when the academy decides to remake the rest of the world whether the world wants to be remade or not, there is likely to be trouble, if only because the academic is but dimly aware of what motivates those human beings who are to be the object of his missionary zeal.

There are assumptions underlying such academic zealotry: (1) the academy knows how to remake society; (2) the rest of society will fall into line and permit itself to be remade once the academy has pointed out the nature of its immorality, and (3) the rest of society will be willing to pick up the tab while the academy proceeds to shape society according to its own image and likeness.

But none of these assumptions has proven true. Those who resist the academy's missionary zeal can point out that the academics have an extremely difficult time keeping their own house in order; that the academic departments in colleges are usually but one step removed from chaos; that there is little evidence that the academy has been very successful in its primary task of educating the young, and that it resolutely resists attempts by "outsiders" to evaluate its performance.

The facile talk around the universities about a coalition made up of "the young, the black, the poor and the disaffected professionals" ignores the fact that the academy can count on the support of, at the most, one-third of the young, one-fifth of the black and one-tenth of the whole country. Eldridge Cleaver and Leroi Jones speak no more for the silent majority of American blacks than Rennie Davis, Tom Hayden and Abbie Hoffman speak for more than a tiny fraction of those young people who have attended college. In fact, George Wallace seems to speak for more of the young nationwide than he does for adults.

To the world outside, the academic missionary looks intolerant, reactionary, authoritarian, hypnotized by his own rhetoric and ignorant of political reality. When such a man becomes involved in politics, the first reaction of the world outside is to laugh; its second, perhaps, to call a psychiatrist, and its third, as it turns out, to summon the police or the National Guard.

ONLY APPROVED DISSENT

The accusation of intolerance is especially hard for the academy to bear because it has always prided itself on its openness and ability to accept deviance and dissent. Yet Prof. Marcuse's philosophical intolerance quickly found a hearing in academia, and for the past five years the academy has sat on its hands while young fascist toughs have disrupted other people's right of freedom of speech and freedom of assembly.

Nor does it have much room for those who dissent in other than fashionable and approved modes. The cases of W. W. Rostow, Arthur Jensen and Daniel Patrick Moynihan illustrate how little room there is in the academy for dissent that is not approved by the arbiters of fashion. I happen to disagree with Rostow and Jensen, and to agree with Moynihan. The issue is not the personalities or the beliefs of the three but whether the intellectual positions they take are to be the objects of rational and civilized discussion.

But one is not surprised, not at least if one knows academia from the inside, by the intolerance displayed toward these men. One need only to read the book reviews and the letters to the editor in professional journals or to participate in the factional feuds which yearly rack academic departments to know that in academia certain kinds of dissent are legitimate and others strictly off the mark.

The academic is serenely confident of his own judgment and thus assumes that those who dare to disagree with him are not only wrong but are either stupid or in bad faith or, quite conceivably, both.

One of the quaint notions of the academy is that certain groups of people are what we used to call in Christianity "confirmed in grace"—which is to say that they can do no wrong and that any attempt to bring them to trial for alleged wrongdoing is "political persecution." Thus Father Berrigan was described as the first priest to be a political fugitive, even though there are many clergymen who held exactly the same positions but were not fugitives because they had not destroyed government property.

Similarly, it would appear that many in the Yale community believe that it is immoral to bring the Black Panthers into court no matter how strong the evidence or how brutal the crime. Any charges against the Panthers are by definition political in their view. Tom Hayden did little more than reflect the attitude of many in the Yale community when he announced that in this case the facts were completely irrelevant. Surely this is a rather quaint notion of justice, one with which the family of the young black who was killed might, with good reason, disagree.

If academics cannot be tolerant of those who dissent within their own grove, it is hardly likely that they will be tolerant enough to engage in persuasion instead of denunciation when they venture beyond their own boundaries. Nor, for all their claims to be "liberal" or "radical," are academics inclined to be either liberal or radical when their own self-interests are at stake.

They are only too happy to be liberal or radical with the jobs of construction workers, the schools of white ethnics, the admission standards for other peoples' children; but when it comes to their own course schedules, their own class hour loads, the requirements in their own departments, the sanctity of their own teaching style or the privileges of their own classrooms, academics yield to no one in their ability to resist change and progress.

Anyone who is engaged in educational reform efforts (which do not involve closing down class and sending faculty and students off to the barricades) realizes that the real barrier to educational reform is the faculty. It is at precisely those schools where the faculty has the greatest power that instructional change is the least likely to occur. The suggestion that the college be turned over to the faculty (and its student allies) would guarantee absolute paralysis of all efforts at instructional reform.

IMPOSED VIRTUE

So convinced is he of the need of virtue and of course of his own virtue—that the academic is perfectly willing to impose virtue on others so long as it is his kind of virtue. The faults and the failings of the Grand Inquisitor are rallied against in the literature courses, but they have not by any means been exorcised from the academy.

The latest scheme for imposing virtue is the "randomization of admissions." The splendid plurality and pluralism of higher education is to be abolished. Students are no longer to choose their own college, and colleges are no longer to choose their own students. The great god of the computer will randomly assign students to institutions, and they will have to go there whether they want to or not.

It will, of course, take an immense amount of coercion—either governmental or quasi-governmental—to impose such a "noble experiment," and a vast amount of supervision and enforcement machinery to make sure there are no violations. Young people would be inclined to despise the school they were being forced to attend, and faculty members would find it difficult to teach students who were in a school they did not want to attend. Parents might rebel at paying for an education in an institution in which they had no confidence. But these kinds of reactions from free men demanding freedom of choice are to be casually dismissed in the name of "equality of opportunity."

There is, of course, no evidence that such randomization of admissions would indeed do much to facilitate the equality of opportunity in American society, just as there is no evidence that compulsory busing of white students to black schools does much to improve educational opportunities for black students. However, both procedures are immensely satisfying to the academic turned philosopher-king and his need for order, neatness and virtue.

The academic is convinced in his heart of hearts that those on the outside are not virtuous, because of ignorance or malice or both; therefore, he sees no choice but to constrain them to virtue. It is but one logical step, then, to argue, as a sociologist recently argued in The New York Times Magazine, that since one cannot get virtuous action by majority rule, one must abandon majority rule; and it is but one more logical step to sympathize with, and even applaud, violence as a means of forcing society to be virtuous.

When a minority imposes its will on the majority, especially by violence, what one has, of course, is fascism. The tragic young SDS leader who was destroyed by one of his own bombs really made explicit what he had learned from his mentors when he commented that if fascism was what was required, then fascism it would be. One ought not to be surprised if the rest of society chooses to call the National Guard when

faced with a minority dedicated to imposing its own notion of virtue on the majority.

What is missing from the academic's morality is the capacity for compassion—at least compassion for those who are not members of the groups that have been deemed acceptable recipients of compassion. The Yale faculty member whom Michael Lerner quotes as implying that Italians are an inferior race (because Mario Procaccino dared to run against the WASP saint John Lindsay) is not the sort of man one wants to see engaging in political behavior.

The academic is skilled in the articulation of his thought. In his ordinary activity of teaching and research, such skills are of immense value, but they can be counterproductive when he chooses to engage in political rhetoric. Unlike the politician, the academic seems to be subject to the temptation to take his rhetoric not only seriously but literally.

If he speaks of "revolution," he actually begins to believe that there is a revolution. If he tosses around the word "establishment" a sufficient number of times, he begins to believe that it is not a mythological term but one to which there is a corresponding reality. If he pontificates often enough about what the "young" and the "black" want, then he will begin to believe that the few young people he knows and the few blacks he has heard or read about actually represent what the majority of the young and the black are really seeking.

If he compares the United States frequently enough to Nazi Germany, he begins to believe that there are Nazi stormtroopers in the streets, that Richard Nixon actually is an Adolf Hitler who intends to cancel the 1972 election, that John Mitchell really is a Heinrich Himmler who is setting up concentration camps, that the United States has really embarked on a policy of genocide against the black and brown people in its midst and that Daniel Berrigan in a made exercise of romantic narcissism, has become Dietrich Bonhoeffer reincarnate.

This confusion of rhetoric with reality involves no particular problem unless one chooses one's political strategy to fit one's rhetoric. If one really believes that he is in a Nazi society and that there is a revolution in progress, then he is not likely to attempt to engage in political dialogue with the 90 per cent of the society that has sold out to the Nazis.

And yet, it is a peculiar kind of revolutionary rhetoric. Secure in his tenured professorship in the department of semantics at the Massachusetts Institute of Technology, Prof. Noam Chomsky can call other scholars mandarins. Theodore Roszak, in a very scholarly, mass-produced paperback volume, can denounce both objective consciousness and technology, which apparently means other people's objective consciousness and other people's technology. University faculties, one of the most secure and established groups in our society, see no contradiction in denouncing the "establishment" and are utterly horrified when the rest of society threatens to hack at the university's budgetary increase for next academic year.

One wonders in passing what kind of revolution it is when the revolutionaries expect to collect their salaries or their grade point averages while continuing to engage in their revolutionary activities. One wonders if there was a single faculty member in the country who lost a single day's pay during the so-called May Revolution. The academic is so bemused by his own rhetoric that he thinks he can keep on biting the hand that feeds him without that hand ever becoming so "immoral" as to withdraw itself.

Finally, from the point of view of the world outside, academics, when they begin to engage in social reform, show extraordinary ignorance. Arnold Kaufman, the philosopher, recently admitted that he and a number of other California academics made a mistake when they argued four years ago that there was no difference between Pat Brown and Ronald Reagan. Men who are so tardy in coming to so obvious a conclusion can scarcely expect to be taken very seriously, but the academic-turned-social-reformer is simply not aware of how other people think or feel.

He can write them off as hard hats, or white ethnics, or middle Americans; he can dismiss them as admirers of Mayor Daley, and that settles the problem. That they might be deeply, even passionately concerned about their neighborhood, about their schools, about safety in the streets, about patriotic values, about morality and about religion is of no consequence to the academic except as evidence of how benighted and inferior these "hard hats" really are. Are they put off by beards, long hair, drugs, free sex and bizarre clothes? "Well, then, so much the worse for them; as one professor observed in The New York Times Magazine, "No reasonable man could object to someone wearing a beard."

The 90 per cent who constitute the "hard hats" society are then not reasonable men and are not to be taken seriously; but even though they are not reasonable, it is still expected that they will continue to finance the subversion of their own value system and their own social structure by those who have dismissed them as unreasonable.

So dogmatically convinced are the academic reformers of the rightness of their analysis that they are quite unaware of the almost total failure of direct action protests since 1967. They are also convinced that student enthusiasm was responsible for Sen. McCarthy's early primary victories and that the confrontation between Mayor Daley's police and the student radicals in front of Chicago's Conrad Hilton Hotel was what beat Hubert Humphrey.

The existence of impeccable research demonstrating that the students had little impact on the early support for Sen. McCarthy and that the battle of Chicago was, if anything, an asset to the Democratic Party is not likely to change their opinion. One is reminded again of the political scientists who did not know anyone who voted for Ronald Reagan.

So convinced is the academic of the superiority of his own position that he is certain that the petitions he signs, the resolutions he votes for and the interminable discussions in his faculty meetings will have an automatic importance in the world beyond the academic groves. And when he moves out of the grove. not merely to remake society but to engage in direct political campaigning, he does so with the serene confidence that his political activity could not possibly turn out to be counterproductive.

It is absolutely unthinkable, for example, that other voters may be incensed and even unfuriated if universities close down two weeks before the election and hordes of young people swarm about the country as political missionaries. The hard hat who must continue on his job is supposed to take it for granted that the morally superior academic is exempt from any equal obligation.

A SUBSTITUTE CHURCH

The typical academic suffers from an excess of what can only be called religious zeal and a deficiency of sensitivity to the hopes and fears of those different from himself. These characteristics may not be an accident. Sociological research by Joseph Zelan and myself indicates that academics are disproportionately recruited from those who come from unhappy families, have left behind their own religious faith and have turned to academia as a substitute church.

Furthermore, the graduate school training process is the logical conclusion to an educational system which trains one to develop as fully as possible his capacity for abstract cognition and articulation at the expense of his poetic, intuitive and imaginative capacity. Emotions are socially approved in academia as long as one is able to talk about them rationally and articulately.

Thus Roszak and other advocates of the counterculture (who incidentally make the marvelous assumption that the counterculture could survive even if it weren't subsidized by the main culture) sing the glories of feeling and emotion when enjoyed by those who are objective and articulate. The poor slobs who are incapable of that kind of self-analysis are of course "hard hats," and neither they nor their emotions are to be taken very seriously.

Yet one need not despair completely. A small but growing group of young people—one thinks particularly of Michael Lerner and Wallace Roberts—have discovered that it is possible for a young liberal academic to learn something from a middle-aged ethnic working man. It might even be that a new generation of academics will emerge who do not see their vocation as compelling them to destroy and remake their students' values. Under such circumstances, real higher education—which necessarily respects who the students are and where they come from—might begin.

MACHINERY OF AMERICAN JUSTICE IS COLLAPSING

Mr MILLER. Mr. President, a most sobering article on our court system was published in the Reader's Digest of November 1970.

It draws a conclusion that "the machinery of American justice is collapsing" and that "unless it is repaired quickly and thoroughly, the rule of law itself may disappear."

Chief Justice Warren Burger's observation that "we are—operating our courts with cracker-barrel, corner-grocer methods, and equipment, vintage 1900," is most apt.

It is an injustice when a citizen has to wait up to 5 years to have his suit adjudicated. It is an injustice when a defendant has to wait 2 or more years to have his case brought to trial. It is an injustice when 400 or more prisoners are arraigned before one judge alone in the course of 1 day—an average of one a minute.

As the author remarks, "it is not only society's misfits who suffer when the courts fail. Every American is threatened when justice is threatened."

It is time we take a serious look at our courts and our judicial system.

This article and Chief Justice Burger's comments should be read by every thoughtful American and I ask unanimous consent that they be placed in the RECORD.

There being no objection, the article and Justice Burger's comments were ordered to be printed in the RECORD, as follows:

ONLY RADICAL REFORM CAN SAVE OUR COURTS

The machinery of American justice is collapsing. Unless it is repaired quickly and thoroughly, the rule of law itself may disappear. These thoughts are not those of alarmists but of sober, distinguished men of law, such as former Chief Justice Earl Warren, Prof. Charles Alan Wright of the University of Texas and the new Chief Justice, Warren E. Burger. Says the immediate past president of the American Bar Association, Bernard Segal, "Danger signals are flashing all over the country."

To be effective, justice must be both fast and fair. It is the pace of justice that has become distorted. Some courts, usually the lower courts that deal with lesser matters in big cities, race through their case loads on an assembly-line basis so that the whole process becomes a farce. Other courts, especially big-city trial courts, fall years behind in their calendars. When a citizen has to wait 2½ to 5 years to be awarded damages, as he does in most large American cities in cases that go before a jury, the wait itself becomes an injustice.

Earl Warren recently recalled that, shortly before he left office, felony cases in the U.S. District Court for the Eastern District of New York were taking 22 months to get to trial. The accused were free on bail during the wait. However, said Warren, "if the defendant were innocent, think of the cloud over his life, and if he were guilty, think what he could do to disrupt society."

Just how badly a court can be run in 1970 immediately strikes even the layman casually visiting the Manhattan division of the New York criminal courts. The court is located in a large, littered building swarming with bewildered defendants and their families, bored prostitutes, tired policemen, sullen clerks, disheveled Legal Aid lawyers and harassed judges. Judge Irving Lang, a 41-year-old former narcotics commissioner, rushes from the courtroom into his robing room and says, "Welcome to the busiest court in the world." Some 200 to 300 prisoners a day come before him, and Lang once arraigned 416 persons between 10 a.m. and 5 p.m.—an average of one a minute. "It's difficult to be dignified in a situation like this," he says, But the criminal case load is rising by 20 percent a year in New York City.

"Record-keeping with respect to criminal records has broken down here completely," says Judge Lang. "All that the records show is a man's arrest. If he comes back before us, we can't tell whether he was out on conditional release or what."

The real scandal is that, with all the crush of business, New York City's criminal-court judges spend half their time waiting for work. The judges are available, but the system that should feed the cases through from arraignment to trial just breaks down. The ordinary misdemeanor case is adjourned four or five times. Overworked prison officers fail to get the defendant to court; the arresting office doesn't know his case is coming up, or else wanders off in disgust after waiting for hours; or an attorney, trying to juggle half a dozen cases, is tied up elsewhere. By the time the fourth or fifth adjournment comes around, the case goes stale and justice fails.

Similar conditions exist in many big cities. The Pennsylvania Supreme Court recently stepped in to take supervisory charge of the Philadelphia courts, where enormous backlogs had built up, including 487 untried homicides. In Los Angeles County, the backlog of civil and criminal cases has reached 42,000, and is growing by 200 a month.

The crisis in the courts has been developing for years. The response to this crisis, led in the last two decades by Warren and former Associate Justice Tom C. Clark, has been to try to cure the problem mainly by reorganizing the courts administratively. Many revised procedures have been attempted: split trials, smaller juries, pre-trial conferences and so forth. On the whole, the experiments have been disappointing.

Lately, a number of American jurists have come to believe that a more radical kind of reform is necessary. They think the old refrain, "There oughta be a law," has too often been the nation's approach to solving, or providing the illusion of solving, too many kinds of problems. The criminal courts are used to punish many crimes which are offenses only against taste and standards of moral or sexual conduct. Shoving drunks, addicts, gamblers and prostitutes through a revolving-door court process does little to help society or the offenders. This whole range of minor crimes, they argue, should simply be *"de-criminalized"* and cease to be offenses. The police and the judges should be free to concentrate on the crimes in which people or property are damaged.

In civil law, too, there are matters that could be "de-legalized"—the bookkeeping, form-filling routine matters which could be handled just as well by a clerk, accountant or referee as by a judge. The probate of wills could be handled by a tax office. "Nine hundred and ninety-nine out of a thousand wills are perfectly all right," says Judge Samuel Silverman, of the New York surrogate's court. "Why do you have to treat a will as if it were a lawsuit?" Nine out of ten divorces are uncontested and could be handled by an arbiter. In the 150,000 personal bankruptcy cases filed in federal courts each year, 90 percent of the petitioners have no assets; they do not need a trial.

All these reforms would be overshadowed, however, if the courts were relieved of their single greatest burden: the automobile. Personal-injury cases flood the trial courts, and traffic cases flood the criminal courts. Seventeen percent of all the judge-time in the United States is spent on personal-injury cases arising out of auto accidents, according to a survey prepared by the Federal Judicial Center for the Department of Transportation. A plan to remove the bulk of auto-injury suits from the courts was first developed at Columbia University in 1932. It would work something like health insurance or workmen's compensation. The victim would simply collect the damages from his own insurance company. He would not go to court, except in special cases.

Ex-ABA president Bernard Segal, an energetic agitator for court reform, supports this "no-fault" insurance. "It's inevitable," he says. Right now, however, major segments of the bar vehemently oppose no-fault insurance and have successfully blocked the reform in seven state legislatures.[1] Massachusetts has just enacted the first state no-fault law. The Federal Judicial Center study estimates that as a result of 220,000 suits arising from auto accidents in 1968, the victims collected a net of $700 million and the legal profession—representing both plaintiffs and defendants—collected $600 million plus expenses.

Reformers also want to move traffic cases—at least the minor ones, those to which automatic guilty pleas are usually entered—out of the courts and into administrative offices. The New York State legislature voted this type of reform last year, relieving the criminal courts of an enormous burden. (Of 5,065,554 cases filed in New York City criminal courts in 1969, 4,600,191 were traffic cases.) Last July 1, the New York State Department of Motor Vehicles took over all but the most serious moving violations. In New York City, a new Parking Violations Bureau began handling parking tickets. The change frees eight criminal-court judges for more important work.

Radical court reforms certainly will not come quickly or easily, but they have enormous implications for society. They will entail revising our ideas of what constitutes crime, what constitutes conflict, and how conflict should be resolved. Political decisions loaded with controversy, such as whether or not to legalize gambling, will arise. Civil and criminal codes will have to be revised, and constitutional amendments may be needed. Change of this magnitude will require new institutions—magisterial offices and arbitration boards, for example—to handle matters removed from the courts.

[1] See "What's Wrong With Auto Insurance —And What Can We Do About It?" The Reader's Digest, May '68.

But the problem of our courts needs every man's attention. It is not only society's misfits who suffer when the courts fail. Every American is threatened when justice is threatened.

Chief Justice Warren E. Burger Speaks Out

(Note.—From an address by Chief Justice Burger, delivered at the annual meeting of the American Bar Association, August 10, 1970.)

In this supermarket age we are, with few exceptions, operating our courts with cracker-barrel, corner-grocer methods and equipment, vintage 1900. Our population has increased from 76 million in 1900 to 204 million at the present. Wars and social upheaval and the inventiveness of man have complicated our society. Changes and improvements in our courts are long overdue.

The automobile, for example, did more than change the courting habits of American youth. It created the most mobile society on earth, with all the dislocations and frictions that go with it. It led people from rural areas to crowd the unprepared cities. It maimed and killed, and brought into the courts thousands of cases that did not even exist in 1900.

Consider just a few figures. From 1940 to 1970, personal-injury cases multiplied five times. Petitions from state prisoners seeking federal *habeas corpus* release increased from 89 to over 12,000—140 times as many. Congress increased the number of judges by 70 percent—while the total of all cases filed in the federal courts nearly doubled.

Many new kinds of cases have been added because of laws passed by Congress, decisions of courts, and the needs of a changing society. But the increase in volume is not by any means the whole story. The actual trial of a criminal case now takes twice as long as it did ten years ago, because of the closer scrutiny we now demand of confessions, identification witnesses and evidence—a deliberate commitment to values which are higher than pure efficiency when we're dealing with human liberty.

It is elementary in the system of courts that the number of judges, prosecutors, bailiffs, clerks, court reporters and courtrooms has been based on the premise that approximately 90 percent of all the defendants will plead guilty, leaving only 10 percent to be tried. But that premise may no longer be valid. Even a small percentage change in the rate of guilty pleas can have a tremendous impact on the courts. A reduction from 90 percent to 80 percent in guilty pleas, for example, requires the assignment of twice as many judges. A reduction to 70 percent trebles that demand.

This was graphically illustrated in Washington, D.C., when the guilty-plea rate dropped to 65 percent. As recently as 1950, three or four judges were able to handle all the felony cases in the U.S. District Court there. By 1968, 12 judges out of a total of 15 were assigned to felony cases, and they could barely keep up.

There is a widespread public complaint that the present system of criminal justice does not deter criminal conduct. That is correct so far as the crimes which trouble most Americans today are concerned. Whatever deterrent effect may have existed in the past has now all but vanished as to those crimes. If ever the law is to have a genuine deterrent effect on criminal conduct, we must make some changes. The simple and obvious remedy is to give the courts the manpower and the tools, including prosecutors and defense counsel, to try criminal cases within 60 days after indictment and then let us see what happens. I predict that this would sharply reduce the rate of crime.

Some of what is wrong, however, is due to the failure to apply the techniques of modern business to the management of the purely

mechanical operation of the courts—of modern record-keeping and systems-planning for handling the movement of cases. The management of busy courts calls for trained administrator-managers. In the past ten years, this country has trained 58 astronauts capable of flying in outer space. We do not have that many court administrators available to serve the courts.

The changes and improvements we need will call for a very great effort, and they may cost money. But if there are to be higher costs, they will still be only a small fraction, for example, of the $200-million cost of the C-5A airplane, since the entire cost of the federal judicial system for the next year is $128 million.

WHO STOLE THE PEACE DIVIDEND?

Mr. PROXMIRE. Mr. President, there is a great deal of talk about defense cutbacks. During the recent election, Republicans proclaimed time and again that the Nixon administration had cut $17 billion from the defense budget. But the real facts are much different.

In fiscal year 1969, when Mr. Nixon took office, total defense outlays were $81.2 billion. In fiscal year 1970, they were $79.4, a drop of only $1.8 billion. In the new fiscal year, which is not yet half over, all national defense spending is estimated at $73.6 billion. Instead of a cut of $17 billion, there is to be a cut of $7.6 billion, much of which is yet to come.

Where have the billions gone? Mr. Richard J. Levine writing in the Wall Street Journal for November 10, 1970, gives a revealing insight. Using figures for Pentagon spending rather than for total defense outlays, what it shows is that the services are vying with each other over the spoils. The Air Force is pushing for a new manned bomber which, in strategic terms, is already a decade out of date. The Army is holding on to its Cheyenne helicopter—even after the announcement that it was canceled—and continues to push for the MBT–70 tank. The Navy insists on new carriers, which almost every nonbiased expert believes to be nothing more than sitting ducks during modern warfare, and the supporting ships which are used extensively for support or defensive purposes. We spend hundreds of millions for a carrier, largely useless, and then hundreds of millions more to defend it.

But the time has come for the long-suffering taxayer to benefit from the cut in Vietnam spending. The public, not the brass, should get the peace dividend. Instead, the Pentagon has put its vast public relations machine at work to convince the public that there are few or no savings from a cut in Vietnam from peak spending of $29 or $30 billion, to fiscal year 1971 spending of $11 to $12 billion. We are told that there are few if any savings from a reduction from a 3.5 million military force to a 3 million military force. And the cuts in civilian personnel at the Pentagon, the dropoff in aerospace contracts, and the mothballing of countless Navy ships—announced several times over by the Pentagon propaganda machine—bring relatively small overall reductions in defense spending.

The reason? The Pentagon has usurped the peace dividend for itself. It is substituting new weapons for old, poor-mouthing our relative strength with the Soviet Union, and claiming, as they have claimed countless times before, that we are in deadly peril if we reorder our priorities and return to a pre-Vietnam level of defense spending.

I ask unanimous consent that Mr. Levine's excellent article be printed in the RECORD.

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

ARMY, NAVY, AIR FORCE SETTING THEIR SIGHTS ON THE "PEACE DIVIDEND"

(By Richard J. Levine)

WASHINGTON.—U.S. military chiefs, vying with advocates of civilian spending, are scrambling for a maximum share of the "peace dividend" resulting from Vietnam deescalation.

Eager to fill needs the services contend were neglected during the war, they are calling for an array of expensive new weapons and equipment. Their proposals threaten to push Pentagon budget requests upward once more and bring on fresh conflicts with Congress.

The plans put President Nixon on the spot. On one hand, his military and diplomatic advisers warn him that the threat posed by Russian arms is growing. On the other, his economic advisers are worrying about ballooning budget deficits. And the President is under some pressure from Congress and certain Cabinet officers to switch more dollars to civilian spending programs.

UPWARD PRESSURES

Thus, some costly arms projects being proposed will undoubtedly be killed by budget planners, and others may be scaled down. But part of the modernization plans will surely survive. Combined with the impact of inflation and military pay raises, these costs are expected to reverse the current drop in defense spending.

Defense officials are already warning that their budget for the fiscal year starting next July 1 may be slightly higher than the $71.8 billion budget proposed for the current year (though they stress it will absorb a smaller share of total Federal outlays and of the gross national product). Deputy Defense Secretary David Packard predicts Pentagon budgets "in excess of $70 billion" annually for an indefinite period. And Pentagon boss Melvin Laird maintains that if the U.S.-Soviet Strategic Arms Limitation Talks (SALT) fail to produce agreement, Washington could be forced into a "tremendous increase" in military outlays, most likely for a new submarine that fires long-range missiles and perhaps for a new bomber as well.

Each of the services has big ideas, and some proposals are clearly in competition with others. The major wants:

Air Force—A new strategic bomber, dubbed the B1 and designed to penetrate enemy defenses by sneaking in low to avoid radar detection. The F15 "air superiority" fighter, a highly maneuverable aircraft capable of speeds over 1,700 miles an hour; it is being designed to meet—and beat—the best Soviet fighters of the late 1970s and 1980s. The Airborne Warning and Control System (AWACS) to detect enemy bombers. The A-X attack plane, a rugged, slow-flying plane for close air support of ground troops.

Navy—Scores of new ships, including 30 big fast destroyers, a fourth nuclear aircraft carrier and additional nuclear attack submarines. The F14 carrier-based "multimission" fighter, capable of protecting the fleet as well as hitting ground targets. The S3A antisubmarine warfare plane for locating and attacking enemy subs. The E2C warning plane to give the fleet early notice of approaching enemy aircraft. And the long-range submarine known as ULMS (Undersea Long-Range Missile System), which might hurl a missile more than 5,000 miles, nearly double the range of today's sub-based missiles.

Army—The Cheyenne attack helicopter, capable of assaulting enemy tanks and other ground targets in support of infantry troops. MBT-70 missile-armed tanks, able to fight at night and fire while moving. The SAM-D, a surface-to-air antiaircraft missile system. And various "automated battlefield" devices—sensors, computers and the like.

TOTAL PRICE UNKNOWN

Because of all the unknowns—the outcome of the SALT talks, Congress' attitude and White House budget pressure—no one at the Pentagon will put a price on the services' modernization plans. A recent Defense Department report to Congress did estimate the cost of producing 36 "major" weapons systems, at $102.3 billion. But many weapons in that report haven't been approved for production, and some items sought by the services aren't included.

But it is clear that modernization bills may be huge. Defense officials blame this on inflation, on the increasing complexity of military hardware and on the fact that many weapons-development programs, slowed during the Vietnam war buildup, have bunched up now. Says Mr. Packard: "We've got some catching up to do."

In the course of the catching-up, some big decisions may be made—determining how much the U.S. nuclear deterrent will rely on missiles and how much on manned bombers, how much of the American missile arsenal will be land-based and how much will be submarine-based, and which of the military services will get expanded roles.

Already the Air Force and Navy are fighting over the nation's nuclear deterrent. The Navy, favoring the submarine-launched missile, is eager to get approval, even in the event of a SALT agreement, for development and production of the ULMS submarine. These subs, with their missiles, could cost close to $1 billion each, some insiders speculate.

The Air Force, sensitive to suggestions that both its long-range bombers and its intercontinental Minuteman missiles may soon be obsolete, is pushing hard for the B1. Air Force officers argue strenuously that it would be folly "to put all our eggs in one basket," by relying solely on sub-launched missiles. The airmen fear they would be left only with a conventional-warfare role.

Another squabble involves the Air Force's A-X and the Army's Cheyenne helicopter. The official Pentagon word is that the two close-support aircraft are "complementary" rather than competitive. But many in Congress see considerable duplication; in the end, perhaps only one of the craft will get a go-ahead for production.

CUTTING TROOP STRENGTH

To help finance modernization programs in the face of Congressional resistance, the Defense Department's strategy is to cut troop strength and plow the savings into hardware. Since Mr. Laird became secretary, the number of men and women in uniform has slipped to just under 3 million from 3.5 million. It's likely to go well below 2.5 million before the cutting is through.

The Army is taking the bulk of the reduction. It is scheduled to drop to 1.2 million men and 13 2–3 divisions by next June from a Vietnam peak of 1.5 million men and 19 2–3 divisions. Further reductions are probable. "When our role in Vietnam becomes completely advisory, the Army could drop to a level comparable to the 859,000 of 1961," says Army Secretary Stanley Resor. "We are taking massive manpower cuts to assure funds for essential research, development and modernization," he says.

While troop reductions provide dollars, de-

fense planners insist they also make the modernization effort all the more essential. "We must compensate for (the Army's) smaller size with higher quality," says Gen. William Westmoreland, Army Chief of Staff. "We simply cannot risk both a small Army and an ill-equipped and undermanned one." Another general puts the prevailing Army sentiment more bluntly: "If we're going to be lean, we've go to be mean. What the hell's the sense of having an Army if it can't scare anyone?"

THE "PEACE DIVIDEND"

The Nixon Administration is telling Congress and the public that the "peace dividend" has already been presented; since taking over, the Nixon Administration has cut the annual Pentagon budget by $6.9 billion from the last Johnson budget of $78.7 billion. Inflation, pay raises, military pension boosts and other personnel cost increases have eaten up the rest of the savings derived from the slower war effort in Indochina, it's argued. Exactly what these savings total isn't clear. Further military cuts "cannot be the principal source of funding for new domestic initiatives," says Pentagon controller Robert Moot. Reductions of another $10 billion to $15 billion, as advocated by some lawmakers, would leave the U.S. with a "seriously depreciated" military capability, maintains another top Pentagon hand.

Congress will hardly cut that much, but many of the service's high-priority modernization programs do already have serious, knowledgeable critics on Capitol Hill.

This is especially true of the B1 bomber. For the better part of a decade, the Air Force has been lobbying for an advanced bomber to replace the aging B52. But an increasing number of Congressmen have come to question the logic of building more manned bombers in a missile age. Shortly before development contracts for seven B1 prototypes were awarded last June to North American Rockwell Corp. and General Electric Co., the Senate Armed Services Committee halved the Pentagon's $100 million request for fiscal 1971. Later Congress authorized expenditures of $75 million, but Air Force men worry about the prospects of convincing lawmakers to okay requests for hundreds of millions of dollars as development work speeds up.

Democratic Sen. Thomas McIntyre of New Hampshire, who heads an Armed Services subcommittee, isn't an outright opponent of the new bomber. But "because of the potential cost of the B1 and its importance to our security, it is essential that its progress in the research and development stage be closely monitored," he says. Currently, the Air Force expects that development and production of about 200 planes would cost $10.1 billion; Congressional critics say that rough estimate could easily double.

An Air Force general sees the B1 woes as symptomatic of a broader problem. "Our needs are so staggering that we don't know where to begin," he declares. With inflation driving up the price of new planes and Congress holding down spending, he figures the Air Force is going to end up buying a lot fewer airplanes than in the past.

THE NAVY'S PLANS

The Navy's plans to modernize its fleet are likely to face less trouble in Congress. One piece of evidence: In this year's defense authorization bill, Congress voted $435 million more than the Pentagon requested for Navy ship construction. The Navy has already begun a $2.5 billion destroyer-building program, with Litton Industries Inc. the prime contractor to produce 30 ships. And Congress seems amenable to building more nuclear-powered attack submarines.

Admirals figure it would require at least $30 billion over the next 10 years to fully modernize the fleet. With that kind of money at stake, Pentagon critics such as Sen. Mark Hatfield, the Oregon Republican, have begun to question the validity of plannning for a non-nuclear sea war with the Russians. They feel any such conflict would soon escalate into total nuclear war.

The Navy's attempt to modernize its air arm may experience more trouble. Congress is watching to insure that the Navy doesn't rush into production of the F14 fighter before all the development kinks are ironed out. Like the Air Force F15, the Navy fighter will be extremely expensive—$8.27 billion for 722 aircraft, including research and development costs, according to current forecasts.

Two other Navy planes, the anti-submarine S3A and the early-warning E2C, are already running into heavy Congressional flak. The House has voted to defer production of the E2C for at least a year and has ordered more development work on the S3A before production is started.

THE ARMY PROGRAM

The army's modernization program is geared mainly to the possibility of a "high-intensity" war in Europe with the Russians. Army officers talk privately of their "big eight" list of projects. Atop that list are the Cheyenne helicopter and the MBT–70 tank, both designed to counter the threat posed by numerically superior Russian armor based in Eastern Europe. Both, however, must clear major hurdles before entering production.

A Cheyenne production contract with Lockheed Aircraft Corp. was canceled last year because of a rotor stabilization problem. And this year the Senate Armed Services Committee recommended that the program be killed. The Cheyenne survived in a Senate-House conference, but the House Appropriations Committee has, in effect, told the Pentagon to make up its mind whether it wants the Cheyenne, the Air Force's A–X or the Marine's vertical takeoff Harrier jet for close-air support of ground forces.

The MBT–70 tank has also had its ups and downs. It was conceived as a joint U.S.-West German project, but early this year, after meeting development problems, the two countries went separate ways. Now U.S. planners say they will be able to build an austere model costing $250,000 less than the earlier $850,000 version. The MBT–70, says Mr. Laird, will be "markedly superior to any (tanks) the Soviets are likely to field through the 1980s."

Congress will take convincing, however. Some lawmakers have expressed concern that the MBT–70 could be knocked out of action by relatively inexpensive antitank weapons. And the House Appropriations Committee is calling for "further refinements" to get the price down.

The MBT–70 is handicapped by Congressional displeasure with the way the Army developed the Sheridan tank a few years ago; that project was notable for the problems it encountered. Among other things, the early-model Sheridan, designed as a reconnaissance vehicle, could be heard three miles away.

POLITICAL BROADCASTING EXPENDITURES—ADDRESS BY SENATOR COOK

Mr. SCOTT. Mr. President, the distinguished Senator from Kentucky (Mr. COOK) has delivered a significant address on the subject of political broadcasting expenditures. He spoke before the Kentucky Broadcasters Association at Lexington. I commend his remarks to the Senate and ask that they be printed in the RECORD.

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

FREEDOM OF THE PRESS

It is with great pleasure that I address the Kentucky Broadcasters Association this evening. On such occasions, I am often reminded of Thomas Erskine, the American Revolutionary. In 1792 in defense of Thomas Paine, Erskine said:

"Men cannot communicate their free thoughts to one another—with a lash held over their heads. It is the nature of every thing that is great and useful, both in the animate and inanimate world, to be wild and irregular—and we must be content to take them with the allies which belong to them, or live without them."

Today free men communicate their ideas most effectively and most often through the electronic media. As with Thomas Paine in the eighteenth century, we also live in a time of social conflict and turmoil. Of course, our heritage is rich in social conflict and upheaval, and therefore it cannot be characterized as un-American or evil per se. With few exceptions—such as the 1950's—this struggle for men's minds has been the cutting edge for our system of government and law.

The process, however, is not without its problems. Quite recently, these pressures have created a direct threat to the freedom of expression in the news media. Because of its uniquely government regulated nature, the Broadcasting industry has felt this most forceably. Individual stations, as well as the networks, have come under fire for alleged "imbalance" in the presentation of news and public affairs shows. With increasing frequency, these attacks have come from persons representing all political parties and persuasions.

This situation has in turn promoted an expansion of the Federal Communication Commission's "fairness doctrine". More and more, this independent federal agency is using its judgment in deciding what issues must be broadcast and who should be the spokesmen.

For those who look to their elected representatives for relief—the outlook is certainly less than promising.

In June, for example, a Senate Joint Resolution was introduced to provide a reasonable amount of public service time to authorized representatives of Congress to present their views on issues of public importance. The time was to be made available at least four times a year.

A cursory examination of this measure invokes a certain amount of idealism, and agreement. That citizens should be exposed to views of the highest legislative body in the United States is theoretically sound. That the legislative branch should be afforded equal treatment with the executive's instant access to media prime time likewise seems sound. After all, our Constitution recognizes no paramount branch—all three are co-equal.

As a United States Senator, and one who has pressed for congressional reassertion of its powers in many areas, I would be the last to deny this statement.

However, as with most issues of this nature, there is no black or white—but many shades of gray. In the first instance, the difference in the nature of the two branches must be appreciated. The President of the United States—whoever he may be—is the *sole* repository of the executive powers. He is elected by a national constituency, and is—besides the Vice President—the only elected official constitutionally and directly responsible to each and every citizen.

However, no single individual is the Congress of the United States. Our pluralistic society guarantees that it will be composed of 535 distinct personalties and egoes. On controversial issues of national importance, there are almost that many opinions. Even on those issues where there is a consensus of two positions, there are shades of opinions between outright support and opposition. Even for those who agree on an issue, there are various and different reasons for that agree-

ment. In essence, there is no one spokesman for the Congress. The very nature of this deliberative body rejects such a concept.

Of greater importance is the potential for more governmental control of an already overregulated industry. No one would seriously question the obligation of the broadcasters to give fair and adequate coverage of various congressional opinions on issues of national significance. The question whether the obligation should be discharged by specific legislative guidelines or resolved by the industry itself. Julian Goodman in testimony before the Senate Commerce Committee said:

"If broadcasting is to serve public information interests, rather than partisan aims, it must have flexibility—and independent news judgment—to deal with political events as they occur."

I agree.

Others do not agree.

Senator J. William Fulbright, the leading proponent of this resolution said before the same committee:

"I think it is a fair assumption that, if television had existed in the 18th Century, the framers of our Constitution would have written something like the F.C.C.'s "fairness doctrine or the bill which I commend to you today, into basic law of the land'."

I do not agree.

Except by word of mouth, the printed word was the most effective communicator of political thought in the 18th Century. Newspapers and pamphlets occupied the dominant position that television and radio now enjoy. However, the founding fathers made no such demand on the media of that day. To the contrary, they moved to protect it by adopting a bill of rights stating that Congress shall make no laws "abridging the freedom of speech, *or of the press,*" of all our constitutional protections, many constitutional scholars consider this first amendment freedom to be nearest an absolute right.

The only reason for the present government regulation is the limitation of the broadcast spectrum. However, this by no means deprives the electronic press from basic first amendment protections. Again, I would say that the licensees must be allowed to determine the amount or the nature of the coverage of the various branches on significant national issues. Should the Congress decide to legislate this matter, we may find ourselves in the situation where in the words of Dr. Frank Stanton, "The broadcast press would be converted into little more than an official conduit of controlled information."

Fortunately, the Congress has taken no further action on this resolution.

The same cannot be said of S. 3637, the Political Broadcast Act of 1970.

Since the formation of the Republic, election and campaign reform has been an avidly sought after—but elusive—goal. I pledge my efforts to continue this search. I say "continue" because this bill as written is not a solution. Furthermore, it confuses and compounds existing problems. It also very definitely creates new inequities.

Briefly, let us examine the main points.

First, Section 315(A) of the Communication Act is amended so as to exempt the use of a broadcasting station by a legally qualified candidate for President or Vice President in a general election from the so-called equal opportunities provision. It would allow broadcasters to present debates and appearances by the major party candidates without having to give equal time to fringe or splinter party candidates. This exemption proved highly successful and popular with the public in 1960. I support this section, as I believe it will further stimulate public interest in Presidential Campaigns.

The second major provision amends Section 315(b) and places limit charges for the use of a broadcasting station by a legally qualified candidate for any public office to the lowest unit charge of the station for the same amount of time and the same period charged any commercial buyer. The lowest unit charge applies only to the personal use by candidate, but not to broadcasts on behalf of the candidate where he does not appear.

The third major item imposed a limitation on the amount expended by or on behalf of legally qualified candidates for the office of President, U.S. Senator or Representative, Governor or Lieutenant Governor of a state. Candidates would be limited to 7 cents per vote based on the preceeding election or $20,000, whichever is greater. In the primary, the limitation is 50% of the amount allowed in the general election.

I cannot in good conscience support either of these latter two ill-conceived and ill-considered provisions. In an almost religious zeal to enact so-called "campaign reform" legislation prior to the November elections, its proponents in the Congress have overlooked both the obvious and the sublime.

For example, the across-the-board 7 cents per vote rule does not take into account the problem of multi-state media costs. The state of New Jersey has no commercial television stations. Therefore, in order to reach New Jersey voters, a state-wide candidate for public office must purchase time from New York and Philadelphia stations. His cost is not based on what it should cost to achieve effective communication with the voters of New Jersey, but on the highly inflated rates of the big city television markets. Although not as acute, this problem also exists in Delaware, Virginia, Connecticut, Maryland, New Hampshire, Vermont and even Kentucky.

Aside from the multi-state problem, while 7 cents per voter may be sufficient in Arizona or Nevada, it is wholly inadequate in some of those cities and states just mentioned.

President Nixon, in vetoing the bill, said it "is a good aim, gone amiss". If its purpose was to equalize the financial resources of candidates, it fails miserably. It makes no mention of other campaign expenditures including newspaper and other print advertising. Funds for professional services such as advertising, campaign organization and public opinion surveys are not covered by the bill. Also, in spite of the emphasis placed on electronic advertising candidates and voters alike prefer a live appearance. In a national or state-wide campaign the candidate who can travel as often and as swiftly as possible will obviously be at an advantage. Travel expenses are not covered by this bill. As a recent gubernatorial primary in Arkansas demonstrated, the computerized mailing blitz is most effective. The postage due on one letter to each of the 200,000 voters registered in an average congressional district is $12,000. This does not include printing, duplicating and other costs. Once again, this bill is silent on any spending limitations for this campaign technique. It is apparent that the exemption of all these items—most of which are the backbone of any campaign—has rendered S. 3637 virtually meaningless as an equalizer of financial resources. However, insofar as public exposure of a candidate is concerned, it is far from meaningless. The impetus for reform legislation has come mainly from the success of wealthy, or well financed, candidates in the recent primaries. Political columnists and commentators have lamented over the ability of some relative unknowns to saturate the broadcast media in Ohio, New York and Texas. As the *New York Times* stated:

"Men of great wealth, or access to it, have in recent years scored election triumphs by sheer saturation of the airwaves."

Unlike the *New York Times*—which by the way is not affected by this legislation—I do not intend to sit in judgment on these candidates. I merely wish to point out that the broadcast spending limitation creates one problem in attempting to solve another.

Again, without judging the merits of any candidates, what is the realistic change of a virtual unknown in a state-wide race against a celebrity or a movie star?

Or to make it even more interesting, what of a race against an incumbent or astronaut, both of whom gained their instant identification and fame at government expense.

By attempting to keep an election from being a wealthy man's game, are we not making it the sole province of celebrities and incumbents? I think so.

S. 3637 indirectly creates a political subsidy for one segment of the population—politicians.

The subsidy is created at the expense of another group—broadcasters.

It discriminates against still another group—regular advertisers.

It is inherently wrong that elected politicians should enact legislation for their own benefit. Other media advertisers through their continued use have earned a discount. The Congress of the United States under the guise of "regulation" and "reform" has appropriated this discount. With this windfall of prime television time at the lowest unit price, the political broadcasting act of 1970 can be more aptly labeled the political subsidy act of 1970.

As repulsive as this concept may be, the real danger lies in the perpetuation of present office holders. An incumbent by virtue of his office has access to free media time through news and public affairs shows. Before the first nickel is spent on an election, the incumbent has an established name and personality identification with his constituents. The application of the 7 cents per voter rule will only result in an increased advantage that an incumbent normally enjoys. It also leaves the incumbent free to utilize his funds for other purposes.

The effect of this provision is doubly damaging to a challenger in a primary election. In every section of the country many incumbents are unopposed at the ballot box in November. For example, of the 435 members of the House of Representatives seeking reelection this year—58 are unopposed. An additional number have only token opposition. Obviously in these races, the primary is the election. And yet, as another example of the shortsightedness of the proponents—S. 3637 limits electronic media advertising to ½ of what may be spent in a general election. If it is possible for a bill to have two titles, it might also be called the "Incumbents Protection Act."

After the November recess, I am hopeful that the Congress will carefully examine all aspects of this bill. The case against it has been documented. I am hopeful that the President's veto will be sustained.

SUCCESSFUL POLLUTION CONTROL ACTIVITY

Mr. TOWER. Mr. President, I invite the attention of the Senate to an instance of successful pollution control activity on the part of a manufacturer in my State which may be edifying to us all. The Jefferson Chemical Co. has a plant in Conroe, Tex., which formerly was a heavy water polluter due to the chemical waste products it had to dispose of in the manufacturing of various chemical products.

The article comes from the September–October 1970 issue of the Manufacturing Chemists Association publication Currents.

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:

WHERE WE STAND

(By William J. Driver)

A company manufacturing a variety of specialty chemicals used to make medicines, dyes, soap, plastic and other consumer products has a tremendous waste disposal problem; effluents are complex and hard to treat. And if the firm is located in a water-shed used for municipal water supply, recreation and land development, extraordinary control is needed to protect the environment.

Jefferson Chemical Co. faced such a situation at its Conroe, Tex., plant. But since 1962, when a massive abatement program was started, the company has achieved 99.4 percent control of otental pollutants while plant production increased approximately three and one half times.

The effort was launched with an employee training program in water conservation, resulting in a 50 percent cut in wastewater. Next, a survey identified potential pollutants in the plant.

Added equipment, such as an ammonia recovery unit and a sump to collect surface runoff, curtailed wastes 84 percent—a reduction in chemical oxygen demand of 26,000 pounds per day. Laboratory and pilot plant tests showed that remaining pollutants could best be treated through liquid incineration and waste stabilization ponds.

Waste steams are segregated and treated according to strength. Concentrated organics are burned in an open-top incinerator. Effluent with medium concentration of organics is fed to a thermal oxidizer. There are no detectable combustible materials in the exhaust gases of either unit. Surface runoff and wastewater with light organics concentration is collected in ponds and held for periods of up to one year for treatment by biological oxidation before release.

Although all but 0.6 percent of potential pollutants have been eliminated at the Conroe Plant, Jefferson isn't satisfied. The goal is 100 percent. To achieve this, the company plans complete reuse of wastewater now being treated and released. Laboratory tests are underway to find the best method for eliminating organic contaminants and recycling the flow.

SOVIET SCIENTISTS ORGANIZE HUMAN RIGHTS GROUP

Mr. PROXMIRE. Mr. President, I call attention to an article entitled "Soviet Rights Group Organized," published in this morning's Washington Post.

According to the article, a group of prominent Soviet scientists have formed "a committee to encourage Soviet state and judicial authorities to observe human rights." The committee's purposes including "helping the organs of state power create and apply guarantees of human rights." The committee will also offer legal instruction in international and Soviet law on the problem of human rights.

Certainly, all Senators should applaud this bold step by a group of Soviet scientists.

As we watch the progress of this group in restoring basic human rights to the citizens of the Soviet Union, we should not forget that the U.S. Senate has yet to ratify the United Nations Genocide Convention.

The boldness of these Soviet scientists should urge us to take affirmative action on this basic human rights document of the U.N.

I urge the Committee on Foreign Relations to bring the genocide convention to the floor of the Senate before the end of this session of Congress. We are the leaders of the world in the protection of human rights, and can no longer afford delay in ratifying this treaty.

THE CONTROL OF STUDENTS

Mr. McGEE. Mr. President, the tragedy of Kent State remains very much with us, despite the passage of months. We have seen indictments returned. We have seen an FBI report which, in at least some crucial areas, disagrees with the findings of the State's grand jury. Debate goes on, with the latest utterance coming from President Robert I. White, of Kent State, who, as the Washington Post observed on Sunday, has said some things which very urgently needed saying.

What he said, of course, is that the response to the Kent State incident in some quarters has been an attack on intellectualism and upon the whole fiber of higher education itself. It is a response which Mr. White, correctly, I think, says reflects "a frightening misunderstanding of the role and mission of higher education."

"Permissiveness," a word we heard much of in the past few months, is widely blamed. It is, after all, as the Post observed in its editorial, "a convenient catchword for those who would like to overcome student alienation—as they would like to overcome the crime problem—on the cheap, without doing anything about its social causes."

What the Kent State incident must do, Mr. President, is move us away from polarization, away from a war between generations, and move us toward a system of reason and accommodation. That is what the president of Kent State seems to have realized.

I ask unanimous consent that the Washington Post editorial entitled "On Controlling Students," be printed in the RECORD.

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

[From the Washington Post, Nov. 15, 1970]

ON CONTROLLING STUDENTS

The president of Kent State University, Robert I. White, who was foolishly and unfairly silenced by a judge's order, has at last spoken out about the special grand jury report on the tragic episode of last spring in which four students were shot to death by National Guardsmen and nine more were wounded. What Mr. White had to say was, of course, self-vindicating, since the university administration he headed had been charged by the grand jury with blame for the tragedy. It reflects only one side of a controversy the facts of which have not yet been fully disclosed. Nevertheless, what he had to say very urgently needed saying.

The grand jury report followed the rather novel pattern of exculpating the killers and inculpating their victims. There was to be sure, plenty of basis for reproaching some of the students at Kent State University and perhaps some of the faculty as well. There had been unbridled disorder and violence around the university campus. But only a tiny fraction of the student body participated in it. The grand jury indicted a total of 25 persons, not all of them students or faculty members; and it is far from certain that these indictments are valid or that they identify real culprits.

It is not difficult to understand why the grand jury indicted none of the National Guardsmen. These young men, sent to a difficult duty on the Kent campus, were ill-trained, ill-led and ill-equipped. They were, moreover, insufferably taunted and provoked. There was no conceivable justification for their firing at random into a crowd; the Federal Bureau of Investigation has, in fact, disposed of the pretext that their lives were endangered by the rioters, and the grand jury was not allowed even to look at the Justice Department report which said, "We have some reason to believe that the claim by the National Guardsmen that their lives were endangered by the students was fabricated subsequent to the event." When all this has been taken into account, however, it must be acknowledged that it would be difficult fairly to indict individuals as responsible for the firing of particular shots triggered by collective hysteria.

Was it not equally difficult to single out individuals responsible for rioting which reflected a collective reaction, hysterical in its own way, to the invasion of Cambodia ordered by President Nixon. To many young people, that invasion seemed a monstrous widening of an iniquitous war that put their own lives in peril and impaired the national welfare. There was no justification whatever for the violence and other excesses that disfigured their protest; but only a showing that they individually fomented violence and violations of law can justify subjecting them to criminal prosecution.

Yet the real vice of the grand jury report lies less in its indictment of individuals than in its intemperate attack on intellectualism generally and on the whole of the academic community. The report's blanket accusation of "permissiveness" as basically responsible for what happened at Kent State is, as Mr. White asserted, "applicable to all higher education. In fact, the constitutional safeguards of American democracy are themselves under fire." The most pervasive characteristic of the grand jury report is hostility to students, to teachers and to ideas. It reflects, in Mr. White's words, "a frightening misunderstanding of the role and mission of higher education."

It is easy and convenient to suppose that "permissiveness" is the cause of the alienation and rebellion of youth now so widespread and to suppose, in addition, that these can be overcome by toughness and, if necessary, force. The university, according to the grand jury report, contributed to the crisis by "the overemphasis it has placed and allowed to be placed on the right to dissent." But the right to dissent is nothing less than the foundation of freedom. And, anyway, an educational system which seeks to make students think can hardly afford to suppress dissent simply because teachers and administrators find it distasteful and dangerous.

The most serious flaw in the grand jury report is its failure to make the distinction between dissent and violence which was developed so clearly by the Scranton Commission on Campus Unrest. Dissent is the indispensable condition of academic life. Violence is the rejection of reason. The one must be sedulously protected; the other is incompatible with civilized existence. It is true that university administrators and teachers can do a great deal more than they have done to demonstrate their fealty to orderly and rational processes of discussion and to the other values of a free community. They can condone violence and disruption only by a betrayal of their own calling. But student unrest has far deeper roots than university "permissiveness." It stems from deep dis-

orders in the society. And it is likely to yield only to genuine authority growing out of leadership that evokes respect.

"Permissiveness" is a convenient catchword for those who would like to overcome student alienation—as they would like to overcome the crime problem—on the cheap, without doing anything about its social causes. The term is meaningless. "Permissiveness" is merely flexibility that fails; flexibility is permissiveness that prevails. The youth of a free country cannot be coerced to conformity save by means necessarily destructive of freedom and the country itself. And indeed, any country which declares war on its young is already in the process of dissolution.

What happened at Kent State was an American tragedy. It ought to rouse the country not to renewed violence and heightened repression and increased polarization, but to a fresh acceptance of those processes of reason and reform and accommodation which have been the genius of American greatness.

ADMINISTRATION ECONOMIC POLICY FAILURES

Mr. PROXMIRE. Mr. President, the 6 percent annual rates of increase in the wholesale and consumer price indexes in September was soft-peddled by administration spokesmen mainly through such comments as "inevitable wobbles" or aberrations. Yet it was only the month before that they were exulting about the fact that the wholesale price index showed a 1-month decline of equal proportion. One high level spokesman for the Nixon administration pointed to that decline as a "fairly dramatic" sign that the administration's anti-inflation was having results.

There is an all too common tendency to play up the good news, and cover up the bad news. This is very often done by choosing the "best" time span to calculate their statistics. One favorite trick, for example, is to compare changes this year with changes a year ago when inflation was, as we all know, truly horrendous.

The basic question on the inflation front is what has been happening lately. Are we continuing to improve the situation, as the administration alleges? A top economist for the administration, for example, stated:

> The "cleanest case for showing the leveling out of prices is the index of wholesale industrial prices."

He proves his point by making the usual year-to-year comparison, but the real question is what has been happening in recent months. Just let me run off the month-to-month seasonally adjusted percentage changes during 1970: 0.3 percent, 0.2 percent, 0.2 percent, 0.5 percent, 0.4 percent, 0.2 percent, 0.3 percent, 0.2 percent, 0.3 percent, 0.6 percent. I ask you, Mr. President, can you detect a decelerating trend in such figures? And according to this economist this is the cleanest case.

It should be said that there is some evidence that the acceleration of inflation which was plaguing the country in 1969 has apparently been halted during 1970. I say "apparently" because there is good reason to fear that the recent batch of huge negotiated wage settlements in basic industries will be translated once again into more steeply rising wholesale and consumer prices.

First year effect on wage contracts negotiated in the third quarter of this year represent an increase of over 16 percent, compared with an increase of 11 percent in the same period last year. The recently negotiated 3-year 30 percent plus increase in the GM case is just the latest indication of the "cost push." Inflation is still with us.

The sad fact is that the still unsuccessful fight against inflation has been extremely costly in terms of lost output and unemployment. Total real output in the third quarter of this year was actually below a year ago, a period over which a normally well-functioning economy would have been increasing output at a rate of 4½ percent.

Equally, if not more important, is the unemployment created as a result of inadequate economic policies. In just the past 10 months, unemployment—seasonally adjusted—has risen from 2.8 to 4.7 million, with the latest number representing 5.6 percent of the civilian labor force. And even the administration people cannot deny the underlying trend is still upward. We are now losing at an annual rate of about $50 billion of goods and services because of this unemployment and because of the inefficiency which follows from producing below capacity. For example, we have today the capacity to produce one-third more manufactured products than we are actually producing.

It is because of basic underlying trends—continuing inflation and rising unemployment that I once more call attention to the bankruptcy of Nixon economic policies. Use of only monetary-fiscal policies is not enough. We need a wage-price guidelines and the use of credit controls which has been authorized by the Congress.

Some people seem to see some signs that the administration is moving in the direction of an "incomes policy." But let me quote from a speech by the Chairman of the Council of Economic Advisers, the principal economic policy arm of the administration. He characterized income policy as "an empty phrase" . . . "a grin without a cat." He continues:

> Yet the problem remains. The greater the assurance that our price-cost level can remain stable the more expansionist fiscal and monetary policies can be, and the more promptly we can reap the advantages from a vigorously growing economy moving along the path of reasonably full employment.

How does he propose to accomplish this? He says:

> We should have the ingredients here of a social bargain or compact.

All I can say about such a policy suggestion is that not only the "cat" but even the "grin" is absent. I do say we need an incomes policy and the proper place to develop such a policy is in the executive agencies of Government. This should be done promptly. In addition, the administration should use its powers of the credit control authority given it by Congress to see that as we move more strongly on the monetary front to expand output and employment, the expanded availability of credit will flow to those areas of highest priority which have been starved by past tight money policies—mainly housing and State and local governments.

CAMPAIGN SPENDING—A NATIONAL CRISIS

Mr. EAGLETON. Mr. President, with a hard-fought election just behind us and a modest respite from partisan politics ahead, I hope that both Houses of Congress will act to write the TV spending bill into law.

The President vetoed the bill not because it is a bad bill but because, in his opinion, it is insufficient. In my view it is more than half a loaf—an important step toward democratizing American politics.

Had the TV spending bill been in effect this year, some $30 million in broadcasting costs would have been avoided; $30 million worth of potential big interest influence on our political lives; $30 million which had to be spent because the system required it, but which was of minimal value to the public and perhaps even to the candidates who spent it.

The measure originally passed both Houses with the bipartisan support of more than two-thirds of those Members present and voting. I hope the same Senators and Representatives who have voted their conscience on this issue once before will do so again.

Mr. President, I ask unanimous consent that a selection of editorials, arranged by States, bearing on the bill be printed in the RECORD.

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

ALABAMA

[From the Birmingham (Ala.) Post-Herald, Oct. 15, 1970]

THE POLITICAL TV HASSLE

It is hard to quarrel with some of the arguments used by President Nixon in vetoing a bill that would have set reasonable limits on television spending by candidates in national and gubernatorial elections.

As the President pointed out, the bill applied only to TV and radio spending when it should have included all forms of campaign spending.

Furthermore, the bill unnecessarily involved the Congress in rate-setting by requiring broadcasters to charge candidates their lowest commercial rate.

Yet the basic aim of the bill—to trim runaway campaign costs and give modestly financed candidates a fair chance to compete for public office—was fundamentally sound.

What the President failed to point out in his veto message was that television is the crux of the problem when it comes to political spending.

It is no secret, for example, that well-heeled candidates are bombarding the public with expensive TV commercials in a frantic effort to "sell" themselves to the electorate.

One estimate places the spending on congressional campaigns this fall at $100 million—as much as half of it on television spots.

The use of TV is particularly intense in the larger states like New York, Texas, California and Ohio, where the cost of running for office has ballooned out of all proportion.

The spending limits in the bill (based on the number of votes for that office in the previous election) were generous enough to give every candidate television exposure.

In fact, one section of the bill would have guaranteed more exposure by opening the way for more public service TV debates between major candidates in presidential elections.

Both Houses of Congress approved the TV spending limitation by overwhelming margins—the House of Representatives by 247 to 112, the Senate by 60 to 19.

Whether the veto will be overridden in an issue with so many political overtones is unclear.

What is clear is that the need for reform is compelling—as Nixon himself concedes. Since the President disapproves of what Congress has done, he should offer the new Congress in 1971 a program to control all campaign spending.

ARKANSAS

[From the Little Rock (Ark.) Gazette, Oct. 28, 1970]

THE CAMPAIGN BILL

President Nixon's veto of the bill setting spending limits on radio and television commercials in election campaigns was transparently partisan in an immediate context, but, worse, it may prove disastrous for two-party politics in the 1972 presidential election year.

The veto, in fact, poses an insidious threat to the very principle of a two-party system on the national level and to a great extent in many states. This much is clear in the comments offered last week by Joseph A. Califano, general counsel of the Democratic National Committee.

Even accounting for a measure of partisan rhetoric in the Califano statement, it may very well be that in actuality the Democratic Party is in such critical financial condition that it may virtually forfeit the 1972 presidential election before the campaign begins. Mr. Califano further concluded:

"If the Republicans have $50 million to spend on television, which is what we estimate, and we have $5 million to $6 million, we couldn't beat Snoopy."

The GOP, of course, always has been the party of the biggest money. On balance, in most years, the Republican Party can outspend the Democratic Party.

In any event, the principal effect of the campaign spending bill vetoed by Mr. Nixon would have been to even up the odds, regardless of which party at any time had more dollars in its campaign coffers. One party, under the bill's provisions, simply would not win office by the overwhelming weight of its propaganda broadcast on the public air waves. The spending bill would not have been in effect this fall, but would have been applicable to 1972 for all federal offices and those for governor and lieutenant governor in state elections. It would have limited broadcast spending in general elections to seven cents for each vote for the office involved in the last general election or $20,000, whichever were higher. Under that formula, the $5 million to $6 million the Democrats expect to have for radio and television would be approximately the legal amount permitted. On the other hand, if Califano's estimates are correct, the GOP would have 9 or 10 times more money available for broadcast purposes than it would be allowed to spend.

One of the disappointments following in the wake of the veto on October 12 has been the relative silence, and evident lack of interest on the part of Democrats in Congress in mounting at least an effort to over-ride the Nixon veto. Such a move need not be made on partisan grounds, even though the Nixon veto clearly was itself a partisan decision. Without some kind of limit on spending for broadcast commercials, 1972 may offer a grave challenge to the viability of the two party system that has served the nation so long and so well.

CALIFORNIA

[From the San Francisco (Calif.) Examiner, Oct. 14, 1970]

NIXON'S VETO

We disagree with President Nixon's veto of the bill to limit spending on political advertising on radio and television. If the bill was not perfect—and the President was correct in stating that it was not—it could have been amended and strengthened later.

The veto sets back the cause of electoral reform at the very threshold of realization.

The exorbitant expenditures on radio and TV put a premium on fund raising rather than issue raising. Before a candidate even has his running papers he has to start stepping high among the fat cats to get the money for what he hopes will be an electronic blitz. If he fails, he runs under a handicap from the start, like a horse carrying an overweight jockey.

Mr. Nixon is right of course, when he points out that radio-TV spots are only one phase of our intolerably expensive election system. The entire process costs too much. It is heading straight for a situation in which only the rich or the sons of the rich and indulgent can run for office—or those willing to compromise principle for contributions.

Passage of the radio-TV limitation was not a giant step forward, but it was a formidable step in the right direction. We regret that the President has seen fit to negate it.

[From the Los Angeles (Calif.) Times, Oct. 14, 1970]

POLITICAL SPENDING CURBS NEEDED

It is unfortunate that President Nixon saw fit to veto legislation which would have imposed limits on how much candidates for major political office can spend for radio and TV campaign commercials. Overriding the veto should be an early order of business when Congress returns next month for a post-election wrapup session.

The President's explanation of his veto made good sense up to a point—but only up to a point.

As he said, the bill would deal with only one aspect of the fundamental problem—which is the unfair and unhealthy advantage enjoyed by wealthy candidates in this era of enormously expensive campaigns.

There is nothing in the bill to prevent the rich candidate from spending his money on billboards or newspaper ads, or using his enormous personal resources for pre-campaign image-building.

It is also true, as Mr. Nixon said, that limitations on TV campaign spending tend to favor the incumbent officeholder over the challenging officeseeker. This is because the incumbent has a built-in ability to generate free pubilicity through the conduct of his office, and is therefore less dependent on campaign advertising.

Partial solutions are better than none, however. The bill deserves enactment because, while not perfect, it constitutes a step in the right direction.

A future Congress, of course, can and should deal with other aspects of the problem—including one, the evils of the 30-second TV spot, which the President did not mention in his veto message.

The professional image-makers use these brief campaign commercials to sell the candidate very much as though he were a cake of soap. The object is not so much to discuss the issues as to avoid or distort them, not so much to display the candidate's real personality as to project a more robust and appealing facsimile.

As one practitioner told Times political writer Bill Boyarsky, "Nobody can be straightforward. You don't have time to be. You have to get in there with the most compelling, provocative statement for your client."

Even some political professionals worry privately about the corrosive effect of such campaign techniques on the democratic process. The suggestion has in fact been made that the 30-second campaign commercial be outlawed.

That may or may not be the best solution. But the problem, along with the whole business of political contributions and campaign spending, deserves continuing attention both from Congress and a concerned citizenry.

[From the Sacramento (Calif.) Union, Oct. 16, 1970]

SUBSTANTIVE LEGISLATION NEEDED: ALL CAMPAIGN EXPENDITURES SHOULD BE LIMITED BY LAW

The election campaigns now warming up throughout the nation will leave voters reeling under a barrage of publicity and advertising that will cost millions of dollars.

Hope that the cost of running for public office in the United States can somehow be held within reasonable bounds has not been brightened by the campaign-spending-limitation bill recently passed by Congress and now on the President's desk.

The bill would not take effect in time to put any curb on spending in this year's election. It is doubtful if it would achieve anything worthwhile in the future to control the spending that precedes our state and national elections.

When a campaign to elect one United States senator can cost $4.2 million—which was the case in California two years ago—representative government clearly is in danger. However, Congress has attacked only one aspect of the problem, and has done so in a way that is of doubtful effectiveness.

The bill imposes a limit only on what a candidate for major state or federal office can spend on radio and television advertising—in a general election, 7 cents for each vote cast in the previous election for the office he seeks, and in a primary election, half that amount. There is no restraint imposed on spending for other forms of advertising or other campaign activity.

While these prohibitions might keep one candidate from mounting a lopsided radio-television "blitz" to drown out his opponent, it is patently unfair to the broadcasting industry.

Moreover, the bill requires that radio and television stations sell time for political announcements at their lowest commercial rate for the same time period.

Broadcasters, whose business already is enmeshed in a forest of federal regulations, now would find the government dictating the rates they can charge for time.

The only valuable provisions in the bill would have no effect on campaign spending at all. It would relax the "equal-time" rule to make it possible for debates between candidates for president and vice president to be broadcast without offering the same time to candidates of obscure fringe parties. This would be in the public interest. But, it does not greatly sweeten an otherwise sour piece of legislation.

What is needed is substantive legislation that would restrain all kinds of campaign expenditures. It should be aimed at parties, candidates and their supporters—not at one medium or another among the many open for their promotional activities.

[From the Fresno (Calif.) Bee, Oct. 6, 1970]

PRESIDENT SHOULD SIGN BILL CURBING TELEVISION, RADIO CAMPAIGN SPENDING

Landmark legislation to curb the near-prohibitive costs of election campaigning in the United States has been passed by both houses of Congress and should be signed into law by President Richard Nixon.

The measure limits the amount of money which can be spent for television and radio

political advertising. It would go a long way toward equalizing the chances of the less well-heeled candidates.

For years the rising costs of political campaigning have given unfair advantage to those candidates and parties with the richest coffers. This has resulted in discrimination against worthy independent candidates in particular.

In the 1968 presidential elections, the Republican party spent more than $12 million for radio and television to elect President Nixon, while the Democrats were able to raise only $7 million. This is partly why some Republicans in both houses fought the bill, though unsuccessfully. It is said Nixon may decide to veto it for technical reasons, but Democrats are convinced this is because the GOP's campaign chest is overflowing, while the Democrats are hard-pressed for funds.

It would become effective 30 days after enactment, but even if President Nixon does not veto it he probably will wait the full 10 days he is permitted before signing it, thus making it ineffective for this fall's elections.

The bill would limit spending on politcal broadcastng to seven cents per vote cast in the last general election or $20,000, whichever figure is higher. It would apply to candidates for president, vice president, senator, congressman, governor and lieutenant governor. It also would require broadcast stations to make political broadcast time available to candidates at the same rate charged any regular advertiser. In 1972, for example, the bill would limit such spending by national candidates to less than $6 million.

This is an important, long needed reform of the election process and should help revitalize true participatory democracy.

COLORADO

[From the Denver (Colo.) Post, Oct. 16, 1970]

CANDIDATE COMMERCIALS

Television has proved itself effective at selling soap and cosmetics. The obvious theme of much of this advertising is that the viewer will be transported not only to cleanliness but to happiness and the good life if he just switches to Product X.

This approach, unfortunately, seems to be growing as a means of "selling" the public on political candidates. Elsewhere on this page Columnist Russell Baker takes a humorous, but sharply critical, view of such politicking.

What's wrong with such advertising? Well, the main thing is that it doesn't get down to basics. It tries simply for product identification. It tries for an effect that makes the buyer think of a woodland glade when he buys cigarets or a beautiful girl when he purchases a mouthwash.

That's all right for selling—perhaps. But it certainly isn't all right when fundamental issues of government are involved. The best hope, of course, is that the American people will see through such candidate advertising.

But misuse of television could revive the candidate spending bill which Congress recently passed but which President Nixon vetoed. Limiting dollars spent in such psychological campaigns—and putting more TV attention on debating the real issues—could well be an important result of such legislation.

[From the Denver (Colo.) Post, Oct. 16, 1970]

TV SPENDING LIMIT VETO WRONG

President Nixon hurt his reputation as a responsible government leader by his veto of the bill to limit political campaign spending on radio and television. And the veto should be overridden.

"The problem with campaign spending is not radio and television; the problem is spending," Nixon's veto message said. "This bill plugs only one hole in a sieve."

This argument, like the sieve he mentions, won't hold water.

Television spending alone is the problem, as every politician knows. Used well, it is a communication medium of great political impact. But it is tremendously costly not only to buy television time, but to prepare the program material needed to use the medium effectively.

And serious students of American politics, as well as practical politicians, have long since established and documented the fact that the cost of television exposure is tending to drive men of modest means out of politics. It is tending to restrict candidates for major political offices to those who either have plenty of money themselves, or are willing to accept, for whatever reasons, the support of people with plenty of money.

Hence the bill made excellent sense with its proposal to limit campaign spending on radio and television to seven cents per vote cast for the office involved in the previous election, or $20,000, whichever was higher.

Lumping radio together with television in this restriction was probably a bit unfair to the radio broadcasters, but the limit itself was right and healthy for the body politic. It would have reopened politics to many good men of modest means who feel they can't compete honestly with the moneybags now.

Sure, as the President said, it would be better if Congress had approved some sort of limits on all campaign spending. That is what has to come eventually if this is to remain a politically healthy democracy.

But the limit on television spending was a good and much-needed start toward that goal, and the President was wrong to veto that beginning effort. We hope the veto is overridden.

CONNECTICUT

[From the Waterbury (Conn.) Republican, Oct. 16, 1970]

TV SPENDING VETO WRONG

It is highly unfortunate that President Nixon had vetoed the bill which would have limited television and broadcast spending in political campaigns, beginning with the 1972 presidential election. The President's reasons for the veto seem somewhat artificial in the light of the inequities inherent in the kind of advertising campaign which can be mounted by a rich candidate, as opposed to a poorer one.

The President labelled the spending curb bill as a "wrong answer" which was "worse than no answer to the problem." He said by limiting the spending curb to only TV and radio, the candidates would simply use the same money, perhaps more, on other kinds of advertisements.

He further criticized the bill for setting a dollar limit rather than a time limit on broadcast campaigning, saying that it would discriminate against urban candidates who must pay higher rates for air time. By limiting TV and radio appearances, President Nixon said it would limit the "ability of many candidates to get their message to the greatest number of the electorate."

The fact that the administration has no plans to submit legislation of its own in the area of campaign spending raises the question as to whether the veto was not politically oriented. Many Republican candidates have vast personal fortunes, and hence are able to spend large sums on campaign advertising.

Since the President made special note of the fact that TV and radio advertising has great impact on the electorate, it seems strange that he is unwilling to correct the inequities in such advertising by equalizing the sums each candidate is permitted to spend by law.

[From the New London (Conn.) Day, Oct. 21, 1970]

OPINION OF THE DAY: WHAT PRICE ELECTIONS?

The privacy of the ballot box and the finality and fairness of the decisions made there are a priceless American heritage, refined over the years so that in all but a few small pockets the decisions made Election Day are unquestioned. Federal, state and local governments have spent much to insure honest elections, realizing that on the integrity of the ballot box rests the integrity of governments.

But the money spent to insure honest elections is a miser's mite compared to the inflated financing of modern political campaigns. Professional staffs this year are bigger than ever and newspapermen who have to do business with them find they know less about the campaign than ever before and share less information with each other, an application of Parkinson's Law to politics. Television drains the resources of a candidate faster than any other medium—and the public enjoys it less. Advertising agencies map campaigns of the most complex and expensive type.

One man running for governor in Florida has capitalized on growing voter antipathy to free-spending campaigns. He walked hundreds of miles down the center of the state, shook thousands of hands and saw what Florida really looked like. He's convinced this "cheap" campaign is the best possible one this year.

There are a number of serious dangers to free-spending. Too frequently, it takes a rich man to mount the original effort leading to nomination. The contributions can come from heaven knows what source—precious few of the donors are coughing up in the idealistic belief that they thus help keep the free election process solvent. Many, too many, feel they're buying a piece of the candidate.

And who keeps track of the money? It's a safe bet that there hasn't been an objectively honest accounting for major office in the cosmopolitan states in the last decade. A host of candidates of both parties now have committees operating for them in Washington, D.C., because Washington has no public disclosure law. (Few state laws are without loopholes, however.)

The saddest performance of all this fall was President Nixon's action in vetoing a bill which would have limited campaign expenditures. He did it, of course, because the money's on the GOP side this year and his own party will have the edge.

Voters ought to be getting just as cynical as the President. Since nothing can be done this year about better control of campaign spending and accurate accounting of who gives how much and where it goes, we'll just have to hope somebody will remember to pressure the 92nd Congress for such regulations when it convenes in January. We've all but outlawed buying elections in the traditional way; now it's time to do something about the more sophisticated money-changing in campaigns.

DELAWARE

[From the Wilmington (Del.) News, Oct. 3, 1970]

LIMITING TV CAMPAIGN SPENDING

Among the politically ticklish issues waiting the President's return from his European tour is the bill limiting campaign expenditures for radio and television.

Rumor has it that the bill is headed for a veto. If so, it may turn into a welcome political football for the Democrats. And, just as important, the Republicans in Congress may not be able to sustain the veto and the President may suffer another humiliating override.

The measure in question would limit the amount of money candidates for the presidency, vice presidency, Senate and House, and governorships could spend on radio and television advertising. It also would eliminate from the equal time requirements television and radio debates between these major candidates. Finally, the bill would require broadcasters to charge their lowest rates to political office seekers.

The philosophy behind this campaign law, which has been heavily promoted by Democrats but has also had Republican support from such people as House GOP leader Gerald R. Ford, Mich., is, of course, to halt the spiraling costs of campaigns. In 1968, for instance, the Nixon-Agnew ticket spent $12 million on radio and television advertising alone, while the Humphrey-Muskie ticket bill ran to $7 million. The bill would limit spending in 1972 for television and radio advertising if any one party's national ticket to about $5 million.

Proponents of the measure also point to the traditional discrepancy between the funds available to the two major parties. Delaware is witnessing this kind of unevenness in funding in the present campaign. The Republicans far outgun the Democrats in both resources and the willingness to expand them.

President Nixon may see fit to veto the bill because it will make possible television debates similar to the ones in which he and the late President Kennedy engaged. These debates worked to Nixon's disadvantage. But in 1970, or two years hence, they may have exactly the opposite effect with a confident Nixon creating the better image. So this consideration would be a weak ground for a veto.

The other argument against the bill is that it limits campaign expenditures in one very restricted area without addressing itself to newspaper ads or to flyers or to any other vote-getting device. Sen. John O. Pastore, D–R.I., who helped steer the bill through Congress, has a sensible answer to this; the bill is only a beginning. One rarely gets a whole reform package at once; this would at least be a start.

If the President believes that political competition should not be only for those who are wealthy or who are backed by wealthy organizations, then it seems he is dutybound to sign this measure. Sixty senators voted for it (and only 19 against) as did 247 representatives (with 112 against)—there is no reason why Mr. Nixon should not follow their lead.

FLORIDA

[From the Miami (Fla.) Herald, Oct. 19, 1970]

ISSUE OF CAMPAIGN COSTS WON'T JUST FADE AWAY

The bill proposed by Congress—and vetoed by the President—to limit political campaign spending for television and radio time would have altered budgets in both Florida and the nation.

The bill would limit spending with a formula based on the number of votes cast in the last general election. The formula calls for 3.5 cents per vote in the primary election, and doubles that figure for the general election.

Based upon that, for example, candidates for President and Vice President in the 1972 elections would be limited to $5.1 million. Both the Democratic and Republican candidates spent more than that in 1968—the Republicans $12.7 million and the Democrats $6.1 million.

In Florida, using the 1968 campaign for U.S. Senate as a base, candidates for the Senate and governor in this fall's election would have been limited to some $61,000 in the primaries and about $122,000 in the general election coming up Nov. 3.

Most candidates for governor exceeded that figure. On television alone, for example, losing Republican candidate Jack Eckerd reported spending $189,000 in the two primaries; losing Democratic candidate Earl Faircloth $90,000; and the Democratic nominee, Reubin Askew, $75,000. The radio time would increase those totals. The television spending of Gov. Claude Kirk, Republican nominee, was not available.

There has been a growing public reaction against campaign overspending, particularly on radio and television, since the mass arrival of the canned commercial. Complaints center not only on the spending, but on the fact that a commercially produced television campaign tends to shield the candidate from the public rather than reveal him.

Just this week a national network newscaster, Frank Reynolds of the American Broadcasting Company, expressed objections to it and James Reston of The New York Times called "the cost of TV campaigning . . . the most corrupt and illegal scandal in the whole of our national political life." A book, The Selling of the President 1968, was a critical account of Mr. Nixon's television campaign.

There were valid general reasons for the President's veto of the bill—including the comment that it would simply divert spending elsewhere, did not deal with indirect spending in a candidate's behalf and would not affect an incumbent's built-in advantage of free media coverage—as well as a political one. The Republicans are in a position to outspend the Democrats this fall, and expect to be able to do the same in 1972.

In any case, public awareness and resentment of campaign overspending is growing, and the issue will not go away.

GEORGIA

[From the Albany (Ga.) Herald, Oct. 19, 1970]

MR. NIXON'S PARTISAN HAT

The President of the United States of necessity must wear two hats. He is the national leader. But he is also his party's leader.

Occasionally, the one responsibility is permitted to lap over into the area of the other. When that occurs, the President does not show to his best advantage. He is merely another partisan.

It is in the latter light that we view President Nixon's veto of a bill to limit radio and television time spending in political campaigns.

The fact of the matter is that President Nixon, like the majority in the House and Senate which approved the bill, has paid fulsome lip service to the proposition that no candidate should be able to "buy" political advantage in the electoral process by dominating the airwaves. The fact is too that the bill in question would have restricted candidates in their use of radio-TV by placing ceilings on such expenditures, admittedly while exempting the other media. But the point is that the score would have been better evened between the wealthy and the less affluent in this one significant regard.

Notwithstanding all of this, Mr. Nixon forbade the bill to become law. Almost apologetically, the President declared: "I am opposed to big spending in campaigns as I am to big spending in Government. But before we tamper with something as fundamental as the electoral process, we must be certain that we never give the celebrity an advantage over an unknown, or the office-holder an extra advantage over the challenger." Such concern is touching. But as a matter of practical politics, what the President's veto does, of course, is to perpetuate a current practice, which gives a decided political advantage to the candidate who can muster the most money for his cause. At the current reading, most of those candidates are Republicans. The GOP started this year's campaign with a surplus of $1.5 million. The Democrats, out of power in the White House, can hardly raise any interest—much less principal—on their debts of $9 million that still hang from the 1968 effort.

In this sense, Mr. Nixon has acted to preserve what might be labeled the "fair advantage" that the Republican Party now enjoys. The 91st Congress, at its lame duck session in November, could possibly muster the two-thirds majority to override the veto, but this is not likely. If the veto stands, Mr. Nixon himself will be the chief beneficiary in his 1972 re-election run.

If the President had said he was acting to preserve the status quo because politics is a hard business and he and his party had to avail themselves of every opportunity to maintain the upper hand over their opponents, that would have been one thing. But to have waxed moralistic and to have struck the high-minded posture in the grimy area of political spending was to have indulged in the absolutely absurd. Mr. Nixon vetoed the spending curb bill for reasons of partisan self-service. Everyone understands that. But everyone, naturally, does not approve.

The American people are not dense. They can still recognize a silky-smooth political operative when they see one. In the judgment of a great many of them, Dick Nixon is up for a past master's award.

IDAHO

[From the Lewiston (Idaho) Tribune, Oct. 20, 1970]

THE CAMPAIGN PROBLEM GROWS

President Nixon's veto of the bill limiting campaign spending on radio and television focuses attention on a serious problem in American politics.

The costs of campaigning are rising faster than the ability of many candidates to raise money. This tends to give an advantage to those who can raise money.

While a man with money has always enjoyed an advantage, the rapidly escalating use of the broadcast media gives him a further edge.

President Nixon is right, we believe, in objecting to the bill as discriminatory. In fairness to the broadcast media, any limit should be placed on total spending rather than on radio and television spending.

But a limit is desirable.

It is estimated that more than $100 million will be spent on this year's congressional election nationwide. Many candidates report difficulty in raising money, partly because of the economic slowdown.

The question of limiting spending has political overtones since the Republicans apparently can expect more money for the 1972 campaign. Democrats in Congress would like to blunt that edge. Aside from that, there is reason for concern that the continued rise in campaign costs, could tip the scales too decisively in favor of candidates with the most money.—Idaho Statesman, Boise.

IOWA

[From the Des Moines Register, Oct. 15, 1970]

COSTLY TV CAMPAIGNING

President Nixon's veto of the Campaign Broadcast Reform Act is disappointing. The bill falls short of providing an answer to all of the problems of campaign financing, but it represents a start toward coping with one of the major problems.

This is the skyrocketing cost of running for major public office, caused chiefly by the resort to "selling" candidates on radio and television. The election this fall is costing

an estimated $150 million, about a third of it for radio and TV publicity. In New York alone, Governor Rockefeller's campaign for re-election is costing $1.5 million for broadcast time and another $400,000 for production costs.

The Campaign Broadcast Reform Act would put all candidates on an equal footing by requiring broadcasters to sell them time at the lowest rate charged commercial clients in the same time segment and by putting a lid on spending for particular offices. The limit is an amount equal to seven cents a vote cast in the previous election for that office or $20,000, whichever is greater. The limits apply to candidates for President, Vice-President, Senate, House, governor and lieutenant-governor. State legislatures are given the option of adding other state officers.

President Nixon's veto message terms the bill discriminatory, impossible to enforce and dangerous to freedom of discussion. He said it "plugs only one hole in a sieve."

The relatively small number of radio and TV outlets should make it practical to collect the data necessary for enforcement. The Federal Communications Commission already collects similar information. The bill's provision making the candidate responsible for all broadcast spending in his behalf should further ease the enforcement problem.

The measure is discriminatory in the sense that it singles out broadcasting, but that is the single biggest cause of astronomical campaign costs. The one hole in the sieve Congress has sought to plug is the largest one, the one most urgently in need of plugging. The candidate forced to live within these limits would still have ample opportunity to take his case to the people. We see no threat to freedom of discussion in the measure.

Congress has wrestled for years with the campaign financing problem to no constructive result. The laws contain more loopholes than anything else. The record is one of dismal failure to achieve comprehensive reform.

The Campaign Broadcast Reform Act is a small but significant step toward coping with the problem of runaway costs. Unless this problem is solved, public office will become the exclusive province of the wealthy or those beholden to the wealthy. Much more than the Broadcast Reform Act is required, but it is needed and it merits congressional action to override the President's veto.

KENTUCKY

[From the Louisville (Ky.), Courier Journal, Oct. 14, 1970.]

MR. NIXON'S REAL REASONS FOR HIS LATEST VETO ACTION

President Nixon's veto of a bill that would have reduced the costs of political campaigning is a disappointment. His reasons for the veto are unconvincing. To say, as he did, that he rejected the measure because it doesn't solve all of the problems of campaign financing, won't wash. Of course it wouldn't. No one said it would.

The measure he has probably killed, however, would have reduced the costs of campaigning on television and radio, and it is these media that get the lion's share of campaign budgets now.

If, as the President said in his veto message, the limitation of campaign spending on radio and television is the "wrong answer" to the problem, then what is the right one? What does he suggest as an alternative? Nothing.

A variety of proposals have been advanced to help correct the existing imbalance that makes it all but impossible for a poorly financed candidate to mount an effective campaign for public office. They include cash subsidies to parties and candidates by federal and state governments, tax incentives to encourage political donations, government subsidies of campaign communications. Mr. Nixon was silent on which if any of these approaches he would prefer to the bill he vetoed.

The cost of buying radio and TV time is an increasingly important part of the whole problem of political financing in a democracy, and Congress was finally willing to do something to stem this inflationary trend, only to have the President say no.

The bill also would have repealed the equaltime provision of the Communications Act to allow broadcasters to present debates and other appearances by major-party nominees without giving the same amount of time to fringe candidates. Broadcasters have favored repeal of this provision—but many of them would rather be stuck with it than see political spending on radio and television limited.

A REASONABLE ARGUMENT

Mr. Nixon's argument that the limitation discriminates "against the broadcast media" sounds reasonable. It would have been better to limit all forms of spending in political campaigns. However, the bill Congress approved did get at the most expensive form of political exposure, and one of the politicians obviously consider the most effective.

Television and radio spots also lend themselves to great oversimplification of issues and empty sloganeering.

There is another consideration. Radio and television are subject to Government controls that no other media are subjected to; the air waves belong to the people but are assigned by the Government to broadcasters. If Congress is to limit campaign spending in any of the media, radio and television would be the logical place to start.

President Nixon knew what he was doing when he vetoed the bill. He was preeminently the radio and television candidate in 1968, and spent twice as much on these media as the opposition; of course, he had twice as much to spend, as the Republicans usually do.

The National Committee for an Effective Congress worked hard for passage of the bill the President has vetoed. Russel D. Hemenway, its director, called the veto "the most flagrant example of partisan interest we have witnessed in NCEC's 22-year history." He said the real reasons for the veto were a Republican interest "in preserving the current GOP financial advantage" and a presidential effort "to avoid the possibility of meeting his 1972 opponent in open debate."

The latter was a reference to the section of the bill repealing the equal-time clause, the clause which Mr. Nixon used to his advantage to avoid a television debate with Hubert Humphrey in 1968.

It will be difficult for Congress to muster the two-thirds majority necessary to override a veto, but the effort ought to be made.

[From the Louisville (Ky.) Courier Journal, Oct. 9, 1970]

REDUCING THE HIGH COST OF POLITICS

WE HOPE the speculation that President Nixon might veto a bill limiting political spending for radio and television time is not borne out. The measure approved by Congress could sharply reduce campaign costs that are rising out of sight.

Under the terms of the legislation, a candidate for President, Vice President, senator, representative, governor or lieutenant governor would be limited to seven cents for each vote cast in the last election for that office, or $20,000, whichever is higher. The spending is limited to half that formula for primary elections.

In addition, the bill requires stations, radio and television, to sell candidates time at the lowest rate offered to other advertisers. It also repeals the "equal time" provision of the Communications Act in its application to candidates for President and Vice-President.

This means networks could offer broadcast time to major party and "significant" third-party candidates without being forced to give fringe parties the same amount of time.

The whole problem of political financing in a democracy is a troubling one, and the high cost of buying radio and television time is a big part of the whole.

Ideally, candidates representing important viewpoints should have an equitable opportunity to express them; they do not now, unless they can come up with the cash for television and radio exposure. The measure now on President Nixon's desk would significantly reduce the cost of this kind of exposure. Republicans, who have more to spend, tend to oppose the bill, and Democrats tend to favor it because usually they have less to spend.

It would be a pity if the bill fails of final enactment because of partisan political considerations; in the long run, anything that will reduce the high cost of political campaigning should be welcomed by all parties.

[From the Louisville (Ky.) Courier-Journal, Oct. 23, 1970]

SENATOR COOK JUST BLURS THE ISSUE

Speaking here this week Senator Marlow Cook tried to defend President Nixon's veto of a bill that would have limited political spending on radio and television. In the course of his defense, he noted that this newspaper along with some others had criticized the President's veto; and he said: "It seems to me we've picked on one medium and let everyone else go free."

The implication is that *The Courier-Journal* is in favor of limiting campaign spending on radio and television but not on buying advertising space in newspapers.

That is not the case. In our editorial comments on the issue we maintained that the bill was only a first step, but an important one. We made it clear that we favor reducing the cost of campaigning across the board and in all media, including newspapers.

A BILL OF SIGNIFICANCE

However, the Political Broadcast Reform Bill vetoed by President Nixon was a significant move towards reducing campaign costs. The bill had the strong support of the National Committee for an Effective Congress, a non-partisan organization. Commenting on the veto, the NCEC declared:

"To rationalize the administration veto, it has been argued that this bill plugs 'only one hole in a sieve.' This is a smokescreen. There is no hole in the campaign sieve as large or important as the cost of radio and television. To advocate instead a catchall measure which deals with newspaper advertising, billboards and other campaign techniques, over which the government has no comparable controls, and whose cost and uses pale by comparison to television, is merely an effort to avoid the issue."

Senator Cook also justified the President's veto of the bill with the plausible-sounding argument that it would give an unfair advantage to incumbent officeholders. It is the same argument advanced in the veto message. It is specious.

For one thing, the real disadvantage most unknown challengers face is the problem of raising enough money to buy *any* air time at all. Furthermore, the advantage of incumbents or well-known candidates would be reduced, not enhanced, by the bill. Why? Because the TV and radio dollar would have greater purchasing power; the 25 to 50 per cent reduction in the cost of air time would give greater access to television and afford all candidates an opportunity to purchase at least a minimum amount of exposure at reasonable rates.

Mr. Nixon's veto of the bill was indefensible in logic and fact. The bill was the first

significant campaign finance legislation to pass Congress, with bipartisan support, in almost half a century. It would have been the first step toward bringing the alarming increase in election costs under control.

We hope Congress overrides the veto.

MARYLAND

[From the Baltimore (Md.) Sun, Oct. 14, 1970]

LIDS OFF

(By Thomas O'Neill)

President Nixon successfully subdued his nobler nature as he approached the bill to put a rein on inordinate political spending for television, and his veto was full, firm and wholly partisan.

His inspiration was uncomplicated: The records on Capitol Hill showing that the big money contributors favor Republicans over Democrats, six to one.

It was apparently the first presidential veto ever of legislation restraining campaign spending, at least since enactment of the pre-television Corrupt Practices Act of 1925. Another first was that it was the only spending-limitation bill free of the loopholes by which Congress commonly makes sure that such laws are toothless.

The present administration early showed a coolness toward legal curbs upon profligate use of money in political campaigns, and the veto was thus in character.

Its position was made clear when the Department of Justice declined to prosecute a roster of delinquents from the 1968 campaign reported by the clerk of the House of Representatives as snubbing the long-standing requirement for accountings to campaign spending. The requirement on the books since 1925 thus became formally a dead letter.

Of greater concern to voters generally is the circumstance that the President's veto also struck down a provision to encourage debates between presidential candidates. Mr. Nixon clearly has no affection for such face-to-face encounters as a consequence of his unfortunate 1959 venture with John F. Kennedy, a meeting that cost him the White House then.

The sticking point that has blocked debates since that year, hand in hand with the coyness of incumbents who have no wish to give challengers a chance to score against them, is the equal time rule of the Federal Communications Act. It requires that broadcast time made available to one or more candidates must be provided all other candidates for the same office, the lunatic fringe included. The networks naturally offer no time to candidates while they face this restriction, and there are no debates.

That inhibiting provision would have been nullified by the vetoed bill. It had been suspended by Congress in 1960 for that campaign only. President Johnson saw to it that there was no suspension in 1964, when he was a candidate, and Congress since declined to lift it.

Its repeal would have been in the public interest in future campaigns, on the evidence that the Nixon-Kennedy debates stirred election interest on the part of millions who otherwise regard the candidates as remote. Mr. Nixon's veto message spoke of the bill before him as an impediment to freedom of discussion, but slid past the topic of free discussion between presidential candidates.

The basic purpose of the legislation was to make the now indispensable television screen available on roughly equal terms to all candidates, the impecunions as well as the loaded. As it is, the candidate able to finance unlimited brief commercials—now professionally esteemed above any other use of the airwaves, partly because their message is on and off before the viewer can get to the television set to switch channels—enjoys a distinct advantage over an opponent unable to get up the scratch.

The legislation undertook to come to grips with this inequity by limiting spending to 7 cents per vote cast for the same office in the preceding election, with an overall ceiling within the reach of serious candidates. Congress, which essentially is a collection of candidates, succumbed to greed at this point, and attempted to make the broadcasters involuntary contributors to campaigns by legislating cut rates for political candidates.

A hopeful sign is that a number of candidates in the campaign now under way have voluntarily entered into agreement with opposing candidates to adhere to the limits the abortive bill would have imposed, or mutually agreed limits.

Such an agreement was sealed in Ohio by contenders for the United States Senate, Robert Taft, Republican, and Howard Metzenbaum, Democrat, the second of whom won his nomination by lavish spending on television. Senator John Pastore of Rhode Island, parent of the bill vetoed by Mr. Nixon, has a similar understanding with his Republican challenger, the Rev. John M. McLaughlin, a priest to whom the limitation was probably highly welcome. In Michigan, Senator Philip A. Hart and his opponent, Mrs. Lenore Romney, agreed to spend no more than $170,755 each on all forms of advertising.

For other candidates, the lid is off, thanks to the President.

MASSACHUSETTS

[From the Boston (Mass.) Globe, Oct. 21, 1970]

PUBLIC OFFICE: IS IT FOR SALE?

President Nixon's message accompanying his veto of the bill limiting political campaign expenditures is one of the most plausible communications that will be awaiting Congress when it reconvenes after the election. A vote to override the veto will be high on the docket at that time. If Congress reads the President's message carefully, it will find that his stated reasons for vetoing the bill are the very reasons which most persuasively argue for overriding the veto.

Mr. Nixon concedes that the bill he has vetoed "is aimed at highly laudable and widely supported goals of limiting political campaign expenditures and preventing one candidate from having an unfair advantage over another."

This is indeed the bill's aim. It would limit the sums that candidates for major elective office may spend on radio and television to seven cents per vote cast for the office in question in the last election or $20,000, whichever is greater. Contrast this with some expenditures of candidates in next month's election, and the need for legal limitation cannot be lightly passed off.

Rep. Richard Ottinger (D-N.Y.) spent $1.8 million on radio and TV in his primary campaign for the United States Senate and is spending an estimated equal sum in the current campaign. Sen. Ralph Smith (R-Ill.) will spend an estimated $1 to $2 million on radio and TV in his campaign for reelection. New York's Gov. Rockefeller (R) had a TV and radio budget of somewhere between $2 and $5 million in 1966 and will spend at least that much in the current campaign. In Texas where it is virtually impossible to get figures on spending, both the Republican and Democratic candidates have what the Committee for An Effective Congress calls "multimillion budgets." Sen. George Murphy (R-Calif.) is another of several who is spending well over million is his campaign for reelection.

The Republicans spent $12 to $13 million on television to elect Mr. Nixon in 1968, and the Democrats spent $6.1 million on TV in the Humphrey campaign. It is fair to wonder whether the difference in TV funds contributed to Mr. Nixon's win. The Congress seems to believe this is possible, for its bill would limit TV spending to $5.1 billion per party in 1972.

The need for a limitation is demonstrated by the fact that total radio and TV expenditures by all candidates in 1968 was $59.4 million, up 70 percent over the previous figure. A large part of it was for so-called spot plugs which usually serve no purpose except to denigrate the opposition through innuendo. The suggestion that candidates thus are buying public office may be unfair. But even if the suggestion is as wide of the mark as may be, it nevertheless does demonstrate that an unfair advantage accures to the candidates who either are very wealthy themselves or have access to lush contributions.

"Nearly everyone who is active in the political process wants to find some way to limit the crushing and growing cost of political campaigning," Mr. Nixon has conceded.

This being so, his argument that the bill he has vetoed does not put a limit on all avenues of expenditure is not compelling. The answer to his objection is not to throw away the limitation that has passed the Senate by a vote of 60 to 19 and the House by 247 to 112. The answer is to save what the Congress has done and improve upon it as time goes by. Mr. Nixon, in vetoing the bill, has scored what might be called debater's points. But a reading of his message suggests that it must have been written with tongue in cheek.

[From the North Adams (Mass.) Transcript, Oct. 17, 1970]

AN ILL-ADVISED VETO

Although the tears being shed by some of his critics probably have a touch of the crocodile, President Nixon rates no cheers for his veto of the bill which would have put ceilings on the amounts political candidates could spend on radio and television advertising.

Not that the bill was an exceptionally good piece of legislation. It had obvious faults and quite likely would have fallen short of achieving what its sponsors hoped.

But it was a long way from deserving President Nixon's description of it as "worse than no answer at all" to the problem of soaring campaign spending.

And he didn't have to veto it.

That was where his action was open to question. He could have returned the measure to Congress, noting his objections to the bill as it stood, and suggesting that it be amended to become more acceptable.

In using his veto power, however, he quite possibly delivered a death blow to the reform. For, though the proposal was supported by more than a two-thirds vote in both houses—and a bipartisan vote, at that—it is much more difficult to obtain a two-thirds vote to override a presidential veto.

The veto enabled Democrats to charge that the President was acting from partisan political motives. And that charge means, naturally, that Republicans who were recorded in favor originally will be reluctant to vote to override.

The bill had flaws. For example, as the President correctly pointed out, it placed curbs only on radio and television advertising, leaving candidates a free hand to spend in other forms of campaigning.

Nor did it make any satisfactory provisions for enforcement. There necessarily would be a time lag between violation and detection, and a winning candidate might be complacent about public censure after the votes were counted.

Surely, though, these were remediable faults. They could have been corrected if the President returned the bill with a request for amendments—especially if he himself were to suggest ways to tighten the loopholes.

And in any case, if they were serious faults, they would become apparent in practice and could be repaired, just as has many other inadequate legislation.

Other objections by the President were trivial. He said the bill would give an advantage to incumbents, who have more opportunity for exposure. But that is true now, as the President certainly must be aware. And his complaint that the government would be cast in the role of placing price controls on a private industry is not valid. After all, radio and television already are under governmental regulation.

Most of the wails are coming from Democrats because they perceive, rightly enough, that the White House has built-in resources for campaigning and wants to keep them. If the situation were reversed, they undoubtedly would be not so receptive to reform.

But unbridled political spending is an evil that has been recognized for a long time, and it is too bad that President Nixon seems to have closed the door against reform, however imperfect, by his veto.

[From the Fall River (Mass.) Herald-News, Oct. 15, 1970]

NIXON VETOES TV SPENDING BILL

Congress seems uncertain about whether the President's veto of the TV spending curb measure will be upheld. There is considerable criticism of the veto, but a prevailing sense that on this question, the final vote may follow party lines. If it does, then the number of votes to override may fall short of the two-thirds needed to make the TV political spending limit a law, even without the President's approval.

In explaining his veto, the President ponted out flaws in the measure, which in his opinion invalidate it as a solution to the problem of holding campaign expenditures within reasonable limits. Some of the points the President makes are reasonable enough, but they seem at a tangent from the main issue, which is how to equalize the TV exposure of candidates, especially national candidates, in a presidential election year.

Most observers, however, believe the President's motive was both personal and political. As matters stand, the Republican Party has far more funds at its disposal to purchase TV time than the Democrats. The veto is therefore considered to be an attempt by the President to ensure that the party he heads will retain that advantage.

This is, however, precisely the kind of advantage the measure is intended to limit. Unless the President makes a much stronger case for his veto than he has up to date, Congress should override it and impose limits to campaign spending on TV.

[From the Worcester (Mass.) Telegram, Oct. 15, 1970]

A POLITICAL VETO

President Nixon's veto of the bill to limit radio and television campaign spending proves that it is going to be very difficult to get any workable controls on political funds.

Although Nixon tried to justify his veto on principles, it was politics that decided the issue. Had he signed the bill, he would have hurt the Republicans more than the Democrats. The GOP spent $12.7 million in the 1968 elections, while the Democrats spent $6.1 million. The bill would have restricted radio and TV spending for each party's national ticket in 1972 to $5.1 million.

Some of Nixon's objections are valid. The bill would be hard to enforce. It would not put any limit on campaign spending, but only on spending for radio and television. It might work unfairly, in that candidates from large cities would be allowed only a few minutes of TV commercials, whereas other candidates from rural areas would be allowed to blanket their whole area with political commercials.

Still, the bill was a significant first step toward campaign spending reform. It could be better strengthened in the ways Nixon suggested, rather than killed outright.

It is really no justification to say that a Democratic president would probably have done the same thing. If we are to have effective control of the rivers of money that now are influencing elections in this country, somebody will have to make some tough, unpopular decisions.

Unless the bill comes back in revised form, or the veto is overridden, there will be no progress toward such decisions.

[From the New Bedford (Mass.) Standard-Times, Oct. 2, 1970]

REINS ON ELECTION COSTS

Loosely drawn it may be, as an opponent charged in the Senate, but the political broadcast reform bill sent to the White House by Congress is a long-needed effort to make U.S. elections cleaner and more representative.

By limiting the amount a candidate can spend for television and radio, which takes the greater part of the campaign purse, the measure lessens the headstart that wealth lends to pursuit of public office.

But it would be inaccurate, as well as naive, to say, as did Sen. Pastore, D-R.I., that the reform is needed to "give an equal opportunity to the poor man as well as the rich man . . ." The well-qualified poor have plenty of opportunity for political careers in this nation.

Richard Nixon certainly wasn't a rich man in 1960, when he lost the presidency by 115,000 votes; nor was Harry S. Truman, when elected in 1948. And, we would say, wealth is not one of the political assets of any of the Massachusetts delegation in the U.S. House or of its junior senator, Edward Brooke.

Conversely, however, unlimited financial backing available for television is almost enough of itself to put a person in important political office, with pertinent qualifications being secondary. And when one candidate is spending heavily on such a medium, the others feel they must, too, which leads to excesses in raising the funds and to unwise commitments in accepting some.

The ceiling proposed by Congress—7 cents for every vote in the previous election for the office the candidate seeks—would apply to candidates for President, vice president, Congress, governor and lieutenant-governor.

In New York State, for example, this would mean a limit of $460,000 for television and radio in a U.S. senatorial candidate's budget. One current candidate is reported to be spending four times that.

It may be a weakness of the bill that some so-called lesser offices were not included. Having an aspirant for attorney general spending more than the gubernatorial candidate—and generously inviting him to appear as his TV guest—looms as a possibility, and a loophole.

Although some Republicans voted against the bill, they would seem to have less at stake than Democrats in a curb on such spending. The "in" party is the GOP, which means that the normal TV exposure of the President would help their cause. Moreover the vast labor union spending, traditionally Democratic in flavor, would be less of a factor.

Mr. Nixon has been reported both as resigned to the measure's becoming law, and preparing a veto. He should approve it. Campaign spending is becoming a disgrace in its extent, and a bore in its incessant demands on the electorate. And the greater it grows, the greater the chance for unwanted influences to claim, via the dollar, a share of a political aspirant's attention.

This reform would cut down over-all spending and deserves a chance. If the President wants to delay signing it until a date that precludes its being effective until after the elections in November, that is understandable. But let it become law.

[From the Detroit (Mich.) Free Press, Oct. 19, 1970]

NO REASON FOR A VETO

President Nixon raises some good arguments against the campaign spending bill he vetoed last week. But they are few and late. By withholding them until now, Mr. Nixon has made it difficult for his friends to be enthusiastic about the veto, and difficult for friends or enemies to believe that partisan motives played no role in his decision.

Mr. Nixon's complaints were several: That the spending restrictions were neither foolproof nor, in effect, even-handed; that enforcement would have been difficult and potentially disruptive; that the bill left incumbents at an advantage over challengers, and imposed severe restrictions on television while ignoring other media.

But the flaw in these complaints is that they could be raised against almost any beginning step toward spending reform. The incumbent of any newsworthy office always holds challengers at a publicity disadvantage. If enforcement of this bill would have been difficult, so too would enforcement of any restriction real enough to tempt violation. If the spending restrictions were a good deal less than perfect, surely this is a universal truth of first efforts at reform and regulation, a truth that can be spoken by any critic so inclined.

Mr. Nixon was inclined not only to voice these objections, but to use them as a rationale for an outright veto. And here politics must be mentioned. For the veto plainly favors the comparatively well-funded Republicans at this point in political history, and political lieutenants were prominent among those urging Mr. Nixon to cast it. Neither of these truths has been lost on the Democrats, and now the well of campaign reform is poisoned with partisan antagonisms.

This is a legacy of Mr. Nixon's veto, whether he intended it or not. Of course, a larger legacy is delay in legislating campaign reforms. In this exclusive attention to television, the vetoed bill went to the source of the most blatant abuses. It left the challenger handicapped against incumbents but did upset his present, double disadvantage to incumbents and rich men as well. It was indeed only one plug in a sieve, but it was better than none.

All of which is to say that the nation needed to make some beginning, however imperfect, toward diminishing the role of wealth in government and grappling with television's unique influence as a political instrument. If Mr. Nixon had ideas about how the beginning should be made, he could have offered them earlier. Failing that, he should have stood aside and given others room to try.

[From the Detroit (Mich.) Free Press, Oct. 6, 1970]

SAY IT AIN'T SO, PREZ

The President, word has it, may veto a recently passed bill limiting campaign expenditures for radio and television. We must hope word has it wrong.

The arguments offered in favor of a veto are several. Some say that the TV-spending bill is an incomplete attack on the problem of campaign costs, and that it would disadvantage challengers since incumbents get exposure in regular news coverage. Some say the President will veto the bill because the Republicans are better funded than the Democrats at the moment, and would therefore be more seriously limited by restrictions on spending.

That the bill would tend to discriminate against challengers is true, but not necessarily pertinent. Such an argument could be

raised against any reform measure, since the publicity advantage of incumbents is natural and all but unavoidable. A greater truth is that, without the TV reform bill, many challengers will remain at a twin disadvantage both to incumbents and to any contender with easy access to money.

The partisan argument for a veto is strong. It is true that the Republicans are financially better off than the Democrats at this point. And the Nixon administration has been almost desperately interested in forging Republican political gains, to help Mr. Nixon deal with his adversaries in the Congress and elsewhere.

Partisan politics are part of government in a democracy, of course, and any president who wants to be more than a caretaker must worry about them. But there are lines that must be drawn, and partisan interests to which the White House cannot responsibly be devoted. A partisan veto of the TV-spending bill would be sadly out of bounds.

For the truth is that the influence of wealth on American politics has been little short of scandalous. The fancy spending going on at this very moment in New York's senatorial campaign is one of the largest political outrages in recent memory.

It is time to break the political advantage of wealthy men and moneyed special interests, and to grapple with television's unique influence on the political process. If the TV-spending bill is only a partial step, it is far better than none at all. The President ought to sign it.

MISSOURI

[From the Kansas City (Mo.) Times, Oct. 20, 1970]

CANDIDATES AND THEIR TV RATINGS IN AN ELECTION YEAR

President Nixon has vetoed the bill that would limit political campaign broadcast spending. He said that it was worse than no answer, that it was the wrong kind of answer. He compared it to plugging only one hole in a sieve.

Essentially the measure would have put a ceiling on such expenditures based on a ratio of dollars and the number of voters in previous elections. On the basis of the 1968 election, for example, presidential and vice-presidential candidates would have been limited in 1972 to 5.1 million dollars. (In 1968 the Nixon-Agnew TV-radio campaign cost more than 12.5 million; Humphrey-Muskie appearances cost just over 6 million.) It also would have repealed the "equal time" section of present law and thus would have let broadcasters set up debates on the national level wtihout having to give time to splinter groups.

The bill may not have been perfect but it was the only one we had. The President's veto is to be regretted. The selling of candidates, whether for the presidency or for the lowest office in the land, ought not to be predicated on an electronic brainwashing of the voters. We are not referring to public service debates or interviews. But much of the current campaign literature emerging over TV in recent weeks seems based on the lowest common denominator of voter intelligence.

How many political commercials have you seen that emphasized the handsome appearance of the candidate and his winsome personality? How many have you seen that got into issues that concern the American people in 1970?

All candidates are against crime in the streets, inflation, injustice, poverty, cruelty, war, rioting and disease. But very few have the inclination to say exactly how all these ills will be wiped out by the election of the face on the screen.

The Republicans have the money now and naturally they are in favor of unrestricted expenditures for candidate exposure. If the Democrats were in power and had the big bankroll instead of a debt from 1968, their attitude might be the same.

The novelty of candidates packaged like soap or frozen pizza has in undeniably powerful effect on the course of elections. In his veto the President said that the bill would "give the celebrity an advantage over an unknown."

Certainly the present system gives the extremely rich a powerful advantage over the candidate of modest means and small financial backing. Candidates who have been unknown for the very good reason that they had no qualifications except a lot of money have won important races in recent months. Eventually the show biz effects of TV politics may wear away. But in the meantime elections are being held and restraints probably are in order. The issue will be back again in the next Congress. It is unfortunate that it couldn't have been settled this year.

[From the St. Louis (Mo.) Globe-Democrat, Oct. 24, 1970]

VETO FATE MAY RIDE ON MONEY

WASHINGTON.—When Congress returns next month after the elections, it will be fascinating to see whether members who have been bloodied during the campaign through lack of money will be ready to override President Nixon's veto of the measure to limit broadcast spending.

The word here is that many candidates in both parties are having serious difficulty in putting their cases before voters because they are unable to raise the needed funds.

The Republicans' national treasury, while not overflowing, has done well in raising money. But the checks which the GOP campaign committees distribute to individual candidates around the country usually cover only a fraction of the bills that must be incurred on the actual firing line.

The Democratic National Committee and its associated organizations suffer from internal party strife and the simple fact that Republicans control the White House and the executive departments. Donations to the national Democrats are perhaps only 20 per cent of the Republican total.

The reliable weekly magazine National Journal, after making a detailed survey across the country, concluded that the squeeze on candidates generally is more excruciating this year than ever before.

Costs of running for office are at a record high, and the economic slowdown has cut deeply into political giving, the magazine found.

In Princeton, N.J., Herbert Alexander, director of the Citizens Research Foundation, and probably the most knowledgeable campaign-money watcher, estimates that $150,000,000 will be spent this year on all major campaigns.

Where does such money come from? It comes from wealthy candidates and these relatively few wealthy people who are willing to write large checks. It comes from labor unions and corporations which use various devices to circumvent the law forbidding them to give. It comes from special-interest groups which concentrate on the strategically placed congressional committee members who can make or break their causes.

Some of the money even arrives in small checks of $5, $10, and $25. This is the kind most office-seekers like to see because no strings are attached, and the givers motives are pure.

Everyone involved in national politics has long known that the two federal laws which seem to regulate campaign finance are worse than useless. They merely give the appearance of imposing some limits on spending and of requiring public reportnig.

President Johnson called one of the federal laws "more loophole than law." By common consent, the laws were not enforced by either party. Starting in the closing years of the Johnson administration and continuing in the Nixon administration, a number of prosecutions have been brought, mainly against corporations and labor unions.

But nothing has been done, because of the murkiness of the laws, about candidates and their finance chairmen who received illegal contributions.

The bill which Congress finally sent to President Nixon was the beginning of an effort to straighten out the money mess, mainly by setting realistic ceilings on TV and radio spending by candidates for President, Congress, and governor.

In his veto, Mr. Nixon called the measure a "wrong answer" to an admitted problem.

He said, correctly, it would have given an advantage to incumbents and other candidates who are already well known to voters. He did not mention that as long as Republican national groups can far outdo the Democrats in fund-gathering, the GOP is better off without the proposed new law.

But non-presidential candidates, Republican and Democratic, may feel differently, judging from their current financial horrors as described in the National Journal article. If so, they'll have their chance when Congress reconvenes and considers whether to override the presidential veto.

[From the St. Louis (Mo.) Post-Dispatch, Oct. 15, 1970]

PARTISAN FLUMMERY

For the second time this month President Nixon failed to match words and action. First it was the constitutional amendment to permit the direct election of presidents, a concept which Mr. Nixon has endorsed glowingly. But having benefited politically from the archaic electoral college system, he refused to lift a finger for the reform cause when the crunch came in Congress. As it stands, only a herculean effort by Congress can resurrect it.

Now it is the bill to limit spending by political candidates for television and radio broadcasting, which the President described as a "highly laudable and widely supported goal." The trouble is those words came in a message accompanying his veto of it. His rationale is that the limitation would give an unfair advantage to the candidate who is already known, fails to limit spending on other forms of advertising and thus, "plugs only one hole in a sieve."

Surely even the most partisan Nixon cheerleader can see such arguments for what they are: pure flummery spawned by the same partisan self-interest that led Mr. Nixon to permit the demise of the electoral college reform amendment. Whether campaign expenditures are limited or not, the known will always enjoy a certain advantage over an unknown opponent. It is the richly financed advertising blitzes on the electronic media that can make unknowns such as Illinois Senator Smith into household words, as Mr. Nixon knows.

Mr. Nixon's real motive in vetoing the TV spending bill is obvious. His Republican Party specifically and its candidates in general have more money than the Democrats and the President wants the advertising advantage it gives them left as is. The wholly independent, nonpartisan National Committee for an Effective Congress described Mr. Nixon's veto as "the most flagrant example of partisan interest we have witnessed in our 22-year history." We can only concur.

[From the Kansas City (Mo.) Times, Oct. 26, 1970]

CANDIDATES AND THEIR TV RATINGS IN AN ELECTION YEAR

President Nixon has vetoed the bill that would limit political campaign broadcast spending. He said that it was worse than no answer, that it was the wrong kind of an-

swer. He compared it to plugging only one hole in a sieve.

Essentially the measure would have put a ceiling on such expenditures based on a ratio of dollars and the number of voters in previous elections. On the basis of the 1968 election, for example, presidential and vice-presidential candidates would have been limited in 1972 to 5.1 million dollars. (In 1968 the Nixon-Agnew TV-radio campaign cost more than 12.5 million; Humphrey-Muskie appearances cost just over 6 million.) It also would have repealed the "equal time" section of present law and thus would have let broadcasters set up debates on the national level without having to give time to splinter groups.

The bill may not have been perfect but it was the only one we had. The President's veto is to be regretted. The selling of candidates, whether for the presidency or for the lowest office in the land, ought not to be predicated on an electronic brainwash of the voters. We are not referring to public service debates or interviews. But much of the current campaign literature emerging over TV in recent weeks seems based on the lowest common denominator of voter intelligence.

How many political commercials have you seen that emphasized the handsome appearance of the candidate and his winsome personality? How many have you seen that got into issues that concern the American people in 1970?

All candidates are against crime in the streets, inflation, injustice, poverty, cruelty, war, rioting and disease. But very few have the inclination to say exactly how all these ills will be wiped out by the election of the face on the screen.

The Republicans have the money now and naturally they are in favor of unrestricted expenditures for candidate exposure. If the Democrats were in power and had the big bankroll instead of a debt from 1968, their attitude might be the same.

The novelty of candidates packaged like soap or frozen pizza has an undeniably powerful effect on the course of elections. In his veto the President said that the bill would "give the celebrity an advantage over an unknown."

Certainly the present system gives the extremely rich a powerful advantage over the candidate of modest means and small financial backing. Candidates who have been unknown for the very good reason that they had no qualifications except a lot of money have won important races in recent months. Eventually the show biz effects of TV politics may wear away. But in the meantime elections are being held and restraints probably are in order. The issue will be back again in the next Congress. It is unfortunate that it couldn't have been settled this year.

NEBRASKA

[From the Lincoln Evening Journal and Nebraska State Journal, Oct. 16, 1970]

VETO ON TV SPENDING BILL

Everyone has been saying something ought to be done about the high cost of campaigning for state and national offices.

Congress finally came up with a bill to limit radio and TV campaign spending for certain high offices, not a perfect bill, possibly not even a good bill. At least President Nixon didn't think so.

In vetoing it he gave some rather plausible reasons:

It would limit only radio and television spending, and candidates would simply use the same money—perhaps even more—on newspaper ads, billboards, pamphlets and direct mail.

By limiting television and radio appearances, it would "severely limit the ability of many candidates to get their message to the greatest number of the electorate."

By requiring broadcasters to charge candidates a minimum rate, it would put Congress in the business of setting rates for a private industry, "a radical departure."

It would raise the possibility that an election result might be challenged and determination of a winner might be delayed.

It would not affect the incumbent's built-in advantage of getting free media coverage but would place a limit on the challenger's ability to counter this advantage, endangering "an integral part of the American political tradition."

To sum up in his veto message the President said, "I urge that the Congress continue to analyze and consider ways to reach this goal through legislation which will not restrict freedom of discussion, will not discriminate against any communications medium, will not tend to freeze incumbents in office, will not favor the famed over the worthy but little-known, will not risk confusion and chaos in our election process and will not promote more rather than less campaign spending."

Then after all that the White House said, "We don't have any legislation in mind, but we recognize this as being inequitable."

The cynics may be forgiven for raising a few doubts of their own.

The cynics can also wonder about the unfairness of it all when the Republicans have a fat purse and the little known "outs" have famed friends with well known names such as Tricia, Richard and Spiro who are willing to spare no time, words or expense to come to their rescue.

In the meantime the really little knowns, the voters, are the victims. The high cost of campaigning is seriously limiting their choices. There is rarely a serious contender in the primary against an incumbent and too often a voter may be faced with voting not for what would be his real choice but what he may consider the lesser of two evils.

While Congresses and administrations (the ins) fail to come to grips with this issue, the very foundations of government are being weakened by making it impossible for qualified persons (but not rich) to get into the political game.

NEW JERSEY

[From the New Brunswick (N.J.) Home News, Oct. 14, 1970]

TV SPENDING CURB VETO IS UNWISE

President Nixon's veto of a bipartisan bill to limit radio and television spending in political campaigns will almost certainly make a political issue out of the first significant effort to reform campaign finances in 50 years.

While correctly pointing out that the reform measure does not provide a full and adequate solution to the problems of excessive campaign spending, the President has offered no substitute bill. And this, to use the President's own words in his veto message, is "worse than no answer to the problem."

Rapidly increasing use of radio and television advertising is the major reason for the almost ruinous expense of running for high office. The bill the President vetoed would have limited spending for TV-radio time to $5.1 million for each party's national ticket in 1972.

It has not gone unnoticed by Democratic supporters of the TV spending curb that in 1968 the Democrats spent $6.1 million while the Republicans laid out $12.7 million in a TV campaign which has since become the subject of a best-selling book on the "selling" of the presidency. And the GOP's coffers are still bulging while the Democrats bemoan their starvation diet of campaign funds.

Party fortunes have a way of changing, however, and no meaningful reform of campaign finances can be made if congressmen—and the president—have one eye on their party's balance sheet.

The bill President Nixon has vetoed was a significant and reasonable first step in a bipartisan effort to curb flagrant excesses in campaign spending. If Congress is truly concerned about this serious problem, it will reject the President's criticism and override his veto on a bipartisan basis.

[From the Trenton (N.J.) Times, Oct. 14, 1970]

NO LIMITS ON TV

President Nixon, in his veto of a bill to limit campaign spending on television and radio, has warned Congress of the pitfalls risked by an attempt to "tamper with something as fundamental as the electoral process."

The TV blitz that has proved able to nominate and elect candidates with enough money to spend on political spots is not, of course, fundamental to the electoral process. It's a special development of modern campaign technology whose excesses have gone beyond the point that needs control.

Under the legislation vetoed, a candidate could spend on broadcast advertising no more than seven cents for each vote cast in the preceding election, and radio-TV stations could charge political candidates no more than their lowest commercial rate. The bill is not ideal, and some of the flaws pointed out in the Nixon veto message—for example, the permissible amount will buy several times as much TV advertising in Wichita as it does in New York City—are valid ones.

But the controls approved by Congress might work a great deal better than the veto message admits, and surely better than the present absence of effective regulation. Since the administration did nothing to secure legislation to its own liking, the onus for the continuation of uncontrolled campaign spending on radio and TV lies squarely with the President.

[From the Atlantic City (N.J.) Press, Oct. 15, 1970]

IT WOULD HAVE BEEN A START

Overwhelming surprise was not one of the effects of President Nixon's veto of the bill setting tough limits on radio and television commercials in election campaigns.

Politicians had been expecting it, and had made no secret of the fact.

Whether he felt smug or gloomy about the prospect depended on whether the politician was a Republican or a Democrat.

Everyone knows that Mr. Nixon is a Republican and most people are aware that the Republicans are the financial fat cats while the Democratic Party in this respect makes the average homeless alley cat look well-fed by comparison.

So it is not hard to understand why the Democrats, struggling painfully to get out from under a huge debt piled up during the 1968 presidential campaign, favored limiting expenditures on TV and radio; nor why the GOP, sitting high on its bulging money bags, saw the issue from a different angle.

Naturally, a White House official promptly denied that political considerations were behind the veto.

Indeed, the President's veto message to Congress had a measure of logic in it when he said that the bill "plugged only one hole in a sieve."

It seems rather strange that the measure would not have included limits on all the other (legitimate) ways of spending money to influence voters. After all, the Democrats are strapped all around, not just for broadcast money.

Some were surprised by the fact the bill got through the Senate and House without any great strain. Which may be partly because some of the Yes votes were cast by lawmakers who figured on the veto.

A vote in favor of the spending limit would look good to constituents, and as in all election years, a lot of hastily adjusted halos are appearing on congressional noggins.

The President, an experienced politician, demonstrated that he is capable of learning new tricks after losing out on two previous vetoes. He waited until the last day he could legally have vetoed the bill. With the boys in Congress off to campaign, with the usual lame duck shenanigans in prospect after the election, it would take a real optimist to think that the veto could be overridden.

And if the Republicans remain rich and the Democrats poor there seems to be no shining hope for such a bill next year.

But one good bet is that you will continue to hear official and unofficial spokesmen for the White House aver that no politics was involved in killing off of this bill.

NEW MEXICO

[From the Albuquerque (N. Mex.) Journal, Oct. 3, 1970]

LIMIT CANDIDATE SPENDING

President Nixon should not bow to his party's pressure to veto a bill to limit the amount political candidates may spend for broadcast time.

The measure has received congressional approval but Republican leader Hugh Scott has hinted he wants Nixon to veto it. Other Republican congressional leaders are also critical of the measure.

Spending for radio and television in general elections would be limited to seven cents for each vote cast in the last general election or $20,000, which ever is higher. In primary elections, candidates would be limited to half that amount. The limits would apply to contests for President, vice president, the Senate, House, governor and lieutenant governor.

Objective of the bill is equalization of the exposure candidates receive on radio and television. More and more the electronic media is being utilized to saturate the nation's living rooms with the images of well-heeled candidates. The measure should be the forerunner to other controls on candidate spending which would bring such expenses more in line with the salary the official receives and the influence his position implies.

Republicans argue the bill would force candidates to use less economical methods of exposure and thus would not alleviate the present dilemma. They also argue such limits would amount to subsidization of candidates and establishment of advertising rates by statute. Others argue that such a control would tend to "lock in incumbents" whose image is relatively well-known.

The trend in recent years has been for more and more political candidates to "buy" elections with saturation appearances on the "tube." Such exposure has been denied their less affluent opponents. Republican arguments notwithstanding, the measure should be permitted to become law.

NEW YORK

[From the Buffalo (N.Y.) Courier Express, Oct. 14, 1970]

A REFORM VETOED

President Nixon has pointed out a number of imperfections as his reasons for vetoing the bill which would limit political-campaign spending on radio and television. But real as these imperfections may be, they are not enough to offset the importance of narrowing the advantage which access to rich treasuries gives some candidates.

Mr. Nixon is right, for instance, in suggesting that ceilings on political spending should not be confined to broadcasting. They should apply to other media as well—"magazines, newspapers, billboards, pamphlets and direct mail." But the impetus to the bill at hand is the fact that campaign costs are soaring because of the overwhelming use of the broadcast media, particularly television.

The President stretches things a bit in arguing that the bill would strike "a serious blow" at the right of "any little-known but highly qualified citizen" to run for office. For he fails to add that this bill also strikes a blow at the advantage this little-known citizen—and any other candidate—has if he hefts a bigger bankroll than his opponent, whatever the qualifications. The President also wanders in saying the bill would give an incumbent an advantage because of the free TV time he commands. An incumbent—particularly a president—has that advantage now.

We suspect the decisive factors were not even mentioned in the veto message. One is the lushness of the Republican treasury, especially in contrast with the Democratic. The other is the bill's repeal for presidential and vice presidential races of the "equal-time" section of the Federal Communications Act. This clause effectively prevents debates between candidates on free time, a protective exclusion Mr. Nixon no doubt is eager to preserve at least through 1972—when he is likely to run again.

Passing the bill over the veto, which Congress should now attempt, would not excuse Congress from promptly correcting other weaknesses and omissions in political-spending rules. But it would at least be a needed step.

[From the New York (N.Y.) Times, Oct. 14, 1970]

PARTY AND PRINCIPLE

President Nixon's veto of the bill to curb radio and television spending in political campaigns is a transparent and deplorable act of partisanship.

Everyone, including the President, now gives lip-service to the concept that limits should be set on the advantages that money can buy in the election process. Yet the first significant attempt in a quarter of a century to curb the inequities of campaign finance—a measure passed overwhelmingly by both houses of Congress—is vetoed by the President himself.

The reasons given are both glib and contradictory: The bill "plugs one hole in a sieve." Of course, but it is by so much the greatest hole that the others are minor leaks Congress can patch up in another session. It "unfairly endangers freedom of discussion." By preventing one candidate from buying up ten times the volume of broadcasting that his opponent can afford?

The law, Mr. Nixon goes on, would "favor the incumbent over the officeseeker." Arthur Goldberg, running against incumbent Governor Rockefeller, will be glad to know what he has escaped. The moral may be less clear to incumbent Senator Goodell running against monied challenger Richard Ottinger. And the bill would "severely limit the ability of many candidates to get their message to the greatest number of the electorate." Unlike the present arrangement, presumably, which limits some candidates fatally and others not at all.

Behind the veto, it seems clear, are none of these highsounding considerations at all, but only the overriding fact that Republicans all too often can afford adequate television time and Democrats can not. The Republican National Committee started this fall's campaign with a cash surplus of $1.5 million; the Democrats, with a party debt of $9 million.

When Congress reconvenes, the 1970 elections will be over. By then perhaps tensions will have abated sufficiently for the veto to be overridden in a triumph of principle over party.

[From the New York (N.Y.) Times, Oct. 18, 1970]

A SHADE OR TWO OF POLITICS IN THAT TV BILL VETO

WASHINGTON.—This is likely to be looked back upon as the year when television was accepted as the strongest tool in American politics.

Gone are the days when the candidate squinted into the camera and delivered a précis of his standard speech—a technique described by those in the trade as "talking heads." In 1970, in Utah and Tennessee as well as New York and California, political commercials are as subtle and sophisticated as the Alka Seltzer meatball.

Despite all arguments to the contrary, there is no question that television has already won some famous victories this year.

For example:

Howard Metzenbaum, an obscure businessman and labor lawyer from Cleveland, poured about $500,000 into TV spots and managed thereby to defeat one of the most famous men in America, John H. Glenn, the former astronaut, for the Democratic senatorial nomination in Ohio.

With an expenditure of almost $1-million, a little-known Democratic Representative from Westchester County, Richard L. Ottinger, won the Democratic senatorial nomination in New York over much better-known rivals.

An unknown Florida legislator, Lawton Chiles, had no money for a television blitz, so he walked across the state, won exhaustive free coverage on TV newscasts, and beat former Gov. Ferris Bryant for the Democratic senatorial nomination.

But many students of the electoral process—including a few practitioners of the spot-making art—have been convinced by the very success of political television advertising that it debases democracy. How, they ask, can anyone be expected to make an intelligent decision on the basis of a 60-second sales pitch, with its inevitable distortions? What happens, they ask, to the candidate who cannot afford the hucksters' services?

Typical of the type of crudity on display this fall is a commercial that was shown on more than 20 Indiana stations before being withdrawn. The ad showed an actor in Vietcong dress pointing a rifle at the viewer.

"The weapons the Vietcong used to kill American servicemen are given to them by Communist countries," said the announcer employed by Richard L. Roudebush, the Republican candidate for the Senate in Indiana. "Senator Vance Hartke voted for the bill to permit American trade with those Communist countries. Isn't that like putting a loaded gun in the hands of our enemies?"

Pressure for change, led by the National Committee for an Effective Congress, a bipartisan liberal group, resulted in Congressional passage of a reform bill. It would have given political advertisers cheaper rates, limited their spending and repealed the equal-time provision of the Federal Communications Act for Presidential elections.

Last Monday President Nixon vetoed the bill, arguing that it was the "wrong answer" despite its "highly laudable and widely supported goals." An attempt to override the veto, which may well fail, is scheduled after Congress reconvenes on Nov. 16.

The bill would have limited spending on radio and TV in Federal elections to 7 cents for each vote in the last comparable election. For 1972, that would mean a limit of about $5-million—less than half of what the Republicans spent to elect Mr. Nixon in 1968.

Its effect would clearly have been to give an advantage to incumbents, as Mr. Nixon said, because incumbents usually get more free air time on news programs than challengers. Mr. Nixon did not mention it, but the spending limit would also have penalized the Republicans, who have greater access to funds in most years than the Democrats.

Further, the repeal of the equal-time rule would have made it difficult for Mr. Nixon to duck televised debates with his opponents in 1972, as he did in 1968. His argument two years ago was that he did not want to pub-

licize the candidacy of George C. Wallace whose presence on any debates was required under the equal-time rule.

Mr. Nixon had a number of other explanations of his veto, among them the following: The bill would hurt urban candidates, who must pay more for air time; it would discriminate against TV and radio as opposed to other media; it might delay the certification of winners because of disputes on spending.

But to the perhaps cynical Washington political community, the salient fact was that the measure, on balance, seemed more likely to hurt the Republicans than to help them.

Senator Philip A. Hart, Democrat of Michigan, conceded that some of the President's complaints were valid. But he added: "We didn't hear a damn word from him while we were trying to get this bill through."

[From the New York (N.Y.) Times, Oct. 25, 1970]

MAYBE NEXT YEAR? DON'T BET ON IT

(By Jack Gould)

The criticism of President Nixon for vetoing a bill limiting expenditures in political campaigns was chiefly noteworthy for its display of naivete. No realist in the TV medium thought for one moment that the White House would throw away its economic advantage in drowning the opposition in spot commercials or staged discussions, either in the current campaign or in 1972. Former President Lyndon B. Johnson was no less a master in bending the medium to his will, and in 1964 it was Senator Barry S. Goldwater who suffered the economic disadvantage in his Presidential campaign.

The point is that whenever either party believes TV will serve its partisan ends, then meaningful reform in campaign abuses is just a ritual charade. The name of the game is to get elected or reelected and if TV is the supposed magic wand that assures success, then the status quo is going to prevail.

This year's exercise in proposed reform follows the traditional pattern. Noble words circulated in Congress about the evils of selecting candidates through the power of the purse, but when the chips were really down the idea once again became academic as the President advanced labored reasons why the bill had defects.

Consider the realities apropos this November. While Congress bemused itself with fitful hearings, both Governor Rockefeller in New York and Governor Reagan in California had contracted for gobs of spot commercials. Through neatly timed maneuvering it turned out that the Congressional bill would not apply to this year's election in any event. The image-makers in the two largest states didn't have to state their pragmatic approach: did the White House want to take the risk of jeopardizing Republican governerships of the two largest states?

President Nixon also had to look ahead. If the equal time provision of Section 315 of the Federal Communications Act were amended to allow coverage of the two principal candidates, a provision of the bill, he would find it politically awkward to avoid debates. But President Nixon was singed once in his debates with the late President John F. Kennedy, and deciding two years ahead of the event that he would expose himself again to such a risk runs contrary to human nature.

Former President Johnson adopted the go-it-alone tactic in a different way. As all incumbents do, he saw no point in enhancing the TV exposure of Senator Goldwater, so first the word went out to the Democratic Congressmen to forget any amendment inviting debates. Then, he declined to appear on regular discussion programs, because under the rules of fairness the Senator would have had claim to equal time.

Both parties, in effect, want to and do control the TV medium and therein lies the deep danger. Stations are licensed by the Federal Communications Commission as an arm of Congress, with the Senate having the power to pass on Presidential nominees for the agency. In both Democratic and Republican regimes the long political arm of the White House has always had an important influence on the FCC, and Congress has treated the agency like a malleable child. The regulatory body charged with the critical determination of the future of communications, with all its effects on elections, is essentially a repository for political patronage.

The circumstances require a whole new approach to the concept of a free press. Surely that freedom must be defended, but practically it is also increasingly irrelevant. The prime source of information and opinion, which the drafters of the Constitution and Bill of Rights sought to protect, no longer lies in the unlicensed press. For untold millions, especially those who prefer news and pictures and crisp bulletins, yesterday's "free press" is now Government-regulated television, with a Federal regulatory agency supplanting the editor as the ultimate umpire of journalistic standards.

* * * * *

If the politician is important or loud enough, his raised voice or eyebrow is sufficient in itself to convince the television broadcaster of the advisability of self-censorship to avoid jeopardizing a license worth millions.

This transition from free-enterprise journalism to Government-dependent journalism has taken place in an atmosphere of astonishing indifference to the change. Such is the emotional impact of television's moving and talking personage that the image-makers swiftly moved in to convert governmental leaders to pitchmen selling their views on crucial issues of government, the way manufacturers sell automobiles and soaps. Instead of being called to task for what they might be doing to a fair and viable democracy, these image-makers have been lionized as some sort of super wizards.

As long as today's Government-dependent journalism rests in the hands of politicians whose omnipresent thought is the matter of election or re-election, meaningful reform of television's role in politics is just a pipe dream. The routine is monotonous: To pacify the public there is a gesture of concern just before an election, with action always too late to have any meaning. Then the issue is tidily shelved.

What to do? A brave broadcaster might reject all commercial spots in exchange for a fair balance of free time for all major candidates. By begging Congress for relief, the broadcasters are parties to the game; they know nothing will happen. A house rule on politics and a willingness to defend the rule up to the Supreme Court if necessary would be a true test of their sincerity and determination.

The League of Women Voters, universally respected for their non-partisanship and hard work, might be one organization which could explore the complete removal of TV from political domination and champion new ground rules applicable to all parties in or out of power. It might take years to accomplish, but the present state of chaos on the air took 20 years to develop.

Escalating expenditures for political advertising threaten to make a mockery of democracy, and the content of the political spots is an appalling over-simplification of critical matters affecting voters of all persuasions. Some generation at some point will have to rally support for an overhaul of the relationship between those chosen to govern and society's most powerful means of persuasion—TV. The debasement of both is hardly a matter to be ignored or mourned and joked about, election after election.

[From the Staten Island (N.Y.) Advance, Oct. 21, 1970]

THIS VETO NEEDS TO BE OVERRIDDEN

President Nixon's veto of the bill to limit broadcast spending in national political campaigns were based, he said, on flaws he found in the reform legislation. Yet it would appear that it was inspired more by political expediency.

A seven-cent-a-voter limit for TV and radio advertising in presidential and congressional campaigns was proposed in the legislation. It is the best method Congress has yet devised to negate some of the tremendous advantage unlimited campaign spending gives to wealthy candidates or those with enormous financial backing.

The bill also would have repealed the "equal time" provisions for presidential elections in the Federal Communications Act, designed to facilitate broadcast debates between major candidates.

However, the White House searched for and found, minor technicalities in the legislation to justify a veto. For example, the bill does not stop candidates from unlimited spending in other media, Mr. Nixon argued. More equity is needed in these areas as well, but this is separate from the issue of unlimited use of publicly-owned airways for partisan political purposes.

That Mr. Nixon found such weak pegs as this on which to hang his veto suggests that there may be another reason. His critics charge—and they may be right—that such a law would hurt the well-off Republicans far more than the money-starved Democrats in 1972.

Mr. Nixon's veto is expected to whip enough Republicans into line to sustain the rejection when an override vote is taken. We hope this doesn't happen.

[From the Buffalo (N.Y.) News, Oct. 14, 1970]

SHORT-SIGHTED CAMPAIGN COST VETO

President Nixon's veto of the bill adopted recently by Congress to put a lid on the soaring costs of political campaign spending for broadcast advertising is unfortunate.

The President is correct, of course, that the bill wouldn't completely solve the problem of political campaign costs rising so rapidly that they already weigh heavily against the talented candidate of modest means.

But the Nixon complaint that the bill plugs only "one hole in a sieve" is unfair, since most authorities recognize that by far the largest hole pertains to the costs of television and radio advertising. Federal Communications Commission figures peg the cost of such advertising in the 1968 political campaign at a thumping $58.9 million—up 70 per cent from the $34.6 million spent in the previous presidential election

Consequently, while we've repeatedly conceded that this bill doesn't tackle the entire problem, it does cope with a key portion of it. Moreover, the limits imposed could be effectively enforced.

Mr. Nixon may well be correct that the bill favors incumbents and established celebrities, but the present virtually unregulated system unmistakably favors the wealthy or the patrons of wealth.

Most important, the bill represents a worthy attempt promising gains that, barring an unlikely override of the veto by Congress, will now be lost.

The President recognized that nearly everyone "wants to find some way to limit the crushing and growing cost of political campaigning." Since he rejects the proposals advanced by Congress, then, he owes it and the nation a better atlernative which he hasn't yet proposed.

[From the Buffalo (N.Y.) Courier Express, Oct. 1, 1970]

A Reform Vetoed

President Nixon has pointed out a number of imperfections as his reasons for vetoing the bill which would limit political-campaign spending on radio and television. But real as these imperfections may be, they are not enough to offset the importance of narrowing the advantage which access to rich treasuries gives some candidates.

Mr. Nixon is right, for instance, in suggesting that ceilings on political spending should not be confined to broadcasting. They should apply to other media as well—"magazines, newspapers, billboards, pamphlets and direct mail." But the impetus to the bill at hand is the fact that campaign costs are soaring because of the overwhelming use of the broadcast media, particularly television.

The President stretches things a bit in arguing that the bill would strike "a serious blow" at the right of "any little-known but highly qualified citizen" to run for office. For he fails to add that this bill also strikes a blow at the advantage this little-known citizen—and any other candidate—has if he hefts a bigger bankroll than his opponent, whatever the qualifications. The President also wanders in saying the bill would give an incumbent an advantage because of the free TV time he commands. An incumbent—particularly a president—has that advantage now.

We suspect the decisive factors were not even mentioned in the veto message. One is the lushness of the Republican treasury, especially in contrast with the Democratic. The other is the bill's repeal for presidential and vice presidential races of the "equal-time" section of the Federal Communications Act. This clause effectively prevents debates between candidates on free time, a protective exclusion Mr. Nixon no doubt is eager to preserve at least through 1972—when he is likely to run again.

Passing the bill over the veto, which Congress should now attempt, would not excuse Congress from promptly correcting other weaknesses and omissions in political-spending rules. But it would at least be a needed step.

[From the Syracuse (N.Y.) Herald-Journal, Herald-American, Oct. 15, 1970]

A Disappointing Veto

We are disappointed by President Nixon's veto of the bill to limit television and radio spending in political campaigns.

In supporting such a curb on political spending we have lamented that money does buy election advantages.

The President cited many reasons for his veto—doesn't affect newspaper ads, billboards and such other campaigning means, does limit tv and radio appearances, doesn't set a dollar limit on campaign collections, does put Congress in the business of fixing rates for private industry.

These arguments do not erase the overwhelming unfairness of a war chest crammed with unlimited funds.

In New York State, we are sure no one will deny that Gov. Rockefeller and Richard Ottinger, running for senator, blessed with seemingly unlimited funds for campaigning, are viewed more on the airways or heard more on the radio than their opponents. They are blessed with family fortunes. Others are not. Big givers are big claimants.

The Citizens Research Foundation of Princeton, N.J., according to the Congressional Quarterly of Oct. 2, points out:

Forty-six of the richest people in America contributed a total of at least $1,494,502 to political campaigns during the 1968 presidential election year. These wealthy donors, each estimated to have a fortune of $150 million or more in 1968, gave the Republicans the larger share, favoring them over Democrats by almost 13 to 1 margin.

Republican candidates received $1,377,313 to $106,488 for Democrats. The average contribution was $32,489.

Also studied were donations of members of the Business Council, the national group of business executives organized to advise governmental agencies. Its members gave at least $367,213 to finance campaigns in 1968. Contributions to the Republicans totaled $280,913 compared to $83,000 for Democrats.

The bill, vetoed by Nixon, would have affected candidates for president, vice president, senator, representative, governor and lieutenant governor. It would have limited tv and radio spending, for time but not production costs, to $5.1 million for each party's national ticket in 1972. (In 1968, the Republicans spent $12.7 million, and the Democrats, $6.1 million.)

The veto, we expect, will stand. Any attempt to override depends on a number of Republicans swinging over to the opposition as the Democrats do not enjoy two-thirds majorities—needed for such action—in the Senate or the House.

We regret the President acted in such a partisan manner.

[From the Garden City (N.Y.) Newsday, Oct. 17, 1970]

A Cynical Veto

Now that President Nixon has refused to approve the first really substantial congressional effort to control soaring campaign costs, it is up to the Congress to stand up for political sanity and override this ill-conceived veto.

The President's explanation of why he refused to approve the bill is a transparent exercise in political sophistry. In his veto message, Mr. Nixon claimed, "The problem with campaign spending is not radio and television; the problem is spending." This is pure and unrefined hogwash. Politicians with fat campaign chests don't spend a preponderance of their money on billboards or bumper stickers. They use the most effective medium available, and that happens to be television. Can any halfway perceptive New Yorker believe Richard Ottinger would have won the Democratic primary election without his very sophisticated and very expensive television advertising campaign?

You can't create an image for a candidate through bumper stickers, Mr. Nixon, himself, used television extensively in his campaign. He knows how effective it can be and how costly it is. And this is precisely why he vetoed the bill. He believes the Republican Party can better afford the cost of this most-effective medium, and he doesn't want to deprive his party of an advantage. Thus, his veto message is verbal camouflage of the meanest sort.

Said the President: "An honored part of the American political tradition is that any little known but highly qualified citizen has the opportunity to seek and ultimately win elective office." We agree with him on that. The bill he vetoed sought to protect that tradition. If the present trend in campaigning continues, a "little known but highly qualified citizen" won't have a chance of winning election unless his high qualifications happen to include great wealth.

The bill set a limit ($20,000 in a congressional race) on the amount a candidate could spend on broadcast time. It also stipulated that candidates would be able to buy the time at a discounted rate. Of course, it wasn't perfect. But it represented a beginning. It was the first time the Congress has ever gone so far in an effort to stop the mad political spending race. The President should have regarded it as a first step in a long-range process of reform. Instead, he judged it as if it were offered as a comprehensive answer to the problems of campaign spending. And on this basis he found it lacking.

Long Island's three Democratic congressmen plan to vote to cancel the veto. The two Republican congressmen voted for the bill. We now call upon them to stand by that earlier commitment and vote to override. This veto was cast with a cynical motive and justified with a hollow argument.

[From the New York Times, Nov. 12, 1970]

Plutocracy Versus Democracy

The United States today is on the road to becoming a plutocracy. It is getting to be almost customary for candidates for major political office to have to possess private fortunes or make entangling commitments to special interests in order to be elected. In certain states such as California, it is now the practice for a few rich men to club together and financially sponsor a candidate.

Rule by the wealthy or by political men who are, in effect, the little brothers of the rich is always a threat in a democracy. Seventy years ago, the United States Senate was a rich man's club. To reform that situation the Constitution was amended to provide for direct election of Senators since it was correctly believed that election by state legislature bred too many abuses.

Direct primaries were another democratic form designed to circumvent party bosses and the rich candidates who bribed them. So strong was that progressive outburst against plutocracy that even in the conservative, complacent 1920's, three Senators were denied seats because of excessive campaign spending.

In the postwar decades, public resistance to the corrupting power of money in politics has steadily ebbed. As television has played an increasingly important part in political campaigns, the electorate has become accustomed to candidates spending a half-million dollars for a seat in the House and five million for a seat in the Senate. The progressive struggle against plutocratic politics has had to be fought all over again.

The first modest victory in this renewed struggle was the campaign spending bill which Congress passed last month and which President Nixon vetoed. When Congress returns next week, the overriding of this veto will be one of the first questions up for decision. It is imperative for democracy that Congress override this cynical veto of Mr. Nixon.

The bill would limit candidates for Congress, Governor, and President to spend no more for radio and television advertising than 7 cents per vote cast in the previous general election. This is a reasonable amount which candidates in several states voluntarily observed this fall. President Nixon makes the debating point that the bill "plugs only one hole in a sieve"; but television advertising is by far the biggest hole in the sieve.

The members of the House and Senate who are to vote on this issue have to recognize that it is not just another play in the endless partisan scrimmaging. This issue is fundamental to the health of political life in this nation. A vote to sustain the veto is a vote for plutocracy. A vote to override is a vote for democracy. The choice is inescapable and every man and woman in Congress will be judged by the way he chooses.

North Carolina

[From the Charlotte (N.C.) Observer, Oct. 14, 1970]

Veto of Campaign Reform Unfortunate Act by Nixon

President Nixon's veto apparently dooms the first major reform of political campaign financing to clear Congress in 45 years.

The campaign broadcast reform act cleared both houses of the Congress with strong bi-

partisan support. Now that the President has made it a partisan issue, it will lose Republican votes needed to override the veto.

This act was an attempt to bring down soaring campaign costs by limiting the amount of money spent for radio-television time by major candidates.

PRODUCT OF STUDY

The President's veto message called the measure a "wrong answer" to the problem. But it was a product of several years of research, plus decades of trying to find other answers.

If the administration has its own plan to curb increasing campaign costs, the veto message would be more credible. The President has made no suggestions. There are no serious alternatives pending in Congress. "Control" of campaign spending is left to the loophole-riddled Corrupt Practices Act of 1925.

The campaign broadcast reform act was a novel approach. But given the experience of recent years, it was and is a logical approach to holding campaign costs down.

Increased outlays for radio-television time have been the largest single contributor to the soaring cost of campaigning. From 1956 to 1968, the total spent on radio-television in national campaigns increased 312 per cent from $9.8 million to $40.4 million. The total jumped by 64 per cent from 1964 to 1968. The sky is now the limit.

A cash limit on spending for air time isn't unworkable nor would it preclude a political candidate from getting his name known as the veto message suggests.

Senate candidates in Ohio and in Michigan are voluntarily using the reform act's limits. Each candidate pledged to spend no more for air time than the equivalent of seven cents multiplied by the total vote in the last general election.

In Ohio each candidate (one of them a relative unknown) will thus limit his outlay for air time to $262,000 while in Michigan the limit will be $171,000.

Some cash unspent for air time might be diverted to other projects. But given the modern emphasis on electronic image-making, a ceiling on radio-television spending would reduce total campaign costs.

More important, it would make the cost of campaigning less awesome to would-be candidates for major offices. Everyone entering the race could figure in advance how much cash he would have to raise to match his opponent's potential paid radio-television coverage.

This means of discouraging of escalation of campaign costs isn't attractive at the moment to the well-healed national Republican Party.

AWKWARD FEATURE

What's more, President Nixon may be less than happy with the feature of the act that would make it more awkward for him to avoid a "television debate" with a Democratic challenger for the presidency.

In the long run a campaign broadcast reform act promised benefits to all contributing to a healthier political climate. If the veto stands, as expected, it will contribute to the cynical belief that major campaign spending reform is impossible except in the aftermath of a campaign scandal.

OHIO

[From the Dayton, Journal Herald, Oct. 16, 1970]

ELECTION BILL VETO DESPITE DEFECTS, LAW PROMISED START TOWARD REFORM

The President's veto of the bill that would have limited spending by political candidates for television and radio advertising is unfortunate. His criticism of the bill is sound in some particulars, but we feel the benefit it promised in bringing some order and restraint into political campaign spending outweights its imperfections.

The chief defect of the bill, the President's objections notwithstanding, is in its failure to provide for an adequate regulatory body, as we noted in our criticism last July when the bill was under consideration in the U.S. House of Representatives. And we still believe that an independent national election commission is the key to effective control of election abuses.

Nevertheless, the bill in question would have been a turn in the right direction. Even before it was approved by Congress its TV and radio spending limits were accepted by the Ohio candidates for the U.S. Senate, Robert Taft and Howard Metzenbaum. The veto should be a spur to Congress to write a better law. The need remains.

[From the Dayton, News, Oct. 14, 1970]

POLITICAL VETO OF AIR COST BILL

President Nixon's political motives are transparent in the pious excuses he offered for vetoing the bill which would have stringently limited spending for television and radio commercials during election campaigns.

The veto was urged by Republican national chairman Rogers C. B. Morton, and Sen. John Tower, national chairman of the Senate Republican campaign committee. But that was an unnecessary admission from the White House. The political fact was plain.

Because the bill limited only air-wave advertisements, Nixon said it endangered freedom of discussion. To define the carefully tailored commercial as free discussion is downright hilarious.

To fear that the bill would increase overall campaign spending, as Mr. Nixon said he feared, raises doubts that he listened to anyone at all but the politicians. Else he would have learned that candidates jumped their spending for air time from $9.9 million in 1956 to $40.4 million in 1968.

Democrats are making brave noises about overriding the veto after the election recess, though observers consider their chances slim.

But the people themselves may still force a decrease in political use of the media. They're a fickle audience, as every TV producer knows. A surfeit of commercials, back-to-back, drive them to the kitchen for escape.

More important is a kind of 20th century populism, which may not yet be visible in the White House or out at San Clemente. An increasing number of citizens, even those with respectable bank accounts, worry about a democracy where only the rich or a friend of the rich can afford to run for office.

Mr. Nixon, a political craftsman, may be signing the bill the next time round with a new brand of pieties.

PENNSYLVANIA

[From the Pittsburgh, Post-Gazette, Oct. 7, 1970]

TIME TO CURB CAMPAIGN ABUSES

The game of politics is so costly that it has become increasingly difficult for any but well-financed candidates to win at it. A succession of upsets in 1970 has been scored by politically unknowns but affluent candidates who have managed to dominate the public consciousness through high-powered organizations and copious access to the communications media. This may well be the ominous wave of the future unless legislative means are devised to keep campaign spending within reasonable limits.

What those limits should be is of course debatable. The primary beneficiaries of fund-raising drives, quasi-official intrastate committee contributions, and lucrative fund-raising dinners are the high public officials and legislators who would have to effect needed electoral reforms. Nonetheless, the bleak conviction of a large portion of the electorate that money is more vital to the office-seeker than ability or principle portends ill for the democratic process.

Legislation approved by substantial margins in the Senate and the House which would set limits on candidates' television and radio spending is reassuring evidence that Congress is aware of the danger. Even were President Nixon to sign the bill into law, a staggering amount needs to be done to insure that the democratic election cannot be bought.

The Corrupt Practices Act of 1925 did little more than call attention to flagrant abuses of political campaigning. Described by critics as "more a loophole than a law," the Act did not require reporting of campaign costs and major campaign contributors by intrastate committees turning funds over to national committees. Although the Act forbids corporations from making political contributions there is nothing to prevent officers or directors of corporations from making sizeable contributions.

One obvious way to limit campaign expenditures would be to shorten the period allowed for electioneering, as in England. The well-heeled candidate seeking to flood the media during a restricted period would run the risk of over-exposure. Only the most sanguine optimist would expect time-honored devices employed by both parties to yield to democratic principle. Nonetheless, a campaign period marked by lavish spending and unrestrained ballyhoo is a propitious time to consider the abolition of practices which threaten the democratic process.

RHODE ISLAND

[From the Providence (R.I.) Journal, Oct. 17, 1970]

AN INDEFENSIBLE VETO

None of the reasons offered by President Nixon to justify his latest veto has enough substance to be taken seriously. None appears to have any connection whatever with reality.

The campaign reform measure which the President finds so distasteful is the product of lengthy congressional study. Bipartisan majorities in both branches of Congress approved it with large margins. No one pretended that this single measure would produce a millenium of campaign purity, but there was wide agreement that the measure, by placing strict limits on the sums candidates could spend on radio and television, would go a long way toward eliminating the sordid practices presently corrupting our electoral process.

But Mr. Nixon, unfortunately, doesn't see it that way. He condemns this bill because it only "plugs one hole in the sieve."

The fact is, of course, that this particular "hole in the sieve" is bigger than all the other holes combined. Television has become an insatiable monster that gobbles up campaign funds in gluttonous gulps. Governor Rockefeller of New York is spending an estimated three million dollars on broadcast appeals to promote his current reelection campaign. Figures compiled by the FCC indicate that the Humphrey-Muskie team spent 6.1 million dollars, and the Nixon-Agnew team spent 12.7 million dollars, to buy time on radio and television in the 1968 campaign.

All of the other holes in the sieve permit only droplets to pass through compared to the gushing stream of dollars the candidates spend on their appeals over the airwaves.

Clearly, if the costs of campaigning are to be brought down to more realistic levels, a sensible place to begin is that biggest "hole in the sieve." That is precisely the conclusion reached by House and Senate in adopting this reform bill.

Mr. Nixon's other arguments are equally specious. He charges that it would "unfairly endanger freedom of discussion," that "it would severely limit the ability of many

candidates to get their message to the greatest number of the electorate," and that "it raises the prospect of more—rather than less—campaign spending." Every one of those points is at least debatable.

Another of the President's tortured arguments holds that any restriction on broadcast spending would give an unfair advantage to the incumbent.

This will be news to those penny-pinched non-incumbents who find their campaigns swamped in the wash of such well-heeled and free-spending incumbents as Governors Rockefeller and Reagan.

Put another way, the President's argument would seem to justify unlimited spending by a wealthy non-incumbent on the ground that such a candidate has a right to buy himself into an election victory.

Unlike President Nixon's earlier vetoes, which at least were based on a modicum of substance, this one is indefensible. Nothing in the latest veto message justifies this attempt to block an earnest and honest attempt at campaign reform. All of the fine words in the veto message merely add up to a smoke screen which is quite inadequate to hide the political motive it tries to obscure.

TEXAS

[From the San Antonio Light, Oct. 15, 1970]

BAD VETO

President Nixon, we were sorry to read, saw fit to veto the long-debated congressional legislation designed to provide the first really significant reform of campaign finance laws in half a century.

The bill primarily would have clamped long-needed ceilings on presently soaring television and radio spending by presidential, congressional and gubernatorial candidates, beginning with the 1972 presidential election.

In turning thumbs down on the measure, the President contended that it was full of imperfections—that, for example, it could tend to give celebrities or well-known office holders an advantage against unknown contenders.

Some of the objections were clearly valid. The bill admittedly has flaws and some of its serious problems, such as enforcement, were left dangling in limbo. But the measure was a big step in the right direction—and would always have been subject to revision and correction.

In considering this legislation, which is too complicated for detailed analysis here, it should be noted that four votes were taken—two in each house. In each case support was voted by more than two-thirds of the lawmakers.

Charges that the veto was politically motivated gain credence in view of the absence of any alternative suggestions from the Republican administration—whose money drive for a 1972 victory already is in high gear.

Yet such is the pressing need for reform of runaway campaign spending that the President's veto may yet be overridden.

We should like to see that happen in this case.

VERMONT

[From the Rutland (Vt.) Daily Herald, Oct. 14, 1970]

LIMITING CAMPAIGN EXPENSES

The proposed $5.1 million limit on television and radio spending beginning with the 1972 Presidential election compares with an expenditure in 1968 of $12.7 million by the Republicans and $6.1 million by the Democrats. For many voters, this contrast in expenditures was explanation enough for President Nixon's veto of the spending limitation.

Reduced to its simplest terms, the veto was invoked because the Republicans have the money and the Democrats don't. For the same reason the legislation won more Democratic than Republican support in Congress.

Most of the President's objections to the bill were valid enough, but despite its shortcomings it represented a start in dealing with an aspect of election campaigning that is rapidly becoming a national scandal.

Candidates affected by the legislation beginning in '72 would include those for President, Vice President, senator, representative, governor and lieutenant governor.

The President objected on the ground that the bill didn't restrict spending other than that for radio and television, because it would be unfair to urban candidates where air time is most expensive; election determinations might be delayed in case of challenges based on violation of the spending limit, and incumbent candidates would have the advantage in availability of free media coverage.

Opinions varied on the chances of overriding the veto.

It is certainly true that a flat dollar limit on TV spending isn't fair to candidates in largest centers of population. It was recently pointed out that a five second spot announcement on a television station in Las Vegas costs $65. The same time in New York City cost $2,600.

A political writer from a metropolitan newspaper visiting Vermont last week remarked that it was reassuring to visit a state that was being sensible about political campaign expenditures after seeing so much evidence of extravagant spending elsewhere in the country.

He didn't realize that campaign expense in Vermont this year is the heaviest on record and that taking the state's small population into account the expense per vote is probably as high here as it is in more populous states, if not higher.

In concrete terms, if a total of $500,000 were expended in this year's election which isn't inconceivable if the various accusations have any basis, this would amount to more than $1 per capita. Extended nationally this would amount to a terrific outlay.

It's time some kind of spending limitations were imposed even if they aren't foolproof. We hope the President's veto is overridden. Otherwise the sky will continue to be the limit.

WASHINGTON, D.C.

[From the National Observer (Washington, D.C.) Oct. 19, 1970]

POLITICKING ON THE TUBE

Many voters will agree with President Nixon that the bill to limit expenditures for political advertising on television was not a masterwork of legislative ingenuity. As the President said, the bill represented a halfway measure at best, and the candidates would remain free to spend as much as they liked on nonbroadcast kinds of campaigning. Mr. Nixon would have preferred a more comprehensive bill, one that would restrict over-all campaign sending to more reasonable levels.

From a cosmic point of view, the President is right to prefer a bill of larger scope. But he was wrong last week to veto a bill that would have regulated the one kind of politicking that is most in need of regulation. Political commercials on television this season, both in quality and quantity, are distorting pre-election debate.

It is not only that the political commercial on TV often stretches hyperbole into a cheap lie (that technique has been part of the system from the beginning), but that the incessant repetition of a calculated message over the airwaves reduces the viewer's ability to measure and appraise a public issue.

No copywriter or producer, however gifted, can make a candidate make sense in a 10-second spot. All that can be done in that time is to show the candidate's face and augment his smile with a bravely spoken promise or a damning observation about his adversary. The result is that complicated issues get kissed off with short, shallow declarations.

And such is the power of television—by its nature as a medium and by its concentrated structure—that political commercials can make the difference in elections, even though they tend to diminish popular understanding of controversial questions.

The longer commercial, like the 60-second variety, could conceivably be more useful but it is obvious that most politicians have neither the patience nor confidence to fill a minute of TV time with an explanation of their perception of a problem. That time costs money and so we get only a longer display of thunder and lightning.

Granted, none of this would have changed if the bill Mr. Nixon vetoed had become law. But such a law would have prevented rich candidates, or candidates willing to be beholden to rich men, from spending unlimited sums on TV time, thereby putting the less affluent candidates at what might be a hopeless disadvantage. The bill at least would have partly controlled the nonsense.

A better way, of course, would be to eliminate it from television altogether.

An advocate of just such a move is Frank Reynolds, the news commentator of the American Broadcasting Co. In his comments one night last week, Mr. Reynolds urged that political candidates be barred from buying "time on the people's airwaves to let their image makers mislead the people or trick them or overwhelm them."

More and more people in and out of the media and politics are recognizing the danger of political advertising on television. Democracy, while not fragile, is nevertheless susceptible to the grotesque distortions that have been flickering from the tube. As far as campaign commercials are concerned perhaps it's time the nation pulled out the plug.

[From the National Observer, Oct. 19, 1970]

CAMPAIGN-MONEY BILL TUNED OUT BY NIXON VETO

President Nixon last week blacked out a bill to limit campaign spending on radio and television, saying it was loaded with mechanical difficulties.

Explaining his veto, the President said the limit on broadcast spending would plug "only one hole in the sieve" of campaign spending and would discriminate against the broadcast media by forcing candidates to switch their advertising to newspapers, magazines, pamphlets, and mailings. Thus, he contended, high campaign costs would continue. Further, he asserted that the bill would discriminate against the nonincumbent candidate, who is usually not as well known as the incumbent.

A TOUGH OVERRIDE

Democratic leaders immediately said they would try to override the veto, but conceded it would be "tough."

The bill would limit spending on campaign broadcasting to 7 cents for each vote cast in the previous election for the office involved, or $20,000, whichever is higher.

Further, the bill would have opened the way for a TV debate between the Presidential candidates in 1972. It would have repealed the "equal-time provision" of the current broadcast law, thus allowing TV stations to offer free air time for a debate without being required to give equal time to fringe-group candidates.

Democratic National Committee Chairman Lawrence O'Brien labeled Mr. Nixon's veto a "calculated effort to make the politics of TV propaganda a permanent feature of the American political scene."

"WELL-STOCKED WAR CHEST"

The assistant Senate Democratic leader, Edward M. Kennedy, chided the President for trying to "preserve the advantage of the supposedly well-stocked campaign war chest" of the Republican Party instead of joining in the effort to reduce campaign spending.

Michigan's Sen. Philip A. Hart, one of the bill's sponsors, conceded that the bill was not as comprehensive as it could have been. He invited the President to make suggestions on how the bill could be improved, and said that Congress had not heard "a damn word" from Mr. Nixon when the measure was being considered.

[From the Washington Post, Oct. 14, 1970]

THE CAMPAIGN SPENDING VETO

President Nixon's veto of the bill to limit television and radio campaign spending is a flimsy excuse for having undone the most significant reform in this sphere for half a century. While ignoring the virtues of the bill, the President grossly exaggerated its weaknesses and distorted the probable consequences. So eager was he to avoid the charge that he acted to perpetuate a Republican advantage in excessive campaign spending that he even pretended that the bill might increase the outlays of candidates to get elected.

It is uttterly misleading to say, as the President did, that the bill "plugs one hole in a sieve." Everyone with any information about the costs of campaigning these days knows that a large part of the money is being spent for television and radio broadcasting. Congress decided, in the absence of any effective device for limitation of campaign expenses in general, to strike at this one source of excessive use of money for political purposes. But the President fell back on the lame pretense that half a loaf is worse than nothing all all.

His complaint that the bill would "favor the famed over the worthy but little-known" is an especially transparent smoke-screen. The implication is that an obscure challenger should be allowed to spend more to offset the incumbent's natural advantage of being well known. But only a few wealthy individuals can spend millions to get themselves elected to public office. The vast majority of candidates must rely upon campaign contributions, and in raising money for campaign purposes the well-known, famous or incumbent candidate usually has a substantial advantage over an obscure challenger. The veto, if it should be sustained, will tend to magnify this advantage instead of reducing it.

In expounding upon all the imaginary inequities associated with the bill, the President completely ignored the very real inequity which it would help to correct. The use of broadcast commercials has reached a point where it can be accurately said that some candidates are buying their way into office. The first purpose of the bill was to put a reasonable ceiling on this kind of spending. But the President ripped off the ceiling at a time when his own party has millions to spend for commercials and the Democratic opposition is in financial straits.

While the President refrained from condemning the "equal-time" repealer, which was also in the bill, it is widely assumed that his veto was also intended to discourage television debates between the presidential candidates in 1972. If broadcasters have to give equal time to all the fringe candidates, they will not offer free time to the chief contenders for debates or other means of getting the issues before the public. Here again the President has knocked down a provision that could have substantially reduced the cost of at least some campaigns. The other significant provision that went down was a requirement that broadcasters charge candidates no more than the lowest unit fee of the station for comparable time.

Since the bill does have substantial merit, despite its shortcomings, and since the veto appears to reflect at least 90 percent political motivation, we think Congress should override it.

[From the Washington (D.C.), News, Nov. 2, 1970]

POLITICIANS AND MONEY

When a politician sets himself to run for office, the first thing he thinks of is TV. And right behind TV comes money.

Television, according to Democratic National Chairman, Lawrence F. O'Brien, has "revolutionized" politics.

"And when I speak of television," he says, "I speak, of course, of money."

No candidate these days thinks he can do without TV. Most of them, if they could get up enough money, would saturate the screen with themselves.

Mr. O'Brien professes alarm at this not because of TV or the costliness of it, but because Republicans, currently, seem able to raise more money than Democrats. (The party in power frequently has this advantage.)

GOP candidates, by and large, get their campaign funds from fat cats in business and industry. But Democratic candidates, Mr. O'Brien notwithstanding, have been doing quite well in many cases with donations from labor unions. Even the loudest "poor mouths" seem to get on TV with monotonous regularity. So we take with a mild dose of salt Mr. O'Brien's avowed alarm that Democrats, because of the high price of TV, "could be priced out of existence by 1972."

Just the same, there are ample grounds for concern over all this spending. Some of us have been concerned a long time, but by now many election-contests appear to be as much contests for TV money as for votes.

Mr. O'Brien denounced President Nixon for his "cynical veto" of a bill passed by Congress to limit TV spending. But, as the President said, there was no restriction on overall spending, so that even the useful restraint on TV spending could have been offset by unlimited spending for other campaign purposes. Moreover, one aim of the bill was simply to get cheaper TV rates for politicians.

The Democratic cue here, then, is to take Mr. Nixon up on his implied support for over-all spending limits and come up with legislation which will fix definite ceilings on campaign expenses, and compel accurate and timely accounting of all spending, along with the sources of the money.

This is the crying need, and if somebody wants to start a political crusade in this department, this is the way to do it—go all out for a complete campaign expense control law, and make it work.

[From the Evening Star, (D.C.) Oct. 14, 1970]

BUYING PUBLIC OFFICE

President Nixon is only partially convincing in explaining his veto of the bill to limit television and radio advertising by presidential, congressional and gubernatorial candidates. But the veto is likely to stand in the closing days of the 91st Congress. Since it's too late anyway to affect the spending habits of 1970 candidates, backers of the measure should look toward passage of an improved version next year, in plenty of time to clamp a lid on spending for presidential year 1972.

The bill that was sent to the President was a good one. Mr. Nixon, while scoring with a couple of minor criticisms, missed with several others.

The President correctly noted that there would be enforcement problems, in some cases delaying the determination of who won a challenged election. He also raised the interesting point that a 7-cents-a-vote limit on purchases of broadcast time does not take into account geographic differences in the costs of reaching voters by television. These imperfections, though, did not justify the veto.

Mr. Nixon's statement that the bill only "plugs one hole in a sieve" was misleading. The hole is a very big one: Of some $300 million spent on political campaigns in 1968, $59 million went into TV and radio. TV advertising is increasingly decisive as a factor in elections, no matter what other spending a candidate engages in. And it is a type of campaign expenditure that is easily kept track of.

* * * * *

Unstated in the veto message is the big reason why Democratic legislators are more anxious than a Republican President to limit campaign spending for TV. The money is rolling into GOP coffers while the Democrats struggle under a $9 million debt. The Democratic Congress could reduce the partisan factor by setting the radio-TV limit a bit higher, closer to the $12.6 million that was spent on the Nixon-Agnew ticket in 1968. The Democrats spent $6.1 million in that presidential campaign. The 7-cent-a-voter would hold each party to $5.1 million in 1972, but the money would buy more time at the lower rate.

The vetoed bill, by repealing the equal-time requirement as affecting presidential campaigns, would produce more free broadcast time for the major-party nominees. While we don't favor another Great Debate as the way to choose a president, the provision would make up for some of the TV exposure lost because of the spending limit.

It should be a bipartisan goal to see that major public office in the United States does not become a commodity to be bought by the candidate with the biggest TV advertising budget. The congressmen should work to improve the vetoed bill, and hold the President to his assurance that he is "as opposed to big spending in campaigns as I am to big spending in government."

[From the Washington Post, Nov. 4, 1970]

MARQUIS CHILDS: MONEY CORRUPTED PAST CAMPAIGN

Money, Money, Money—this has been a corrupting force in the election campaign just ended, dwarfing anything in America's political history. It is hardly an exaggeration to say that if an effective curb is not put on big spending the system of free elections that has, on the whole, served the country well will be destroyed.

While the Republicans had the big money and spent it by the barrelful, spending was not a prerogative of one party. In two democratic primaries before the November election private wealth put into television went to swing the balance. In New York State Rep. Richard L. Ottinger is reported to have spent $1,300,000 to win the senatorial primary. The money came largely from the International Plywood Corp., which his family controls.

In Texas Lloyd Bentsen, Jr., a multimillionaire insurance executive, spent well over a million dollars on a television blitz that began months before the primary date to defeat Sen. Ralph Yarborough. The Bentsen television spots were shrewdly tailored to exploit the emotions of prayer amendment and campus unrest.

While exact figures are difficult, if not impossible to come by the Republicans in the campaign spent probably over-all 10 times as much as the Democrats. One reason is that they had the money in contrast to the near bankruptcy of the Democratic Party. Having had similar resources, the party out of national power might have been as free in the spending race.

With the memory of this orgy of money still fresh a major goal should come at the top of the Congress. That is to override President Nixon's veto of a bill limiting broadcast spending in political campaigns. The President vetoed the measure on Oct. 12 even though 97 Republicans in the House, including virtually all the Republican leadership, voted for it when it was first up for passage.

At the time of the veto Republican leaders predicted they could prevent a two-thirds vote to override. By what rationalization those who were for the measure can justify supporting a feeble veto message it is hard to see.

The measure is a modest attempt to hold broadcast spending down to a sane limit. Figures compiled by the Federal Communications Commission show that in 1968 the Republicans spent $12,697,953 for television and radio time for the Nixon-Agnew ticket. Electronic time for the Humphrey-Muskie ticket cost $6,143,953.

Repeated attempts to restrain the spiraling costs of political campaigns have been frustrated. These attempts have included proposals to encourage small individual contributors by granting an income tax writeoff. The broadcast bill is the best chance—it may be the last chance, given the intricacies of the legislative process—to take a small step before another national election.

The President in his veto message called for broad reforms, calling the restraint on broadcast spending merely plugging one hole in a sieve. Should the vote be against overriding, another strategy is under consideration by senators angered over the deluge of money. That is to separate the three elements in the bill—the restriction on broadcast spending, the equal-time provision, and a requirement that the networks charge at a lower than the highest commercial rate for political broadcasts—and introduce each on its merits. Lengthy hearings have been held on all these proposals and against the background of the spending spree it is believed they have a good chance of passage.

This observer feels compelled to make one more comment on the late and unlamented campaign. Theoretically, access to television would give the greatest number of Americans an opportunity to hear candidates for high office discuss the issues. A President could limit his personal appearances. Mr. Nixon is, after all, President of all the people.

Yet again and again he rushed into crowds where risks were great. At San Jose he jumped on the hood of his auto to defy hostile demonstrators. Surely, in light of the tragedies of the '60s, more restraint was called for than we saw in Mr. Nixon's repeated performance.

[From the Washington Post]

OVERRIDING THE PRESIDENT

(By Rowland Evans and Robert Novak)

Unless the White House can sustain President Nixon's veto of the campaign spending bill in the Senate, the President faces his first open break with the House Republican leadership.

The vetoed bill, establishing strict limits on spending for political radio-TV broadcasting, comes up in the Senate early during the lameduck session beginning Nov. 16. If two-thirds of the Senate overrides the veto, the bill goes to the House—and an unprecedented confrontation between Mr. Nixon and Rep. Gerald Ford of Michigan, the fastidiously loyal House Republican leader.

Although few of his colleagues are aware of it yet, Ford is on record to override. "I voted for the bill when it passed the House," Ford told constituents in his newsletter of Oct. 19. "I believe it is a fair solution to a difficult problem. I understand the President's position, but I intend to vote to override the veto."

Probably joining Ford will be Rep. William Springer of Illinois, senior Republican on the House Commerce Committee, which handled the bill. Springer is still steaming over the curt dismissal by White House staffers of his arguments against vetoing the bill.

Emboldened by Ford, rank-and-file House Republicans may also oppose the President—especially in light of the past campaign. Many return to Washington convinced that saturation radio-TV advertising infuriates the public.

To avoid trouble in the House, the White House needs to uphold the veto in the Senate (where Republican leaders support it). But 16 Republican senators voted for the bill on Sept. 23, and they may not be easy to turn around.

ROCKY AND ROG

A private telephone call from Gov. Nelson Rockefeller, just re-elected with his largest-ever plurality, to Republican National Chairman Rogers Morton shortly after the polls closed Tuesday night, brought this quick agreement: The base of President Nixon's political advice must be broadened, and quickly.

Morton and Rockefeller agreed that the tight inner circle of Mr. Nixon's White House—dominated by H. R. (Bob) Haldeman—has drastically limited outside political influence. The advice Rocky and Rog want to get to Mr. Nixon: De-emphasize the South for 1972.

A footnote: If the President specifically asks Morton to stay on as national chairman, he will say yes. If there is no such request, Morton might quit and devote full time to being a Maryland congressman.

BARRY VERSUS SCOTT

Sen. Barry Goldwater has heightened prospects for a Senate Republican bloodbath by privately urging Sen. Robert Dole of Kansas to try unseating Sen. Hugh Scott of Pennsylvania as Senate Minority Leader in January.

Dole, an aggressively ambitious first-termer, needs little encouragement. A strong backer of Nixon administration policy, he has been anxious to challenge Scott as insufficiently loyal to the President. However, Dole could scarcely win support outside the Goldwater orbit of hardcore conservatives. A more formidable foe for Scott would be Sen. Howard Baker of Tennessee, who lost to Scott last year and is undecided about trying again.

A footnote: A sure anti-Scott vote vanished when Sen. George Murphy was defeated in California. Before the election, Scott confided to friends he would shed no tears over the defeat of either Murphy or Sen. Paul Fannin of Arizona (who was re-elected).

NONPOLITICAL IRS

White House political operatives are fuming that political innocence at the Internal Revenue Service cost the Republican Party a previous seat in Congress Tuesday.

They blame the IRS for the defeat of Rep. Martin B. McKneally, an upstate New York Republican and former national commander of the American Legion, by John Dow, a left-of-center ex-congressman who advocates diplomatic recognition of Red China. McKneally seemed a winner until Sept. 15, when the IRS, answering a query, revealed he had not filed income tax returns from 1964 through 1967 and that his case was under investigation.

Republican politicians contend the IRS should have kept quiet until after the election, when McKneally could have resigned his seat and a special election called to fill the vacancy. The IRS says that Section 6103 (F) of the Internal Revenue Code requires it to disclose, when asked, whether a taxpayer has filed a return for a given year.

WASHINGTON

[From the Seattle (Wash.) Post-Intelligencer, Oct. 15, 1970]

A BAD VETO

A P–I View: The President's veto of the campaign finance reform legislation should be overridden.

President Nixon, we were sorry to read, on Oct. 12 saw fit to veto the long-debated congressional legislation designed to provide the first really significant reform of campaign finance laws in half a century.

The bill primarily would have clamped long-needed ceilings on presently soaring television and radio spending by presidential, congressional and gubernatorial candidates, beginning with the 1972 presidential election.

In turning thumbs down on the measure, the President contended that it was full of imperfections—that, for example, it could tend to give celebrities or well-known office holders an advantage against unknown contenders.

Some of the objections were clearly valid. The bill admittedly has flaws and some of its serious problems, such as enforcement, were left dangling in limbo. But the measure was a big step in the right direction—and would always have been subject to revision and correction.

In considering this legislation, which is too complicated for detailed analysis here, it should be noted that a total of four votes were taken—two in each House. In each case support was voted by more than two-thirds of the lawmakers.

This is pretty impressive, particularly in view of the long discussions involved and the bi-partisan nature of the approving votes. Those who were most closely involved, and best informed, definitely wanted the reform bill, no matter what imperfections it contained.

Now, at least temporarily, the corrective move has been stymied. Charges that the veto was politically motivated gain credence in view of the absence of any alternative suggestions from the Republican administration—whose money drive for a 1972 victory already is in high gear.

Politics always will be politics, we suppose, and it is unreasonable to expect those in power to jeopardize or surrender any of their power. Yet such is the pressing need for reform of runaway campaign spending that the President's veto may yet be overridden.

We should like to see that happen in this case. In the long run it would be in the best public interest.

WEST VIRGINIA

NIXON TV VETO DUE FOR REJECTION

(By Marquis Childs)

WASHINGTON.—The Nixon Administration runs a tight ship that dissent seldom raises its ugly head in the inner councils. That makes the backstage pulling and hauling over the bill limiting campaign spending on television and radio all the more remarkable.

It went on until just before the deadline when the President had to act or let the bill become law without his signature. Those arguing against a veto pointed out that rejecting the measure passed by large majorities in both houses of Congress would be handing the Democrats a powerful piece of campaign ammunition on the eve of the Congressional elections.

The veto message has all the credibility of a $3 bill. An exercise in obfuscation, it hardly succeeds even in confusing the basic issue. That was to try to curb the power of big money to determine the elective process through television. As a state paper, the veto message will rank with some of the noble words of Warren Gamaliel Harding.

Those working long and hard to put over this modest reform, notably the National

Committee for an Effective Congress, believe the chances are good to override the President's veto when Congress returns after the election. Virtually the entire Republican leadership in the House was among the 97 Republicans voting for the bill on the first go-round. House Minority Leader Gerald Ford voted for it twice. In light of this Ford and his associates are asking how they can vote against overriding.

The veto message was assembled from everything adverse said about the measure in Senate and House committees and in the debate that followed. Long-time specialists in campaign techniques say this is conveniently ignored were the refutations of the criticism from the proponents of the bill.

The message stressed two principal objections. One was the impossibility of enforcing a limit on TV campaign spending. But the Federal Communications Commissions has the authority to require individual stations to report on how time is portioned out. Enforcement would seem to be a simple matter.

The second objection was that the reform plugged only one hole in a sieve. Hard-pressed candidates would spend even more money on newspaper advertising, billboards, direct-mail appeal and other techniques, simply not true. Direct-mail appeals lose steam after the first or second try.

There was no question of the reform measure restraining television spending in the coming election. Delay in final passage insued that it would not be effective, under the 30-day provision, until after November 3. The measure provided a waiver on the equal-time requirement so that candidates of the two major parties could debate without subjecting broadcasters to demands from fringe parties for the same privilege.

If the veto is not overridden or, failing that, if a new reform bill is not introduced and pushed through beginning in January, the President will have immunity from debate for 1972. As the man in the chief executive's chair, the best-known figure in political life, he would not want to share a smidgin of his celebrity with a Democratic challenger. Mr. Nixon made that error in 1960 with unhappy consequences in the debate with John F. Kennedy.

In the Nixon hierarchy today are many who came out of advertising, television and professional public relations. Their role is spelled out in Joe McGinnis' "The Selling of the President 1968." They are said to have swung the balance for a veto in the prolonged White House hassle.

Too much is involved in a money scandal without parallel in American political history for this repulse of a reform long in the making simply to be forgotten. Aside from the political charges and counter-charges, several objective studies have been made recently of television spending and how increasingly it tends to put political office beyond the reach of anyone without personal wealth or the bankroll of contributors willing to buy a piece of the candidate.

One of the best was a report on campaign costs in the electronic era financed by the Twentieth Century Fund. It recommends free 30-minute periods for major candidates broadcast simultaneously by all networks in the closing weeks of a Presidential campaign. Broadcasters would be compensated for lost revenue either by tax exemption or direct payments. Interesting enough, Dean Burch, now chairman of the Federal Communications Commission, was a member of the panel that made the study.

[From the Huntington (W. Va.) Advertiser, Oct. 14, 1970]

CONGRESS SHOULD OVERRIDE VETO OF PARTY LIMITS ON TV SPENDING

President Nixon's veto of the bill passed by Congress with substantial bipartisan majorities to limit radio and television spending in political campaigns has properly raised sharp criticism.

Democratic National Chairman Lawrence F. O'Brien charged the bill was vetoed because it would have "stopped the Republican party's campaign to saturate the public airways with paid spot commercials."

Russell D. Hemenway, director of the National Committee for an Effective Congress, which sponsored the measure, suggested that the Nixon veto represented "a presidential effort to avoid the possibility of meeting his 1972 opponent in open debate."

The essential purpose of the bill was to help equalize opportunities of candidates and parties by preventing those with unlimited means from gaining a tremendous promotion value over those unable to buy equal radio and television time.

The importance of these restrictions lies not only in the idealistic principles of the American system of government but in repeated instances of rich men's winning elections by huge expenditures.

The bill was thus an effort to prevent the conversion of the American democracy into a plutocracy. A government by rich men, however, is not as bad as one controlled by rich predatory corporations seeking special privileges through lavish campaign contributions to candidates.

Domination of the government by big money and big corporations has been a serious menace in this country at least since the days of Mark Hanna and his brazen solicitation of funds in behalf of William McKinley.

The menace assumed serious proportions again with the nomination of Mr. Nixon because he was a member of a law firm that represented powerful corporations.

The evidence of corporate influence over the candidates was strengthened by his intended-to-be-secret campaign letter promising the Wall Street crowd less rigid regulation.

The support that Republican candidates received from big business was indicated by the fact that the party was able to spend $12.7 million for radio and television time in the 1968 campaign.

This was more than double the Democratic outlay of $6.1 million.

The vetoed bill would have limited each party's spending in 1972 to $5.1 million.

President Nixon's argument in his veto message that the limit on radio and television spending would prevent many candidates from getting their message to the greatest number of people was refuted by another of his own statements.

Limiting spending for radio and television time, he said, would only cause candidates to use the same money—or more—on newspaper ads, billboards, pamphlets and direct mail that might even require a larger budget.

The only people these advertising media would not reach would be those who can't read.

Candidates and political parties should of course be allowed to spend sufficient money to get their message to the people. That is part of the democratic process.

But they should not be allowed to dominate public sentiment through saturation radio and television programs that enable them to sell misrepresentation through repetition.

And certainly elections should be won on a basis of issues and principles and not on the amount of money a candidate or a party has to spend.

The veto should be overridden by a bipartisan vote, just as the bill was originally passed.

WISCONSIN

[From the Milwaukee Journal, Oct. 13, 1970]

GOOD ELECTION REFORM VETOED

In vetoing the bill that would have set stiff spending limits on political radio and television commercials, President Nixon blocked a step toward reform for some rather dubious reasons.

The bill would have placed limits on radio and television spending for all federal officers and state governors and lieutenant governors. Such costs have sky-rocketed. The Twentieth Century Fund reports that radio and television spending by presidential and vice presidential candidates in the general election of 1956 was $4.6 million and jumped to $11 million in 1964 and to $20.4 million in 1968. And this is but a small part of the total radio and television election expenditure. Campaigning costs have grown far out of the reach of many potential candidates.

Nixon said in his veto message that the bill failed to limit overall campaign costs. True, but it proposed a sound beginning toward cost control by capping the most expensive methods of campaigning. It was the first meaningful control to pass Congress.

The president said that the bill might prevent unknowns from making adequate public contact and thus give additional advantages to celebrities among candidates. The fact is that under present conditions the celebrities have had little trouble raising huge funds and so have had a tremendous advantage.

The bill, Nixon claimed, would give undue advantage to office holders. They already have an advantage because by virtue of holding office they are generally known to the public and are usually best able to raise the funds needed to meet today's spiraling campaign costs.

Democrats naturally claim that the veto was meant to assure the Republicans continued advantage of their present ability to double their opponents in spades when it comes to raising money. It is interesting that the two Republicans who pressured the president most for a veto were those most concerned with campaign funds—Republican National Chairman Rogers Morton and Sen. Tower of Texas, Republican senatorial campaign committee chairman.

The veto blocked a hopeful step forward in election reform. It should bring renewed efforts on the part of those who see the need for reform to put the whole business up to the president again and follow it up with other needed reforms to strengthen our weak election fund controls.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. KENNEDY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection it is so ordered.

ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of the reading of the Journal tomorrow the able senior Senator from New York (Mr. JAVITS) be recognized for not to exceed 30 minutes.

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

Mr. BYRD of West Virginia subsequently said: Mr. President, I ask unani-

mous consent that the order previously entered, providing for the Senator from New York (Mr. JAVITS) to be recognized for not to exceed 30 minutes tomorrow, following disposition of the Journal, be vacated and that this order be entered, instead, for Wednesday morning, November 18, 1970.

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

ORDER FOR RECOGNITION OF SENATOR TALMADGE TOMORROW

Mr. KENNEDY. Mr. President, I ask unanimous consent that immediately following the remarks of the Senator from New York (Mr. JAVITS) tomorrow, the Senator from Georgia (Mr. TALMADGE) be recognized for not to exceed 20 minutes.

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

Mr. BYRD of West Virginia subsequently said: Mr. President, I ask unanimous consent that the previous order, providing for the recognition of the able Senator from Georgia (Mr. TALMADGE) on tomorrow be vacated.

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

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2193, Calendar No. 1300. I further ask unanimous consent that the unfinished business, House Joint Resolution 264, not be laid before the Senate at 2 o'clock, but be temporarily laid aside, and that it remain temporarily laid aside until disposition of S. 2193.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill (S. 2193) by title, as follows:

A bill 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.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Occupational Safety and Health Act of 1970".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that personal injuries and illness 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 statuatory 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 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 Secre-

tary 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, the National Institute for Occupational Health and Safety, a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objective 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 assesssed 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 rep-

resentatives 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 as 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 exposures 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 sections 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 emplyees 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 employer 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 section 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 wth 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 others 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 practice 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 official 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, or 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 section 6(d), 8(c), 18, or 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 for 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 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 assure responsibility for the development and enforcement in such State of occupato any occupational safety or health issue tional safety and health standards relating 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 purposes 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 reasons 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 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 reports 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 subsections (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 re-

search 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 conditions 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) in accordance with the civil service laws, 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 is 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 eval-

uation 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.

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

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS of New Jersey. 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. WILLIAMS of New Jersey. Mr. President, I ask unanimous consent that Mr. Blackwell, Mr. Naegle, and Mr. Ellsberg of the staff of the Committee on Labor and Public Welfare be permitted to be present on the Senate floor during the debate on S. 2193, in addition to the four staff members normally provided for.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WILLIAMS of New Jersey. Mr. President, at a time when the Nation's concern is understandably directed at the problems of our environment, it is particularly appropriate that we give specific attention to the crisis in the workplace environment—for this is a crisis as urgent as any confronting the Nation today.

The more than 14,500 workers who are killed by industrial accidents each year, represent an annual death toll exceeding that of the Vietnam war. By the most conservative count, close to 2½ million employees are disabled on the job each year—resulting in the loss of many more days of work than are caused by strikes.

In addition to the individual human tragedies involved, the economic impact of industrial deaths and disability is staggering:

Over $1.5 billion are wasted in lost wages, and the annual loss to the gross national product is estimated to be over

$8 billion. Vast resources that could be available for productive use are siphoned off to pay workmen's compensation benefits and medical expenses.

It is particularly disturbing to note that this picture represents a worsening trend, for the fact is that the number of disabling injuries per million man-hours worked is today 20 percent higher than in 1958. The knowledge that the industrial accident situation is deteriorating rather than improving underscores the need for action now.

In the field of occupational health, the view is particularly bleak, and, due to the lack of information and records, may well be considerably worse than we currently know.

Occupational diseases which first commanded attention at the beginning of the industrial revolution are still undermining the health of workers. Substantial numbers, even today, fall victim to ancient industrial poisons such as lead and mercury. Workers in the dusty trades still contract a variety of respiratory diseases. Other materials long in industrial use are only now being discovered to have toxic effects. In addition, technological advances and new processes in American industry have brought numerous new hazards to the workplace. Carcinogenic chemicals, lasers, ultrasonic energy, beryllium metal, epoxy resins, pesticides, among others, all present incipient threats to the health of workers. Indeed, new materials and processes are being introduced into industry at a much faster rate than the present meager resources of occupational health can keep up with. It is estimated that every 20 minutes a new and potentially toxic chemical is introduced into industry. New processes and new sources of industry present occupational health problems of unprecedented complexity.

New scientific knowledge points to hitherto unsuspected cause-and-effect relationships between occupational exposures and many of the so-called chronic diseases—cancer, respiratory ailments, allergies, heart disease, and others. The distinction between occupational and nonoccupational illnesses is growing increasingly difficult to define.

In 1966–67, the Surgeon General of the United States studied six metropolitan areas, examining 1,700 industrial plants which employed 142,000 workers. The study found that 65 percent of the people were potentially exposed to harmful physical agents, such as severe noise or vibration, or to toxic materials. The Surgeon General further examined controls that were in effect to protect workers from such hazards, and found that only 25 percent of the workers were adequately covered.

Based on the limited data available, the Public Health Service has now concluded that there are 390,000 new occurrences of occupational disease each year. I underscore that this is a conservative estimate that is given by the Public Health Service—390,000 new occurrences of occupational disease each year.

Studies of particular industries provide specific emphasis regarding the magnitude of the problem. For example, despite repeated warnings over the years from other countries that their cotton workers suffered from lung disease, it is only within the past decade that we have recognized byssinosis as a distinct occupational disease among workers in American cotton mills. Recent studies now show that this illness, caused by the dust generated in the processing of cotton, and resulting in continuous shortness of breath, chronic cough, and total disablement, affects substantial percentages of cotton textile workers. In some States, as many as 30 percent of those in the carding or spinning rooms have been affected, and it has been estimated that as many as 100,000 active or retired workers currently suffer from this disease.

Asbestos is another material which continues to destroy the lives of workers. For 40 years, it has been known that exposure to asbestos caused the severe lung scarring called asbestosis. Nevertheless, as an eminent physician and researcher, Dr. Irving J. Selikoff, testified during the Labor subcommittee's hearings:

> It is depressing to report, in 1970, that the disease that we knew well 40 years ago is still with us just as if nothing was ever known.

It has also since been found that manufacturing and construction workers exposed to asbestos suffer disproportionately from pulmonary cancer and mesothelioma. Because nothing has been done about the hazards of asbestos, even after its association with lung cancer was first reported in 1935, 20,000 of the 50,000 workers who have since entered one asbestos trade alone—insulation work—are likely to die of asbestosis, or cancer. Nor is the potential hazard confined to these workers, since it is estimated that as many as 3.5 million workers are exposed to some extent to asbestos fibers, as are many more in the general population.

Pesticides and fungicides used in the agricultural industry have increasingly become recognized as a particular source of hazard to large numbers of farmers and farmworkers. Many of these poisons have a chemical similarity to commonly used agents of chemical and biological warfare, and exposure has caused fever, nausea, convulsions, long-term psychological effects, and death.

While the full extent of the effect that such chemicals have had upon those working in agriculture is totally unknown, an official of the Department of Health, Education, and Welfare has estimated that 800 persons are killed each year as a result of improper use of such pesticides, and another 80,000 are injured. Despite the unmistakable danger that these substances present, there presently exists no effective controls over their safe use and no effective protections against toxic exposure of farmworkers or others in the rural populace.

I cite these as just a few of the many examples, brought out in our hearings, of the neglect we have so shamefully accorded the health of the worker for so many years.

Although many employers in all industries have demonstrated an exemplary degree of concern for health and safety in the workplace, their efforts are too often undercut by those who are not so concerned. Moreover, the fact is that many employers—particularly smaller ones—simply cannot make the necessary investment in health and safety, and survive competitively, unless all are compelled to do so. The competitive disadvantage of the more conscientious employer is especially evident where there is a long period between exposure to a hazard and manifestation of an illness. In such instances, a particular employer has no economic incentive to invest in current precautions, not even in the reduction of workmen's compensation costs, because he will seldom have to pay for the consequences of his own neglect.

Nor has State regulation proven sufficient to the need. No one has seriously disputed that only a relatively few States have modern laws relating to occupational health and safety and have devoted adequate resources to their administration and enforcement. Moreover, in a State-by-State approach, the efforts of the more vigorous States are inevitably undermined by the shortsightedness of others.

In sum, the chemical and physical hazards which characterize modern industry are not the problem of a single employer, a single industry, nor a single State jurisdiction. The spread of industry and the mobility of the workforce combine to make the health and safety of the worker truly a national concern.

In the past, Congress has enacted safety programs for a few of the more hazardous occupations, such as coal mining, metal mining, and longshoring. As a matter of fact, with respect to the area of coal mining, we are just about at the anniversary of the passage of a milestone in legislation dealing with health and safety hazards in a workplace, the coal mines of our land. It was just a year ago that a measure finally was passed in Congress and signed into law. I believe it was on December 31 of 1969.

It has also adopted legislation requiring construction contractors and others performing work for the Government to observe certain safety and health standards. While sorely needed, such legislation has represented a piecemeal approach which provides no protection for the great majority of American workers, and fails to meet many of the basic problems of safety and health which we encounter today in the Nation's workplaces.

In recognition of this fact, both President Johnson and President Nixon have urged enactment of a comprehensive program to meet the total range of occupational safety and health requirements.

As President Nixon said in his September 11 message to the Congress on this legislation:

> It does not exaggerate to declare that such a program should have become Federal law three generations ago. This was not done, and three generations of American workers have paid for it.

It is against this background of unmistakable need that the Committee on Labor and Public Welfare reported out S. 2193, providing for just such a comprehensive approach to the problems of health and safety faced by today's worker.

The bill would place in the Secretary

of Labor the responsibility for promulgating mandatory safety and health standards, applicable to particular hazards or particular industries. In exercising this responsibility, the Secretary would utilize and build upon the work already done by private industry and Government in the formulation of standards; and opportunity would be given, through advisory committees and hearings, for affected employers and employees to have a voice in the standards-making process. The expertise and research resources of the Department of Health, Education, and Welfare would be applied in the development of the necessary health criteria.

The bill provides for inspections to be made by the Labor Department, with authority to issue citations ordering the abatement of violations and proposing penalties, where appropriate. Employers who wish to contest a citation or proposed penalty would have a right to a full administrative hearing with review by the Secretary, and ultimate appeal to the courts. Employees are also given appeal rights when they believe that an unreasonably long period of time has been allowed for abatement of a violation.

Under this bill, the States will continue to exercise jurisdiction over these activities for which no Federal standard has yet been established. Moreover, in recognition of the fact that many States may wish to administer their own occupational safety programs, even in those areas for which Federal standards are established, the bill provides for the submission of a State plan for the development and enforcement of safety and health standards. Such a plan shall be approved by the Secretary of Labor if it provides for a program which is at least as effective as the Federal program and meets certain specified criteria. Indeed, every encouragement is given to the States in this regard, for the bill authorizes Federal grants to support the development and administration of such State plans.

A particularly urgent concern repeatedly brought out during our hearings is the frequent exposure of many workers to a great variety of toxic materials or harmful physical agents. They are often unaware of the nature of such exposure or of its extent. In some cases, the consequences of overexposure may be severe and immediate; in other cases, effects may be delayed or latent.

In all of these situations it is important that the worker be adequately protected against excessive exposure to fumes, gases, dust, or other substances determined to be harmful, and equally important that he be aware of any such hazard. Accordingly, our bill provides that standards dealing with toxic materials or harmful physical agents shall make suitable provision for the use of warning labels, the administering of appropriate medical examinations, and monitoring by the employer of the levels of employee exposure. In addition, employees would have access to the records of such monitoring and, whenever the level of exposure exceeded that permitted by the applicable standard, the employer would be required to notify the employees of this fact and of the corrective measures taken.

These particular provisions are among the most significant ones in the pending bill, and are absolutely essential if workers are to be properly protected from the chemical and physical hazards which increasingly grow more complex and more grave.

Accomplishment of the objectives of this legislation will of course require extensive research activities in the field of occupational health and safety, and our bill places this responsibility in the Department of Health, Education, and Welfare. To help insure that such research receives the attention and the status it deserves, we have established within the Department a new Institute, to be known as the National Institute for Occupational Safety and Health, which would be expected to perform, directly or through grants, the great variety of research undertakings contemplated by this bill.

As many are aware, certain features of this legislation have been the source of considerable controversy in public discussion and in committee deliberations. I am happy to say that a number of these issues have been resolved in a manner which seemed acceptable to the viewpoint of all Senators on the committee.

I should like to repeat that: Many of the tough and controversial issues were resolved. Many received a unanimous consensus—a unanimous statement of resolution.

One which I think particularly appropriate to mention, in view of the concern it has occasioned within the business community, is the so-called "general duty" clause contained in section 5 of our bill. Under this clause, employers, in addition to complying with promulgated standards, would be under a general obligation to provide safe and healthful working conditions. This clause, which was strongly recommended by the National Safety Council, and is similar to those found in a great many State statutes, was included in the bill to provide a means for requiring correction of hazardous situations which happened not to be covered by a specific standard. However, because of concern that this provision might impose too vague and sweeping a duty on employers, the Committee bill was clarified so that the duty is limited to maintaining the workplace free from "recognized" hazards. There is no penalty for violation of the clause; it is only if the employer refuses to correct the unsafe condition after it has been called to his attention and an abatement order issued that a penalty may attach. Before that is done, the employer would be entitled to a full administrative hearing, followed by judicial review, if he disagrees that the situation in question is unsafe. With these clarifications, I believe this issue has been resolved in a manner agreeable to all members of our committee, and which I hope will be accepted by this body.

I might point out, too, that in order to make clear that achieving the goals of a safe workplace is not a one-sided matter, we added in committee a provision placing upon employees, as well as employers, the obligation to comply with all applicable requirements under the act.

I should also add, despite some widespread contentions to the contrary, that the committee bill does not contain a so-called strike-pay provision. Rather than raising a possibility for endless disputes over whether employees were entitled to walk off the job with full pay, it was decided in committee to enhance the prospects of compliance by the employer through such means as giving the employees the right to request a special Labor Department investigation or inspection.

Another issue which has occasioned considerable controversy is the provision giving the Secretary of Labor authority to require the immediate withdrawal of workers from areas where there is a danger of such imminence that it could cause death or serious harm before it could be abated. The committee adopted a number of amendments to provide every assurance that this authority would not be used arbitrarily or unnecessarily, nor in a manner to cause undue economic loss. Such amendments provide that imminent danger orders may be issued by the Secretary or his representative only if there is not sufficient time to first obtain a court order, and even then may remain in effect for only 72 hours; they also provide that no such order can be issued by an inspector without concurrence of a designated regional official of the Labor Department; and that the Secretary must provide employers with a means to obtain expeditious, informal reconsideration of such orders. In addition, the bill provides that an imminent danger withdrawal order shall allow the continued presence of individuals needed to correct the danger, to enable a continuous process operation to avoid a complete shutdown, and to permit any necessary shutdown to be made in a safe and orderly manner.

These limitations have not satisfied those who believe that imminent danger matters should be left entirely to the courts, and that the Secretary of Labor should have no authority whatever to order the withdrawal of employees from an imminent danger situation. The great majority of our committee strongly believed, however, that some authority should be provided the Secretary to take immediate action in those cases where disaster was the probable alternative. I should add that the laws of many States provide the State labor inspectors with even broader authority with regard to closing down imminent danger hazards, and throughout our entire hearings we heard of no instances where this authority had been abused.

A third issue to be mentioned is the administration's proposal to create a separate board to set standards, and still another commission to hand down enforcement orders, with the Secretary of Labor limited to conducting inspections and issuing citations. I know of no other regulatory program which is administered in such a segmented fashion. I believe that to do so here would result

in such diffusion of responsibility and accountability as to seriously undermine the effectiveness of this program. Accordingly, the majority of our committee wisely concluded that the Secretary of Labor ought to be assigned the responsibility for promulgating and enforcing the standards under this act, subject to those provisions of the Administrative Procedure Act which insure that considerations of due process are fully satisfied. This is the manner in which the great majority of other Federal regulatory statutes are presently administered—including other Federal safety statutes—and there is no reason to depart from that approach in this instance.

Mr. President, the legislation now before us comes many years too late. We surely owe it to the millions of working men and women whose health and lives are unnecessarily jeopardized by hazards of the workplace to pass the most effective measure we can devise. Our committee has held extensive hearings on this matter and has given it careful consideration in executive sessions. I earnestly hope the bill we have reported to the Senate, S. 2193, will be acted upon promptly and favorably.

Mr. JAVITS. Mr. President, I am the ranking Republican member of this committee and have given a great deal of time and attention to this critically important bill. So has the Senator from Colorado (Mr. DOMINICK) and others, but I think this has been primarily true of the Senator from Colorado and myself.

This entire bill is so vital and affects so many millions of American workers that, though we are back for the first day, I hope Senators, or at least their staffs, will give some consideration to what is really at stake here.

Personally, I believe that critically important phases of the bill have been somewhat overlooked in view of the labor-managment controversy which has developed, which I deprecate and deplore, over the administration of the bill. I do not believe this will make or break the bill, although with all respect to management and labor, they think so. I do not.

The general attitude of labor is to have the Secretary of Labor administer the bill, including the promulgation of standards and the adjudication of complaints of violations.

The position of the administration is that it wants a board to handle the standards and a commission to handle the violations.

I introduced the administration bill in the first instance. I did my best to extract the best out of it. However, I did not consider this particular issue to be the most dominant.

I finally found it necessary to side with what was the working majority on the committee in order to get the bill to the Senate floor because I think the bill is required urgently in the interest of millions of workers.

I have suggested a compromise. I would like to pay tribute here to the Senator from Colorado (Mr. DOMINICK). If the majority party had been willing to accept my compromise I do not believe we would be in this struggle right now. My compromise was to have a commission to deal with violations and to leave the establishment of standards to the Secretary. Like all compromises it satisfied neither party—this is, neither management nor labor—but it was an effort to do reasonable justice. Had the compromise been accepted I believe the Senator from Colorado (Mr. DOMINICK) would have felt we had done all we had reason to believe we could do, although he is not bound in any way. I thoroughly agree with him and he is correct in presenting the whole administration position, which he will do in the proper way.

For myself, at the opportune moment I will offer the compromise if it appears the Senate is in a mood for it.

Laying those two issues aside for a moment, as I explained, what happened here because of this controversy, is a whole network of other issues which to my mind are infinitely more important to the workers and management than the means by which the bill is administered. First, what kind of standards shall be established immediately to get this program off the ground? Shall they be proprietary standards—that is, promulgated by a nationally recognized standards producing organization? Or must they be limited to so-called consensus standards, which is the approach of the administration bill, where it really relates to the traditional practice in the industry?

I think that is critically important with respect to which way we choose to go because those will be the rules of the game to be applied for a long time until under the law there can be a crystallization and promulgation of standards by whatever body is charged with developing them under the bill.

Another thing that is very important is the criteria for standards. The committee bill requires that standards shall be those that most adequately and feasibly assure on the basis of the best available evidence that no employee will suffer impairment of health or functional capacity. I caused the words "and feasibly" to be introduced. I thought it was important that they be inserted and the committee adopted that point of view.

Another critically important matter is the one dealing with imminent danger orders which relate to the power, if there be any, to close up a plant, with the resulting stopping of industrial processes and throwing thousands of people out of employment, on the ground there is an immediate danger and they cannot wait to go into court to deal with it.

Another problem relates to the rights employees have with respect to inspections and what accounting is due employees with respect to the results of those inspections; whether or not there is an order made for corrections which employees may consider essential, and the grounds upon which the Secretary makes his decision.

Then, there is the general duty provision, where the committee bill says there is a general duty to avoid "recognized hazards" whereas the administration substitute provides a general duty to avoid "readily apparent hazards creating a risk of death or serious physical harm."

Mr. President, these are very substantive questions with which the Senate must deal in an alternative way as well as the question of the means of administration.

I rise at this time only to try to introduce a greater degree of interest on the part of Members in the less sensational aspects of the bill which I have discussed because I think there will be plenty of interest manifested in the more sensational aspects of the bill, to wit, who shall administer it and who shall deal with violations.

I repeat that I offered a compromise in committee. It was a grave mistake not to accept it. If it were accepted I think we would be in an almost agreed-upon position today. In the absence thereof the Senate will have to make a choice on the means of promulgating standards and the enforcement.

If the situation indicates that the Senate is in the mood for a compromise I will in the proper way propose it, but I think in all fairness the Senator from Colorado (Mr. DOMINICK) is entitled to the first opportunity, which he will shortly take, to put forward the administration position.

Mr. DOMINICK. Mr. President, I ask unanimous consent that during the debate and action on the bill the minority staff member, Mr. Wise, may be permitted in the Chamber.

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

Mr. DOMINICK. Mr. President, I send to the desk an amendment in the nature of a substitute and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment in the nature of a substitute.

Mr. DOMINICK. 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 in the nature of a substitute will be printed in the RECORD.

The amendment in the nature of a substitute, ordered to be printed in the RECORD, is as follows:

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 PURPOSE

SEC. 2. (a) The Congress finds that personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of lost production, wage loss, medical expenses, and disability compensation payments.

(b) The Congress declares it to be its purpose and policy, through the exercise of its powers, to regulate commerce among the several States and with foreign nations 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 and to preserve our human resources—

(1) by encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions;

(2) by providing that employers and employees have separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions;

(3) by creating a National Occupational Safety and Health Board to be appointed by the President for the purpose of setting mandatory occupational safety and health standards applicable to businesses affecting interstate commerce, and by creating an Occupational Safety and Health Appeals Commission for carrying out adjudicatory functions under the Act;

(4) by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;

(5) by providing for research in the field of occupational safety and health, including the psychological factors involved, and by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems;

(6) by exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety;

(7) by providing medical criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience;

(8) by providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health;

(9) by providing for the development and promulgation of occupational safety and health standards;

(10) by providing an effective enforcement program which shall include a prohibition against giving advance notice of any inspection and sanctions for any individual violating this prohibition;

(11) by encouraging the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws by providing grants to the States to assist 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, to improve the administration and enforcement of State occupational safety and health laws, and to conduct experimental and demonstration projects in connection therewith;

(12) by providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problem;

(13) by encouraging joint labor-management efforts to reduce injuries and disease arising out of employment.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "Secretary" means the Secretary of Labor.

(2) The term "Safety and Health Appeals Commission" means the Occupational Safety and Health Appeals Commission established under section 12 of this Act.

(3) The term "Board" means the National Occupational Safety and Health Board established under section 8 of this Act.

(4) 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 (other than a State as defined in paragraph (8) of this subsection), or between points in the same State but through a point outside thereof.

(5) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(6) 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.

(7) The term "employee" means an employer who is employed in a business of his employer which affects commerce.

(8) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(9) 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.

(10) The term "national consensus standard" means any occupational safety and health standard or modification thereof which (a) has been adopted and promulgated by a nationally recognized public or private standards-producing organization possessing technical competence and under a consensus method which involves consideration of the views of interested and affected parties and (b) has been designated by the Board, after consultation with other appropriate Federal agencies.

(11) 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 ACT

SEC. 4. This Act shall apply only with respect to employment performed in a workplace in a State, Wake Island, Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act, Johnson Island, or the Canal Zone, except that this Act shall not apply to any vessel underway on the Outer Continental Shelf lands. 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.

DUTIES OF EMPLOYERS

SEC. 5. Each employer—

(a) shall furnish to each of his employees employment and a place of employment which are free from any hazards which are readily apparent and are causing or are likely to cause death or serious physical harm to his employees;

(b) shall comply with occupational safety and health standards promulgated under this Act.

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

SEC. 6. (a) The National Occupational Safety and Health Board established under section 8 of this Act is authorized to promulgate rules prescribing occupational safety and health standards in accordance with sections 556 and 557 of title 5, United States Code.

(b) Without regard to the provisions of sections 553, 556, and 557, title 5, United States Code, the Board shall, as soon as practicable, but in no event later than three years after the date of enactment of this Act, by rule promulgate as an occupational safety and health standard, any national consensus standard or any established Federal standard, unless it determines that the promulgation of such a standard as an occupational safety and health standard would not result in improved safety or health for affected employees. In the event of conflict among such standards, the Board shall promulgate the standard which assures the greatest protection of the safety or health of the affected employees. Such national consensus standard or established Federal standard shall take effect immediately upon publication and remain in effect until superseded by a rule promulagted pursuant to subsection (a) of this section.

(c) (1) Whenever the Board promulgates any standard, makes any rule, order, decision, grants any exemption or extension of time, it shall include a statement of the reasons for such action, and such statement shall be published in the Federal Register; and

(2) Whenever a rule issued by the Board differs substantially from an existing national consensus standard, the Board shall include in the rule issued a statement of the reasons why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard.

(d) Any agency may participate in the rulemaking under this section.

(e) The Secretary of Labor (with respect to safety issues) or the Secretary of Health, Education, and Welfare (with respect to health issues) may submit a request to the Board at any time to establish or modify occupational safety and health standards indicated in the request. Within sixty days from the receipt of the request, the Board shall commence proceedings under this section.

(f) Any interested person may also submit a request in writing to the Board at any time to establish or modify occupational safety and health standards. The Board shall give due consideration to such request and may commence proceedings under this section on the basis of such request.

(g) If, prior to the publication of the rule, an interested person or agency which submitted written data, views, or arguments makes application to the Board for leave to adduce additional data, views, or arguments and such person or agency shows to the satisfaction of the Board that additions may materially affect the result of the rulemaking procedure and that there were reasonable grounds for failure to adduce such additions earlier, the Board may receive and consider such additions.

(h) In determining the priority for establishing standards under this section, the Board shall give due regards to the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workplaces or work environments. The Board shall also give due regard to the recommendations of the Secretary and the Secretary of Health, Education, and Welfare regarding the need for mandatory standards in determining the priority for establishing such standards.

(i) (1) The Board shall provide without regard to requirements of Ch. 5, title 5, United States Code, for an emerengcy temporary standard to take immediate effect upon publication in the Federal Register if it determines (A) that employees are exposed to grave danger from exposure to substances determined to be toxic or from new hazards resulting from the introduction of new processes, 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 Board shall commence a hearing in accordance with sections 556 and 557 of title 5, United States Code, and the standard as published shall also serve as a proposed rule for the hearing. The Board shall promulgate a standard under this paragraph no later than six months after publication of the emergency temporary standard as provided in paragraph (2) of this subsection.

(j) (1) Whenever the Board upon the basis of information submitted to it in writing by an interested person (including a representative of an organization of employers or employees, or a nationally recognized standards-producing organization) or by the Secretary or the Secretary of Health, Education, and Welfare, a State or a political subdivision of a State, or on the basis of information otherwise available to it, determines that a rule should be prescribed under subsection (a) of this section, the Board may appoint an advisory committee as provided for in section 7(e) of this Act, which shall submit recommendations to the Board regarding the rule to be prescribed which will carry out the purposes of this Act, which recommendations shall be published by the Board in the Federal Register, either as part of a subsequent notice of proposed rulemaking or separately. The recommendations of an advisory committee shall be submitted to the Board within two hundred and seventy days from its appointment, or within such longer or shorter period as may be prescribed by the Board, but in no event may the Board prescribe a period which is longer than one year and three months.

(2) After the submission of such recommendations, the Board shall, as soon as practicable and in any event within four months, schedule and give notice of a hearing on the recommendations of the advisory committee and any other relevant subjects and issues. In the event that the advisory committee fails to submit recommendations within two hundred and seventy days from its appointment (or such longer or shorter period as the Board has prescribed) the Board shall make a proposal relevant to the purpose for which the advisory committee was appointed, and shall within four months schedule and give notice of hearing thereon. In either case, notice of the time, place, subjects, and issues of any such hearing shall be published in the Federal Register thirty days prior to the hearing and shall contain the recommendations of the advisory committee or the proposal made in absence of such recommendation. Prior to the hearing interested persons shall be afforded an opportunity to submit comments upon any recommendations of the advisory committee or other proposal. Only persons who have submitted such comments shall have a right at such hearing to submit oral arguments, but nothing herein shall be deemed to prevent any person from submitting written evidence, data, views, or arguments.

(k) The Board shall within sixty days (where an advisory committee is utilized) or one hundred and twenty days (where no advisory committee is utilized) after completion of the hearing held pursuant to section 6(a) issue a rule promulgating, modifying, or revoking an occupational safety and 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 (not in excess of ninety days) as the Board determines may be appropriate to insure that affected employers are given an opportunity to familiarize themselves and their employees with the requirements of the standard.

(l) Any affected employer may apply to the Board for a rule or order for an exemption from the requirements of section 5(b) of this Act. Affected employees shall be given notice by the employer of each such application and an opportunity to participate in a hearing. The Board shall issue such rule or order if it determines on the record, after an opportunity for an inspection and a hearing, that the proponent of the exemption 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 Board on its own motion in the manner prescribed for its issuance at any time after six months after its issuance.

(m) Standards promulgated under this section shall prescribe the posting of such labels or warnings as are necessary to apprise employees of the nature and extent of hazards and of the suggested methods of avoiding or ameliorating them.

ADVISORY COMMITTEES

SEC. 7. (a) There is hereby established a National Advisory Committee on Occupational Safety and Health (hereafter in this section referred to as the "Committee") consisting of twelve members appointed by the Secretary, four of whom are to be designated by the Secretary of Health, Education, and Welfare, without regard to the civil service laws and composed equally of representatives of management, labor and the public. 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.

(b) The Committee shall advise, consult with, and make recommendations to the Secretary and the Secretary of Health, Education, and Welfare on matters relating to the administration of the 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.

(c) The members of the Committee shall be compensated in accordance with the provisions of subsection 8(g) of this Act.

(d) 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.

(e) An advisory committee which may be utilized by the Board in its standard-setting functions under section 6 of this Act 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 also as a member one or more designees of the Secretary of Labor and shall 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. An advisory committee may also include such other persons as the Board may appoint who are qualified by knowledge and experience to make a useful contribution to the work of such 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 in the same manner as consultants or experts under section 8(g) of this Act. The Board shall pay to any State which is the employer of a member of such committee who is a representative of the health or safety agency of that State, reimbursement sufficient to cover the actual cost to the State resulting from such representative's membership on such committee. Any meeting of such committee shall be open to the public and an accurate record shall be kept and made available to the public. No member of such committee (other than representatives of employers and employees) shall have an economic interest in any proposed rule.

NATIONAL OCCUPATIONAL SAFETY AND HEALTH BOARD

SEC. 8. (a) The National Occupational Safety and Health Board is hereby established. The Board shall be composed of five members, having a background either by reason of previous training, education, or experience in the field of occupational safety or health, who shall be appointed by the President, by and with the consent of the Senate, and shall serve at the pleasure of the President. One of the five members may be designated at any time by the President to serve as Chairman of the Board.

(b) Subchapter II (relating to Executive Schedule pay rates) of chapter 53 of title V of the United States Code is amended as follows:

(1) Section 5314 (5 U.S.C. 5314) is amended by adding at the end thereof the following: "(54) Chairman, National Occupational Safety and Health Board.".

(2) Section 5315 (5 U.S.C. 5315) is amended by adding at the end thereof the following: "(92) Members, National Occupational Safety and Health Board.".

(c) The principal office of the Board shall be in the District of Columbia. The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the Secretary of the Board.

(d) The Chairman of the Board shall, without regard to the civil service laws, appoint and prescribe the duties of a Secretary of the Board.

(e) The Chairman shall be responsible on behalf of the Board for the administrative operations of the Board, and shall appoint, in accordance with the civil service laws, such officers, hearing examiners, agents, attorneys, and employees as are deemed necessary and to fix their compensation in accordance with the Classification Act of 1949, as amended.

(f) Three members of the Board shall constitute a quorum.

(g) The Board is authorized to employ experts, advisers, and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

(h) To carry out its functions under this Act, the Board is authorized to issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents and administer oaths. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(i) The Board may order testimony to be taken by deposition in any proceeding pending before it at any stage of such proceeding. Reasonable notice must first be given

in writing by the Board or by the party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as provided in subsection (j) of this section. Witnesses whose depositions are taken under this subsection, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the United States.

(j) In the case of contumacy by, or refusal to obey a subpena served upon any person under this section, the Federal district court for any district in which such person is found or resides or transacts business, upon application by the United States, and after notice to such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and produce documents before the Board, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(k) The Board is authorized to make such rules as are necessary for the orderly transaction of its proceedings.

DUTIES OF THE SECRETARY

Inspections, Investigations, and Reports

SEC. 9. (a) In order to carry out the purposes of this Act, the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized—

(1) to enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; and

(2) to question any such employee and to inspect and investigate during regular working hours and at other reasonable times and within reasonable limits and in a reasonable manner, any such area, workplace, or environment, and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein.

(b) If the employer, or his representative, accompanies the Secretary or his designated representative during the conduct of all or any part of an inspection, a representative authorized by the employees shall also be given an opportunity to do so.

(c) Each employer shall make, keep, and preserve for such period of time, and make available to the Secretary such record of his activities concerning the requirements of this Act as the Secretary may prescribe by regulation or order as necessary or appropriate for carrying out his duties under this Act.

(d) In making his inspections and investigations under this Act the Secretary may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy, failure, or refusal of any person to obey such an order, any district court of the United States or the United States courts of any territory or possession, within the jurisdiction of which such person is found, or resides or transacts business, upon the application by the Secretary, shall have jurisdiction to issue to such person an order requiring such person to appear to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(e) 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 employees 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 employees of the agencies of such State or subdivision with or without 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; compensate individuals so employed at rates not in excess of the rate specified at the time of service for grade GS–18 in section 5332 of title 5, United States Code, including travel-time, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

(3) delegate his authority under subsection (a) of this section to any agency of the Federal Government with or without reimbursement and with its consent and to any State agency or agencies designated by the Governor of the State and with or without reimbursement and under conditions agreed upon by the Secretary and such State agency or agencies.

(f) Any information obtained by the Secretary, the Secretary of Health, Education, and Welfare, or a State agency under this Act shall be obtained with a minimum burden upon employers, especially those operating small businesses. Unnecessary duplication of efforts in obtaining information shall be reduced to the maximum extent feasible.

(g) The Secretary shall prescribe such rules and regulations as he may deem necessary to carry out his responsibilities under this Act, including rules and regulations dealing with the inspection of an employer's establishment.

(h) There are hereby authorized to be appropriated such sums as the Congress shall deem necessary to enable the Secretary to purchase equipment which he determines as necessary to measure the exposure of employees to working environments which might cause cumulative or latent ill effects.

CITATIONS AND SAFETY AND HEALTH APPEALS COMMISSION HEARINGS

SEC. 10. (a). If, upon the basis of an inspection or investigation, the Secretary believes that an employer has violated the requirements of section 5, 6, or 9 (c) of this Act, or subsection (e) of this section, or regulations prescribed pursuant to this Act, he shall issue a citation to the employer unless the violation is de minimis. The citation shall be in writing and describe with partcularity the nature of the violation, including a reference to the requirement, standard, rule, order, or regulation alleged to have been violated.

(b) In addition, the citation shall include—

(1) the amount of any proposed civil penalties; and

(2) a reasonable time within which the employer shall correct the violation.

(c) The Secretary shall issue each citation within forty-five days from the concurrence of the alleged violation but for good cause the Secretary may extend such period up to a maximum of ninety days from such occurrence.

(d) If an employer notifies the Secretary that he intends to contest a citation issued under this section, the Secretary shall notify the Safety and Health Appeals Commission of the employer's intention and the Safety and Health Appeals Commission shall afford the employer an opportunity for a hearing as provided in section 11 of this Act. However, if the employer fails to notify the Secretary within fifteen days after the receipt of the citation of his intention to contest the citation issued by the Secretary, the citation shall, on the day immediately following the expiration of the fifteen-day period, become a final order of the Safety and Health Appeals Commission.

(e) Each employer who receives a citation under this section shall prominently post such citation or copy thereof at or near each place a violation referred to in the citation occurred.

(f) No citation may be issued under this section after the expiration of three months following the occurrence of any violation.

(g) Whenever the Secretary compromises, mitigates, or settles any penalty assessed under this Act, he shall include a statement of the reasons for such action, and such statement shall be published in the Federal Register.

OCCUPATIONAL SAFETY AND HEALTH APPEALS COMMISSION

SEC. 11. A. ORGANIZATION AND JURISDICTION—

(1) STATUS.—The Occupational Safety and Health Appeals Commission is hereby established as an independent agency in the Executive Branch of the Government. The members thereof shall be known as the Chairman of the Commission and the Commissioners of the Occupational Safety and Health Appeals Commisson.

(2) JURISDICTION.—The Commission shall have such jurisdiction as is conferred on it by this Act.

(3) MEMBERSHIP.—(a) The Commission shall be composed of three Commissioners, appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office.

(b) The salary of the Chairman of the Commission shall be equal to that provided for the executive level in section 5314, title 5, United States Code, and the salary of the remaining two Commissioners shall be in accordance with the executive level as provided in section 5315, title 5, United States Code.

(c) The terms of office of the Commissioners shall be as follows: one Commissioner shall be appointed for a term of two years, one Commissioner shall be appointed for a term of four years, and the remaining Commissioner for a term of six years, respectively. Their successors shall be appointed for terms of six years each, except that vacancy caused by death, resignation, or removal of a member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term. A Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(d) A Commissioner removed from office in accordance with the provisions of this section shall not be permitted at any time to practice before the Commission.

(4) ORGANIZATION.—(a) The Commission shall have a seal which shall be judicially noticed.

(b) The President may at any time designate one of the three Commissioners to serve as Chairman of the Commission.

(c) A majority of the Commissioners shall constitute a quorum for the transaction of the Commission's business. A vacancy shall not impair its powers nor affect its duties.

(d) The principal office of the Commission shall be in the District of Columbia, but it may sit at any place within the United States giving due consideration to the expeditious conduct of its proceedings and the convenience of the parties.

(5) HEARING EXAMINERS.—(a) The Commission may appoint hearing examiners to conduct such business as the Commission

may require. Each hearing examiner shall be an attorney at law and shall be selected from the Civil Service Commission list of individuals eligible for selection as administrative hearing examiners.

(b) Except as otherwise provided in this Act, the hearing examiners shall be subject to the laws governing employees in the classified civil service, except that appointments shall be made without regard to 5 U.S.C. 5108. Each hearing examiner shall receive compensation at a rate not less than the GS–16 level.

B. PROCEDURE—

(1) REPRESENTATION OF PARTIES.—The Secretary or his delegate shall be represented by the Solicitor of Labor or his delegate before the Commission. The respondent shall be represented in accordance with the rules of practice prescribed by the Commission.

(2) RULES OF PRACTICE, PROCEDURE, AND EVIDENCE.—The proceedings of the Commission shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Commission may prescribe and in accordance with the rules of evidence applicable in trials without a jury in the United States District Court of the District of Columbia.

(3) SERVICE OF PROCESS.—The mailing by certified mail or registered mail of any pleading, decision, order, notice or process in respect of proceedings before the Commission shall be held sufficient service of such pleading, decision, order, notice, or process.

(4) ADMINISTRATION OF OATHS AND PROCUREMENT OF TESTIMONY.—For the efficient administration of the functions vested in the Commission any Commissioner of the Commission, the clerk of the Commission, or any other employee of the Commission designated in writing for the purpose by the Chairman of the Commission, may administer oaths, and any Commissioner may examine witnesses and require, by subpena ordered by the Commission and signed by the Commissioner (or by the Secretary of the Commission) or by any other employee of the Commission when acting under authority from the Secretary of the Commission—

(a) The attendance and testimony of witnesses, and the production of all necessary books, papers, documents, correspondence, and other evidence, from any place in the United States at any designated place of hearing, or

(b) The taking of a deposition before any designated individual competent to administer oaths under this title. In the case of a deposition the testimony shall be reduced to writing by the individual taking the deposition or under his direction and shall then be subscribed by the deponent.

(5) WITNESS FEES.—(a) Any witness summoned or whose deposition is taken shall receive the same fees and mileage as witnesses in courts of the United States.

(b) Such fees and mileage and the expenses of taking any such deposition shall be paid as follows:

(A) In the case of witnesses for the Secretary or his delegate, such payments shall be made by the Secretary or his delegate out of any moneys appropriated for the enforcement of this Act and may be made in advance.

(B) In the case of any other witnesses, such payments shall be made, subject to rules prescribed by the Commission, by the party, at whose instance the witness appears or the deposition is taken.

(6) HEARINGS.—Notice and opportunity to be heard upon any proceeding instituted before the Commission shall be given to the respondent and the Secretary or his delegate. If an opportunity to be heard upon the proceedings is given before a hearing examiner of the Commission, neither the respondent nor the Secretary nor his delegate shall be entitled to notice and opportunity to be heard before the Commission upon review, except upon a specific order of the Chairman of the Commission. Hearings before the Commission shall be open to the public, and the testimony, and, if the Commission so requires, the argument, shall be stenographically reported. The Commission is authorized to contract for the reporting of such hearings, and in such contract to fix the terms and conditions under which transcripts will be supplied by the contractor to the Commission and to others and agencies.

(7) REPORTS AND DECISIONS.—(a) A report upon any proceeding instituted before the Commission and a decision thereon shall be made as quickly as practicable. The decision shall be made by a Commissioner in accordance with the report of the Commission, and such decision so made shall, when entered, be the decision of the Commission.

(b) It shall be the duty of the Commission to include in its report upon any proceeding its findings of fact or opinion or memorandum opinion. The Commission shall report in writing all its findings of fact, opinions, and memorandum opinions.

(c) A decision of the Commission dismissing the proceeding shall be considered as its decision.

(8) PROCEDURES IN REGARD TO THE HEARING EXAMINERS.—(a) A hearing examiner shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such hearing examiner by the Chairman of the Commission, and shall make a report of any such determination which constitutes his final disposition of the proceeding.

(b) The report of the hearing examiner shall become the report of the Commission within thirty days after such report by the hearing examiner unless within such period any Commissioner has directed that such report shall be reviewed by the Commission. Any preliminary action by a hearing examiner which does not form the basis for the entry of the final decision shall not be subject to review by the Commission except in accordance with such rules as the Commission may prescribe. The report of a hearing examiner shall not be a part of the record in any case in which the Chairman directs that such report shall be reviewed by the Commission.

(9) PUBLICITY OF PROCEEDINGS.—All reports of the Commission and all evidence received by the Commission, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public; except that after the decision of the Commission in any proceeding which has become final the Commission may, upon motion of the respondent or the Secretary or his delegate, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Commission; or the Commission may, on its own motion, make such other disposition thereof as it deems advisable.

(10) PUBLICATION OF REPORTS.—The Commission shall provide for the publication of its reports at the Government Printing Office in such form and manner as may be best adapted for public information and use, and such authorized publication shall be competent evidence of the reports of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. Such reports shall be subject to sale in the same manner and upon the same terms as other public documents.

(11) Upon issuance of a citation and notification of the Commission, pursuant to section 10, the Commission shall afford an opportunity for a hearing, and shall issue such orders, and make such decisions, based upon findings of fact, as are deemed necessary to enforce the Act.

C. MISCELLANEOUS PROVISIONS.—

(1) EMPLOYEES.—(a) Appointment and Compensation. The Commission is authorized in accordance with the civil service laws to appoint, and in accordance with the Classification Act of 1949 (63 Stat. 954; 5 U.S.C., chapter 21), as amended to fix the compensation of such employees, including a Secretary to the Commission, as may be necessary to efficiently execute the functions vested in the Commission.

(b) Expenses for Travel and Subsistence. The employees of the Commission shall receive their necessary traveling expenses, and expenses for subsistence while traveling on duty and away from their designated stations, as provided in the Travel Expense Act of 1949 (63 Stat. 166; 5 U.S.C., chapter 16).

(2) EXPENDITURES.—The Commission is authorized to make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals), as may be necessary to efficiently execute the functions vested in the Commission. All expenditures of the Commission shall be allowed and paid, out of any moneys appropriated for purposes of the Commission, upon presentation of itemized vouchers therefor signed by the certifying officer designated by the Chairman.

(3) DISPOSITION OF FEES.—All fees received by the Commission shall be covered into the Treasury as miscellaneous receipts.

(4) FEE FOR TRANSCRIPT OF RECORD.—The Commission is authorized to fix a fee, not in excess of the fee fixed by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any record, entry, or other paper and the comparison and certification thereof.

PROCEDURES TO COUNTERACT IMMINENT DANGERS

SEC. 12. (a) The United States district courts shall have jurisdiction, upon petition of the Secretary, to restrain any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act.

(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to section 11 of this Act. The proceeding shall be as provided by Rule 65 of the Federal Rules, Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

(c) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any place of employment, he shall inform the affected employees and employers of the danger and that he is recommending to the Secretary that relief be sought.

(d) If the Secretary unreasonably fails to petition the court for appropriate relief under this section and any employee is injured thereby either physically or financially by reason of such failure on the part of the Secretary, such employee may bring an action against the United States in the Court of Claims in which he may recover the damages he has sustained, including reasonable court costs and attorney's fees.

(e) In any case where a temporary restraining order is obtained under this section by the Secretary, the court which grants such relief shall set a sum which it deems proper for the payment of such costs, dam-

ages, and attorney's fees as may be incurred or suffered by any employer who is found to have been wrongfully restrained or enjoined. In no case shall any employer wrongfully restrained or enjoined be entitled to a recovery for costs, damages, and attorney's fees in excess of the sum set by the court.

JUDICIAL PROCEEDINGS

SEC. 13. (a) (1) Any employer required by an order of the Commission to comply with the standards, regulations, or requirements under this Act, or to pay a penalty, may obtain judicial review of such order by filing a petition for review, within sixty days after service of such order, in the United States court of appeals for the circuit wherein the violation is alleged to have occurred or wherein the employer has its principal office. A copy of the petition shall forthwith be transmitted by the clerk of the court to the Commission and to the Secretary.

(2) The Secretary may also obtain judicial review or enforcement of a decision of the Commission as provided in subsection (1) of this section.

(3) Until the record in a case shall have been filed in a court, as herein provided, the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part any finding, order, or rule made or isued by it.

(4) Upon the filing of a petition for review under this section, such court shall have jurisdiction of the proceeding and shall have power to affirm the order of the Commission, or to set aside, in whole or in part, temporarily or permanently, and to enforce such order to the extent that it is affirmed. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order requiring compliance with the terms of the order of the Commission. The commencement of proceedings under this paragraph shall not, unless specifically ordered by the court, operate as a stay of the order of the Commission.

(5) No objection to the order of the Commission shall be considered by the court unless such objection was urged before the Commission or unless there were reasonable grounds for failure to do so. The findings of the Commission as to the facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive, but the court, for good cause shown, may remand the case to the Commission for the taking of additional evidence in such manner and upon such terms and conditions as the court may deem proper, in which event the Commission may make new or modified findings and shall file such findings (which, if supported by substantial evidence on the record considered as a whole, shall be conclusive) and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence.

(6) The judgment of the court affirming or setting aside, in whole or in part, any order under this subsection shall be final, 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.

(7) An order of the Commission shall become final under the same conditions as an order of the Federal Trade Commission under section 45 (g) of title 15, United States Code.

(b) Any interested person affected by the action of the Board in issuing a standard under section 6 may obtain review of such action by the United States Court of Appeals for the District of Columbia by filing in such court within thirty days following the publication of such rule a petition praying that the action of the Board be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon the Board and thereupon the Board shall certify and file in the court the record upon which the action complained of was issued as provided in section 2112 of title 28, United States Code. Review by the court shall be in accord with the provisions of section 706 of title 5, United States Code. The court, for good cause shown, may remand the case to the Board to take further evidence, and the Board may thereupon make new or modified findings of fact and may modify its previous action and shall certify to the court the record of the further proceedings. The remedy provided by this subsection for reviewing a standard or rule shall be exclusive. 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. The commencement of a proceeding under this subsection shall not, unless specifically ordered by the court, delay the application of the Board's standards.

(c) Civil penalties owed under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil suit in the name of the United States brought in the Federal district court in the district where the violation is alleged to have occurred or where the employer has its principal office.

(d) The Federal district courts shall have jurisdiction of actions to collect penalties prescribed in this Act and may provide such additional relief as the court deems appropriate to carry out the order of the Occupational Safety Health Appeals Commission.

REPRESENTATION IN CIVIL LITIGATION

SEC. 14. Except as provided in section 518 (a) of title 28, United States Code, relating to litigation before the Supreme Court and the Court of Claims, 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. 15. 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 essential in any proceeding under this Act. However, any such information shall be recorded and presented off the official public record, and shall be kept and preserved separately.

VARIATIONS, TOLERANCES, AND EXEMPTIONS

SEC. 16. The Board, on the record, after notice and opportunity for a hearing may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act as it may find necessary and proper to avoid serious impairment of the national defense. Such action shall not be in effect for more than six months without notification to affected employees and an opportunity being afforded for a hearing.

PENALTIES

SEC. 17. (a) Any employer who willfully or repeatedly violates the requirements of section 5 of this Act, any standard or rule promulgated pursuant to section 6 of this Act, or regulations prescribed pursuant to this Act, may be assessed a civil penalty of not more than $10,000 for each violation.

(b) Any citation for a serious violation of the requirements of section 5 of this Act, of any standard or rule promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, shall include a proposed penalty of up to $1,000 for each such violation.

(c) Any employer who violates the requirements of section 5 of this Act, any standard or rule promulgated pursuant to section 6 of this Act, or regulations prescribed pursuant to this Act, and such violation is specifically determined by the Secretary not to be of a serious nature, the Secretary may include in the citation issued for such violation a proposed penalty of up to $1,000 for each such violation.

(d) Any employer who violates any order or citation which has become final in accordance with the provision of section 10 of this Act may be assessed a penalty of up to $1,000 for each such violation. When such violation is of a continuing nature, each day during which it continues shall constitute a separate offense, for the purpose of assessing the penalty except where such order or citation is pending review under section 11 of this Act.

(e) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of inspections or investigatory duties under this Act shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years or both. Whoever kills a person while engaged in or on account of the performance of inspecting or investigating duties under this Act shall be punished by imprisonment for any term of years or for life.

(f) Any employer who violates any of the posting requirements, as prescribed under the provisions of this Act, shall be assessed by the Commission a civil penalty of up to $1,000 for each such violation.

(g) Any person who discharges or in any other manner discriminates against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, shall be assessed a civil penalty by the Commission of up to $10,000. Such person may also be subject to a fine of not more than $10,000 or imprisonment of a period not to exceed ten years or both.

(h) The Commission shall have authority to assess and collect all penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

(i) For purposes of this section a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the Secretary determines that the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

STATE JURISDICTION AND STATE PLANS

SEC. 18. (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 re-

spect to which no standard is in effect under section 6.

(b) Any State which, at any time, desires to assume responsibility for development and enforcement therein 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 as the agency or agencies 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 or will be 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 workplaces subject to the Act which is at least as effective as that provided in section 9(a), and includes a prohibition on advance notice of inspections,

(4) contains satisfactory assurances that such agency or agencies have or 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, which program is as effective as the standards contained in an 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 rejects a plan submitted under subsection (b), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(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 9, 10, 11, and 12 with respect to comparable standards promulgated under section 6, for the period specified in the next sentence. 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 determination for at least three years after the plan's approval under subsection (c). Upon making the determination referred to in the preceding sentence, the provisions of sections 5(b), 9 (except for the purpose of carrying out subsection (c)), 10, 11, and 12, 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 10 or 11 before the date of determination.

(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 (or any assurance contained therein), 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 reasons 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 praying that the action of the Secretary be modified or set aside in whole or in part. 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. 19. (a) It shall be the responsibility of the head of each Federal agency to establish and maintain an effective and comprehnsive 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 health 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 illness for proper evalution and necessary corrective action;

(4) consult with the Secretary with regard to the adequacy as to form and content of records kept pursuant to subsection (a)(3) of this section; 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 report to the President a summary or digest of reports submitted to him under subsection (a)(5) of this section, together with his valuations of and recommendations derived from such reports. The President shall transmit annually to the Senate and the House of Representatives a report of the activities of Federal agencies under this section.

(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 subsections (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.

TRAINING AND EMPLOYEE EDUCATION

SEC. 20. (a) The Secretary of Health, Education, and Welfare, after consultation with the Secretary of Labor, the Board, and with other appropriate Federal departments and agencies, shall conduct, directly or by grants or contracts (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.

(b) The Secretary is also authorized to conduct (directly or by grants or contracts) short-term training of personnel engaged in work related to his responsibilities under this Act.

(c) 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 employment covered by this Act, and to consult with and advise employers and employees, and organizations representing employers and employees as to effective means of preventing occupational injuries and illnesses.

GRANTS TO THE STATES

SEC. 21. (a) 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 18(c) to assist them (1) in identifying their needs and responsibilities in the area of occupational safety and health, (2) in developing State plans under section 18, or (3) in developing plans for—

(A) establishing systems for the collection of information concerning the nature and frequency of occupational injuries and diseases;

(B) increasing the expertise and enforcement capabilities of their personnel engaged in occupational safety and health programs; or

(C) otherwise improving the administration and enforcement of State occupational safety and health laws, including standards thereunder, consistent with the objectives of this Act.

(b) 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 subsection (a) of this section.

(c) The Governor of the State shall designate the appropriate State agency, or agencies, for receipt of any grant made by the Secretary under this section.

(d) Any State agency, or agencies, designated by the Governor of the State, desiring a grant under this section shall submit an application therefor to the Secretary.

(e) The Secretary shall review the application, and shall, after consultation with the Secretary of Health, Education, and Welfare, approve or reject such application.

(f) The Federal share for each State grant under subsection (a) or (b) of this section may be up to 90 per centum of the State's total cost. 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.

(g) 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 18 of this Act. The Federal share for each State grant under this subsection may be up to 50 per centum of the State's total cost. The last sentence of subsection (f) shall be applicable in determining the Federal share under this subsection.

(h) 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 Congress, describing the experience under the program and making any recommendations he may deem appropriate.

ECONOMIC ASSISTANCE TO SMALL BUSINESSES

SEC. 22. (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 18 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.

RESEARCH AND RELATED ACTIVITIES

SEC. 23. (a)(1) The Secretary of Health, Education, and Welfare, after consultation with the Secretary, the Board, and with other appropriate Federal departments or agencies, shall conduct (directly or by grants or contracts) research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems.

(2) The Secretary of Health, Education, and Welfare shall from time to time consult with the Board in order to develop specific plans for such research, demonstrations, and experiments as are necessary to produce criteria, including criteria identifying toxic substances, enabling the Board to meet its responsibility for the formulation of safety and health standards under this Act; and 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 and publish at least annually such criteria as will effectuate the purposes of this Act.

(3) The Secretary of Health, Education, and Welfare shall also conduct special research, experiments, and demonstrations relating to occupational safety and health as are necessary to explore new problems, including those created by new technology in occupational safety and health, which may require ameliorative action beyond that which is otherwise provided for in the operating provisions of this Act. The Secretary of Health, Education, and Welfare shall also conduct research into the motivational and behavioral factors relating to the field of occupational safety and health.

(4) The Secretary of Health, Education, and Welfare shall publish within six months of enactment of this Act and thereafter as needed but at least annually a list of all known toxic substances by generic family or other useful grouping, and the concentrations at which such toxicity is known to occur.

(5) The Board shall respond, as soon as possible, to a request by any employer or employee for a determination whether or not any substance normally found in a working place has toxic or harmful effects in such concentration as used or found.

(b) The Secretary of Health, Education, and Welfare is authorized to make inspections and question employers and employees as provided in section 9 of this Act in order to carry out his functions and responsibilities under this section.

(c) 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 relating to his responsibilities under this Act. In carrying out his responsibilities 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.

(d) Information obtained by the Secretary, the Board, and the Secretary of Health, Education, and Welfare under this section shall be disseminated by the Secretary to employers and employees and organizations thereof.

STATISTICS

SEC. 24. (a) 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. Such program may cover all employments whether or not subject to any other provisions of this Act but shall not cover employments excluded by section 4 of the Act.

(b) To carry out his duties under subsection (a) of this section, the Secretary may:

(1) Promote, encourage, or directly engage in programs of studies, information and communication concerning occupational safety and health statistics.

(2) 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.

(3) Arrange, through grants or contracts, for the conduct of such research and investigations as give promise to furthering the objectives of this section.

(c) The Federal share for each State grant under subsection (b) of this section may be up to 50 per centum of the State's total cost.

(d) 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.

(e) On the basis of the records made and kept pursuant to section 9(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.

(f) Agreements between the Department of Labor and the States pertaining to the collection of occupational safety and health statistics already in effect on the effective date of this Act shall remain in effect until superseded by grants or contracts made under this Act.

EFFECT ON OTHER LAWS

SEC. 25. (a) Nothing in this Act shall be construed or held 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, occupational or other diseases, or death of employees arising out of, or in the course of, employment.

(b) Nothing in this Act shall apply to working conditions of employees with respect to whom other Federal agencies, and State agencies acting under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021) exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(c) The safety and health standards promulgated under the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.), the Service Contract Act (41 U.S.C. 351 et seq.), and the National Foundation on Arts and Humanities Act (20 U.S.C. 951 et seq.), are deemed repealed and rescinded on the effective date of corresponding standards promulgated under this Act, as determined by the Secretary of Labor to be corresponding standards.

(d) Nothing in this Act shall apply to any employer who is a contractor or subcontractor for construction, alteration, and/or repair of buildings or works, including painting or decorating in the regular course of his business.

(e) 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.

(f) Section 2 of the Act of August 9, 1969 (Public Law 91–54; 83 Stat. 96), is hereby amended to read as follows:

"SEC. 2. The first section and section 2 of the Act of August 13, 1962, are each amended by inserting 'and Construction Safety and Health' before 'standards' each time it appears."

(g) Subsection 107 of Public Law 91–54 (83 Stat. 96) is amended to read as follows:

"SEC. 107. (a)(1) It shall be a condition of each contract which is entered into under legislation subject to Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and is for construction, alteration, and/or repair, including painting and decorating, that no contractor or subcontractor contracting for any part of the contract work shall require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards promulgated by the Secretary by regulation based on proceedings pursuant to section 553 of title 5, United States Code, provided that such proceedings include a hearing of the nature authorized by said section. The Secretary of Labor shall consult with the Advisory Committee on Construction Safety and Health created by subsection (f) and shall give due regard to the Committee's recommendations and information in framing proposed rules or subjects and issues in setting standards in accordance with section 443 of title 5, United States Code.

"(2) Each employer as defined in section 3(6) of the Occupational Safety and Health Act who is a contractor or subcontractor for construction, alteration, and/or repair of buildings or works, including painting and

decorating in the regular course of his business, shall comply with construction safety and health standards promulgated under this section."

(h) Subsection (b) of section 107 of Public Law 91–54 (83 Stat. 96) is amended to read as follows:

"(b)(1) The Secretary is authorized to make inspections and investigations pursuant to sections 9 (a), (c), and (d) of the Occupational Safety and Health Act. If upon the basis of inspection or investigation, the Secretary believes that an employer subject to the provisions of section 107(a)(2) has violated any health or safety standard promulgated under section 107(a) of this Act, or has violated the condition required of any contract to which subsection (a) of this section applies, the Secretary shall issue a citation to the employer unless the violation is de minimis. The provisions of section 10 (except subsection (c) thereof) of the Occupational Safety and Health Act shall apply to citations issued under this Act. In issuing citations under this Act, the Secretary shall issue each citation at the earliest possible time from the occurrence of the alleged violation but in no event later than forty-five days from the occurrence of the alleged violation except that for good cause the Secretary may extend such period up to a maximum of ninety days from such occurrence. The provisions of section 12 of the Occupational Safety and Health Act shall also apply to this Act.

"(2) If, after notice and opportunity for hearing, the Commission determines that a violation has occurred of any condition prescribed by this section for a contract of the type described in clause (1) or (2) of section 103(a) of this Act, the governmental agency for which the contract work is done shall have the right to cancel the contract, and to enter into other contracts for the completion of the contract work, charging any additional cost to the original contractor. If, after notice and opportunity for hearing, the Commission determines that a violation has occurred of any condition prescribed by this section for a contract of the type described in clause 3 of section 103(a), the governmental agency by which financial guarantee, assistance, or insurance for the contract work is provided shall have the right to withhold any such assistance attributable to the performance of the contract. Section 104 of this Act shall not apply to the enforcement of this section."

(i) Subsection (c) of section 107 of Public Law 91–54 (83 Stat. 96) is hereby repealed and subsection (d) of that section is redesignated as subsection "(c)" and is amended to read as follows:

"(c)(1) If the Commission determines on the record after an opportunity for hearing that by repeated willful or grossly negligent violations of this Act, a contractor or subcontractor has demonstrated that the provisions of subsection (b) of this section and actions by the Secretary under paragraph (3) of this subsection are not effective to protect the safety and health of his employees, the Commission shall make a finding to that effect and shall, not sooner than thirty days after giving notice of the findings to all interested persons, transmit the name of such contractor or subcontractor to the Comptroller General.

"(2) The Comptroller General shall distribute each name so transmitted to him to all agencies of the Government. Unless the Commission otherwise recommends, no contract subject to this section shall be awarded to such contractor or subcontractor or to any person in which such contractor or subcontractor has a substantial interest until three years have elapsed from the date the name is transmitted to the Comptroller General. If, before the end of such three-year period, the Commission, after affording interested persons due notice and opportunity for hearing, is satisfied that a contractor or subcontractor whose name he has transmitted to the Comptroller General will thereafter comply responsibly with the requirements of this section, the Commission shall terminate the application of the preceding sentence to such contractor or subcontractor (and to any person in which the contractor or subcontractor has a substantial interest); and when the Comptroller General is informed of the Commission's action he shall inform all agencies of the Government thereof.

"(3) Any person aggrieved by an action of the Commission under subsections (b) or (c) of this section may seek a review of such action in the appropriate United States Court of Appeals pursuant to the provisions of section 13(a) of the Occupational Safety and Health Act. The Secretary may also obtain judicial review or seek enforcement as provided in sections 13(a) and 13 (c) and (d), and section 14 of the Occupational Safety and Health Act."

(j) Section 107 of Public Law 91–54 (83 Stat. 96) is amended by adding a new subsection "(d)" immediately after the new section "(c)". Subsection (e) of section 107 of Public Law 91–54 (83 Stat. 96) is hereby redesignated as subsection "(f)" and subsection (f) of section 107 of Public Law 91–54 (83 Stat. 96) is accordingly redesignated as subsection "(g)". The new subsection "(d)" shall read as follows:

"(d)(1) Any employer who willfully or repeatedly violates the standards promulgated by the Secretary under section 107(a) of this Act, may be assessed a civil penalty of not more than $10,000 for each violation.

"(2) Any citation for a serious violation of the standards promulgated by the Secretary under section 107(a) of this Act shall include a proposed penalty of up to $1,000 for each such violation.

"(3) Any employer who violates the standards promulgated by the Secretary under section 107(a) of this Act and such violation is specifically determined by the Secretary not to be of a serious nature, the Secretary may include in the citation issued for such a violation a proposed penalty of up to $1,000 for each such violation.

"(4) Any employer who violates any order or citation which has become final in accordance with the provisions of section 10 of the Occupational Safety and Health Act may be assessed a penalty of up to $1,000 for each such violation. When such violation is of a continuing nature, each day during which it continues shall constitute a separate offense for the purpose of assessing the penalty except where such order or citation is pending review under section 11 of the Occupational Safety and Health Act.

"(5) Any employer who violates any of the posting requirements, as prescribed in section 10(e) of the Occupational Safety and Health Act, shall be assessed by the Commission a civil penalty of up to $1,000 for each such violation.

"(6) Any person who discharges or in any other manner discriminates against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, shall be assessed a civil penalty by the Commission of up to $10,000. Such person may also be subject to a fine of not more than $10,000 or imprisonment of a period not to exceed ten years, or both.

"(7) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of inspections or investigatory duties under this Act shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years or both. Whoever kills a person while engaged in or on account of the performance of inspecting or investigating duties under this Act shall be punished by imprisonment for any term of years or for life.

"(8) The Commission shall have authority to assess and collect all penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

"(9) For the purpose of this subsection a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the Secretary determines that the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation."

AUDITS

SEC. 26. (a) Each recipient of a grant under this Act 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, the total cost 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 such other records as will facilitate an undertaking supplied by other sources, and effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any grant under this Act that are pertinent to any such grant.

REPORTS

SEC. 27. 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 concerning the achievement of its purposes, the needs and requirements in the field of occupational safety and health, and any other relevant information, and including any recommendations to effectuate the purposes of this Act.

OBSERVANCE OF RELIGIOUS BELIEFS

SEC. 28. Nothing in 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 medical examination, immunization, or treatment is necessary for the protection of the health or safety of others.

APPROPRIATIONS

SEC. 29. 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. 30. This Act shall take effect one hundred and twenty days after the date of its enactment.

SEPARABILITY

SEC. 31. 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.

Mr. DOMINICK. 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. WILLIAMS of New Jersey. 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. WILLIAMS of New Jersey. Mr. President, for the benefit of Senators, it is the intention of the manager of the bill to have the debate on the substitute offered by the Senator from Colorado continue, and I shall be moving to table the substitute some time between 4:30 and 5 o'clock.

Mr. DOMINICK. Mr. President, I want to thank my friend from New Jersey for having made clear his intention on the proposal I have submitted to the Senate. I think the time specified gives us adequate time to explain both the substitute and the areas of difference between us. It is also, if I may say so, in accordance with the discussions the Senator from Ohio Mr. SAXBE and I had with the majority leader before we recessed in October, at which time we said that after the election we hoped this would become one of the first items of business and that we would agree to a limited time.

For the benefit of my colleagues who may read the RECORD or those who are on the floor at the moment, in the event the motion to table carries—and I sincerely hope it will not—we will then be offering amendments separately to the committee bill. I shall also be willing to reach an agreement on a limitation of time on each of those amendments. Hopefully, we can come to a conclusion on this bill before the week is ended; and, perhaps, within the next few days.

Mr. President, I think it is important in making the record here that we point out that the substitute is not in any way designed to downgrade the need and the desirability of affording health standards and occupational safety standards for the workers of this country. I start out by saying that immediately after the substitute starts, section 2(a) reads:

> The Congress finds that personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of lost production, wage loss, medical expenses, and disability compensation payments.

Subsection (b) reads:

> The Congress declares it to be its purpose and policy, through the exercise of its powers, to regulate commerce among the several States and with foreign nations 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 and to preserve our human resources.

So it ought to be made crystal clear that we are not trying to do anything to downgrade health standards. We are trying to provide legislation which will, in a more equitable way, permit development of safe and prudent health and safety standards by one body, to have the administration of those standards by another body, and to have the enforcement by a third group, so that we do not have so-called star chamber proceedings, which would be permitted under the bill as it was reported out of committee, and to which we object.

Mr. President, the law which we pass must be workable and effective. This means the bill must establish realistic mechanisms which call not only for the development and enforcement of strong standards but will also be fair and accord all parties, including employers subject to regulation, due process.

In my opinion, Mr. President, the committee bill fails to do that. I think it is only fair to ask why. The reason is that it does not balance the need for regulation with the requirements of fairness and due process. The concentration of all authority for the promulgation of standards, the inspection and investigation of complaints, the prosecution of cases, and the adjudication of cases, totally in the hands of the Secretary of Labor is not a balanced approach. It is this structure, this procedural mechanism, which is objectionable to me, and I believe objectionable to many people around the country. It is objectionable because concentration of power gives rise to a great potential for abuse. A single man is easier to harass than an independent board or commission. Political pressure can be concentrated to achieve a particular point of view or course of action. The tradition of this Nation has been to place safeguards on power whenever it is granted. One of the greatest safeguards has been the separation of powers. By separating the legislative, executive, and judicial functions, a balance has been achieved which permits progress without abuse of authority. The separation of powers proposed in S. 4404 provides a structure which will achieve the goal of safe and healthful working conditions without raising the sceptre of abuse. It is because of this structural deficiency and because the concentration of power does not permit the fullest utilization and coordination of expert opinion that S. 2193 is opposed by the administration, by employers, by State occupational health and safety agencies, and by various groups which are active in producing standards in the occupational health and safety field.

This is not to say, Mr. President, that the reported bill is totally objectionable. Indeed, many of the provisions of the substitute amendment are the same or similar to those of the reported bill.

I have in my hand a letter, which I think it is only fair to read into the RECORD at this point, from the Department of Labor, signed by the Secretary. It is dated October 12, 1970, and it reads as follows:

> DEAR SENATOR DOMINICK: I am writing concerning S. 4404, an Occupational Safety and Health bill which was introduced by you and co-sponsored by Senators Griffin, Saxbe, and Smith.
>
> During his first year in office, President Nixon in a special message to Congress proposed a strong comprehensive occupational safety and health measure. Along with his message, the President transmitted a proposed Occupational Safety and Health draft bill which was introduced as S. 2788. Since the introduction of S. 2788, the President has mentioned in three separate messages to the Congress the importance of enactment of occupational safety and health legislation.

The Secretary goes on to say:

> I would like to indicate my support for S. 4404, which incorporates the best features necessary for efficient administration while at the same time incorporating many features which assure fair as well as firm enforcement. A companion bill to S. 4404, H.R. 19200, was introduced by Congressman Steiger and Congressman Sikes in the House of Representatives. I am proud to say that I was personally involved in discussions with Congressmen and representatives of both political parties in helping to develop these compromise bills.
>
> S. 4404 is a strong comprehensive proposal which would assure effective and fair procedures for promulgating occupational safety and health standards, and for enforcing those standards. My efforts in developing this compromise proposal were the result of my strong belief in the need for the enactment of a comprehensive Federal occupational safety and health act in this Congress.
>
> Sincerely,
>
> J. D. HODGSON,
> *Secretary of Labor.*

Mr. President, I think that puts the picture fairly clear, showing the administration's support and showing the balance of powers which the President is supporting and which I am supporting in this substitute.

However, the substitute bill does provide a framework which embodies the necessary structural separation and procedural safeguards to insure strong regulation and due process. A comparison of the two bills demonstrates this.

Under the committee bill, the Secretary of Labor is given authority to promulgate all standards. Under the substitute, all standards would be promulgated by a National Occupational Safety and Health Board, separate and independent of other Federal agencies. The Board would be composed of five members, all qualified by previous training, education, or experience in the field of occupational safety and health; the members would be appointed by, and serve at the pleasure of the President.

Both bills provide for three types of mandatory standards, early, emergency temporary, and permanent.

Early: Under the reported bill the early standards are of three types: First, national consensus standards; second, already existing Federal standards; and third, standards also promulgated prior to the date of enactment of this Act by national organizations but by a nonconsensus method. These standards must be issued by the Secretary as soon as practicable within 2 years following the effective date, unless the Secretary determines that their promulgation will not result in improved safety or health for certain employees. No provision is included with regard to how long these standards stay in effect or how they are superseded. Apparently, they would remain in effect until the Secretary decided to exercise his general authority to promulgate, modify, or revoke any "standard" under the act.

S. 4404, the substitute, also provides for early standards; however, S. 4404 has only 2 types: First, national consensus standards; and second, already existing

Federal standards. These standards must be issued by the Board, as soon as practicable within 3 years following the effective date, unless the Board determines that these standards will not assure safer and more healthful working conditions. The substitute specifically provides that the standards remain in effect only until superseded by permanent standards.

These early standards would be promulgated by rule by the Secretary, or by the Board under the substitute. The APA does not apply, except in the case of nonconsensus standards under the committee bill, where informal APA rulemaking procedures do not apply; that is, submission of written views with informal hearings which would be in the Secretary's discretion.

Both bills provide for emergency situations. The provisions are essentially the same except the Board and not the Secretary would promulgate the emergency standards under S. 4404.

The committee bill provides that emergency temporary standards must be promulgated by the Secretary if he determines that they are needed to combat grave danger from toxic or physically harmful substances, or from new hazards. These standards stay in effect until replaced by permanent standards which the Secretary is required to issue within 6 months after emergency temporary standards are issued.

Under S. 4404, the substitute, the standards would be limited to setting an emergency temporary standard where the Board determines that employees are exposed to grave danger from substances determined to be toxic or from new hazards which result from the introduction of new processes.

These emergency temporary standards, under both bills, would become effective immediately on publication in the Federal Register. Under the reported bill, permanent standards would be promulgated by the Secretary under informal rulemaking procedures of the APA; but a hearing is required, if an interested person objects to a proposed standard. The use of advisory committees is authorized, but not mandatory.

The Secretary is required to issue a standard within 60 days after the expiration of the period provided for the submission of views—as required in informal APA rulemaking—or within 60 days after the hearing—required where an objection is made—ends.

Under the substitute, S. 4404, permanent standards are set by the Board, using formal rulemaking procedures of the APA. The use of formal procedures helps assure that all will have an opportunity to be heard and that a standard must be based on substantial evidence on the record. The use of advisory committees, as in the reported bill, is not made mandatory.

Mr. President, I think we ought to remember that we are dealing here with every type of industry that one can think of in this country. When we are talking about commerce between the States or anything that affects commerce, under the interpretations of the Supreme Court, that would take in everything from a shoeshine shop to an oil refinery, to a restaurant, to a steel plant, to almost any type of industry or employee you can think of. We are dealing with all types of health problems and safety problems. We are dealing with all kinds of differing conditions in the various States; and unless we have an input into an impartial board set up independently from the Labor Department, we are not going to have the necessary circumstances detailed which would allow us to set forth a fair and efficient rulemaking procedure.

I think this Board for the establishment of standards is perhaps one of the key items that we have in the substitute. In fact, I know it is; and unless we do it that way, I am afraid that we are in for a very substantial problem.

The Board is required to promulgate a standard 60 days after the formal hearing ends—if advisory committee is utilized—and 120 days afterwards—if no advisory committee is used. Also, the Secretary of Health, Education, and Welfare or the Secretary of Labor may request the setting or modification of a standard, and the Board must commence standard-setting procedures within 60 days after the request is made.

In setting standards, the committee bill requires the Secretary to set standards which most adequately and feasibly assure that no employee will suffer any impairment of health or functional capacity, or diminished life expectance even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life.

There is no such provision in the substitute bill. But I ask, Mr. President, just thinking about that language, let us take a fellow who is a streetcar conductor or a bus conductor at the present time. How in the world, in the process of the pollution we have in the streets or in the process of the automobile accidents that we have all during a working day of any one driving a bus or trolley car, or whatever it may be, can we set standards that will make sure he will not have any risk to his life for the rest of his life? It is totally impossible for this to be put in a bill; and yet it is in the committee bill. Fortunately, we do not have it at this time in the substitute.

The committee-reported bill also provides that standards shall prescribe the use of labels, warnings, employer monitoring or measuring of employee exposure to hazards, plus types and frequency of medical examinations or other tests which shall be made available by the employer or at his cost, to employees exposed to hazards.

The substitute, S. 4404, has provisions authorizing an appropriation for the Secretary's purchase of equipment to measure the exposure of employees to working environments which might cause cumulative or latent ill effects.

This could be in a cement plant, or any type of plant dealing either with fine, sooty particles in the refining process, or which might even result from improper protection from paint sprays or things of that nature. I can think of all kinds of things where this would come into play, and where we would need to have some kind of working equipment to deal with the hazards and try to find out the degree of those hazards. So we authorize appropriations for the purchase for this type of hazard or risk.

The substitute also provides that standards must prescribe the posting of such labels or warnings as are necessary to apprise employees of the nature and extent of hazards and of suggested methods of avoiding or ameliorating them. The substitute has no express provision requiring medical examinations, but such examinations are obviously contemplated under the bill because an exception is provided for those who object to "medical examination, immunization, or treatment on religious grounds."

Both bills specifically provide for judicial review of standards. Under the committee bill, judicial review of standards is provided in the various U.S. courts of appeals. This right may be exercised up to 60 days after the standard is promulgated. The committee bill specifically provides that the filing for review not act as a stay of the standards, unless so ordered by the court.

The substitute bill, S. 4404, has a similar provision, for judicial review of standards, except the U.S. Court of Appeals for the District of Columbia is the only forum. Unlike the reported bill, this judicial review of standards is made an exclusive remedy. The time period for review is 30 days after publication of the standard. Also, a petition for review would not stay the effect of a standard unless specifically so ordered by the court.

Then we come to enforcement, Mr. President. In general, under the provisions of the committee bill, as I outlined to begin with, the Secretary of Labor would first promulgate the standards; then he has to administer them; then he has to find out whether or not there has been any kind of violation; and then he has to enforce them. So he wears about four hats; and if I ever heard of anything which concentrates power, this one does it.

Under the substitute bill, we do not do that. As I have said, we have a separate independent board for the adoption of standards to start with. Then, when we come down to the enforcement—I will put it this way first. The Secretary of Labor retains the administrative power, and he also retains the inspection and investigation. But after we get to that, we come to the enforcement procedures. And what are we going to do on that?

After the inspection procedure has been determined, and if there is an alleged violation, then, under the substitute bill, we establish an Occupational Safety and Health Appeals Commission composed of three members appointed by the President to serve staggered 6-year terms.

When the Secretary of Labor issues a citation as to an alleged violation, the employer has 15 days to notify the Secretary of his intention to contest the citation. If the employer so contests, the Secretary would notify the Appeals Commission, which would then afford the employer an opportunity for a hearing.

Enforcement of the Commission's orders where necessary, or review of those orders, would be in the U.S. Court of Ap-

peals. If the citation is not contested within a 15-day period, it is deemed a final order of the Commission.

This is totally different, as I have said, from the procedures authorized in the committee bill as it has been reported to the floor.

I might say here that this is one of the points that the distinguished Senator from New York made in committee and again has made on the floor today—namely, that a separate commission or panel, as he called it, should be set up for the enforcement procedures. That, of course, as I say, is part of the substitute bill.

Our substitute also provides that in the case of a willful or repeated violation of the act's requirements, a possible civil penalty of up to $10,000 per violation may be imposed. So we have teeth in this substitute.

Some allegations have been made—not by the Senators on the floor, but by other people—that the purpose of this is to try to tone down the penalties or to make sure that the worker is not going to have his fair treatment. Nothing could be further from the truth. What we are trying to do is to set up a balanced bill. If some employer is willfully violating standards which have been set by the board and which have been inspected by the Secretary, and an allegation has been made that they have been violated, there are real teeth in this bill to make sure that the employer has to live up to the standards that have been so set.

Under the substitute, it is mandatory in the case of serious violation that the citation include a proposed civil penalty of up to $1,000 per violation. In the case of ordinary violations, the Secretary may include in the citation a proposed civil penalty up to the same amount.

Under the substitute, a violation of a final order, or of a citation which has become a final order through failure to appeal, carries a possible civil penalty of up to $1,000 per violation, and each day a continued violation is a separate offense. So it is a very substantial penalty.

Any willful violation of a specific standard or of other requirements of the act is liable to a fine of up to $10,000 and up to 6 months in jail, and $20,000 and up to a year in jail for a second conviction of a willful violation, under the provisions of the committee bill.

As noted above, under the provisions of the substitute, we have a civil not a criminal penalty for a willful or repeated violation. That has been treated with some care. We did it this way because I think most of us know how difficult it is to get an enforceable criminal penalty in these types of cases. Over and over again, the burden of proof under a criminal-type allegation is so strong that you simply cannot get there, so you might as well have a civil penalty instead of the criminal penalty and get the employer by the pocketbook if you cannot get him anywhere else.

Mr. President, the Senator from New York, in the process of making a very brief talk on this bill, pointed out the so-called imminent danger procedure. I must say that the committee dealt with this, in my opinion, so that it toned it down to some degree from the way it was originally presented to us in executive session. Nevertheless, we still have a provision in here whereby an inspector can go into a plant, and if he thinks there is an imminent danger somewhere, all he has to do—one man, as an inspector—is to call the regional office or somebody else in the Labor Department and shut down the whole plant immediately, by an order, without any court findings, without any adjudication, without any due process.

This has created very serious questions in the minds of many employers who have been working hard in the safety field and who feel that this is an arbitrary degree of power, limited as it is; namely, limited by the fact that he has to contact someone and get their OK. They still feel that it is far too strong. Personally, I agree with that. It seems to me that we have gone too far in the committee bill on this so-called imminent danger.

The substitute bill would permit an inspector who finds that he has this to get in touch immediately with anybody he wants to and seek injunctive relief in the U.S. district court. One can get any kind of temporary restraining order within a half hour. This is no problem at all, if the actual danger that is present in the plant is shown. It can be done ex parte. It is not necessary to serve notice on anybody. One can go right into a Federal district court, ex parte, and get it within a half hour, and then have it come up for hearing on temporary or permanent injunction later.

So I would say that there is no problem in saying that the danger must go to the courts. I have heard many people argue that this is going to be in terms of great delay, that the imminent danger will stay there, that the employees will be subject to hazards to which they should not be subject. The fact is that it simply is not so. It is so with respect to the possibility of delays in courts if something is being tried on the merits and it is going on for a long time. But in terms of ex parte injunctive relief, there is no problem in getting it right away.

If this type of injunctive relief is sought under the provisions of the substitute, the inspector must notify both the employee and the employer that he will recommend to the Secretary such relief be sought, and then under the provisions of the substitute if there is an unreasonable failure in the Secretary's judgment to seek relief to abate the danger, employees injured physically or financially can get damages in a court of claims.

The employer is also given the right under the substitute to seek damages in the event of wrongful blame. This would be determined by the district court in an adversary type of proceeding.

These, as I have said, are the major points of difference between the two proposals. There are a number I have skipped over or are terms of technical wording. What we are dealing with as I have said over and over, and again and again, is the question of whether we are going to pass a bill, as it has been proposed by the committee, which will concentrate all the power on all the health and all the safety measures in one department and under the authority of one man. I personally do not think that is correct. I do not think that we should give any one man or any one department—I have said this before and I know that we perhaps have it in some of the independent agencies around here—but I do not think it is right, or that we should give them the power to make the rules, then administer the rules, then inspect to see if the rules are being complied with, and then to file a complaint on violations of the rules or to determine whether it was a reasonable complaint.

If we have it all in one person, how can it be otherwise than an undue concentration of power which can lend itself to all kinds of abuses? Under the substitute bill before us now, what we will be doing is saying that we will have three separate things working. First, an independent board consisting of five members to establish the rules; then the Secretary of Labor will maintain the administrative power over the standards and will also do the inspection and make the allegations of complaint. Those complaints, if challenged, will go before a national commission on enforcement which will again be an independent, three-member board, which will determine whether the complaint for violation is legitimate. If anyone objects to the panel decision, they can go in and appeal it in the court system.

It is a very much fairer distribution of power, giving both employees and employers a more unprejudiced, bipartisan method of determining what their respective rights may be.

Mr. President, I yield the floor.

Mr. WILLIAMS of New Jersey. Mr. President, the substitute amendment that has been offered by Senator DOMINICK is an effort to undo all of the discussion and resolution of issues so carefully considered by the committee.

This amendment in various forms was thoroughly discussed by the full committee and there rejected.

There are at least three major provisions which this amendment seeks to change.

Two of the three provisions—a board for setting standards and a commission for enforcement—strike at the core of the mechanism created by the committee bill.

I shall discuss these two areas in some detail, and then I will comment on some of the other provisions in the substitute that constitute a complete abandonment of the committee's bipartisan efforts to provide a workable statute.

In arguing that standards-setting and enforcement functions should not be combined in a single agency, opponents of the committee bill seem to assume that we have created some unusual and unfair mechanism for administering this act.

Nothing could be further from the fact, for the truth of the matter is that the provisions we adopted in committee are similar to those which have for many years characterized most Federal regulatory programs.

For example, the Federal Trade Commission, the Securities and Exchange

Commission, the Interstate Commerce Commission, and the Federal Power Commission, all combine in a single agency the authority to prescribe substantive rules and to enforce those rules.

Nor has this traditional combination of authority been confined to the multimember agencies I have mentioned, for a great many regulatory programs are administered by Cabinet officers with responsibility for both rule making and enforcement.

Significantly, a number of these programs are in the safety area.

For example, the Longshoremen's and Harbor Workers' Safety Act, as weil as the three statutes which impose safety and health obligations on Government contractors—the Walsh-Healey Act, the Service Contract Act, and the Construction Safety Act—all give the Secretary of Labor responsibility for setting standards and for enforcement of those standards.

Similarly, under the Metal and Nonmetallic Mine Safety Act and the Coal Mine Health and Safety Act, the Secretary of Interior sets standards and is also charged with enforcement.

I could also refer to the myriad of standards setting and enforcement functions combined within the Department of Transportation under the Federal Railroad Safety Act, the Natural Gas Pipeline Safety Act, the National Traffic and Motor Vehicle Safety Act, the Federal Aviation Act, the Motor Carrier Act, and others.

These statutes all provide the Secretary of Transportation or subordinate administrators, with authority both to promulgate safety standards and to enforce those standards in the fields of air, rail, motor, water, and pipeline transportation.

You will note, Mr. President, that three of the statutes I have mentioned—the Coal Mine Health and Safety Act, the Construction Safety Act, and the Railroad Safety Act—were all passed during this Congress, and we obviously did not believe when those acts were considered, that an unreasonable degree of power or an improper combination of functions was being lodged in one agency.

In fact, when we considered the Coal Mine Safety Act, we specifically rejected, by a 53 to 24 vote, a proposal to establish an independent enforcement board.

I should also point out that the statutes I have mentioned cover some of the most hazardous occupations—longshoring, construction, and mining.

If the combination of standards-setting and enforcement functions is fair for those industries, I see no reason why it is not equally so for others.

Interestingly enough, with respect to the construction industry, Senator DOMINICK'S amendment would continue to assign both standards-setting and certain enforcement responsibilities to the Secretary of Labor, so this combination of functions cannot be as objectionable, even in the mind of the author of the substitute, if all functions were combined in this one area that is specified.

Mr. DOMINICK. Mr. President, will the Senator yield at that point?

Mr. WILLIAMS of New Jersey. I yield.

Mr. DOMINICK. Mr. President, I just want to point out that under the substitute bill, the Secretary of Labor is permitted to bring cases alleging violations before a proposed National Commission and not decide it himself.

Mr. WILLIAMS of New Jersey. Mr. President, as I understand it, the Secretary under that act does set standards and has the policing authority.

Mr. DOMINICK. The Senator is correct. But under the substitute bill, the Secretary of Labor alleging a violation could bring it before the new commission created in the substitute bill.

Mr. WILLIAMS of New Jersey. Mr. President, I am correct, though, in the other aspects, both standard setting and enforcement.

Mr. DOMINICK. The Senator is correct. It is already in the law.

Mr. WILLIAMS of New Jersey. Mr. President, there is an even broader inconsistency in the administration's opposition to combining these functions into one agency under this act, for it has recently urged that Congress do exactly that with respect to a number of other programs.

Thus, the President, in Reorganization Plan No. 3, submitted to Congress last July, proposed the creation of a single agency—the Environmental Protection Agency—to be headed by an administrator, to combine existing Federal programs in water quality, air pollution, solid waste management, and other areas of environmental concern. As the President himself described this proposal, which has since been approved by Congress, its purpose was "the pulling together into one agency of a variety of research, monitoring, standard-setting and enforcement activities now scattered through several departments and agencies."

What valid basis can possibly exist for distinguishing the committee's proposal under the present bill?

In sum, the committee bill merely adopts a mechanism of administration which recognizes that the most effective regulation is that which is based upon the experience that comes from enforcement.

It is a mechanism which has long since become a fixture in our regulatory process, and which we have specifically adopted at least three times during this very Congress in this very same field of safety and health.

In all these prior instances, we recognized that due process is protected by the internal separation of function requirements mandated by the Administrative Procedure Act.

These requirements prescribe that those employees of the agency who are engaged in investigation or prosecution shall be separated from those engaged in adjudication. And I see no reason why these requirements will not be as effective in preserving fairness and due process in this act, as they have been in others which we have adopted and which are now in operation.

There are a number of very sound considerations which persuaded our committee to reject the proposal for a separate board to issue standards, and a separate commission to enforce them.

In the first place, the proposal involves the creation of two new, and quite unnecessary, agencies, which inevitably will involve a needless spread of bureaucracy.

To begin with, there would be a total of eight board or commission members, at $38,000 apiece.

Each of these members will naturally have some staff of his own.

All of these people will make very little real contribution to the program, for the real need is going to be for professional and technical personnel at the operating level.

Whereas the Secretary of Labor would be able to get started with the enactment of the bill, the new agencies would have to wait until their members were appointed by the President, confirmed by the Senate, employees were hired, space was found, and all the rest. It presents the classic description of unnecessarily swollen bureaucracy in my opinion.

New agencies would have to compete for personnel with agencies already performing similar functions—and qualified personnel in the field of occupational safety and health are scarce enough as it is, as our committee learned during its hearings on this legislation.

On the other hand, if all functions are performed within the Department of Labor, the best possible use can be made of available personnel, and they can readily be shifted from one type of activity to another, depending on what the priorities of the moment would be.

I think it is a generally sound principle that a new bureaucracy should not be created except for compelling cause—and there is certainly no such compelling cause here.

There certainly is no such compelling cause here. I would suggest that if there were a compelling cause, it would have been made manifest by a description of the procedures under existing law in the programs developed within this Congress that combine the elements under a secretary, as they do under the pending bill. There has been no description here that I have heard of the failure of any of these programs, whether it is construction safety, railway safety, or coal mine safety.

Another basic reason against this substitute is that its board would create an adversary system in the promulgation of standards, with the Departments of Labor and Health, Education, and Welfare opposing industry advocates with a probable result of undue confusion and delay, and less effective standards.

By placing the promulgation of standards in the Secretary of Labor, as the committee bill accomplishes, the resulting determination is more likely to be the result of a studied, scientific approach which should characterize rulemaking of this type.

I should also point out that experience has shown that multimember commissions are not given to decisive action, and proposals to abolish the regulatory commissions are now commonplace.

The weakness of the multimember commission is compounded by the mechanism contained in the proposed amendment, for it would break up the

program and apportion it among two multimember agencies and the Secretary.

Under such an arrangement, it would be impossible to pinpoint responsibility and we would never be sure just who should be held accountable for shortcomings of the program.

We, of course, can never be absolutely certain that any particular administrative mechanism will be as effective as we all hope, but under the committee bill, we will certainly know whom to call to account if it is not.

Under the amendment now being offered, we would have no way to do so.

Aside from its inadequacies on these two major provisions, the substitute bill is fraught with numerous other deficiencies that would make it a most mediocre offering when compared with the committee bill.

As I stated earlier, the effort to make the reported bill a constructive, workable measure, was a bipartisan effort involving many days of discussion and consideration.

I will discuss just a few of these other provisions that make the committee bill so much of an improvement over the substitute amendment:

First. In the provisions for inspections, the committee bill permits an authorized representative of employees, subject to regulations by the Secretary of Labor, to accompany inspectors in order to aid the inspection, or if there is no authorized representative, the inspector is required to consult with a reasonable number of employees.

This section reflects a fair and practical resolution of the conflicting viewpoint of employers who fear that an unlimited right of employees to accompany inspectors could lead to disruption of production operations and, the viewpoint of employees who urgently believe they need their representatives to participate and assist in the inspection which is so important to their continued protection on their job.

I think this is an important point. Certainly no one knows better than the workingman what the conditions are, where the failures are, where the hazards are, and particularly where there are safety hazards. The opportunity to have the workingman himself and a representative of other workingmen accompanying inspectors is manifestly wise and fair, and in arriving at the objectives of this legislation I think it is one of the key provisions of the bill presented to the Senate by the committee.

Second. The committee bill provides that standards shall prescribe the use of labels, warnings, and where appropriate, employer monitoring or measuring of employee exposure to hazards, plus types and frequency of medical examinations or other tests which shall be made available by the employer to employees exposed to hazards.

This provision was incorporated with the knowledge that many occupational diseases develop under conditions of which the employee is unaware, and that employers using potentially hazardous processes should provide the methods by which employee exposure to these hazards can be identified and controlled.

The substitute bill contains no provision whatever with respect to monitoring of hazardous substances by employers, nor does it contain any provision for employees to be informed regarding the level of toxic materials to which they may be exposed.

In my judgment this is one of the most serious shortcomings and failures in the substitute bill.

Third. The committee bill has a very carefully worded requirement on the general duty of employers to furnish employment "which is free from recognized hazards so as to provide safe and healthful working conditions."

Similar general duty requirements appear in numerous State safety laws.

There is no penalty attached for initial violation of this clause, but one is imposed only if there is a failure to correct a violation.

The substitute bill has a much more imprecise general duty requirement.

It is also unjustifiably harsh on the employer because penalties may be imposed for the initial violation of this duty as well as the failure to correct it.

Fourth. The committee bill's provisions for promulgating permanent standards by the Secretary of Labor require the Secretary to utilize the informal rulemaking procedures of the Administrative Procedure Act, including a hearing at which all interested parties would be able to present their views.

These provisions which are the same as those contained in almost all other comparable statutes, are fully consistent with administrative due process and would enable a speedy promulgation of standards with a fair opportunity for those affected to be heard.

The substitute bill would require a much more complicated and time-consuming administrative procedure for setting standards.

It would utilize the full formal adjudicatory procedures of the Administrative Procedure Act.

This procedure would result in interminable delay in the promulgation of health and safety standards because it would require a full trial on each standard rather than the simpler hearing provision of the committee bill.

The difference could mean delay of years instead of months.

Fifth. The bill as reported by the committee provides an opportunity for a person affected by the promulgation of a standard to seek judicial review within 60 days of the promulgation of such standard or the standard may also be challenged during an enforcement proceeding.

This is a very broad-scaled judicial review protection that completely meets any industry concerns regarding the ability to contest the standards in court.

On the other hand, the substitute bill provides for exclusive judicial review within 30 days of the promulgation of a standard, and forecloses any possibility of obtaining judicial review of a standard in an enforcement proceeding.

The practical effect of this exclusive review procedure would be that trade associations and the giant corporations, having an abundance of legal manpower, would monopolize the right of review and thereby deny small employers and companies their day in court.

Sixth. The committee bill permits the Secretary to promulgate proprietary standards, in addition to national consensus standards and already existing Federal standards.

These proprietary standards have been promulgated prior to the date of enactment of the act by national organizations, but by a nonconsensus method.

They represent a great deal of expert research and knowledge in the field of occupational safety and health by private industry.

The fact that they have not been formulated through the consensus method does not make them any less useful in beginning the job of providing adequate protection.

The substitute bill is seriously deficient in failing to make special provision for the use of these available proprietary standards.

Seventh. Under the committee bill, the Secretary is required to set the standard which most adequately and feasibly assures that no employee will suffer any impairment of health or functional capacity, or diminish life expectancy, even if such employee has regular exposure to the hazard for the period of his working life.

The committee bill also requires that the Secretary shall consider, in addition to the attainment of the highest degree of health and safety protection for the employee, the latest available scientific data, the feasibility of the standards and experience gained under this and other health and safety laws.

The substitute bill is completely silent on the matter of providing statutory guidelines for the promulgation of standards—a silence that by itself makes the substitute seriously deficient for the interests of both industry and labor.

The worker is entitled to know that standards in the workplace are geared to overcoming safety and health hazards that are shortening his life. If he cannot have the assurance that criteria for standards are based on this consideration, he will have a program of no value to him.

Eighth. The committee bill makes allowances in the enforcement section for a reopening of a citation of violation if the employer shows a good-faith effort to comply with abatement requirements and that he could not complete abatement because of factors beyond his reasonable control.

The substitute bill again does not provide this highly important and equitable protection for the employer.

Ninth. The committee bill, while guarding against frivolous complaints, permits employees or their representatives to request inspections where they believe that a violation of a safety and health standard exists that threatens physical harm or that an imminent danger exists.

The substitute bill has absolutely no comparable provision for what in so many clearly life and death instances is

the minimum assurance to which the employee is entitled.

Tenth. The committee bill provides that in imminent danger situations the Secretary may bring action in the appropriate U.S. district court for a temporary restraining order or an injunction requiring steps to be taken to correct, remove, or avoid the danger, and prohibiting the presence of individuals where the imminent danger exists.

However, the bill authorizes the continued presence of individuals necessary to the correction or removal of the danger or to maintain the capacity of a continuous process operation to restart without a complete cessation of operations, and to permit any necessary shutdown of operations to be accomplished in a safe and orderly manner.

The committee bill also permits the Secretary if he determines that the danger of death or serious harm is so immediate that action must be taken without awaiting the institution of court proceedings, to order such action to be taken and his order may remain in effect for 72 hours.

This is one of the areas in which there is clearly a distinction between the bill as reported by the committee and the substitute proposed. These are the true emergency situations where time manifestly is of the essence.

The committee bill also provides that the inspector shall obtain concurrence by higher authority for such a withdrawal to be issued; this provision meets the concern expressed by some that a single person should not have the power to determine whether a hazard is so imminent as to warrant interference with a production operation.

This involves the question that an individual should have one in superior authority who can check on his conclusion that there should be a withdrawal of men from the immiment danger situation.

The committee bill also affords further protection to the employer by providing that once an imminent danger order has been issued, the employer, without postponing its mandatory effect, may obtain expeditious informal reconsideration within the Department of Labor, in accordance with procedures to be prescribed by the Secretary.

The substitute's limitation on the Secretary's freedom to act fails to consider that the time consumed in unnecessary legal steps may be the difference between life and death of the worker.

It is obvious that in most cases, employers will recognize the gravity of the danger and will voluntarily close down a machine or a process.

However, in those few cases where the employer refuses, it is imperative that the Secretary retain this important authority.

To repeat, in most cases the employer would or will recognize the gravity of the danger and, we would think, would voluntarily close down; but in those cases where that does not happen, the Secretary, under the committee bill, retains this most important authority.

Furthermore, I believe that objections to authorizing the Secretary of Labor to issue imminent danger orders have been greatly overstated in public discussion of this legislation. The safety laws of at least 29 States authorize administrative officials to deal with imminent danger situations.

Such "red tag" or "stop work" provisions typically empower the appropriate State agency to post a notice or issue an order prohibiting the use of machinery, equipment, or work areas found to be dangerous, and in our committee deliberations and hearings we learned of no instance in which such provisions have been invoked unreasonably.

It may also be noted that similar authority is provided in both the Coal Mine Health and Safety Act of 1969 and the recently passed Railroad Safety Act.

In my judgment, and the judgment of the committee, the public interest is best served by allowing the immediate remedy of the committee bill for extremely hazardous situations.

Eleventh. The committee bill provides that affected employees who have brought alleged violations to the Secretary's attention may obtain written explanations from the Secretary in cases of failure to issue a citation after inspection.

The substitute bill does not make this information available to the employees.

Twelfth. The committee bill provides a criminal penalty in the nature of a misdemeanor for any person who gives advance notice of an impending inspection.

The substitute bill, because it does not prohibit advance notice of inspections, seriously compromises the enforcement of this safety and health law.

The requirement to comply with these occupational safety and health standards is not a game to be played only when the official is coming around to inspect.

In this connection, informally—it is not in any of the written records—on our numerous inspections and field trips of the committee, invariably we were advised by men who worked in the mills, the factories, or the mines, that there had been quite a cleanup operation in preparation for our visit. This is a part of the attitude of "Things are different when it is known that the inspectors are going to be on the scene."

The committee bill makes clear that the Secretary may choose to have announced inspections so that the penalty only applies to those who consciously thwart the enforcement of this legislation.

Thirteenth. The committee bill creates a National Institute for Occupational Health and Safety within HEW that will have the responsibility for conducting research into all phases of occupational safety, including the research, training, and related activities to be performed by the Secretary of Health, Education, and Welfare under other parts of the act.

The Institute was created in order to give the maximum priority and visibility to the all important task of research into these occupational health and safety problems.

The substitute bill does not take account of the urgent need for substantial research and does not make provision for this Institute.

This is one of the most serious shortcomings of the substitute bill, in my judgment. The idea of this focus of research and study into a new National Institute for Occupational Health and Safety will be a pioneering development if it becomes enacted, and one of the major contributions made in our committee work by the Senator from New York (Mr. JAVITS), the ranking minority member of the committee. I am sure it will come to pass, and it will be another great landmark of hope in health and safety out at the National Institutes of Health.

Mr. President, these are only a few of the numerous agreed-upon improvements that are in the reported bill.

They are not just so-called technical improvements. These provisions are designed to provide the Secretary of Labor with a workable program of occupational health and safety.

Finally, I am also constrained to comment on some of the more odious comparisons being expressed about this bill.

For example, one statement says:

> The Committee bill's regulatory procedures have been compared to having the Chief of Police, in addition to his regular duties of conducting inspections, also write the criminal laws and then act as judge and jury.

It seems to me that such inflated rhetoric is completely uncalled for. However, I believe the document containing that rhetoric was circulated to all Members of the Senate.

I come back to what was stated earlier: This procedure in the committee bill is the time-honored and continually applied procedure in all of the legislation in this field of occupational safety and occupational health, and is certainly the same procedure that is used in many other areas of administrative law. I do not know of any area where the procedures of the substitute apply, where we have a secretary with certain functions, where we have a board with other functions, and where we have a commission with a third set of functions. This is an administrative picture that cannot be fully understood, because it has never happened in any other area that I know of. Where the substitute would take us—with duties to the Secretary, duties to a new board, and duties to a new commission, bureaucracy rampant, duties poorly defined—in terms of administrative management of a program that is generations overdue, we cannot hazard a guess.

Mr. President, we are not, except in the case of willful disobedience of the act, dealing with criminals and criminal laws.

This is a statute designed to preserve the lives and well-being of 80 million workers who are now faced with industrial hazards that require regulation for the benefit of all concerned.

It will be Congress that has passed this law.

Granted the Secretary of Labor will carry out the overall scheme, but it is the same kind of mechanism that Congress has enacted for well over 35 years.

And, as the Congress will enact, and the Secretary enforce, so are the courts the ultimate review of all actions taken under the committee bill.

Therefore, while we may all differ as to the right approach to our workers' safety and health problems, the committee bill draws on the best lessons that similar statutes have to offer.

Our bill is fair and reasonable.

It is a good-faith effort to balance the need of workers to have a sale and healthy work environment against the requirement of industry to function without undue interference.

I judge it to be a good bill. It should have a chance to work.

It is a bill that, if enacted, will meet the test of time.

It is the balanced view of a bipartisan Labor and Public Welfare Committee, and should be supported by the Senate.

To those who agree that is should be supported, at the proper time, when the motion is made to table the substitute that has been offered, I respectfully suggest that the proper vote would be to lay the substitute proposal on the table.

Mr. President, I yield the floor.

Mr. DOMINICK. Mr. President, I have enjoyed listening to the statement of my distinguished friend from New Jersey, as I always enjoy listening to him.

I know the Senator has put a lot of work into this matter. However, I am somewhat confounded by his analysis of the fact that we have got to say with the tried and true, that we cannot start anything new, that we must go on with agencies that have already been in existence for years—the ICC since 1928; all kinds of agencies, every one of which has long been under attack by every commission that has investigated them because of the concentration of powers within them.

Congress has not yet given enough attention to any of these problems, or shown the ability to reorganize any of the agencies to get at the root problem, which is the same old problem proposed in this bill, with all the things put together within one body.

I was really interested in listening to the Senator from New Jersey talk about the Coal Mine Safety Act and then talk about the Metal and Nonmetallic Mine Safety Act. I was involved in those fights, too, as was the Senator from New Jersey.

I remember well, before committee and on the floor of the Senate, pointing out that our State had the best metal and nonmetallic mine safety program in the country, which was being wiped out by the federal system, because the Bureau of Mines had only approximately 80 inspectors who would have taken about 3 years to do the job which our own people already were doing. Four years after the passage of that bill, just last month, the State of Colorado finally got permission to start readministering its own program under the Federal act—finally, after 4 years. In the meanwhile, of course, many of our inspection force have been lost. We have had to recruit new people, as everyone else has had to do, and we found ourselves in the usual position of the Federal Government taking on a massive job which it was ill-equipped and ill-manned to be able to put into effect.

I recall the Coal Mine Safety Act. I recall the Senator from Kentucky (Mr. COOPER) getting up over and over again and saying:

> You ought to make a distinction between the gassy big mines and the nongassy small mines.

He tried and tried to point out that the problems that were being talked about in the gassy big mines are not present in the small mines, and we could not get anywhere because of the makeup of the Senate, which said it is going to put everything in one package, wrap it in pink paper and put a blue ribbon on it, and say it is safety, instead of determining whether or not it is fair to everybody—the employees and the employers.

We have the same problem in this bill. One of the things I am trying to avoid is to try to put everything in one heap and say that because it is in one heap, it is obviously going to be a nice one, filled with sweet perfume, which will do great things for the rest of the country. We can do it far better in setting up an independent board.

Since the distinguished Senator from New Jersey has quoted the Reorganization Act on environmental health, pointed up by President Nixon, I am happy to quote a Presidential commission established by his President, President Johnson, on product safety—the very same thing that many people have been talking about in the consumer field which we have in the working field. The National Commission on Product Safety was appointed by President Johnson, March 27, 1968, to recommend programs to protect consumers from product hazards.

This Commission has now strongly recommended that Federal product safety standards be established by an independent Federal authority. The arguments advanced by the Commission for this recommendation are similarly applicable in the field we have before us today. This is what President Johnson's Commission on Product Safety had to say on the need for an independent board:

> Statutory Regulatory Programs buried in agencies with broad and diverse missions have, with few exceptions, rarely fulfilled their mission.
>
> The reasons for their weaknesses include lack of adequate funding and staffing because of competition with other deserving programs within any agency; lack of vigor in enforcing the law caused by an absence of authority and independence in some Federal Administrators; and a low priority assigned to programs of low visibility.
>
> When a Federal agency must take up substantial and controversial issues of consumer safety and economics, we believe it needs independent status.
>
> Independence can be furthered by appointment of Commissioners on a nonpartisan basis, for staggered fixed terms subject to removal for cause, and by designation of a permanent chairman to serve an entire term in that capacity.

It seems to me that this is exactly what we are talking about in this bill. We are talking about an independent board, consisting of five members, to establish safety and health standards in practically every form of business one can think of. We are not just putting this responsibility in the Labor Department, which is filled with a whole group of diverse problems, not putting it in one department which is already established, and which means a buildup of an enormous staff within that area, but setting up a separate board which will have the benefit of all the agencies—HEW, the National Institutes of Health—any one that you want to think of—to have them involved in trying to determine what are reasonable and prudent standards for the working people of this country. The substitute would do exactly that.

I am going to answer some of the comments that have been made by the Senator from New Jersey as best I can. He commented on the Construction Safety Act, which has been passed in the 91st Congress. It is an interesting thing, which he has not brought up, that the committee bill provides that the standards under the pending bill will supersede the provisions of the Walsh-Healey Act, the Service Contract Act, the Maritime Safety Act, and the Construction Safety Act.

So all the work we have done in all these fields up to date would immediately be taken over by this bill, and no one would have a separate shot at these particular requirements set up in their own legislation. Under the bill as the proposed substitute has it, while we would be doing the same thing, I may say, in the Walsh-Healy Act and the Service Contract Act, we would not be doing it in either the Maritime Safety Act or the Construction Safety Act. Those provisions would remain in effect. The Maritime Safety Act would continue under its own administration, as it now is, but in the Construction Safety Act, the Secretary of Labor, under the substitute bill, would be entitled to go in to inspect and determine whether there have been any violations of the standards established in that act. If they found any, they could then make these allegations and bring them before the three-man commission on enforcement, to determine what can be done, to make sure that the health and safety standards as established in the Construction Safety Act are lived up to.

It seems to me perfectly evident that this is a fair way of treating it. We already have a law on the books, and instead of superseding that law, what we are saying is that we will retain the law or retain the standards that have been set up for the construction industry and we will provide inspection and determine whether they are being lived up to, by the Secretary of Labor, and he then will bring it before the national commission, as established under this act, to determine whether or not there has been a violation.

This seems to me to be eminently more prudent than to pass a law in the 91st Congress and then all of a sudden say:

Whoops, I'm sorry about that. We're going to do this all over again, and we're going to have new standards which are going to be applicable to the Construction Act, and you won't know what they are until we get through with them about two years from now.

This will be the effect if we pass the bill reported by the committee.

Reference has been made to the question of medical examinations, of monitoring of safety hazards, and things of this kind. I think it is only fair to point out that under the substitute bill, we require that warnings and labels necessary to tell the employees of the nature and extent of the hazards must be posted and that the substitute bill also provides for medical examination and the monitoring or measuring of employees' exposure to hazards. This is so because we have provisions in there which provide for appropriations for such equipment for the Secretary. Consequently, that equipment obviously is going to be put to use not only in determining whether or not there have been violations but also in determining what the degree of compliance may have with the standards as established by the board.

I do not want to be an alarmist on this imminent danger situation, but it is only fair to say that we discussed this in the executive session of the committee at some length and changes were made as the bill was originally presented to the committee. We discussed the fact that one man could go in and shut down a plant on his own finding of imminent danger without consulting with anyone or posting any warning or determining what effect it would have, and which could be disastrous both to employees and employer. We did change that in the committee bill to a degree that he must contact someone in the Labor Department or the regional office, and tell them that they had found an imminent danger and this is what he wanted to do about it, and if they agreed, then he could close down the plant without going to court, or anything.

The order for the closing down of a plant can last for only 72 hours, but let us take a specific case and think about it for a moment. Let us suppose we have an inspector who is working in an oil refinery and he determines that, for some reason, there is a health question. It makes no difference whether there actually is a hazard, because if he thinks he sees one, or he is just mad at someone, he can decide that he should take action in a volatile atmosphere—and I am talking about volatile in terms of literally and figuratively being explosive—and he goes ahead and calls up and he says, "Gee, I have a real bad hazard over here. I think we should close it down." And the inspector says, "I have inspected it and it does not look good to me." So, all of a sudden, that refinery is closed down for 72 hours minimum.

Now the effect of that is not to close it down for just 72 hours because we know the windup time to get it started again, and the people back to work, even if it is only a small corporation—maybe there was a violation and maybe there was no violation—but the time to get started up, and everything else started up again, is enormous.

That would be true if it were a steel plant. If they had to close down a steel plant, what would we do about the furnaces, once they were turned off?

What about automobile production? Suppose it were General Motors, to take an example. We have already been told how long it would take to get back into production in a General Motors plant. They are not nearly so complex in terms of actual techniques as a refinery process is, that one would find in an oil refinery or other similar installations.

It seems to me that this type of action is going beyond the pale. We have human frailties in all walks of life. We have them in government as well as in business. We have them with employees as well as with employers. The one fair process we have developed in this country as a whole is the separation of powers, so that we will have separate bodies of people trying to determine whether one is right or wrong in any kind of alleged violation. That is what the substitute bill would provide. It would provide that whenever we have a situation where an inspector thinks he has an imminent danger, he can then go to court, after giving notice to the employer and the employees, and get an immediate ex parte order, or injunctive relief, if the evidence warrants a finding of a violation and that an order should be issued.

This is a far better way of going through our procedure with the separation of powers than giving any administration agency the power of life and death to the degree that the committee bill does, even as amended within the executive committee.

There was comment made on the question of whether we will do research. There is a comparative analysis in the office of every Senator as between the substitute bill and the committee bill. I call page 12 to the attention of the Senate, as to what it says under the substitute bill—

> The substitute bill *does not have any express provisions* under which an employer could be required to measure exposure to toxic substances. Instead the substitute bill has a provision (sec. 9(h)) authorizing funds to enable the Secretary of Labor to purchase equipment which he deems necessary to measure exposure of employees to working conditions involving ill effects from exposure to toxic substances. Also, the substitute bill does not expressly provide for medical examinations but these could be provided for in standards issued by the Labor Secretary in consultation with the HEW Secretary. In short, the major difference between the research provisions in the reported bill and those in the substitute bill is that the reported bill spells out in detail what could be included in the standards administratively developed by the Board.

I might also point out that there is no question that HEW was going to do this—which is, again, an interagency cooperation problem—which I think at the present time can be done in a far better way with HEW giving its viewpoint to an independent board establishing the standards, rather than having HEW come to the Labor Department and saying: "Hey, you are doing it all wrong, fellows. We think you can do it this way far better by putting it into a board and by getting the agreement of people around the country who get the input of information and knowledge from all kinds of industries and groups."

Mr President, I do not believe I am going too far afield here when I say that I think Congress has an opportunity to try to develop a new system to overcome some of the basic defects we have had in our agencies in the past. This has been cited over and over again, on the problems we have with the Federal Trade Commission, which was one of those mentioned by the Senator from New Jersey (Mr. WILLIAMS). I do not know how many people have called me to say, "How in the world did Congress ever set up an organization which establishes rules, inspects those rules, determines whether they are being followed, and then comes along and says 'We will have a judicial determination to see whether our rulemaking was right or our inspection was right, or the people who are prosecuting are right' "—all within the same department.

We had an example brought out in the hearings—I take that back for I am not sure it was in the hearings but it was told to me, I believe, within the Labor Department itself, where some of the officers of the Labor Department did not realize they should not be talking to the chief of staff on adjudication because he was wearing a separate hat at that time. Each of them had to determine whether he was at any given time filling the role of judge, prosecutor, or inspector. Each of them meets the other every day in the corridor, or sees each other in the halls and we are bound to get inputs from these respective roles on their respective positions, all within one department. This can have no other effect other than to prejudice completely the whole case, or getting any fairness in the adjudication of a program of this scope.

I want to repeat once again, although I know there are few listening to me now—but it is important to keep it in mind, that we are dealing in this bill, even under the substitute, with practically every industry we can think of in the country. I shall not use the term "industry," I will say business—those businesses which affect interstate commerce.

What are they? They are boarding houses. They are restaurants. They are bus lines. They are furniture stores. They are grocery stores. They are paint shops. They are automobile repair shops. They are oil refineries. They are automobile manufacturers. They are oil plants. It would cover the shoe stores. We can walk down the main street of any town we want to think of in the United States and we cannot find a single business in any town that does not have some portion of either its equipment or its supplies, which are not involved in interstate commerce. Every one of these places is going to be affected by the bill. It is an enormous job that we are asking any agency to do. And to pile on one Department, the Labor Department, the responsibility for taking care of all aspects of a job of this nature seems to me to be beyond the pale.

How in the world are they going to find time within the required 2 years to be able to set forth reasonable standards for health and safety for people work-

ing in Alaska and Mississippi, in Florida and the State of Washington, in Maine and Texas, in every one of these businesses, and then be able to say, "not only have we established standards, but we have also developed the administrative procedures within the department and the number of inspectors we need to go in and find out whether the rules are being taken care of in every single little business in this country."

Not only are they asked to have that done, but they are asked to say, "These inspectors are coming back with alleged violations and we have to review those within the same department. We will then set up hearing examiners to determine whether there have been violations."

So the whole procedure of the Department of Labor is going to be multiplied by geometric progression.

It does not seem accurate or even reasonably fair to establish such a burden on the Department and to establish such a burden on the employees and employers of this country.

If we are going to approach this in a proper and innovative way and abolish some of the criticisms that have occurred over the years concerning the agencies, we should adopt the substitute bill under which we have three separate groups performing the separate functions of the establishment of rules, the administration and the enforcement. We would have the Commission for the establishment of rules. The administration would be in the Department of Labor, and we would have the separate board or panel, as the Senator from New York prefers to call it, to determine whether its rules have been violated. That is the enforcement procedure. That is the only proper and fair way to proceed with this bill which is of enormous scope and importance to everyone in the country.

Mr. JAVITS. Mr. President, I have joined in fashioning the pending bill. We are about to be presented with quite a dilemma in respect of it. That dilemma is unnecessary, but it will nonetheless be real. The dilemma is going to be on the motion to table the Dominick substitute, which I believe will probably be made.

An issue, which is not really an issue, will be posed to the Senate. If the tabling motion prevails, any Senator, including the Senator from Colorado, can amend the bill. I am sure that the Senator from Colorado will have a considerable number of amendments as he is a man who follows through and we honor him for that.

If the tabling motion should succeed, as I see it, the bill will be amended. If the tabling motion fails, the Dominick substitute will be amended, because even if it should later fail, Senators will not wish to be caught short on the fact that their ideas have failed of incorporation in the bill.

I assume that if the Senator from Colorado were to have nine amendments to the committee bill, the Senator from New Jersey might have 15 or 20 to the administration substitute.

That will get us to exactly the same place. It only illustrates the tragedy which will be involved because, unhappily for all of us, this will be construed as a vote for or against management or labor, as the case may be.

I think it is very unfair and simply distorts the legislative process. But there it is, and we have to take account of it. There is nothing much we can do about it. I am enough of a lawyer to know that it is not what the facts are, but it is what the judge thinks they are that counts.

Analyzing the situation from that point of view, I wish to make it clear that this vote, if it comes—and I believe it will—is not going to be determinative of the controversy, because either way the Senate will have to face up to the issue. This is simply a climatic test vote on the situation.

It is a fact that there will be more amendments to the substitute to conform it to the committee bill than vice versa.

The administration really objects to five things in the committee bill, and they can, of course, be tested fairly promptly.

Those five things are the question of promulgating standards, adjudicating enforcement cases, the imminent danger orders, the requests for inspection, the penalty for the unauthorized notice of inspection, and the general duty. Those are the fundamental problems which will be faced.

My inclination at this time is to endeavor to perfect the committee bill. I believe that the majority here and in the other body are very much likely to push for occupational health and safety in this session of Congress. I believe we should work on the committee bill. The committee bill was subject to all the negotiation and compromise and the input of the minority, in which the Senator from Colorado had such a very honored part, and to revise it and to discard all that work, it seems to me, would be rather unfortunate.

The situation we face shows the real lack of critical importance of the issue upon which that motion will turn, because if the Secretary of Labor promulgates standards, he is subject to the Administrative Procedure Act. He can create a board, if he wishes to, to deal with the promulgation of standards.

If a separate board is established under the substitute bill, that board will be subject to the Administrative Procedure Act, just as the Secretary would be in exercising the same functions.

Similarly, in enforcement, there is court review. The Secretary of Labor can cause enforcement and there will be court review.

Other Secretaries faced with similar enforcement responsibilities have appointed—and I think very properly—panels or commissions of their own to handle enforcement procedures.

I regret to state that whether we like it or not, it is an issue which I think will be pictured as the most important issue in this legislation, the motion to table the Dominick substitute.

I regret it. I deplore it. Nonetheless, there we are. I hope very much that, having swallowed that dose, whatever it may be, whether the Dominick substitute is successful or fails, we will go on and perfect a bill and that there will be no hard feelings, whichever way it goes, but that we will have a preservation of rights for those who feel strongly for the administration and for those on the other side to amend the bill as they choose and get a bill.

The purpose of my speaking now is that very point. I hope very much that there will not be such a concentration of attention on the issue of where this bill comes from, whether from the Republican administration or the Democratic majority in the Senate, on the first day we are back so that a signal will not go out to the country that action on this bill is an indication of the way legislation will go.

I hope that whichever side wins or loses will take it in stride and that we can then perfect the measure, the substitute or the committee bill, so that we may arrive at whatever legislation the Senate in its judgment determines to be appropriate.

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

Mr. JAVITS. I yield.

Mr. DOMINICK. Mr. President, I thought the Senator made a couple of very interesting points. In the substitute bill, for example, we do not have any provisions similar to sections 19 and 23 of the committee reported bill, which are the Javits amendments—the National Institute for Safety and Health and the National Commission on State Compensation Laws.

It would be my guess that if the motion to table is defeated, which I hope it will be, there would be little or no problem in having those provisions offered by the Senator from New York (Mr. JAVITS) agreed to as part of the substitute bill. I understand that is what the Senator was talking about.

Mr. JAVITS. That is correct.

Mr. DOMINICK. I think this would not be any kind of really tough issue. The really tough issue, and I think the Senator will agree, is whether or not we are going to have a separate body for setting up standards and a separate commission for enforcement in connection with violations.

Mr. JAVITS. I do not want to compromise the Senator's case in any way. I have too much affection for him and respect for the strong fight he has put up for the administration position. But if the Senator feels free to say so, would not the Senator agree with me that the substantive rights of neither side will be compromised by this vote; it is really a climactic situation. The Senator could move to amend the committee bill, and the committee people and I could move to amend the substitute. In either way the Senate will work its will.

Mr. DOMINICK. Procedurally I would say the Senator is correct, but from the point of view of which bill we will have before us and which provisions we will have to amend, I think it is an important vote.

Mr. JAVITS. I thank the Senator.

Mr. YARBOROUGH. Mr. President, the bill was aptly described a moment ago by the distinguished Senator from Colorado as the committee bill. Any bill from the committee we call the committee bill. But this is really a committee

bill because it has many provisions from both sides. The distinguished Senator from New York offered some of the most viable provisions in the bill. If you will look at the text of S. 2193, Mr. President, this will be apparent. I have the honor of being one of the six original sponsors and authors of the bill. The distinguished chairman of the Subcommittee on Labor, the Senator from New Jersey (Mr. WILLIAMS), is the principal author. Our bill ran over 29 pages. From the first two-thirds of page 30 through page 92 the committee bill is 62 pages long, vis-a-vis the original bill of 29⅓ pages.

The committee worked on this matter. There were many changes and differences in the original bill. There are included ideas from both sides. It is bipartisan, as shown by the final vote, which was 14 to 2.

With all of that work which has been done in the subcommittee and in the full committee, it would be tragic if some new bill were substituted on the floor of the Senate. This bill has been worked on for months. As I said, the Senator from New York (Mr. JAVITS) has many of his provisions included in the bill. I think that when we consider the months of work on this bill in the subcommittee and in the full committee, it would be tragic if some new bill were substituted now.

I had the privilege of being the chairman and preserving all this work by Senators from both parties. So much good work has gone into this bill and it should not be shunted aside by a new bill. This bill has been due for years. Back in the 90th Congress, when I had the privilege to be the chairman of this committee, we had extensive hearings but we were never able to get it this far along the way. We come here now with 2 more years of work on the bill.

This is legislation that has been needed in this country for many years. We have no national comprehensive occupational health and safety bill. If a man in a manufacturing plant in one State were to put into effect safety measures to protect his workers and across the State line that practice was not followed, theoretically there would be a cheaper operational base.

This bill would give everyone the same treatment and the same breaks. We had extensive hearings on this matter. Among other things, the heaviest losses are in construction work. There is one code in the District of Columbia, another in Arlington, Va., another in Alexandria, Va., and another in Maryland. There are four different codes in this area. In some States each city has its own safety bill and safety code.

As a result, each year over 7 million of the working force of 80 million are injured, 2.2 million are disabled temporarily or permanently, and 14,500 are killed. This is an intolerable situation for our economy and our industry. We need a Federal statute, not to try to federalize things, but to equalize the cost in one industry vis-a-vis another. We know the costs would be put into consumer goods but that is the price we should pay for the 80 million workers in America.

It would be most unfortunate now to substitute on the floor of the Senate a new bill, when so much constructive work has already gone into this bill by so many Senators. I hope the Senate will retain the committee bill as reported.

I understand the Senator from Colorado has individual separate amendments he will offer if the substitute, the new bill, fails. I think the substitute, the new bill, should fail so we can continue with the bill that has been worked on for so many months, and which has been worked on by so many staff members as well as so many Members of the Senate. It would be wholly unreasonable to take a bill with this much constructive work and cast it aside on the floor for something new.

The committee bill was not reported hastily or rapidly. Long hearings were held in the subcommittee. There was long and careful consideration in the subcommittee. I wish to compliment the distinguished Senator from New Jersey (Mr. WILLIAMS) for his fine chairmanship of the Subcommittee on Labor in bringing the bill forward as he did. It was changed considerably in the full committee, and now he is handling the bill on the floor of the Senate.

This is a good measure which is badly needed and it is a measure which is long overdue. I hope we will stay with the committee bill that has been worked out with a bipartisan effort.

I yield the floor.

Mr. WILLIAMS of New Jersey. Mr. President, I appreciate the statement of the chairman of the Committee on Labor and Public Welfare, the Senator from Texas (Mr. YARBOROUGH). His cooperation has been complete. Finally we were able to bring the bill to the floor of the Senate. There is so much that has been added by so many members of the committee to the bill that is before us. Conspicuous, of course, is the work of the Senator from New York (Mr. JAVITS).

It would be the course of wisdom, indeed, to table the substitute and if there are other amendments they can be offered to the committee bill.

In reply to the Senator from Colorado, I wish to say that under the committee bill the Secretary of Labor, given the authority to promulgate standards, could immediately issue standards in the areas. He could draw from proprietary standards, consensus standards, and standards that apply in other places, but in the broad approach we would go through a long, time-consuming process of appointments, confirmations, staffing, and the entire delaying business, in an area where the President said we are already three generations late in applying Federal standards for safety and health.

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

Mr. WILLIAMS of New Jersey. I yield.

Mr. HARRIS. Mr. President, I think this is an extremely important bill. We are all well aware of the needless deaths and injuries which occur in this country, and the resultant human anguish involved.

The bill would authorize the Secretary of Labor to assure safe and healthful working conditions for working men and women. Under provisions of the bill, work hazards will be attacked on three fronts, that is, through improved regulations, research, and education.

Testimony presented before the Senate Labor Subcommittee is compelling and clearly substantiates the need for new comprehensive Federal legislation which would apply to all industries. For example, much of the existing legislation in this area is not uniform in its application or enforcement. Several of the Federal laws apply specifically to the maritime industry and coal mining. Other laws are limited in application to work involving certain kinds of Government contracts.

Today, there are approximately 86 million persons in the American work force. It is both appalling and tragic that as many as 14,500 persons are killed annually as a result of industrial accidents. More than 2 million individuals are disabled on the job each year which result in the loss of 250 million more days of work.

The economic impact of these deaths and disabilities is the loss of $1.5 billion in wages, and 8 billion dollars from our gross national product. Within the Federal civil service fatal injuries to employees increased from 172 in the year 1964 to 316 in 1968. The direct cost of these injuries was $39 million and $58 million respectively. These figures represent the direct cost payment made by the Bureau of Employees' compensation and value of leave of injured employees during disability.

The situation is equally appalling in the area of occupational health. However, the lack of information and adequate records makes it difficult to ascertain the true impact occupational health has on the work force. We do know that many of the technological advances made by this country have produced a number of new health hazards to industrial workers. Discoveries such as lasers, utrasonic energy, pesticides, and others serve as threats to the health of American workers. Recent scientific experiments have shown causal relationships between occupational exposure and certain chronic diseases such as cancer, allergies, respiratory ailments, and heart disease. The U.S. Surgeon General in 1966–67 studied 1,700 industrial plants employing over 142,000 workers in six metropolitan areas. The study revealed that as many as 65 percent of these persons were exposed to harmful physical effects such as severe noise and toxic materials.

A problem which further substantiates the need for the pending bill is the fact that workmen's compensation benefits do not appear to have kept pace with increasing wage levels and the rising cost of living. As a result the benefits usually replace only a small fraction of the income of workers with disabilities. For example, in the State of Oklahoma, the ratio of maximum temporary total disability benefits for a worker, his wife, and two dependent children to average weekly wage was 71.2 percent in 1940, but dropped substantially to 40.8 percent in 1970. This works an untold number of hardships on working people in Oklahoma. In order to find solutions for problems of this sort, a 15-member National Commission on State Workmen's Compensation Laws would be established under section 23 of the bill. The purpose of the Commission would be to

study and evaluate State laws to determine if they provide an adequate, prompt, and equitable system of compensation for disabled workers.

Industrial health and safety problems are, indeed, complex and change, perhaps, as fast as industry itself. Accordingly, S. 2193 would simply establish a legal structure which would empower the Secretary of Labor to issue detailed safety and health standards with the force and effect of law. There are no do's and do nots provided. It further establishes the legal procedures for investigating cases of alleged violations of the standards, for conducting hearings, and for imposing sanctions when violations occur. The administration and its supporters argue that this is unwise. They suggest instead two separate Presidentially appointed bodies—one which would issue occupational health and safety standards, and the other to conduct hearings on alleged violations and issue corrective orders.

I believe this approach to be unacceptable because it would result in unnecessary foot-dragging, evasion, and indecision.

Furthermore, for those who oppose the measure in its present form, I would like to state that during this session of Congress, we passed two important bills which are now Federal laws, and which provided cabinet level administrators with the responsibilities and powers to develop and enforce standards. These bills were the Federal Coal Mine Safety Act and the Construction Workers' Safety Act.

It is important to note that section 6(d) of the bill provides that any employer affected by a particular standard may apply to the Secretary for variance provided that he: First, notify his employees so that they are afforded the opportunity to participate in hearings, and second, submit evidence for the record, which shows that the company will otherwise provide safe and healthful employment conditions.

Under provisions of S. 2193 representatives of both the employer and employees are permitted to accompany the Government's safety inspector during the inspection tour. This approach would help to assure both groups of the equitable manner in which the inspection is conducted.

Finally, Mr. President, let me say that occupational health and safety is a matter of great importance to a very significant number of working Americans. The bill before us is one which is clearly designed for the promulgation and enforcement of standards which to the limit of the law will assure their health and safety. In my opinion, the key to effective administration of such standards rests with a publicly viable individual who is likely to be sensitive and responsive to health and safety needs in our industries. S. 2193 would do this by providing protection to both the employer and employees alike. I, therefore, urge its passage by the Senate.

Mr. WILLIAMS of New Jersey. I thank the Senator from Oklahoma.

My final point is that, in connection with imminent danger, under the committee bill, the continuous process operations will not be shut down. Even when there is a court order, continuous operations can go on. There will be no complete shutdown.

There are other problems in the substitute in the imminent danger area, but the fairest way is with the provisions of the committee bill, and it certainly does not provide for a total shutdown. Continuous operations can be continued. Even in an area where the work stops, there is no cooling off of all the fires of operation.

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. WILLIAMS of New Jersey. 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. JAVITS. Mr. President, if I may have the attention of the Senate, a number of Senators have asked me whether or not I intend to offer the amendment to provide for an enforcement panel.

My answer to that is that I do. I stated when I made my speech on the bill that I would consider whether it would fit in, and whether it was timely. My answer now is that, consistent with what I expect will be my vote on this motion to table, I consider it my duty to offer that amendment and to fight for it. I think it is the only way, and I hope very much that the Senate may see it that way also.

Mr. DOMINICK. Mr. President, I am delighted to hear what the Senator has said, but I might say that if we adopt the substitute proposal, or fail to lay it on the table, there is already a panel for enforcement provided in the substitute bill, which would make the Senator's amendment unnecessary.

I gather that the Senator from New Jersey is about to make a motion to table, and I presume that at that point we will get the yeas and nays.

Mr. WILLIAMS of New Jersey. Mr. President, I move to lay on the table the amendment in the nature of a substitute offered by the Senator from Colorado.

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

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I believe the Senate would be acting in a most positive fashion if it voted down S. 2193 and passed the Dominick substitute S. 4404.

As noted in the committee report on the Occupational Health and Safety Act of 1970, the major differences in these two bills do not relate to purpose or intent of the legislation, but rather to the structure of regulation by the Federal Government. We all agree that improved safety procedures are needed to combat the ever-increasing number of occupational accidents.

However, in my opinion the Senate Labor and Public Welfare Committee has reported out a bill with a most simplistic approach which in the long run could do as much damage as good. In essence the committee bill gives all authority to the Secretary of Labor in the areas of standard setting, investigation, adjudication, and prosecution. There are in fact no checks and safeguards placed on the power of the Secretary.

On the other hand, the bill introduced by Senator DOMINICK provides for the establishment of an independent Occupational Health and Safety Board which would be charged with the standard-setting function. Therefore, the quasi-legislative function in this area will be separated into the standard-setting Board on the one hand, and the enforcement powers of the Secretary of Labor on the other hand.

Mr. President, the committee bill represents a dangerous precedent in this most important area of occupational health and safety. The enormous amount of power given to the Secretary of Labor could easily be abused, culminating in a breakdown of existing Government neutrality in labor-management relations. Under the committee bill, the Secretary of Labor could arbitrarily take action to shut down a plant when he considers that an imminent danger exists. I believe that this could create an extremely coercive situation. The substitute bill correctly places this function in U.S. district courts where such action would normally ensue.

This bill should be corrected so that Government, labor, and management have an equal stake in improving safety conditions. The committee bill relegates the employer to a very minor role in the pursuit of better working conditions. The passage of legislation does not automatically improve a given situation. In this particular case, if we are to pass legislation we must insure that employers and employees alike have a stake in improving these conditions. Labor-management relations can only improve if a sense of harmony and cooperation between employer and employee exists, independent of an omnipotent centralized voice from Washington. The Dominick substitute makes these needed corrections and, therefore, I urge its passage.

The PRESIDING OFFICER (Mr. DOLE). The question is on agreeing to the motion of the Senator from New Jersey to lay on the table the amendment in the nature of a substitute offered by the Senator from Colorado (Mr. DOMINICK).

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

Mr. SCOTT (when his name was called). On this vote I have a pair with the Senator from South Dakota (Mr. MUNDT). If he were present, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. KENNEDY. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), the

Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. ELLENDER) is absent on official business.

I further announce that, if present, and voting, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Washington (Mr. MAGNUSON), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Kentucky (Mr. COOPER) and the Senator from Hawaii (Mr. FONG) are necessarily absent.

The Senator from Florida (Mr. GURNEY), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) are absent on official business.

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

If present and voting, the Senator from Kentucky (Mr. COOPER), the Senator from Florida (Mr. GURNEY), and the Senator from Maine (Mrs. SMITH) would each vote "nay."

The pair of the Senator from South Dakota (Mr. MUNDT) has been previously announced.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Colorado (Mr. ALLOTT). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 41, nays 39, as follows:

[No. 381 Leg.]

YEAS—41

Allen	Hart	Moss
Anderson	Hartke	Muskie
Bayh	Hatfield	Nelson
Brooke	Hughes	Pastore
Burdick	Inouye	Proxmire
Byrd, W. Va.	Jackson	Ribicoff
Cannon	Javits	Schweiker
Case	Kennedy	Spong
Eagleton	Mansfield	Stevens
Fulbright	McGee	Symington
Goodell	McGovern	Williams, N.J.
Gore	McIntyre	Yarborough
Gravel	Mondale	Young, Ohio
Harris	Montoya	

NAYS—39

Aiken	Curtis	Hansen
Baker	Dole	Holland
Bellmon	Dominick	Hollings
Bennett	Eastland	Hruska
Boggs	Ervin	Jordan, N.C.
Byrd, Va.	Fannin	Jordan, Idaho
Cook	Goldwater	Long
Cotton	Griffin	McClellan
Miller	Russell	Talmadge
Murphy	Saxbe	Thurmond
Packwood	Smith, Ill.	Tower
Pearson	Sparkman	Williams, Del.
Prouty	Stennis	Young, N. Dak.

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Metcalf, against.
Scott, for.

NOT VOTING—18

Allott	Ellender	Mundt
Bible	Fong	Pell
Church	Gurney	Percy
Cooper	Magnuson	Randolph
Cranston	Mathias	Smith, Maine
Dodd	McCarthy	Tydings

So the motion to table Mr. DOMINICK's amendment was agreed to.

Mr. JAVITS. Mr. President, may I inquire now from the manager of the bill and the leadership as to their further intention? I have consulted with the Senator from Colorado (Mr. DOMINICK) with respect to this matter, and I believe it should be possible to work out an agreement on time. Whether that can be done at this hour this evening I cannot guarantee, but certainly the disposition is there.

There are a considerable number of other amendments which the Senator from Colorado, myself, and others, have and I should very much like to know the intentions.

Mr. MANSFIELD. Mr. President, if I could have the attention of the Senator from Colorado and the Republican leader, would it be possible to arrive at a consent agreement to begin tomorrow, after conclusion of the morning business, and in that way give Members a chance to catch their breath overnight?

Mr. DOMINICK. I would say to the Senator from Montana, that would be fine with me.

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

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

The PRESIDING OFFICER (Mr. HUGHES). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I have been assured by Senators most interested in the pending bill, those who have been doing most of the debating this afternoon, that there will be no difficulty in arriving at a time limitation at the conclusion of morning business on tomorrow. This has also been discussed with the distinguished Republican leader. Therefore, there will be no further action on this bill tonight.

There will be no further votes today, and there will be no further business unless Senators wish to speak.

The PRESIDING OFFICER. What is the pleasure of the Senate?

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate——

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order. and, pursuant to Senate Resolution 481, as a further mark of respect for Gen. Charles de Gaulle, former President of France, that the Senate now adjourn.

The motion was agreed to; and (at 5 o'clock and 11 minutes p.m.) the Senate adjourned until tomorrow, November 17, 1970, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 16, 1970:

DEPARTMENT OF JUSTICE

Robert C. Mardian, of California, to be an Assistant Attorney General, vice J. Walter Yeagley, to which office he was appointed during the last recess of the Senate.

U.S. DISTRICT COURTS

Jose V. Toledo, of Puerto Rico, to be a U.S. district judge for the district of Puerto Rico, a new position created by Public Law 91-272, approved June 2, 1970.

DEPARTMENT OF COMMERCE

Andrew E. Gibson, of New Jersey, to be an Assistant Secretary of Commerce, to which office he was appointed during the last recess of the Senate; new position.

C. Langhorne Washburn, of the District of Columbia, to be Assistant Secretary of Commerce for Tourism, to which office he was appointed during the last recess of the Senate; new position.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

The following-named persons to be members of the Board of Directors of the National Corporation for Housing Partnerships for the terms indicated:

Peter John Bertoglio, of California, for a term of 1 year commencing October 28, 1970.

Woodward Kingman, of New York, for a term of 2 years commencing October 28, 1970.

Ray A. Watt, of California, for a term of 3 years commencing October 28, 1970.

U.S. TARIFF COMMISSION

Jefferson Banks Young, of Virginia, to be a member of the U.S. Tariff Commission for the term expiring June 16, 1976, vice Mrs. Penelope Hartland Thunberg; term expired.

ENVIRONMENTAL PROTECTION AGENCY

William D. Ruckelshaus, of Indiana, to be Administrator of the Environmental Protection Agency; (new position).

HOUSE OF REPRESENTATIVES—*Monday, November 16, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is good, a stronghold in the day of trouble: and He knoweth them that trust in Him. Nahum 1: 7.

Eternal Spirit, returning from our recess of strenuous activity we come to Thee now as we endeavor to complete the tasks which are set before us. When the worry of work done and left undone takes its toll of our human energies help us to tap the spiritual resources which are found in Thee. Do Thou renew our spirits and restore our souls with the joyful assurance that Thou art with us and we are with Thee.

We pray that Thy comforting grace may abide in the hearts of those who grieve over the passing of our beloved colleague, WILLIAM L. DAWSON. We re-