H.R. 19879. A bill to provide additional revenue for the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. MILLS:

H.R. 19880. A bill to amend the Internal Revenue Code of 1954 relating to transfers taking effect at death; to the Committee on Ways and Means.

By Mr. SCHNEEBELI:

H.R. 19881. A bill; consolidated returns of life insurance companies; to the Committee on Ways and Means.

By Mr. ICHORD:

H. Con. Res. 788. Concurrent resolution authorizing the printing of additional copies of "Hearings Relating to Various Bills To Repeal The Emergency Detention Act of 1950," 91st Congress, Second Session; to the Committee on House Administration.

By Mr. STRATTON (for himself, Mr. WOLD, and Mr. SCHMITZ):

H. Res. 1287. Resolution; support for efforts to rescue American prisoners of war incarcerated in North Vietnam; to the Committee on Armed Services.

By Mr. WAGGONNER:

H. Res. 1288. Resolution providing additional postage for Members and officers of the House of Representatives; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. JARMAN introduced a bill (H.R. 19882) for the relief of Shirley C. Thorne; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

641. The SPEAKER presented a petition of the Palau Legislature, Koror, Palau, Western Caroline Islands, Trust Territory of the Pacific Islands, relative to war claims; to the Committee on Foreign Affairs.

SENATE—*Monday, November 30, 1970*

The Senate met at 12 o'clock meridian, and was called to order by Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina.

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

Eternal Father, as we return to our tasks we pause to thank Thee for the festival of Thanksgiving, for home and family, for church and school, and for the durability of our institutions in changing times. Now accept our fresh dedication to high service in a government of the people, for the people, and by the people. May Thy grace be sufficient for all our needs.

Grant to all who serve in the higher offices of the Nation the wisdom and courage to marshal the bountiful resources and generous talents with which Thou hast endowed us, for the making of a society of righteousness and justice. Guide the nations of the world, so torn by contention and weary of war, into the peaceable ways of Thy kingdom, where law is love and Thy spirit rules every man.

We pray in the name of the Prince of Peace. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 30, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HOLLINGS) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on the Judiciary.

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

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President pro tempore:

H.R. 670. An act to amend section 19 of the District of Columbia Public Assistance Act of 1962;

H.R. 4183. An act to provide that the widow of a retired officer or member of the Metropolitan Police Department or the Fire Department of the District of Columbia who married such officer or member after his retirement may qualify for survivor benefits;

H.R. 9017. An act to amend the District of Columbia Alcoholic Beverage Control Act;

H.R. 10336. An act to revise certain laws relating to the liability of hotels, motels, and similar establishments in the District of Columbia to their guests;

H.R. 13564. An act to provide that in the District of Columbia one or more grantors in a conveyance creating an estate in joint tenancy or tenancy by the entireties may also be one of the grantees;

H.R. 13565. An act to validate certain deeds improperly acknowledged or executed (or both) that are recorded in the land records of the Recorder of Deeds of the District of Columbia; and

H.R. 17970. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, November 25, 1970, be dispensed with.

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

NOTICE OF CALL OF THE CALENDAR TOMORROW

Mr. MANSFIELD. Mr. President, I serve notice on the Senate that the unobjected-to items on the calendar will, on the basis of joint agreement, be brought up during the morning hour tomorrow.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, after the remarks of the distinguished Senator from Connecticut (Mr. RIBICOFF) today, there be a period for the transaction of routine morning business with a time limitation of 3 minutes on statements made therein.

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

ORDER FOR ADJOURNMENTS OF THE SENATE TO 10 A.M. ON TUESDAY, WEDNESDAY, THURSDAY, AND FRIDAY OF THIS WEEK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns today, it stand in adjournment until 10 a.m. tomorrow; and that on Wednesday, Thursday, and Friday of this week the Senate convene at 10 a.m.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair now recognizes the distinguished Senator from Connecticut (Mr. RIBICOFF) for 20 minutes.

S. 4545 AND S. 4546—INTRODUCTION OF THE URBAN EDUCATION IMPROVEMENT ACT OF 1970 AND THE GOVERNMENT FACILITIES LOCATION ACT OF 1970

Mr. RIBICOFF. Mr. President, more than 8 months have passed since the Senate debated the need for a national policy for integration. At that time, I urged this country, its leaders, and its citizens to acknowledge that segregation, de facto as well as de jure, is wrong in the North as well as in the South.

Those of us in the North have relied for too long on the artificial distinction between segregation enforced by laws—de jure—and segregation dictated by social and economic conditions—de facto. If we are to end the racial turmoil tearing this Nation apart, we must be willing to attack segregation in the North with a will equal to that we demand of the South.

Nothing has happened since last February to change my views. We have made no noticeable progress toward dealing with this problem. Distrust, hostility, and bitterness are increasing among minority-group citizens of this country, especially in the major population centers, North and South, where whites continue to flee the inner city. Unless we take action soon to correct this volatile situation, the breach between the races will pass the point of no return.

One hundred years ago, Abraham Lincoln warned that this Nation could not survive half slave and half free. Nor will we endure if we permit the formation of separate black and white societies that communicate with each other by sending ambassadors across boundaries of hate and fear.

We must act and act quickly, but we cannot afford to repeat the mistakes of the past. If we ignore the lessons of the 16 years since the Supreme Court's decision in Brown against Board of Education, we will only perpetuate the anger and disillusionment that surround us now.

We must first recognize that we can no longer assume that integrated education alone can solve the problems of segregation in this country. Experience has demonstrated that as long as attempts to integrate education take place within a segregated society, racial separation continues to exist.

We must end residential as well as educational segregation if we are serious about trying to bring this country together. But, our present policies work in the opposite direction. Whites in central cities are able to flee to the sanctuary of the suburbs whose governmental authorities have no obligations to the inner city. Once begun, this process accelerates as white families seek to avoid being left behind. At the same time, minorities are effectively trapped in expanding inner city ghettos.

Improving conditions in the central city is desirable, of course, but a successful solution to our racial problems must involve the suburbs as well, and must include integrated housing and jobs as well as education.

Another error we have made in the past is to require substantial changes and activities without providing the financing to make them possible. Integration will cost money. Suburbs as well as school systems are already facing financial crises that are producing deteriorating educational programs and declining municipal services. To ask these areas to assume greater expenses without the necessary assistance will only increase their resistance. We must be willing to help those ready to help others.

One lesson we should have learned is that no program for integration will succeed without a clearly stated time limit. Use of the ambiguous phrase, "with all deliberate speed" by the Supreme Court in its 1954 Brown decision allowed defenders of segregated schools to stiffen their resistance, while the victims of segregation grew increasingly bitter.

Any timetable, of course, must be effective and realistic. While we might desire an end to segregation in our metropolitan areas immediately, we must realistically assess the magnitude of the changes we are seeking. Adequate time for planning must be allowed. Nonetheless, to be effective, we must require substantial progress each step of the way, with our goal being an end to racial separation within a definite period of years.

The greatest lesson we can learn from our past experience is the danger of avoiding a critical issue for so long that the Supreme Court is forced to move in while we stand in the background shuffling our feet.

Some may support this as an easy way to settle controversial issues. The Court can take the blame since the Justices do not have to run for election.

But our courts are not structured to be legislatures. They decide issues on a case by case basis that does not lend itself to legislating and administering national programs.

Furthermore, if the courts continue to do our work for us, the ensuing public controversy will inevitably destroy their power and influence.

Members of Congress have been chosen by the voters to make the difficult decisions necessary to lead this Nation. The danger now is that we in the Congress will continue to ignore the problem of residential segregation as we have so often in the years gone by. It is folly to hope that the problem and the controversy will go away simply with the passage of time.

We should know better by now. In fact, the situation continues to worsen. Sooner or later the Supreme Court itself will be forced to take steps to eliminate the artificial political lines now used to maintain segregation and will order metropolitan-wide integration. Years of litigation, confusion of the issues and increased frustration on all sides will then follow.

It is time for Congress and the executive branch to demonstrate the leadership necessary to confront this issue and deal with it constructively.

I am, therefore, introducing two bills today. One deals with improving education, the other with developing low-cost housing in suburban areas. Both attack the problem of racial isolation on a nationwide basis.

These bills must be considered together, because the integration of public education can only be successful as long as it reflects the underlying integration of society. What good will it do to transport children from the ghetto to affluent suburbs every day for years, if they are returned to the misery of the inner city every night? The continuous cultural shock will only lead to increased bitterness when the youngsters learn that a complete life in the suburbs is foreclosed to them.

I do not have all the answers nor will the bills I introduce today provide complete solutions to these difficult problems. But it is time for us to stop arguing abstractly and begin to consider specific alternatives.

I recognize that Congress will not be taking action on this matter this year. I am introducing these bills now to encourage a discussion of the points they raise and to elicit suggestions for improvement before we convene again in January. Soon thereafter the President's emergency school desegregation assistance bill will be before us for consideration; I would hope we would use that occasion for a full consideration of these problems.

My first bill, the "Urban Education Improvement Act of 1970," focuses on the issue of school desegration in the major metropolitan areas of the United States.

Efforts to integrate schools have concentrated only in individual school districts within a metropolitan area. This has reinforced the concentration of minority-group students in the central city. In numerous areas of this country, the minority-group school population of the metropolitan area as a whole is less than 25 percent, while the percentage in the central city, separately, is above 50 percent and increasing rapidly.

Unfortunately, the specter of this transformation tends to drive whites out of school districts as soon as the minority-group population begins to increase. We will end this cycle only when we begin to integrate on a metropolitan-wide basis. Only then can we destroy the stereotype of an integrated school as a predominantly minority school.

Under the Urban Education Improvement Act, each school district will be required to participate with the other districts in its metropolitan area in developing and implementing an acceptable plan. The State will organize an area-wide agency to coordinate this planning effort and 2 years are allowed for development and approval of the plan.

Each plan will have to provide that within 10 years, each school in the metropolitan area will have a percentage of minority-group students that is at least one-half of the percentage of the minority-group school population in the metropolitan area as a whole. For example, the percentage of minority-group children in the Baltimore metropolitan

area is approximately 32 percent. Under my bill, each school in the Baltimore area would have to have a minority-group population of at least 16 percent no later than 10 years after adoption of an acceptable plan.

To improve central city schools and to attract whites and their children from the suburbs, the bill provides for establishment of educational parks and magnet schools in the central city, redrawing school district lines, pairing schools, and creation of unified school districts.

Cooperating States and local school districts will receive Federal funds to formulate the plans required as well as funds to implement those plans. This financial assistance should enable all school districts to maintain and improve the present quality of education while meeting the requirements of this act.

Under the bill, any school district that does not cooperate in the formulation and implementation of the master plan will be ineligible to receive Federal education funds. Furthermore, no State which provides State funds to a noncooperating school district will be eligible for Federal funds.

Because of the tendency of school districts to wait until the last minute and then claim hardship, substantial progress toward the target minority-group enrollment will have to be achieved each year the plan is in operation or the school will lose Federal and State funds.

The second part of my package is the "Government Facilities Location Act of 1970."

Statistics conclusively demonstrate that the overwhelming percentage of new jobs in this country are found in the suburbs. In the last two decades, in fact, 80 percent of all such jobs were developed in suburban areas.

At the same time, racial and economic policies and barriers have served to foreclose these jobs to those most in need: low- and moderate-income people in the central cities. We cannot allow this to continue. We must permit people to move where the jobs are. Experiments with transportation programs have established that the absence of available housing in the suburbs is tantamount to the absence of the job. Ironically, in many suburban areas, the result is an actual shortage of low- and moderate-income employees.

Suburban areas compete vigorously for new industries and new jobs. Federal and State agencies together with Federal contractors are among the major suppliers of new facilities and jobs. Yet, the U.S. Commission on Civil Rights has found that the Federal Government, by having no firm policy to cover Federal relocations, has added to the increasing gulf between the white suburbs and the inner cities. Rather than trying to narrow the gap, the Government has unconsciously contributed to its expansion.

My proposal is a simple one: We should encourage those communities willing to provide adequate low- and moderate-income housing by locating new federally connected industry in their cities. Why continue to subsidize those communities that are contributing to the racial and economic discord prevalent throughout this country?

Viewed another way, why continue to allow Federal and State facilities and Federal contractors to move or expand in areas that effectively eliminate jobs for low- and moderate-income employees, especially those belonging to minority groups?

The "Government Facilities Location Act of 1970" was drafted with these problems in mind. The purpose of the act is to insure that there is adequate housing for all low- and moderate-income Federal employees, State employees, and Federal contractors' employees, before any facility or installation is located or expanded in a community.

Nothing is done to affect the policies of those companies that are not Federal contractors. Nor does this bill try to reach facilities already constructed. Nonetheless, I think the impact of this bill will be significant. The Federal Government alone employs over 6 million employees. The total Federal payroll including benefits in 1970 will approach $50 billion.

The bill provides, that, before a Federal facility, State facility, or Federal contractor's facility may be located in a community, the agency or contractor involved must secure, in the form of a contract between the community and the Chairman of the EEOC, assurances that the community will provide at least one unit of adequate housing for each prospective low- or moderate-income employee.

We cannot expect communities to handle an influx of low- and middle-income families without some assistance. The financial burdens of all local units of government are already overwhelming. For this reason, cooperating communities will receive Federal aid to compensate them for the added expenses of providing municipal services to these new residents. The aid will be based on a formula which is designed to compensate for the decreased tax revenue generated by this economic group.

In addition, these communities will have access to all existing Federal programs designed to assist the construction of low- and moderate-income housing.

If a community reneges on its plan, the Chairman may take court action to enforce it. Should a contractor locate in a noncomplying community, the Chairman shall terminate existing Federal contracts. The Chairman can also bar the contractor from future Federal contracts. A State agency would be equally liable for any move into a noncooperating area.

More than just these two bills will be needed to attack the problem completely. We should establish a "new job" development bank whereby private industries would be free to locate wherever they wished but would have to give advance notice of their intention to allow for adequate planning.

Likewise, revenue sharing proposals should be designed to create financial incentives for those communities that provide low- and moderate-income housing. This would favor central cities initially but would also encourage suburbs to undertake the expenses and added burdens of providing low-cost housing.

The two bills introduced today, however, are the most important if we are to begin to make progress toward becoming a united country with equal opportunity for all.

If the President and Congress maintain their present attitude and slow pace, if we continue to be guilty of political and intellectual paralysis, we risk generating an upheaval that will test this Nation's very foundations. Unavoidable choices must be made soon or the entire debate and concern about national unity will be meaningless.

To help explain these bills, I ask unanimous consent to have printed in the RECORD a set of questions and answers and a section-by-section analysis of both bills.

I also ask unanimous consent that the full text of the bills I am introducing today be printed at this point in the RECORD.

The ACTING PRESIDENT pro tempore. The bills will be received and appropriately referred; and, without objection, the questions and answers, the section-by-section analyses of the bills, and the bills will be printed in the RECORD.

The bills (S. 4545), to be known as the Urban Education Improvement Act of 1970, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare; and (S. 4546), to be known as the Government Facilities Location Act of 1970, was received, read twice by its title, and referred to the Committee on Banking and Currency; and were ordered to be printed in the RECORD, as follows:

S. 4545

Urban Education Improvement Act of 1970

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

PURPOSES AND FINDINGS

SEC. 201. The Congress finds that—

(a) Racial separation in our public schools regardless of the origin of such separation, causes irreparable harm to the children of this Nation;

(b) Racial separation in the public schools of our Nation's metropolitan areas, where the majority of our children live, is increasing and intensifying;

(c) Racial separation in large part results from housing, zoning, education, and other economic, social, and political policies and decisions of government at all levels;

(d) The general welfare of this Nation requires the elimination of racial separation in public schools wherever and how it occurs; and

(e) This Nation must therefore commit its moral strength and financial resources to the achievement of this goal.

SEC. 202. It is the purpose of this Act—

(a) to require State and local educational agencies in metropolitan areas throughout this country to develop and implement plans which will reduce and eliminate racial separation in our public schools, whatever the cause of such separation; and

(b) to provide financial assistance to assist state and local educational agencies to develop and implement such plans.

DEFINITIONS

SEC. 301. As used in this Act, except when otherwise specified—

(a) (1) The term "minority group children means—

(A) children, aged five to nineteen inclusive, who are Negro, American Indian or Spanish-surnamed Americans; and

(B) as determined by the Secretary, children of such ages from environments where the dominant language is other than English and who, as a result of limited English-speaking ability, are educationally deprived.

(2) the term "Spanish-surnamed American" includes persons of Mexican, Puerto Rican, Cuban, or other Latin American or Spanish origin or ancestry.

(b) The term "racial separation" means a condition in which minority group children in a school constitute more than 50 percent of the average daily enrollment of that school. The term "racially separated" refers to a school in which such condition of racial separation exists.

(c) The term "school" means those elementary and secondary public schools of a State which are located within a Standard Metropolitan Statistical Area (SMSA).

(d) The term "state educational agency" means the state board of education or other agency or officer primarily responsible for the state supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by state law for this purpose.

(e) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control, or direction of, public elementary or secondary schools in a district or other unit of the State, or a combination of such districts or other units and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school: *Provided,* That the term shall not refer to any such agency located outside an SMSA.

(f) The term "noncooperating local educational agency" means any local educational agency which refuses or has refused to participate in the preparation, submission, revision or implementation of an acceptable plan as required by this Act.

(g) The term "cooperating local educational agency" means any local educational agency that has participated in the preparation, submission, revision, and implementation of an acceptable plan as required by this Act.

(h) The term "State" means any State in which there is an area defined as a Standard Metropolitan Statistical Area, and the District of Columbia.

(i) The term "Standard Metropolitan Statistical Area" or "SMSA" means the area in and around cities of 50,000 inhabitants or more as defined by the Office of Management and Budget: *Provided,* That the term shall mean only that portion of any Standard Metropolitan Statistical Area which lies wholly within the boundaries of one state. Each portion of an SMSA in a different State shall be considered an independent SMSA for purposes of this act.

(j) The term "Secretary" means the Secretary of Health, Education and Welfare or his designee.

(k) The term "federal educational funds" means federal funds appropriated for grants, loans, contracts or other financial assistance to a state educational agency, a local educational agency, an individual school or to an individual in compensation for services rendered such organizations. This term shall not mean funds which go to individuals in the form of scholarships, fellowships, loans or other such assistance which is designed to further that individual's education, nor shall it mean funds which are to assist private, nonprofit organizations in the provision of education in pre-elementary and elementary situations.

THE PLAN

SEC. 401. Each State shall prepare and file with the Secretary for his approval, in accordance with the regulations issued by him, a plan under which it will establish and supervise the operation in each SMSA of an SMSA agency to develop with the local educational agencies within the SMSA a plan to reduce racial separation in their schools; Provided, that, should any state refuse to comply with the provisions of this Act, the local educational agencies within an SMSA may then independently create or assume control of such an SMSA agency.

SEC. 402. The plan developed by each such SMSA agency shall—

(a) contain the proposals by which the local educational agencies within an SMSA agree to reduce racial separation in their schools;

(b) provide that by a date approved by the Secretary, but in no event later than August 30, 1982, the percentage of minority group children enrolled in each school of the SMSA shall be at least 50 per cent of the percentage of minority group children enrolled in all the schools of that SMSA:

(c) include the use of techniques such as redrawing school boundaries, creating unified school districts, pairing schools or school districts, establishing educational parks and magnet schools as well as other techniques designed to end as soon as possible racial separation in all schools within the SMSA;

(d) provide for the establishment of multi-racial committees composed of local parents and students to advise the local educational agencies and the SMSA agency regarding the development of the plan required by this Act and to report periodically to the Secretary on the extent of compliance with the requirements of this Act.

(e) provide that in each year of operation of the plan, substantial progress toward fulfilling the requirements of this Act shall be made;

(f) provide that state financial assistance to local educational agencies within each SMSA shall not be so calculated, based, rated or fixed in any manner as to result in the condition that the per pupil contribution of the State to any racially separated school within the SMSA shall be less than the per pupil contribution of the State to any non-racially separated school within the SMSA.

SEC. 403. (a) The plan required by Section 402 must be submitted to and approved by the Secretary no later than August 30, 1972.

(b) The Secretary is authorized to promulgate and issue regulations regarding the time and manner of submission of such plans for his approval.

SEC. 404. Should the Secretary determine that the size, shape or population distribution of an SMSA would make inclusion of some parts of that SMSA in a plan unnecessary for fulfillment of the purposes of this Act or excessively disruptive of the educational process, he may exempt such parts from participation in the plan.

SEC. 405. Each SMSA agency shall annually prepare and file in accordance with regulations issued by the Secretary a report setting forth the results achieved under the plan and any necessary amendments to the plan to correct any deficiency of the plan.

SEC. 406. The Secretary is directed to review annually the plan and the reports of each SMSA agency. If the Secretary finds that for any reason the purposes of this Act are not being effectuated by the plan and any amendments thereto he shall, after giving appropriate notice to all concerned parties, withdraw his approval of the plan and each local educational agency in question will be treated as a noncooperating local educational agency: Provided, that if within a period prescribed by the Secretary, but in no event exceeding 180 days following the Secretary's withdrawal of approval, the local educational agencies through their SMSA agency submit a revised plan approved by the Secretary, the local educational agencies within the SMSA shall be entitled to receive all funds withheld during the period.

SEC. 407. (a) Because of its unique circumstances, the SMSA for the District of Columbia shall include for purposes of this act Montgomery and Prince Georges counties in Maryland, Arlington, Fairfax and Prince William counties in Virginia, and the cities of Falls Church and Alexandria in Virginia notwithstanding the provisions of Section 301(i) of this Act.

(b) A single plan shall be designed and submitted by all local educational agencies included in the District of Columbia SMSA; Provided that the existence of noncooperating local educational agencies within this SMSA shall not affect the status of cooperating local educational agencies.

SEC. 408. No state or local educational agency shall formulate or administer its plan in a manner that will result in the separation of minority group children within a school or classroom.

FINANCIAL ASSISTANCE

SEC. 501. Planning Funds—

(a) Within six months of the date of enactment of this Act, the Secretary shall notify each state and local educational agency within an SMSA of the requirements of this Act.

(b) The Secretary shall issue regulations establishing procedures and a timetable according to which SMSA agencies required to file a plan under this Act may apply for funds authorized to be appropriated by this Act.

(c) Upon application meeting the standards established by the Secretary, the Secretary shall grant to each SMSA agency funds for the development of a plan to reduce racial separation pursuant to the requirements of this Act, the amount of such funds being determined by the number of minority group students and the number of all students enrolled in schools in the SMSA.

SEC. 502. (a) Each year following the implementation of an approved plan, cooperating local educational agencies through their SMSA agency, may submit to the Secretary applications for financial assistance.

(b) An application for assistance under this Act may be approved by the Secretary only if he determines that:

(1) such application—

(A) sets forth a plan which is sufficiently comprehensive to offer reasonable assurance that it will achieve one or more purposes for which grants may be made under this Act; and (B) contains such other information, terms, conditions, and assurances as the Secretary may require to carry out the purposes of this Act;

(2) the applicant has adopted effective procedures for the continuing evaluation of programs or projects under this Act;

(3) the programs or projects for which assistance is sought will not result, and in the case of an ongoing program or project has not resulted, in an increase in the percentage of racial separation in any school.

(4) no part of the assistance provided under this Act shall be used to supplant funds, equipment or services which are used to assist any private school. Should any funds provided under this Act be used for this purpose, or for any other purpose that the Secretary finds to be inconsistent with the purposes of this Act, the Secretary shall file suit in the United States District Court for the District of Columbia against either the school which received such funds or the state educational agency, or both, for restitution of the funds.

(c) upon the submission and approval of such an application, the Secretary is authorized to provide a cooperating local educational agency with sufficient funds to meet its obligations under its approved plan.

(d) Funds provided under this section may be used for the following purposes or any other purposes the Secretary finds will promote an end to racial separation—

(1) Establishing and constructing magnet

schools or educational parks in locations chosen to reduce the degree of racial separation in the schools of the SMSA;

(2) providing additional staff members including para-professionals to provide guidance, counseling and training to assist minority group children in adjusting to a nonracially separated school environment;

(3) providing counseling, retraining and guidance for professional and other staff members who will be working with minority-group children;

(4) developing and implementing interracial educational programs and projects involving the joint participation of minority group and nonminority group children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts;

(5) providing such additional transportation for children as may be necessitated by the plan developed pursuant to this Act;

(6) expanding or altering facilities to accommodate students transferred under the plan;

(7) community activities, including public education efforts, in support of the plans, programs, projects, or other activities developed pursuant to this Act;

(8) planning and evaluation activities and expenses of administration;

(9) work study programs to provide the financial assistance necessary for minority group children to complete their education; and

(10) other specially designed programs or projects which meet the purposes of this Act.

(e) No funds granted under this Act may be used to supplant state or local educational funds presently being expended by state and local educational agencies.

(f) The Secretary shall issue regulations establishing procedures and a timetable according to which state and local educational agencies entitled to apply for financial assistance under this Act may apply to the Secretary for funds authorized to be appropriated by this section.

RESTRICTIONS ON FEDERAL FINANCIAL ASSISTANCE

SEC. 601. (a) No noncooperating local educational agency shall be entitled to receive any Federal educational funds; *Provided*, That the presence within an SMSA of a noncooperating local educational agency shall not affect the eligibility of cooperating local educational agencies in the SMSA to receive Federal educational funds.

(b) No state that fails to participate in the preparation, submission, revision and implementation of any plan or plans required by this Act, and no state that continues to provide state funds or assistance after August 30, 1972 to any noncooperating local educational agency under Section 401(a) shall be entitled to receive any Federal educational funds.

APPROPRIATIONS

SEC. 701. (a) For the fiscal years beginning July 1, 1971, and July 1, 1972, respectively, there is authorized to be appropriated $25,000,000 each year to be used by SMSA agencies to develop and promulgate the plan herein required to be filed.

SEC. 702. For the fiscal year beginning July 1, 1972, and for each of the nine fiscal years following, there is authorized to be appropriated $2,000,000,000 each year for purposes of carrying out this Act.

SEC. 703. Funds so appropriated shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

JUDICIAL REVIEW

SEC. 801. (a) Any person affected by the enforcement or nonenforcement in the SMSA in which he resides of any provision of this Act may petition the Secretary for an expedited hearing of his complaint.

(b) Within sixty days of receiving such petition the Secretary shall hold a formal hearing to determine whether the provisions and purposes of this Act are being carried out in the petitioner. A transcript shall be kept of the proceedings of the hearing.

(c) Within thirty days after the date of the hearing, the Secretary shall issue a decision in writing which sets forth his findings and appropriate orders.

(d) The Secretary's decision shall be reviewable, upon petition, by the United States Court of Appeals for the District of Columbia Circuit. The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(e) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. 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.

LAWS REPEALED

SEC. 901. The following provisions of law are hereby repealed—

(a) Section 181 of the Elementary and Secondary Education Act Amendments of 1966;

(b) Section 422 of the Elementary and Secondary Education Act Amendments of 1970;

(c) Section 2 of the Elementary and Secondary Education Act Amendments of 1970;

(d) Sections 102(d) and 205(f) of the Demonstration Cities and Metropolitan Development Act of 1966.

S. 4546

Government Facilities Location Act of 1970

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

PURPOSES AND FINDINGS

SEC. 201. The Congress finds that—

(a) The increasing concentration of Government facilities in suburban areas has placed many jobs beyond the reach of low- and moderate-income, inner city residents;

(b) A combination of government actions, such as zoning and housing programs, together with increasing housing costs, have effectively excluded low- and moderate-income families from most suburban areas; and

(c) A positive, affirmative program is necessary to provide decent, clean and safe housing for low- and moderate-income families within the immediate area of Government facilities.

SEC. 202. It is the purpose of this Act—

(a) To require Federal agencies, Federal contractors and state governments to assure that an adequate supply of housing for low- and moderate-income families will be available in any area in which a Government facility is to be located; and

(b) To provide financial assistance to communities to assist them in meeting the requirements of this Act.

DEFINITIONS

SEC. 301. As used in this Act, except where otherwise specified, the following terms shall bear the definitions provided—

(a) "Government agency" shall mean any Federal government organization listed in the Government Organization Manual published by the General Services Administration or any unit of any State government;

(b) "Government employee" shall mean any person employed by any Government agency.

(c) "Government facility" shall mean any building or complex of buildings occupied in whole or in part during working hours by more than twenty-five Government employees or any plant, factory, installation, office, or other place of business which houses, during working hours, more than 25 employees of a Federal contractor;

(d) "Federal contractor" shall mean any person, corporation, partnership or association with more than 50 employees which is a party, the parent company of a party, a subsidiary of a party, or a subsidiary of the parent company of a party, to any contract, or which is a subcontractor under a contract, with any unit of the Federal government which exceeds $50,000 in value;

(e) "Immediate area" shall mean any area which is within the corporate limits of the community in which a Government facility is located and which is within a reasonable commuting distance as defined by the Chairman;

(f) "Low- and moderate-income employee" shall mean any employee of any Government agency or Federal contractor whose total annual compensation does not exceed that paid at the highest step of the GS-7 level as determined by the Civil Service Commission;

(g) "Chairman" shall mean the Chairman of the Equal Employment Opportunity Commission or his designee;

(h) "Community" shall mean any political subdivision of a State;

(i) "Locate" shall mean to establish, construct, move from another location or make any addition or additions to any existing facility such that such additions or the sum of such additions results in increasing the work force at that facility by 50 employees within any 365-day period, or in any other way create or directly cause to be created any facility meeting the requirements of Section 301(c).

(j) "Average individual tax revenue" shall mean the total tax revenue collected by a community, divided by the number of individual taxpayers in the community; and

(k) "Average low- and moderate-income individual tax revenue" shall mean the total tax revenue generated by low- and moderate-income employees divided by the number of low- and moderate-income employees in a community.

RESTRICTIONS ON THE LOCATION OF FEDERAL FACILITIES

SEC. 401. (a) After January 1, 1971 no Government facility may be located in any community which has failed to develop an acceptable plan which provides, in the opinion of the Chairman, adequate housing in the immediate area of the facility for the prospective low- and moderate-income employees of the facility.

(b) Each Government agency or Federal contractor shall, prior to initiating location procedures, require written assurance in the form of a plan that the relevant community will conform to the requirements of Section 502.

(c) Should, after the acceptance of the plan by the Chairman, any community fail to comply with its approved plan, the Chairman shall bring suit in the United States District Court for the District of Columbia to secure an injunction to require such community to conform to its plan.

(d) Should any Federal contractor locate or expand any Federal facility in violation of the provisions of this section, the Chairman shall, after giving appropriate notice, terminate all Federal contracts held by such contractor: *Provided*, That the Secretary of a Department or Chief Executive Officer of an independent agency that holds a contract with a Federal contractor who locates a Federal facility in violation of this section may, subject to court review, veto the Chairman's termination of such contract if

he finds, on the basis of facts presented, that such a termination will seriously and substantially impede the mission of the Department or agency.

(e) The Chairman shall also prohibit the granting of any future Federal contracts with a noncomplying Federal contractor.

(f) Should any State take action to locate a Government facility in violation of the provisions of this Act, the Chairman shall, after giving appropriate notice, order the suspension of all Federal assistance to the State agency that has jurisdiction over such facility until such time as the community has produced an acceptable plan as provided by section 500 of this Act.

SEC. 402. The Chairman shall exempt a Government agency or a Federal contractor from the requirements of this Act if the National Security Council certifies that compelling national security reasons justify such an exemption.

THE PLAN

SEC. 501. The plan required to be filed by section 401 of this Act shall conform to the requirements of this section.

SEC. 502. Each plan shall—

(a) Be embodied in a contract between the Federal government, as represented by the Chairman, and the community in which the Government facility is to be located.

(b) Provide that at least one unit of housing be vacant or built in the community for every prospective low- and moderate-income employee of the locating Government agency or Federal contractor. Such units shall meet requirements of size, price and location as set by the Chairman;

(c) Meet the standards of cleanliness and habitability established by the Department of Housing and Urban Development;

(d) Contain a timetable for the provision of the housing units required by section (b) above: *Provided*, That the plan shall provide that all such units shall be in existence prior to the actual completion date of location of the Government facility; and

(e) Provide for sufficient community services to serve the new residents of the community.

SEC. 503. Should the Chairman determine that a change in the local situation, the size of the Government facility or other relevant factors necessitates a modification of the Plan, he may approve such modifications if they are proposed by the community or require a community to make necessary modifications: *Provided*, That such modifications do not impede the effectuation or achievement of the purposes of this Act.

SEC. 504. The Chairman shall reject a plan or modifications in the Plan if they fail to comply with the provisions of section 502 or if they would result in residential segregation of low- and moderate-income families within the community.

SEC. 505. Each Government agency and Federal contractor shall report annually to the Chairman the number of low- and moderate-income employees employed at each Government facility, the availability of housing for such employees, and such other information as the Chairman may require.

SEC. 506. The Chairman shall establish and cause to be published guidelines to assist Government agencies, Federal contractors and communities in conforming to the requirements of this Act.

SEC. 507. Each Government agency and Federal contractor shall designate one person who shall act as liaison with the Chairman. This person shall serve as chairman of an advisory committee on housing established by the Government agency or contractor. At least one-third of the membership of this committee shall consist of low- and moderate-income employees. It shall be the function of this Committee to channel employee needs and preferences to those persons responsible for the location of the facility.

FINANCIAL ASSISTANCE

SEC. 601. (a) Each community that files a plan under this Act may also file an application for financial assistance with the Chairman.

(b) Upon application meeting the standards established by the Chairman, the Chairman shall grant to each community an amount not to exceed $100,000 to reimburse such community for the expense of developing a plan to conform to the requirements of this Act.

(c) Each year the Chairman shall pay to each community filing an acceptable plan a sum determined by multiplying the difference between the average individual tax revenue and the average low- and moderate-income individual tax revenue by the number of low- and moderate-income employees who move into the community under the plan.

APPROPRIATIONS

SEC. 701. (a) For the fiscal year beginning July 1, 1971 and for the four fiscal years thereafter there are authorized to be appropriated sufficient funds to allow the Chairman to fulfill the requirements of Sections 601(b) and 601(c).

(b) Funds or a part of the funds so appropriated which are not allotted because a community or several communities have failed to file a plan or plans may be granted by the Chairman to communities upon a special, compelling showing of need by the community.

SEC. 702. Funds appropriated shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

SEC. 703. In each fiscal year, sufficient funds shall be appropriated for the Equal Employment Opportunity Commission to cover costs of administering this Act.

The material, ordered to be printed in the RECORD, reads as follows:

QUESTIONS REGARDING INTEGRATION BILLS

Q. How does your education bill relate to the President's Emergency Desegregation Assistance Act?

A. The President's bill primarily provides assistance only to those school systems proceeding under court-ordered desegregation. By definition, this confines assistance primarily to the South and continues to focus only on single school districts. The President's bill does not confront directly the problem of de facto segregation on a metropolitan basis.

Q. How does your education bill relate to the cases presently before the United States Supreme Court?

A. There is no way to predict how the Supreme Court will decide these cases. Even if the cases are used to attack de facto segregation, it will only be within individual school districts, not throughout metropolitan areas.

Q. Isn't the basis of the problem of educational segregation to be found in residential housing patterns?

A. That's exactly what I argued months ago on the floor of the Senate. We can't consider problems of educational segregation apart from problems of residential segregation. That's why I am also introducing today my bill designed to assist suburbs in providing low-income housing.

Q. Aren't these problems being presently considered by the Senate Select Committee on Equal Educational Opportunity?

A. In its first few months, that Committee primarily concentrated on school problems in the South. They have now begun investigating problems in northern cities, again focusing mainly on education. I have provided the Committee with copies of my legislation on both housing and education which I hope they will consider before they report early next year.

Q. Won't many suburban school districts simply decide to do without federal aid rather than comply with the requirements of your act?

A. The act will also cut off federal educational funds for any state that continues to supply state funds to a noncooperating school district. Therefore, a suburban school district will have to do without both state and federal funds if it does not want to follow the requirements of this act. Not many will be able to do that.

Q. If some school districts in a suburban area refuse to cooperate, won't you be cutting off funds for needy schools in the area?

A. The bill is drafted to insure that only non-cooperating schools in a metropolitan area are deprived of state and federal funds.

Q. How much, if any, busing will be required by your education bill?

A. That will vary from area to area. In many situations, substantial integration can be obtained with little or no significant transportation problems. In addition, if we can begin to open up the suburbs to minority group families, the need to transport students great distances will diminish.

Q. Won't there still be a possibility of all black central city schools?

A. Yes, but it is my hope that the development of new school construction and imaginative educational programs in the central city will alleviate much of this problem by attracting white students to the city. Moreover, the impetus behind much of the so-called "white flight" to the suburbs will fade away once it becomes clear that the racial situation is stabilizing and the suburbs are not the white sanctuary.

Q. Don't many black leaders today believe integration is irrelevant if not actually undesirable?

A. Yes. And a lot of whites could not be more pleased with that development which in many ways results from the failure of the white community to do any more than talk about the importance of integration. Nonetheless, the majority of blacks in this country still seek and desire integration and the purpose of my bills for integrating housing as well as education is to provide them with that opportunity.

Q. Why was a ten year period chosen for achieving school integration?

A. That is only to be a maximum period. Some districts can meet the requirements in a lesser period of time. However, I think it is important to look at this problem realistically and not naively expect that we can change patterns of housing and education on a metropolitan basis over night.

If we can achieve the goals of my bills within ten years, we will have made a major move away from the development of two separate societies.

Q. What about the District of Columbia?

A. The District must receive separate treatment since all of its suburbs are in other states. This my bill does.

Q. Aren't some metropolitan areas so large or irregularly shaped that difficulties will be encountered in developing a plan?

A. The bill gives the Secretary of HEW discretion to take such factors into consideration.

Q. What about metropolitan areas that cross state lines?

A. My bill provides that each portion of a metropolitan area within a state would be treated separately for purposes of this act. This does not present a problem since in all cases there are blacks and whites on both sides of the state lines.

Q. How will suburbs finance the additional low and moderate-income housing required under your federal facilities relocation bill?

A. Housing programs already exist to provide this assistance. In addition, my bill reimburses the suburbs for decreases in per capita tax revenue resulting from the presence of additional low and moderate-income families.

Q. What do you think the chances are for your bills?

A. Tough. There will be many, including vociferous civil rights advocates, who will shy away from these bills. Nonetheless, I think it is important to refocus our attention not only beyond the South, but also beyond central city schools. We won't begin to solve these problems until we look at the problems of housing and education in the north and south on a metropolitan basis. I think this approach will find supporters in the Senate.

Q. Why introduce these bills now as the session is ending?

A. I wanted these bills to be considered as quickly as possible by the Congress and the Administration, since the President's bill will be considered either later this session or early next year. In addition, the Senate's Select Committee on Equal Educational Opportunity is obligated to report to the Senate early next year, hopefully on the matters raised by these bills.

URBAN EDUCATION IMPROVEMENT ACT OF 1970 (S. 4545)—SECTION BY SECTION ANALYSIS

Sections 201 and 202: State that the purpose of this Act is to end racial separation in the public schools of our nation's metropolitan areas regardless of the origin of such separation.

Section 301: Provides definitions of terms used throughout the Act. The term "minority group children" includes Negro, American Indian or Spanish surnamed Americans. "Racial separation" is a situation where minority group children in a school constitute more than 50% of the average daily enrollment of that school. "Standard metropolitan statistical area" or "SMSA", as defined by the Office of Management and Budget, is the area in and around cities of 50,000 inhabitants or more.

Section 401: Requires each state to prepare and file an acceptable plan pursuant to which it will establish and supervise the operation of an SMSA agency, within each SMSA, to develop with local educational agencies a plan to reduce racial separation in their schools.

Section 402 (generally): Sets forth the requirements of the Plan to be prepared.

Section 402(b): The Plan must insure that, no later than August 30, 1982, the percentage of minority group children enrolled in each school in the SMSA shall be at least half the percentage of minority group children enrolled in all schools in the SMSA.

Section 402(c): The Plan must also develop and use techniques such as redrawing school boundaries and establishing education parks and magnet schools so as to end racial separation in all schools within the SMSA.

Section 402(d): Multi-racial committees of local parents and students are to be established to advise local educational agencies and the SMSA agency regarding development of the Plan and to report periodically to the Secretary on the extent of compliance with the requirements of this Act.

Section 402(e): The Plan must assure equality of state financial assistance to all local educational agencies within each SMSA.

Section 403: Requires submission of the Plan and approval by the Secretary no later than August 30, 1972.

Section 404: Allows the Secretary to exempt portions of an SMSA from the Plan where necessary because of the size, shape or population distribution of an SMSA.

Section 405: Each SMSA agency must file an annual report setting forth the results achieved under the plan.

Section 406: The Secretary must review each plan and report for each SMSA agency annually and require revised plans where necessary.

Section 407: Provides that the District of Columbia SMSA shall include those parts of the metropolitan area lying in Maryland and Virginia.

Section 408: Prohibits the formulation or administration of a plan in any way that will result in separation of minority-group children within a school or a classroom.

Section 501: Provides Federal funds for each SMSA agency for development of a plan required by this Act.

Section 502 (generally): Provides Federal financial assistance for implementation of an approved plan. No Federal funds are to be used to supplant funds, equipment or services that are used to assist any private school. The Secretary is given power to file suit for restitution of any funds used for these purposes.

Section 502(d): Describes the purposes for which funds provided may be used including, among others, establishing and constructing magnet schools and educational parks, providing additional staff members, and the necessary counselling, retraining and guidance for those working with minority group children, furnishing transportation where necessary and expanding or altering facilities to accommodate students transferred.

Section 601: States that any local education agency in an SMSA refusing to cooperate in the formulation or implementation of a plan shall not be entitled to receive federal educational funds. Likewise, no state failing to participate in the preparation, submission, revision or implementation of any plan required by the act and no state continuing to provide state funds to any noncorporating local educational agency shall be entitled to receive Federal educational funds. The presence within an SMSA of a noncooperating local educational agency does not affect the eligibility for Federal funds of the remaining cooperating local educational agencies.

Section 701: Provides that each SMSA agency shall receive no more than $100,000 to develop and promulgate the plan required.

Sections 702 and 703: Authorizes $2 billion a year to implement the plans developed pursuant to this Act.

Section 801: Provides for expedited hearings by the Secretary for complaints concerning the enforcement or nonenforcement of provisions of this Act. Review of the Secretary's final decision lies with the United States Court of Appeals for the District of Columbia Circuit.

Section 901: Repeals those provisions of law which would interfere with the operation of this Act, particularly those forbidding the use of federal funds to overcome racial imbalance.

GOVERNMENT FACILITIES LOCATION ACT OF 1970 (S. 4546)—SECTION BY SECTION ANALYSIS

Sections 201 and 202: State that the increasing concentration of Government facilities in suburban areas has placed many jobs beyond the reach of low- and moderate-income inner city residents for whom housing is presently unavailable in these suburbs. The Act's purpose therefore is to require Federal agencies, Federal contractors and state governments to insure that adequate housing is available wherever they locate or expand their facilities.

Section 301: Contains definitions. The term "Government facility" includes any state or Federal building or buildings in which 25 or more government employees work or a facility of a Federal contractor in which more than 25 employees work. "Low- and moderate-income employees" are those making no more than the highest step of the GS–7 level determined by the Civil Service Commission.

Section 401: Provides that no Government facility may be located in a community which has failed to develop an acceptable plan to provide adequate housing in the immediate area of the facility for prospective low- and moderate-income employees. If a contractor locates or expands a Government facility in violation of this Act, the Chairman of the Equal Employment Opportunity Commission (EEOC) is given the power to terminate all Federal contracts held by such contractor unless the agency involved certifies that such termination will seriously and substantially impede the mission of the Department or agency. Likewise, any state agency that locates a facility in violation of this Act may have its Federal assistance terminated until compliance is achieved.

Section 402: Requires the Chairman of the EEOC to exempt a government agency of Federal contractor from these requirements if the National Security Council certifies that compelling national security reasons justify such an exemption.

Sections 501 and 502: Describe the plan which each community must file providing at least one unit of housing, either vacant or to be built, for every prospective low- and moderate-income employee of the locating government agency or Federal contractor. These units must be in existence prior to completion of the location of the government facility and must meet standards established by the Department of Housing and Urban Development and the Chairman of the Equal Employment Opportunity Commission.

Section 503: Gives the Chairman of the EEOC authority to require and approve modifications of any plan where necessary to meet the purposes of this Act.

Section 504: Gives the Chairman authority to reject any plan or modifications that would result in residential segregation of low- and moderate-income families within a community.

Section 505: Requires each government agency and Federal contractor to report annually to the Chairman of the EEOC the number of low- and moderate-income employees employed at each government facility, the availability of housing for such employees and such other information that the Chairman may require.

Section 506: Requires the Chairman to establish and publish guidelines pursuant to this Act.

Section 507: Provides that each government agency and Federal contractor shall establish a liaison with the Chairman of the EEOC. This liaison shall also serve as chairman of an advisory committee on housing established by the government agency or contractor.

Section 601: Provides that each community filing a plan under this act may also file for financial assistance. Up to $100,000 is available to develop the plan required by this Act. The Chairman of the EEOC is also authorized to provide each community filing an acceptable plan Federal funds to compensate for the loss of tax revenue as a result of the increase in the number of low- and moderate-income people into the community.

Section 701, 702, and 703: Provides for the appropriation of sufficient funds to allow the Chairman to meet the requirements of this Act.

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

Mr. RIBICOFF. I yield.

Mr. MONDALE. I am delighted to rise to commend the distinguished Senator from Connecticut for this most useful and, I believe, courageous measure designed to promote integration of schools and communities throughout our country. I am proud to support the goals of these proposals to deal with the question of racial isolation which I believe to be the most critical, explosive, and heartbreaking issue facing our country today.

I know the Senator from Connecticut is familiar with the statistics which

demographers have developed which show that racial and ethnic isolation is growing. The proposals presented by the Senator reflect a number of fundamental commitments and conclusions which I share: That racial segregation in our public schools, regardlesss of cause or origin, is detrimental to all children; the quality of integrated education benefits all children; that the Government should support the establishment and maintenance of quality integrated schools; that we must have a single, nationwide policy concerning the support of quality integrated schools, applied equally in all regions of our country; that the distinction between so-called de facto and de jure is becoming increasingly confused and meaningless; that we desperately need to work to heal and reunite America, to have one society rather than two; that we must end residential segregation as well as educational segregation to accomplish this goal; that a metropolitan approach is a necessary element in any effort to achieve and maintain quality integration; and that the Congress must provide leadership in these areas.

As the Senator from Connecticut has said in his remarks today:

> If we are to end the racial turmoil tearing this Nation apart, we must be willing to attack segregation in the North with a will equal to that we demand of the South.

I agree completely with that statement. We do not have a uniform national policy on school integration today. The Constitution must be equally enforced, in the North and West as well as the South. The Congress must take the lead and declare it to be our Nation's policy that every child will have the opportunity to attend a school which will provide the best possible education and that quality integrated education is the best way to provide that opportunity.

It is precisely this need for a nationwide emphasis on which the work of the Select Committee on Equal Educational Opportunity has focused. Of the 48 days of hearings the committee has held to date, 16 days were devoted to oversight hearings on the problems and progress related to school desegregation under Federal law. This set of hearings was prompted by the administration's request for a $150 million supplemental appropriation to assist school desegregation in the South. The major result of these hearings was an amendment to the supplemental appropriations bill designed to make that program nationwide. The amendment, which was adopted and now part of law, made those funds available to school districts desegregating under law throughout the Nation, regardless of location. I regret that it appears that the nationwide emphasis of that amendment has been neglected in the administration of these funds.

The bulk of our hearings have dealt with problems and programs that exist in all regions of our country. These hearings have included several days on the origins and causes of racial isolation in the North and West, 4 days on discrimination in housing as a cause of de facto segregation, 5 days on the education problems of Mexican Americans, 3 days on the educational problems of Puerto Ricans, and testimony on education parks, interdistrict cooperation, educational television, Indian education, and inequality of financial resources.

Senator RIBICOFF's bills are an important and far-reaching step in this direction. They contain useful and constructive suggestions for dealing with many of the complex issues with which the Select Committee on Equal Educational Opportunity has been grappling. They do not, of course, as the Senator has said, provide all the answers. We must also deal with other issues involved: the continued existence of the all black, or all Mexican-American school; the special needs of language and cultural minorities; safeguards and enforcement procedures to insure that school integration efforts are not token and misleading; racial balance; the time frame in which integration is feasible given varying conditions; community and student participation in school integration efforts; the relative importance of the socioeconomic composition of the integrated school; the possible remedies for racial isolation in nonmetropolitan areas; the relationship of school financing to racial isolation; ways to improve fair housing enforcement, and proposals to require that communities provide low- and moderate-income housing as a condition for receipt of any HUD grant.

The Senator, in introducing these bills, has taken a thoughtful and creative initiative. I hope these proposals will receive the serious consideration they deserve and that the ideas and provisions they contain will be the subject of committee hearings, and committee consideration. I hope they will be considered as the Committee on Labor and Public Welfare, and the Senate, as a whole, acts with regard to the administration's proposed Emergency School Aid Act of 1970. I know the ideas they involve and the recommendations they represent will be considered by the Select Committee on Equal Educational Opportunity in its future work.

I applaud the Senator for his leadership on this problem. I think the Congress and the country are indebted to him for this initiative.

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

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

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

Mr. MONDALE. I applaud the Senator's proposal to locate new federally connected industries in communities willing to provide housing for low- and moderate-income employees of those industries.

But I am extremely disappointed that the administration has not followed the recommendations of the President's Task Force on Urban Renewal, issued last May, that the Department of Housing and Urban Development exercise its already extensive powers to require fair housing, under the national fair housing law and under title VI of the Civil Rights Act of 1964, through termination of assistance to noncomplying communities.

As I understand the administration's position, explained by Secretary Romney in testimony before the Select Committee on Equal Educational Opportunity, the Department will not exercise its fund termination powers to combat unfair housing practices in communities receiving Federal assistance.

There are three sources of authority which the Nixon administration could invoke to carry out its own Commission's recommendations that Federal funds be denied any community that fails to make housing available to low- and moderate-income families.

First, title VIII of the Civil Rights Act of 1968, national fair housing law, requires that all executive departments and agencies "administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this title."

Second, title VI of the Civil Rights Act of 1964, provides that—

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Third, where there are insufficient funds, as there are in all housing programs, to take care of housing needs, HUD certainly has authority to distribute funds by giving priority to those communities which have provided fair housing, and which do not discriminate against minority and disadvantaged families.

In addition, at least one Federal appeals court, the 10th circuit in California in the Sasso case, has ruled that zoning policies that exclude low- and moderate-income housing violate the 14th amendment to the U.S. Constitution.

Clearly, on the basis of these authorities, the present administration has the statutory power it needs to deny Federal funds to those communities which discriminate by denying access to housing for minority groups and low-income families.

The Congress has provided the Department with effective tools to insure fair and open housing. It is my hope that this administration will use those tools.

I commend the Senator from Connecticut for this tremendously useful comment and his proposals.

One point I did want to reiterate is the question of the Federal Government's existing powers by virtue of the adoption of the various civil rights acts that I have mentioned. We have had some hearings before which Mr. Romney testified concerning the use of those powers. As the Senator from Connecticut may know, in the Fair Housing Act which we passed and which was cosponsored by the Senator from Connecticut, and in title VI of the Civil Rights Act of 1964, we provided the executive branch with broad powers to withhold grants and to use the Federal funding power in all or most of its provisions to bring about progress in the enforcement of fair housing, opening up communities for low-income housing, and the rest. I gather the Senator sees his proposals as an addition to those proposals.

Mr. RIBICOFF. Yes. These bills are in addition to the powers the Secretary of Housing and Urban Development already has. Unfortunately, there has been great uncertainty and reluctance in the present administration to utilize whatever techniques and powers Congress has given them.

Mr. MONDALE. I am glad to hear that comment.

There is one final point I wish to make. This fact gets lost, it seems to me, as we read the newspapers, and that is the success stories that already exist with quality integrated schools. One of the most impressive programs is in Connecticut. It is called Project Concern. While it is a small project and a voluntary project, it is one of the most impressive in the country where they have tried to reach a metropolitan solution for problems of substandard and segregated schools.

This project has shown that children from the ghetto who are introduced into quality suburban schools have done remarkably well. In 4 months after entry into Project Concern those children had achieved 1.2 years in basic skills. The ghetto children left behind had a mean IQ of 94 in the fourth grade, in 1965; which dropped to 88 in the sixth grade in 1967; and 86 in the eighth grade in 1969.

What is happening in ghettos is that these children are becoming candidates for subnormal institutions. That is how deeply serious the present system is in damaging or mangling our children.

Mr. RIBICOFF. I express my gratitude for the Senator's remarks. I know how hard he has been working in this field. The entire problem of racial isolation has increasingly concerned me since we had the discussion on the Stennis amendment last February.

I felt then, with the controversy that swirled around the Stennis proposal, that we in the North were not facing up to our responsibilities. As I continue to study this problem, I find that the No. 1 issue facing this Nation is the rapid road to apartheid we are on in the United States. I cannot conceive of any nation existing on the basis of apartheid. As long as the trend is toward white suburbs and black cities, we come closer to reaching the point of no return.

The 1970 census figures are now being made available. They are fascinating reading and clearly tell the story. I was able to obtain some of the preliminary statistics, in which the Senator might be interested. Consider Atlanta, Ga. From 1960 to 1970 the central city gained 98 people. The Atlanta suburbs grew by 356,000 people.

The city of Baltimore lost 45,000 people. The Baltimore suburbs gained 353,000.

Chicago lost a population of 225,000. Its suburbs gained 898,000.

Cleveland lost 136,000. The suburbs gained 271,000.

Detroit, in its central city, lost a population of 177,000. The suburbs gained 576,000.

My own city of Hartford lost 6,000 in the central city. The suburbs gained 114,000.

These figures are repeated throughout the entire Nation. The importance of these statistics is minimized by the fact that the growth in the suburbs has been virtually 100 percent white; only a few blacks creep in. Not only do the whites move out from the central city, but the central cities become increasingly black.

Therefore, if men like the Senator or me or the entire Congress and the executive branch fail to look at the entire problem of our metropolitan areas, we will never solve the problem of school segregation or the segregation throughout the entire society of our Nation.

Mr. MONDALE. I certainly agree with the Senator from Connecticut. I am going to put some figures in the RECORD that come from the testimony of Dr. Carl Tanber, of the University of Wisconsin. They go something like this: In the last 6 or 7 years, in the Greater New York area, 1 million whites have left the central city; 34,000 blacks have left the central city; and most of those blacks have gone to mini-ghettos outside the center. So the concentration of ethnic and racial minorities in the core cities of this country is becoming worse, and not better. Optimistic statements that we are becoming an integrated society simply do not stand up under any careful analysis.

Mr. RIBICOFF. They do not. What is most interesting, too—let us be frank with one another—is that there is a great fear by the whites in our society that they will be overwhelmed by the blacks. But, if one looks at an over-all metropolitan area, he finds few in which the black population is more than 25 percent of the total population.

The proposal that I have requires school integration with a minimum minority population percentage of at least one-half of the overall minority population percentage in a metropolitan area. This would create in almost every metropolitan area in the United States a ratio of blacks to whites comparable to the ratio of blacks to whites in the entire population of this country.

It is only when a school population becomes 40, or 50, or 60 percent black that the whites gallop as far away as they can go.

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

Mr. RIBICOFF. I ask unanimous consent to proceed for an additional 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, the Senator is recognized for 5 additional minutes.

Mr. RIBICOFF. I believe that, if we had school systems in which the proportion of black equaled their proportion in the population taken as a whole, we could work out practically, philosophically and free from fear an arrangement wherein the whites would accept the blacks and the blacks would accept the whites. We would then start, finally, to have an integrated system.

Many persons have asked me, "Why wait 10 years?" Again, I am afraid I am just too practical and have had too much experience to think we can solve a problem like this overnight.

I recall that, when the Brown case was handed down, there were suggestions from many persons in the South that we ought to integrate one grade a year. This would have taken 10 or 12 years. Many civil rights advocates said, "You cannot do that. You cannot wait 10 years. You must integrate at once. You must integrate the entire school system at once."

What happened? A great resistance built up because the philosophy of a community cannot be changed overnight. The mores of a community cannot be changed at once. It is now 16 years after the Brown case, and we have not achieved integration.

So I am trying to be pragmatic. I am drawing not only on the country's experience but also on my own experience to develop a reasonable timetable. Each metropolitan area would have 2 years to propose a plan and then 10 years to put it into effect. During that time, we can try to educate the people. We can work out our plans in an orderly fashion. We can break down resistance and develop positive cooperation. That is what I am trying to achieve in the two bills I am introducing today.

I am also trying to have this country recognize a problem which faces the North as well as the South. Let us not confuse this problem any longer by saying it is just a southern problem. Let us recognize that this is just as much a northern problem.

If we want to desegregate housing in our cities, let us look in our own backyards. Let us not just pass laws and make speeches condemning the South. What must be condemned in the South surely should be condemned. But let us not blame the South for the problems we in the North have created.

Mr. MONDALE. I strongly commend the Senator's statement. I believe that the Senator has furnished figures showing that the ratio of blacks to whites in the metropolitan areas is about the same as it was 100 years ago, but because we have provided arbitrary limits in our political and school district boundaries, what has happened is that the suburban areas are virtually all white. I believe over 90 percent of the children in the District of Columbia are black.

Mr. RIBICOFF. Ninety-four percent of the schoolchildren in the District of Columbia are black; but, if we take the entire metropolitan area of Washington, the blacks are only about 30 percent of the school population. If we exclude the suburbs and consider only the city of Washington, of course, the percentage of blacks is overwhelming.

The time has come not to set artificial boundaries, but to recognize that we will never have integration if we are going to do it only on a city-by-city basis. We are going to condemn this country to two societies unless we unite the suburbs with the central cities in the battle to end racial isolations.

Mr. MONDALE. I just want to make one final point, because it is difficult to bring this matter to public consciousness, and that is the absolute disaster faced by most ghetto children, be they black, white, red, or brown. Here in the District of Columbia, for example, recent tests in

reading and arithmetic showed that the average District of Columbia student at the end of the ninth grade is 2.2 years behind his national counterpart. There are schools in the District of Columbia, in the heart of the ghetto, which, at the end of those 9 years, have somehow failed to such an extent that there is practically no evidence of any learning of reading or writing.

When we say that in the Nation's capital, in one of the major cities of this country and the world, thousands and thousands of children are going to be denied the right to learn and to read and to write and to count, what kind of society are we building?

Then you add to that the fact that we have a segregated society. I think many of these black children never see a white child until many years later; and the same is true of white children in the suburbs. So we are crippling the children, and denying them tools they need if they are to have any chance of success. We are denying children a chance to come to know each other. If that is not a pattern for national disaster, I do not know what is.

I think the proposal of the Senator from Connecticut is a major contribution to dealing with what I regard as the most fundamental issue in America today.

Mr. RIBICOFF. I thank the Senator. All of us will be watching with deep concern the findings of the special committee of which the Senator from Minnesota is chairman.

I would hope that we in the Senate, as well as the executive branch, would face up to this issue. It is going to be hard. I am not sure there is enough political courage in the executive branch or in Congress to make the tough decisions necessary. They are not going to be easy or politically popular decisions. But I fear continuous delay. I hope that, on a bipartisan basis, we can face up to this problem, Democrats and Republicans, northerners, and southerners, and realize the danger this country faces.

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

Mr. RIBICOFF. I ask unanimous consent to proceed for 5 additional minutes, to continue the colloquy.

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

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, I commend the distinguished Senator from Connecticut for the approach he is taking to this problem, and commend him also for his statesmanlike support of the Stennis amendment when it was before the Senate.

I should like to clear up in my mind just what the details of the Senator's plan are; and to that end, I ask whether the cities of this Nation having a population of 50,000 or more would be covered by the Senator's bill.

Mr. RIBICOFF. They would. The definition of a metropolitan area used by the Office of Management and Budget and virtually every urban authority is a central city of 50,000 population together with the surrounding suburban area.

Mr. ALLEN. It would be the Senator's plan, then, to take the ratio as it exists in that particular metropolitan area, to divide the minority group by 2, and to seek, over a period of 12 years—2 years for achieving a plan and 10 years for putting it into execution—to achieve, then, a 50-percent racial balance?

Mr. RIBICOFF. Every school in the metropolitan area would have to have a minority percentage at least one-half of the minority percentage for the metropolitan area. It could be more, but it would have to be at least that.

Mr. ALLEN. Assuming then, a metropolitan area with a racial minority of 30 percent, the Senator would cut that 30 percent in half, and require a 15-percent desegregation over a period of 12 years?

Mr. RIBICOFF. That is correct.

Mr. ALLEN. Amounting, then, to about 1 percent a year?

Mr. RIBICOFF. Well, it would not necessarily have to be that way on an arbitrary basis. I could conceive of a school system formulating its plan and putting it into effect faster.

Mr. ALLEN. Yes, that would be a minimum. They would be required to do that. Anything more than that would be purely voluntary.

Mr. RIBICOFF. Yes; but they would have to submit an acceptable plan. In some areas it would be very simple; in others it would be very difficult. You might have schools in an area where the areas to be reached were near one another, where any transportation needed would not be for long distances, and where you could use existing facilities. In an area like that, the whole plan could be put into effect in 3, 4, or 5 years.

On the other hand, I can visualize areas where they would have to start from scratch, draw lines, build new schools, and change and accommodate the school population in other ways. But I do use a maximum target of 10 years after the 2 years for planning.

Mr. ALLEN. That, then, would give to what is called de facto segregation a further waiting period of some 12 years, during which time, by degrees, the required ratio would be achieved?

Mr. RIBICOFF. My plan would apply nationwide; because, as I look at this country, it seems to me we have reached the stage where there is not much difference any more between the North and the South. Outside of rural areas, I think the South today, in its metropolitan areas, is segregated on a de facto basis just as the North is. This is my interpretation of what is taking place, because I have noticed a change in housing patterns. The South has learned very rapidly from the North, and the South is following a northern pattern when it comes to housing. The whites are moving out of the central cities in the South, out to the suburbs, just as they have in the North. In practically every metropolitan city, the South is rapidly becoming totally resegregated. Thus, the entire country will soon be resegregated on a de facto basis.

The ACTING PRESIDENT pro tempore. The Senator's additional 5 minutes have expired.

Mr. RIBICOFF. I ask unanimous consent to proceed for 5 additional minutes to complete the colloquy.

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

Mr. MONDALE. Mr. President, if I might interrupt, I want to ask at least one question: I did not understand the Senator's proposal to in any way limit the jurisdiction of the Supreme Court applying normal constitutional desegregation patterns to any community in the country, so that as to the lawsuits that we have seen, for example, in Denver, Berkeley, South Holland, Ill., Detroit, Indianapolis, Pasedena, or Pontiac and other cities in the North, in no sense was this designed to deter the reach of the Supreme Court. Is my understanding correct?

Mr. RIBICOFF. The Senator from Minnesota is absolutely correct. Basically, whatever is illegal should be struck down, and in no way do I intend to impinge upon the Supreme Court.

The Supreme Court has a number of de facto school segregation cases before it now to be decided. I cannot predict what the Supreme Court will do. My guess is that they are wrestling mightily with their own consciences and the law to determine what to do.

As far as I personally am concerned, I can see no difference between de facto and de jure segregation. The Supreme Court having struck down de jure segregation in the South has, I think, an equal obligation to strike down de facto segregation in the North.

But practically every decision that the Supreme Court has made has been on a district by district basis, and there is not now a case before the Supreme Court for decision that involves a metropolitan area involving several school districts. Therefore, any decision the Supreme Court might hand down on a single school district basis will not eliminate the basic problem we face of apartheid in the United States. We will not eliminate the movement toward apartheid, in my judgment, until we take on our own shoulders our legislative responsibility. Congress, when it shrugs off its responsibility, forces the Supreme Court to legislate and to go where it would prefer not to go.

The time has come for us to look at this overall problem and assume the burden and responsibility, and not continue to put it on the shoulders of the Supreme Court. There is nothing in this bill, or in my speech, that would in any way take away from any jurisdiction of the Supreme Court.

Mr. ALLEN. Mr. President, will the Senator yield further?

Mr. RIBICOFF. I am pleased to yield.

Mr. ALLEN. While I admire the Senator from Connecticut very much, and appreciate his efforts in behalf of the Stennis amendment, I ask, does he not feel that the principle as proposed by his bill—that is, gradual desegregation with regard to de facto segregation—would be a retreat from the principle of the Stennis amendment, which called for one uniform Federal school policy regarding desegregation? Because

under the existing decisions of the Supreme Court, the southern school districts are required to desegregate now, and the distinguished Senator from Connecticut, by the introduction of his bill, would tacitly recognize the difference between de jure segregation and de facto segregation, still retaining the "desegregate now" principle for the southern schools and a "desegregate over a 12-year period principle for the northern schools. Is this not a retreat from the principle of the Stennis amendment?

Mr. RIBICOFF. May I say to my distinguished colleague that I do not think so at all. First let me say that I think the country would have been much farther along if we had adopted the Stennis amendment 8 months ago. I was for it then and I am for it now.

But I think the difference comes in this: The South, in de jure situations, has already had 16 years to act.

As I indicated in my colloquy with the Senator earlier, if we had originally followed some of the thoughtful suggestions that we desegregate in the South 1 year at a time, we would already have achieved integration.

In addition, I think that for the overwhelming number of schoolchildren, we basically have gone beyond the problem of de jure segregation. It is my contention that, with a few exceptions in the South, in the rural areas, today segregation in the South and education present exactly the same pattern found in the North. I think that we have resegregation in metropolitan areas of the South. I do not think that these resegregation patterns are de jure; I think they are de facto.

So I am recognizing a set of facts that I believe exists throughout the entire United States of America.

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

Mr. RIBICOFF. Mr. President, I ask unanimous consent to proceed for 2 additional minutes.

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

Mr. ALLEN. Would the Senator's bill, then apply in municipalities in the South of a population of 50,000 or more?

Mr. RIBICOFF. Yes. The bill I have introduced would be nationwide in impact, and it would apply to every community—North, South, East, and West—which fits into a definition of metropolitan area, with 50,000 people in the central city, surrounded by populated areas in the counties and the suburbs surrounding it, irrespective of whether they are northern or southern cities.

Mr. ALLEN. I believe that Chief Justice Burger, in the case of Northcross against the School Board of the City of Memphis, pointed out 3 areas in which the Supreme Court had not ruled. One area is as to whether a particular racial balance is required in a school system; the second, as to whether school district lines may or must be altered to carry out the principles announced by the Supreme Court; and the third, as to whether or not transportion or busing may be or must be used to carry out the Court's edicts.

Is it not possible, then, that the Supreme Court, in its upcoming decisions, might cut the ground completely out from under the Senator's bill?

Mr. RIBICOFF. The Supreme Court may cut the ground out from under my bill, but that does not eliminate the responsibility that we in Congress and the President of the United States have for doing what is necessary. I cannot predict the Supreme Court's decision. But I will predict that this country cannot exist on an apartheid basis, part black and part white, without an intermingling of people nationwide.

No greater problem faces this country than the hatred and fear which have been generated and are being generated and multiplied throughout this Nation, with belts of white suburbs, affluent, with jobs, surrounding central cities of blacks, without jobs. It is this situation that I want to end.

My feeling is that the Supreme Court would certainly not strike down any attempt to end racial isolation. But, the question is not what the Supreme Court in its wisdom decides. The question in my mind is, what will the Congress decide in its wisdom? For too long we have placed the burden upon the Supreme Court, because we have not had the courage to face up to these nationwide problems in the Senate of the United States.

Mr. ALLEN. I agree wholeheartedly with the Senator's comments at this point. I feel that Congress long before now should have established a uniform policy. The Senator's bill, as I understand it, does establish a uniform policy with respect to municipalities, metropolitan areas, of a population of 50,000 or more.

Mr. RIBICOFF. The Senator is absolutely correct.

Mr. ALLEN. I thank the Senator.

Mr. JAVITS. Mr. President, I am a member of the select committee of which Senator MONDALE is chairman, and I fought the battle with the Senator from Connecticut on the Stennis amendment, as he very well recalls.

I did not hear all of the Senator's speech. I know that he has had very interesting and important discussions with my colleagues. I do not think any such discussion, however, should be allowed to stand without adding these two further considerations, which I think are vital:

One, we have found, unhappily, that the process of desegregation itself, pursuant to the Supreme Court mandate and congressional law, is not free of segregation. In the committee headed by Senator MONDALE, we have found many abuses of the desegregation process. So the idea that all is well in the South and that it is now in key with the North does not necessarily follow.

Two, I think that the question of timing, which is raised by the Senator's bills, must be considered in the context of the pending Emergency School Aid Act, which has already been reported by a committee of the House, and over which the Education Subcommittee of the Senate Committee on Labor and Public Welfare is presently deliberating. The original proposal of the administration which we are now considering is concerned with the effects of racial isolation on the pedagogical aspect of education as well as desegregation.

It may be insufficient to paint a 10-year picture and ignore the needs of children in today's educational system the concept on which we are working now, proposed by the administration, of a large money bill which would give great flexibility and opportunity for many different approaches deals with immediate needs with a timetable which would be conditioned, one, by the availability of resources, but also by what could be accomplished here, there, and everywhere, without necessarily slowing "X" down because you have a timetable for "Y."

I only throw that out in connection with the Senator's speech, because of my respect for the Senator, as a real factor in this field and so that the work of the committee, of which, as I have said, I am a member and Senator MONDALE heads, may be forwarded by what the Senator is doing.

I have not heard my chairman, but I hope very much that the bills which the Senator is introducing—the concept that the Senator is offering—may be before us in a very pertinent and important way in connection with our work, which has to be brought to a conclusion before very long.

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

Mr. JAVITS. Mr. President, I ask unanimous consent to proceed for 5 additional minutes.

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

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

Mr. JAVITS. I yield.

Mr. RIBICOFF. I appreciate the Senator's comments.

May I say that I forwarded copies of these bills and my speech to Senator MONDALE's committee and his staff last week, so that he would have the benefit of some time before I delivered this speech.

I do appreciate the positive comments I received from Senator MONDALE before the Senator from New York entered the Chamber.

What bothers me about the administration's bill is that the billion dollars that the President has in mind is to help desegregate education in the South on a de jure basis. My criticism is that the problem is nationwide. We have to eliminate desegregation on a de facto basis as well. When the time comes, I shall personally introduce an amendment on the floor to make funds available under the administration's bill to help school districts in the North end de facto segregation.

Mr. JAVITS. If I may reply to that, I do not believe the Senator need have any concern about that. Any bill I have anything to do with, and I think that any bill the Senator from Minnesota (Mr. MONDALE) has anything to do with, whatever may have been the administration's original intention, will certainly recognize that from the point of view of a child, the deprivations of isolated learning, are equally bad no matter what the cause of the isolation. That should be one lesson of the Supreme Court decision.

Mr. MONDALE. Mr. President, I wish to make this point, if I may, for I think it is well known but I wish to repeat it, that the first installment of the President's original emergency school assist-

ance proposal was to be limited as a Southern school aid measure——

Mr. RIBICOFF. That is right.

Mr. MONDALE. And many of us, with support from the Senator from Connecticut, insisted, by amendment which was adopted, that it be a national program and that it apply to all segregation wherever it was in the country. I regret to say that the first $75 million has been administered in such a way that it is, in fact, basically a southern program. I feel very strongly that there is no justification in law, in morality, for educational reasons, or in terms of a healthy America, for having this as a southern program when it is a national problem.

I have pleaded with the Justice Department and HEW to have a national law enforcement program, and not just limit it to the South. I have pleaded with the Justice Department and HEW to include all minorities, Mexican Americans, Puerto Ricans, Portuguese, Indians, and other minorities, not just blacks, so that we will have a national enforcement of civil rights laws, and so that we will use the funds, including title I funds, for national solutions to these problems.

I repeat that plea today, because, despite their saying that it would be followed, it has not been followed.

Finally, may I say, the great contribution which the Senator from Connecticut makes today is to my knowledge the most courageous and unique proposal for a multidistrict solution that we have heard. I do not think we can solve the problem unless we have a multidistrict answer.

Mr. RIBICOFF. I thank the Senator from Minnesota very much.

Mr. JAVITS. I thank my colleague.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Senate will proceed to the transaction of routine morning business, with a time limitation of 3 minutes on statements therein.

THE PROPOSED TRADE BILL

Mr. JAVITS. Mr. President, the trade bill will be considered very soon. It is being reported, we understand, by the Finance Committee. It contains a provision which relates to something called glycine.

Indications are that this bill will incorporate many, if not almost all, of the provisions of the House-passed Trade Act of 1970.

As this legislation is being considered I hope very much one of the amendments adopted will be to strike section 344 of the bill which proposes to establish a prohibitive duty on imports of glycine over 1,500,000 pounds. The rate of duty proposed in the bill for such imports is so high that it amounts to a quota.

Mr. President, I hope very much that the Finance Committee will see fit to strike this amendment on glycine from the bill because it does not belong there; but if it does not do so, I shall seek to do so myself on the floor.

In view of that fact, Mr. President, I ask unanimous consent that an important letter of analysis, answering arguments made by my colleague from Tennessee (Mr. BAKER) on this subject, be printed in the RECORD. It was addressed to me by a constituent company in New York which obviously knows a great deal about this situation.

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

GEORGE UHE CO., INC.,
New York, N.Y., November 25, 1970.

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

MY DEAR SENATOR JAVITS: We are a New York corporation and are writing to you as our Senator in a matter of concern to us.

Very recently, the comments of Senator Baker of Tennessee in the Congressional Record of October 12, 1970 regarding the importation of Glycine were brought to our attention (see enclosure). We believe that Senator Baker's comments in connection with his support of Section 344 of the Trade Act of 1970, which places a tariff quota of 25 cents a pound on all importations of Glycine in excess of 1.5 million pounds must be answered.

Until the dumping complaint referred to by Senator Baker, we were interested in the sale of French Glycine which was sold to Benzol, now a division of Stauffer Chemical Company. In this capacity we had occasion to participate in the importation of Glycine from France and other countries. The transcript of the record in that case is available at the U.S. Tariff Commission and gives a complete background of the Glycine economic situation in the United States, including the supply-demand-price relationship. We are submitting herewith a brief summary of that background situation, based on information provided by the sole U.S. producer of Glycine which is seeking the tariff quota, namely, Chattem Chemical & Drug Company. Also submitted herewith are some of the pages of the transcript of record revealing Chattem's relevant admissions.

With this background, we would like to very briefly respond to Senator Baker's remarks, point by point.

First, he talks in terms of "relief to the sole-surviving domestic producer of Glycine," implying that Chattem is the sole surviving producer and that all other producers were eliminated by imports. The facts reveal that there were only two producers of consequence in the United States up until 1964, namely, Dow Chemical Company and Benzol Products Company, and that Chattem was not a producer but rather was a customer of Benzol. Chattem admits that up until this time imports were not significant. At this same time, Chattem signed a licensing agreement with SPCI, a French producer of Glycine. That agreement gave Chattem the sole and exclusive license in the United States to produce and sell Glycine by foreign process. Apparently, this process allowed Chattem to produce Glycine more cheaply than either Dow or Benzol were able to produce it. Subsequent to 1964, Dow, aware of Chattem's decisions and with a slightly inferior process, retired from the production of Glycine while continuing to make available a major raw material. Chattem stopped purchasing from Benzol and now that Benzol had lost one of its largest customers, namely, Chattem, Benzol stopped production. Thus in 1966, there was a good-sized market in the United States for Glycine, with the two traditional domestic producers having stopped production and one new domestic producer, namely, Chattem, starting up production. This was obviously a market for imports and imports began coming in at competitive prices. Under the circumstances, it is somewhat misleading to refer to Chattem as "the sole-surviving producer." Rather, Chattem was a brand new producer attempting to fill the void left by the cessation of production by the two traditional producers and under the circumstances naturally having competition from imports which were necessary to meet supply demands of the market.

Also, the above mentioned facts do not support Senator Baker's further allegation that "the Japanese and French succeeded in driving the other United States producers, Benzol Products, Inc. and Dow Chemical Company, out of Glycine production". As Chattem has admitted, Benzol and Dow stopped making Glycine before imports presented any problem. In fact Benzol, at least in part, stopped making Glycine because Chattem stopped purchasing it from Benzol and went into production itself.

The Senator further emphasizes that the price of Glycine "declined from $1.06 per pound in 1964 to 75 cents at the present," implying this is bad and is due to imports. We should point out that during the period prior to 1964 when, according to Chattem's own admision, imports were insignificant, prices of Glycine produced by the two American producers were declining due to improvements in the efficiency of production. Chattem itself stated in the said hearings at Page Four of the transcript: "In 1945, Glycine was priced at $1.50 per pound, thence falling to $1.30 per pound in 1951–60, and to 96 cents per pound in 1963 for very large volume purchases." Not $1.06 per pound as stated by Senator Baker. The above facts further reveal that price of Glycine dropped more during the earlier period when there were no imports than in recent period when there were imports.

In 1965 Chattem started selling Glycine at 95 cents per pound. It claims it had to drop from 95 cents to 75 cents over the next 1½ years to compete with imports. But it does admit that after filing its dumping complaint it was benefitted by the resulting elimination of the German and French imports and the price assurances given by the Japanese so that it has not had to lower its prices further, that is, from September 1966 to the present time, a period of more than three years, Chattem has not lowered its price. Moreover, during this same period, Chattem admits it has increased its share of the U.S. market from 10% in 1967 to 15% or 20% in 1968 and to 22% for the first nine (9) months in 1969. In fact, we are informed that Chattem h..s more orders than it can presently handle, as evidenced by users who have attmepted to obtain increased quantities of Glycine being told that such could not be arranged before the second quarter of 1971. This is obvious in part due to the fact that Chattem have a captive use of 35/38% of its production of Glycine for manufacture of DAA, a product for which they have a long term contract. Thus Chattem has a much larger percentage of the total market of Glycine than 22% mentioned above.

Moreover, as you may know, Glycine is a major ingredient for the production of L-Dopa, which is used in the treatment of Parkinson's disease. Apparently, this is in short supply and Public Law 91-309, approved July 7, 1970 has suspended all duties on the importation of L-Dopa for two years because of the emergency need of this product.

Senator Baker further seems to rely on the fact that "no foreign Glycine producer or import interest bothered to testify before the Ways and Means Committee." It seems clear that no one testified because no one took the threat of a quota on Glycine seriously. Such a proposed quota was not in the original Mills Bill or any other Bill seriously considered by the House Ways and Means Committee. Admittedly, Congressman Fulton of Tennessee had introduced a bill proposing a Glycine quota, but to the best of our knowledge no one else had supported

that bill. The threat of a Glycine quota did not become serious until all of a sudden it appeared in a bill reported out of the House Ways and Means Committee. Once it appeared it was impossible to object to it in the House and because the Senate Finance Committee held only two days of hearings, restricting the opportunity to testify only to Administration spokesmen and a few others, it was also impossible to object in the Senate. Ambassador Gilbert, as the Administration spokesman, did, however, object to the Glycine quota before the Senate Finance Committee.

We believe the above facts adequately answer Senator Baker's allegations as to the percentage of the domestic market taken over by imports. But perhaps we should make one further comment regarding his statement that "domestic production fell by more than 40% while imports increased by 140% by 1966 and 1967." It should be recalled that the domestic production of Dow and Benzol ceased in 1965, at which time Chattem commenced production, using much of its own production itself. Accordingly, imports filled a void and did take up to 70% of the domestic resale market (as pointed out previously). This percentage does not allow for Chattem's captive use of Glycine—if this captive use were taken into account imports would represent a far smaller percentage. But in every year since 1936 Chattem, now the sole U.S. producer, has taken an increasingly larger share of the market as pointed out above. At the present time, Chattem is unable to fill the orders it receives.

This is obviously no case for a tariff quota and shows how the quota approach can snowball when companies like Chattem use this opportunity to eliminate their competition with the help of the United States Government.

Finally, Senator Baker suggests there is no administrative remedy for Chattem to protect itself from French and Japanese imports of Glycine shipped through third countries which have not been subject to price assurances or the dumping order. This is incorrect. There is a very clear remedy spelled out in the Treasury Regulations, namely, Par. 53.16, which provides:

"If the merchandise is not imported directly from the country of origin, but is shipped to the United States from another country, the price at which such or similar merchandise is sold in the country of origin will be used in the determination of fair value if the merchandise was merely transshipped through the country of shipment."

A similar provision appears in Art. 2(c) of the International Antidumping Code, which has been adhered to by the United States, France and Japan.

Thus, if Japanese Glycine were imported to the United States through a third country and sold at less than the fair value in Japan, action would immediately be taken by the Treasury Department based on the price assurances previously given by the Japanese. Also, if French Glycine were imported through a third country at a price below a French home market fair value, a dumping duty would be applied to such imports.

Under the circumstances, we do hope you will take the opportunity to respond to Senator Baker's comments and further hope you will be able to get the Glycine quota eliminated from the Trade Bill. If we may be of any further assistance in this endeavor, please let us know.

Very sincerely,

H. C. VAN ARSDALE,
Secretary.

Mr. JAVITS. Mr. President, there has been much press attention accorded the effects the Trade Act of 1970 may have on our principal trading partners in Western Europe and Japan. But, too little attention has been paid to the concern that this legislation is causing our important trading partners in the less-developed world, particularly by Latin America. For this reason, I ask unanimous consent that a recent resolution passed by the Latin American members of the OAS be printed in the RECORD.

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

RESOLUTION

The First Special Meeting of the Special Committee for Consultation and Negotiation whereas:

The Latin American countries that are members of the Special Committee for Consultation and Negotiation (SCCN) requested, based on operative paragraph 5 of Resolution REM–1/70 of the IA–ECOSOC, that a special meeting of (SCCN) be convoked to study the protectionist tendencies shown in certain sectors of the United States of America and to consult on the appropriate measures to preserve the legitimate interests of Latin America that could be affected by the legislation presently under consideration;

The United States Delegation reaffirmed that the policy of liberalization of trade continues to be an objective of its government and, as evidence of this attitude, emphasized its determination to submit for approval by Congress as soon as possible the necessary legislation so that the General System of Preferences recently agreed upon in Geneva in favor of the developing countries will enter into effect. The Delegation also pointed out that the United States has proposed a liberal system that would facilitate exports of the developing countries:

The Latin American countries expressed the following:

(a) The protectionist tendencies which are reflected in the bills under consideration are clearly opposed to the commitments made by the United States within the framework of the inter-American system. These commitments are expressed in, among other documents, the Declaration of the Presidents of America, the Action Plan of Viña del Mar, and Resolution REM–1/70 of the Eighth Special Meeting of the IA–ECOSOC, which established the Special Committee for Consultation and Negotiation, and, fundamentally in the Charter of the Organization of American States, which has been ratified by the United States Government.

(b) The application of protectionist measures would be a violation of the standstill commitment and would represent retrogression in the treatment of Latin American exports in the United States market, since Latin America has only recently begun to market in the United States some of the products subject to the proposed restrictions.

(c) Such protectionist tendencies, moreover, contradict the efforts that have been made jointly by Latin America and the United States for many years to achieve, within the framework of international agencies such as UNCTAD and GATT, the elimination of tariff and nontariff barriers and to establish a general system of nonreciprocal and nondiscriminatory preferences whose purpose is to increase and diversify trade and to support the economic growth of the developing countries.

(d) The protectionist tendencies—which are reflected in the bills under consideration—are in open contradiction to the doctrine of free trade advocated by the United States Government during the past 35 years.

(e) The existence of a clear protectionist tendency in certain sectors of the United States is an undeniable fact. Not only have the Latin American governments stated their deep concern in this regard, but President Nixon and high officials of his administration have also stated their opposition to it and have said that the continuation of a liberal trade policy is in the interest of the United States.

(f) The adoption of protectionist measures in the United States would give rise to reprisals on the part of the other developed states, provoking a drastic reduction in world trade. This would result not only in contraction on the external sector of the economy of the Latin American states, but also in injury to their real capacity for development, with unquestionable negative effects on their economic, social, and political situation.

The First Special Meeting of the Special Committee for Consultation and Negotiation, reflecting the position of the Latin American countries, resolves:

1. To transmit to the Government of the United States for special consideration by its appropriate bodies the deep-seated concern of the Latin American countries over the possible adoption of protectionist measures that would constitute new tariff and nontariff barriers whose effect and magnitude with respect to the trade of the Latin American countries would be incalculable and would involve a violation of commitments assumed by the United States in inter-American and international forums.

2. To request the Government of the United States to take the necessary measures to prevent such protectionist measures from harming the trade relations between Latin America and the United States which would nullify the joint efforts carried on within the framework of the new forms of hemispheric cooperation that have arisen from the Latin American Consensus of Viña del Mar and the addresses delivered by President Nixon in April and October 1969.

3. To entrust the Executive Secretary of the IA-ECOSOC with taking the necessary measures so that the second regular meeting of the Special Committee for Consultation and Negotiation may study the development of the events that were the reason for this special meeting.

Mr. JAVITS. Mr. President, I ask my colleagues to note that the Latin American countries expressly note that—

The protectionist tendencies which are reflected in the bills under consideration are clearly opposed to the commitments made by the United States within the Inter-American system, as expressed in the Declaration of Presidents of America, the Action Plan of Vina del Mar, Resolution REM–1/70 of the Eighth Special Meeting of the IA–ECO SOC . . . ., and fundamentally in the Charter of the Organization of American States which has been ratified by the United States Government, and the application of protectionist measures would be in violation of the standstill commitment and would represent retrogression in the treatment of Latin American exports in the United States market, since Latin American has only recently begun to market in the United States some of the products subject to the proposed restrictions.

The Latin American countries of the OAS, in expressing their concern to the U.S. Government, note that the protectionist measures now before the Congress "would constitute new tariff and nontariff barriers whose effect and magnitude with respect to the trade of the Latin American countries would be incalculable and would involve a violation of commitments assumed by the United States in inter-American and international forums."

INVESTMENT COMPANY AMENDMENTS ACT OF 1970—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee on conference on the disagreeing votes of the two

Houses on the amendment of the House to the bill (S. 2224) to amend the Investment Company Act of 1940 and the Investment Advisers Act of 1940 to define the equitable standards governing relationships between investment companies and their investment advisers and principal underwriters, and for other purposes.

I ask unanimous consent for the present consideration of the report.

The ACTING PRESIDENT (Mr. HOLLINGS). Is there objection to the present consideration of the report?

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

(For conference report, see House proceedings of November 25, 1970, pp. 38997–39005, CONGRESSIONAL RECORD.)

Mr. SPARKMAN. Mr. President, I do not believe it necessary that my remarks be in great detail since there is a printed report on page 38997 of the November 25 CONGRESSIONAL RECORD setting out the full text of the agreed upon legislation and a statement of managers on the part of the House, explaining the differences between the House bill and the legislation agreed to in conference.

However, I do wish to comment briefly on the major provisions contained in the proposed legislation. The first of these provisions and, in my opinion, the most significant is section 36. This section places a specific fiduciary duty in respect to management fee compensation on the mutual fund's investment adviser. This is in accordance with the belief that the investment adviser should be a fiduciary in its relationship with the mutual fund in the handling of assets and investments. Jurisdiction in enforcing this standard is placed in the courts who have traditionally judged fiduciary duties in similar types of relationships. Either the Securities and Exchange Commission or any mutual fund shareholder may sue in order to have a determination made as to whether the investment adviser has fulfilled his fiduciary duty to the mutual fund shareholders in determining the management fee. As in any other lawsuit the plaintiff would have the burden of proving to the satisfaction of the court that the defendant has committed a breach of fiduciary duty.

Under current law court review of allegedly excessive management fees is permitted only under the test of "corporate waste" or when the fee shocks the conscience of the court. This standard has been characterized as meaning that fees are subject to attack only when they are "excessively excessive"—a standard which has precluded meaningful court review.

The major difference between the Senate and House bills relating to management fees was the provision in the House bill requiring the plaintiff to prove his case by "clear and convincing evidence." In the opinion of the Senate conferees this standard would have placed a much more stringent burden on the plaintiff than is required in the usual civil suit. Therefore, I am most gratified that the House conferees receded on this matter and agreed to drop the clear and convincing test contained in their bill.

Another item of significant difference between the Senate and House bills involved the sales charges paid by investors on contractual or periodic payment plans. These plans are methods by which investors of relatively modest means purchase mutual fund shares by investing small amounts of money at monthly intervals. While these investors pay the same sales commissions as purchasers of ordinary mutual funds there is one significant difference—the front end load method of collecting the sales charge.

The essential characteristic of the front end load is that half of the investors first years payments are deducted for sales commissions. Obviously, this type of arrangement is detrimental to the investor if he discontinues his payments at an early date. Unless the stock market rises rapidly, he is almost certain to lose money. Since contractual plans are sold mostly to lower- and middle-income families who have the most to lose if they discontinue their payments, additional consumer protection was deemed necessary. The Senate bill would have permitted the current front end load sales charge. However, if an investor for any reason whatsoever elects to cancel his plan during the first 3 years he is entitled to receive a refund of the full value of his account including all sales charges exceeding 15 percent of the total payments made under the plan. The House bill provided for a similar type refund but limited it to the first year of the plan and to sales charges in excess of 20 percent of gross payments made by the investor. The conference accepted the Senate provision with an amendment allowing for an automatic refund during the first 18 months of the plan.

The other item about which there was a great deal of discussion between the conferees involved the authority of banks to enter the mutual fund field by pooling the individually limited resources of large numbers of investors into collective investment funds known as commingled managed agency accounts. The Senate bill would have specifically authorized banks to enter this field on a no load basis. On the other hand, the House bill while not specifically allowing banks to enter into the mutual fund business stated that in the event banks were permitted by some other means to engage in the mutual fund business they would be required to do so on a no load basis, subject to various other regulatory restrictions. This issue is currently pending before the U.S. Supreme Court awaiting a determination as to whether the Glass-Steagall Act specifically prohibits banks from entering the mutual fund field. The conferees therefore agreed to strike all provisions in both bills regarding bank sponsorship of commingled managed agency accounts and leave the decision to the Supreme Court.

Mr. President, there are approximately 10 other differences between the Senate and House bills which were resolved in conference. They are fully explained in the conference report and I would be happy to answer any questions concerning them.

In conclusion, this proposed legislation is a moderate measure intended to deal with the serious problems which have arisen in the investment company industry over the last 28 years. It is built on the traditional practices of existing securities laws. It embodies a program of governmental regulation which is needed to provide adequate consumer protection and to up date the Investment Company Act to the needs of today's economy. I, for one, am most pleased with the fine job done by the members of the conference committee of both Houses of the Congress and I hope that the Senate will give favorable consideration to the report.

Mr. President, I move that the conference report be agreed to.

The motion was agreed to.

H.R. 16542—DISCHARGE OF CONFEREES

Mr. SPARKMAN. Mr. President, on the Calendar today under that portion entitled bills in conference, the fourth measure is H.R. 16542, relating to unsolicited credit cards. That measure has been agreed to in another conference. I ask unanimous consent that these conferees be discharged.

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

RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, following the disposition of the reading of the Journal on tomorrow, and any unobjected-to items on the legislative calendar, the distinguished Senator from New York (Mr. JAVITS) be recognized for 30 minutes.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

GOD BLESS AMERICA

Mr. PROXMIRE. Mr. President, recently in the letter to the editors section of the New York Times, a remarkable letter was published from a woman who emigrated to this country from Poland and has just become an American citizen.

In that letter Mrs. Janina Atkins expressed some truths that many Americans seem to have forgotten in their strenuous criticism of this country.

A nation, like a person, needs criticism, especially a rich, powerful, successful country like ours.

But lately we may have overdone it. So many of the younger generation especially seem to have lost faith in this country.

So listen to a recent immigrant. Here is what she says, in part:

There is something in the air of America that filled my soul with a feeling of independence, and independence begot strength. There is no one here to lead you by the hand, but also no one to order you about. Once you land in America you are left to yourself, to shape your own future, to test yourself. This I suppose, is what living in freedom is all about.

And later in her letter, she writes:

I love America because nobody pays any attention to my accent. Only out of curiosity do people ask me "where are you from?" They accept me for what I am. They do not question my ancestry, my faith, my political beliefs. I love this country because when I want to move from one place to another I do not have to ask permission. Because when I want to go abroad I just buy a ticket and go.

I love America because when I need a needle I go to the nearest Woolworth's or Lamston's and get it. I love it because I do not have to stand in line for hours to buy a piece of tough, fat meat. I love it, because even with inflation, I do not have to pay a day's earnings for a small chicken.

I love America because America trusts me. When I go into a shop to buy a pair of shoes I am not asked to produce my identity card. I love it because my mail is not censored. My phone is not tapped. My conversation with friends is not reported to the secret police.

Mr. President, it is good to criticize. We can grow, and improve and develop on criticism. We cannot do so without it. But that criticism can become a fetish that can erode our confidence and strength. Janina Atkins has reminded us of some of the reasons we should cherish this country of ours.

I ask unanimous consent to have her letter printed in the RECORD.

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

GOD BLESS AMERICA!

(By Janina Atkins)

Just over six years ago I came to this country with $2.60 in my purse, some clothes, a few books, a bundle of old letters, a little eiderdown pillow, and a beautiful china tea set for twelve—a going-away gift from my friends. I was an immigrant girl hoping for a new life and happiness in a strange new country.

Today, for the first time, I shall be celebrating Thanksgiving Day as an American citizen and, for millions of Americans before me, this will be a day of gratitude for the dreams that come true.

Mine is not a spectacular success story, nor is that of my husband. We both left the "old country" in 1964 to seek a new beginning in the free world of America. We did not know each other at that time, but when we met in New York City we had to face the same problems. Our career qualifications were of little use, we had language difficulties, no steady jobs, no family, few friends. It was easy to be despondent. And I did cry my eyes out in an apartment I shared with another girl.

But, slowly, times changed. There is something in the air of America that filled my soul with a feeling of independence, and independence begot strength. There is no one here to lead you by hand, but also no one to order you about. Once you land in America you are left to yourself, to shape your own future, to test yourself. This, I suppose, is what living in freedom means.

We started at the bottom—no other choice. Working by day—I as a secretary and my husband as a clerk—and studying by night, we took the old route so many Americans have taken. Whatever we earned went for rent, food, tuition at Columbia and books. An education loan from New York State helped. Naturally, we did not save a single cent. But we believed in the future. And the future did not disappoint us.

Today, we work in our new profession as librarians. My husband is studying for his doctorate. We live in a comfortable apartment in mid-Manhattan. Week-ends we drive to the country in a white-and-red car, a dream I've always had. Every year we travel to some faraway place. All this, we know, we owe to ourselves. And to the most hospitable and beautiful country in the world.

In the year my husband and I arrived in New York City almost 300,000 immigrants came to the United States from all over the world. Some, maybe, did not make out as good as we did. Some have achieved much more. But for all, I am certain, their hearts fluttered as mine did when we repeated the Oath of Allegiance.

Among some of our American-born friends it is not fashionable to be enthusiastic about America. There is Vietnam, drugs, urban and racial conflicts, poverty and pollution. Undoubtedly, this country faces urgent and serious problems. But what we, the newcomers, see are not only the problems but also democratic solutions being sought and applied. When on Nov. 3d for the first time I cast my vote as a free citizen of a free country, only then I truly realized what it means to have the power of participation in a democratic government.

Perhaps on this Thanksgiving Day we might well remember that there is much in America to be grateful for.

I love America because nobody pays attention to my accent. Only out of curiosity do people ask me "where are you from?" They accept me for what I am. They do not question my ancestry, my faith, my political beliefs. I love this country because when I want to move from one place to another I do not have to ask permission. Because when I want to go abroad I just buy a ticket and go.

I love America because when I need a needle to go to the nearest Woolworth's or Lamston's and get it. I love it because I do not have to stand in line for hours to buy a piece of tough, fat meat. I love it, because, even with inflation, I do not have to pay a day's earnings for a small chicken.

I love America because America trusts me. When I go into a shop to buy a pair of shoes I am not asked to produce my Identity Card. I love it because my mail is not censored. My phone is not tapped. My conversation with friends is not reported to the secret police.

Sometimes, when I walk with my husband through the streets of New York, all of a sudden we stop, look at each other and smile and kiss. People think we are in love, and it is true. But we are also in love with America. Standing in the street, amidst the noise and pollution, we suddenly realize what luck and what joy it is to live in a free country.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

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. 2193) to authorize the Secretary of Labor to set standards to assure safe and healthful working conditions for working men and women; to assist and encourage States to participate in efforts to assure such working conditions; to provide for research, information, education, and training in the field of occupational safety and health, and for other purposes with amendments, in which it requested the concurrence of the Senate; that the House insisted upon its amendments to the bill, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PERKINS, Mrs. GREEN of Oregon, Mr. THOMPSON of New Jersey, Mr. DENT, Mr. DANIELS of New Jersey, Mr. O'HARA, Mr. HAWKINS, Mr. WILLIAM D. FORD, Mr. HATHAWAY, Mr. MEEDS, Mr. BURTON of California, Mr. GAYDOS, Mr. AYRES, Mr. QUIE, Mr. SCHERLE, Mr. ERLENBORN, Mr. ESCH, Mr. ESHLEMAN, Mr. STEIGER of Wisconsin, and Mr. COLLINS of Texas, were appointed managers on the part of the House at the conference.

The message also announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

H.R. 19828. An act to help small business and combat inflation; and

H.J. Res. 1403. Joint resolution to provide an additional temporary extension of the Federal Housing Administration's insurance authority.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President pro tempore (Mr. RUSSELL):

S. 2543. An act to prohibit the movement in interstate or foreign commerce of horses which are "sored," and for other purposes;

H.R. 3373. An act for the relief of Giuseppe Delina;

H.R. 4670. An act for the relief of Ok Yon (Mrs. Charles G.) Kirsch;

H.R. 14543. An act for the relief of Mrs. Rolando C. Dayao;

H.R. 15767. An act for the relief of Mrs. Maria Zahaniacz (nee Bojkiwska);

H.R. 15922. An act for the relief of Somporn (Letta Noi) Bell;

H.R. 16857. An act for the relief of Soon Ho Yoo;

H.R. 17431. An act for the relief of Jacqueline and Barbara Andrews;

H.R. 17508. An act for the relief of Jung Yung Mi and Jung Ae Ri; and

H.R. 17912. An act for the relief of Jin Soo Park and Moon Mi Park.

HOUSE BILL REFERRED

The bill (H.R. 19828) to help small business and combat inflation, was read twice by its title and referred to the Committee on Banking and Currency.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

THE SUPERSONIC TRANSPORT AIRCRAFT

Mr. FULBRIGHT. Mr. President, in the coming days we will be asked to approve a $290 million appropriation for continued development of the supersonic transport—SST—aircraft.

I have previously indicated my strong opposition to appropriating further funds for this purpose.

Some of the many arguments against the SST were cited in an editorial in the Paragould, Ark., Daily Press, November 16. As the Daily Press says:

The case against building the SST is a strong one.

According to the Press editorial:

The SST . . . looks like operation rathole.

In addition to this editorial, I would also like to call the attention of the Senate to a column by Mr. Ernest B. Furguson in the Baltimore Sun of November 10 and an editorial in the Washington Evening Star of November 12.

In his column Mr. Furguson asks a key question:

Why . . . should a President who has vetoed four bills on the grounds that they were inflationary (labor-welfare appropriations, hospital construction, education, and independent offices, which includes public housing)—why should he be so dedicated to spending $1.2 billion on a project of so much narrower, clearly less urgent public interest?

Likewise, the Star editoral makes a very important point:

As in the European case, those clamoring for development of an SST here are limited largely to a handful of manufacturers and their governmental sponsors. Yet there is demand for the taxpayers to finance the silly game—the Senate is being asked to approve a further $290-million subsidy. There are countless better ways to spend the money.

Mr. President, I ask unanimous consent that these three items be printed in the RECORD.

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

[From the Paragould (Ark.) Daily Press, Nov. 16, 1970]

THE SST

The American supersonic airliner is still on the drawing board—despite the fact that Congress has already spent more than $700 million on the plane and despite pressure from the Nixon administration.

The chief obstacle to the American SST, so far, has been the doubt within Congress.

President Nixon wants to see the SST developed, but to many members of Congress the SST appropriation ($290 million is currently asked for) is a prime target for the economy axe.

The case against building the SST is a strong one.

It has already turned into a money trap for France and England.

Development of the plane in those countries is already costing more than $2 million a week.

It still has to face tests for long sustained speeds of twice the speed of sound, but already engineers have discovered that it is using more fuel than expected.

Experts fear that scheduled SSTs and other supersonic airliners could consume so much fuel that they could cause a world oil shortage by 1980.

Last year Air Force Col. Robert Stephens, technical adviser for the SST, admitted that the plane would cause upsetting sonic booms when flying over land at efficient speed, but insisted that in most cases people would become accustomed to the booms except when they cracked windows and plaster.

Last May the President's science adviser, Dr. Lee DuBridge, wrote the Department of Transportation opposing the plane because of its bad effects on the atmosphere, its sonic booms and its airport noise.

A report on the plane by a committee of high administration officials and representatives of 12 government agencies recommended against building it.

The President then named another committee to study the matter and it opposed the plane, too.

Undersecretary of the Interior Russell Train then urged the President not to permit the plane to be built, either by government or private company, because of the damage it would do the environment.

Instead of scrapping the plane, the President has appointed William Magruder to "get out and sell the SST to Americans" as a patriotic gesture.

The reports "against" the SST unfortunately are being kept secret, despite the fact that Mr. Nixon pledged two years ago that his would be an "open administration."

The SST, from here, looks like operation rathole.

It is a bad investment, technologically useless, would be a drain on the balance of payments and a definite threat to air quality and the welfare of people living in its flight path.

[From the Baltimore Sun, Nov. 10, 1970]

PUTTING THE SST INTO PERSPECTIVE

(By Ernest B. Furgurson)

WASHINGTON.—When the clock radio clicked on this morning to WGMS, Washington's Good Music station, the announcer was into a description of how Fairchild-Hiller's sub-contract on the supersonic transport would bring 700 jobs to Hagerstown, Md.

News item? No. Commercial.

Propaganda pressure is mounting as the Senate nears a vote on this year's installment of the federal subsidy to the aircraft industry for building and testing two SST prototypes. The commercials on Fairchild-Hiller's morning program of aerospace news, timed when the more conscientious senators are rising or breakfasting, is the least of it.

A lot of money is at stake. The total federal investment is estimated at some $1.2 billion, and you know how far below eventual cost these estimates can turn out to be. So far $708 million has been appropriated, and the amount at issue in the lame-duck session of Congress convening next week is $290 million.

Thus a lot of senators want to know why every taxpayer should be required to help pay for an SST when it has no direct military role, is intended primarily to help private industry and business make a profit, will create troublesome supersonic shock waves and contribute further to noise and air pollution, and even when in full service will be used only by that handful of Americans who want to cross the ocean faster than today's jets can carry them.

These curious senators do not prominently include men from states with important aircraft industries, of course. Henry Jackson and Warren Magnuson of Washington are its most enthused proponents, because the prime contract has been let to Boeing, in Seattle. In California, New York, Maryland, elsewhere, SST means jobs in areas now high in the unemployment standings.

The challengers of the SST subsidy do not question the priority senators from those areas assign to jobs for constituents. They do, however, argue against the relative priority the Nixon administration has given to a project whose nationwide benefits would accrue to the scattered few.

Any administration may be forgiven for playing politics in its choices of projects and contractors. They all do. Full-scale efforts by Mr. Nixon's Secretary of Transportation, John Volpe, and the Federal Aviation Administration have paralleled those exerted by the industry to swing congressional backing. They reached an earlier peak when this year's installment approached critical tallies in the House, slipping through once by only 13 votes.

William M. Magruder, director of Volpe's SST division, charmed aviation industry representatives by telling them in a speech that the plane eventually would create 50,000 jobs directly and another 100,000 indirectly, and over a 12-year period would sell enough copies abroad to add $22 billion toward a favorable trade balance. The administration also emphasizes that the federal subsidy is intended as an investment, and as soon as the SST is in full production the taxpayers will realize a profit. If all goes well, that is.

Now that mid-term elections are over, however, strictly political justification for the administration's support of SST is past—until it starts thinking about 1972, and that process began last Wednesday at the latest. But by others, the administration's stand should be judged more objectively.

Why, for example, should a President who has vetoed four bills on the grounds that they were inflationary (labor-welfare appropriations, hospital construction, education, and independent offices, which includes public housing)—why should he be so dedicated to spending $1.2 billion on a project of so much narrower, clearly less urgent public interest?

That is the kind of question asked by opponents of the SST subsidy in the House, and in Senate committee, and now forthcoming again before the lame-duck session is over.

They insist it is not too late for the federal government to cut its potential losses on the SST venture, and invite the aircraft industry to raise its own risk capital. When the inevitable answer comes back that private corporations cannot raise that kind of money then perhaps the risk involved is too venturesome for the mass of us, caught as we are between inflation and recession.

[From the Washington Star, Nov. 12, 1970]

CONCORDE'S PROBLEM

No one has questioned the technical feasibility of making an airliner that can fly at twice the speed of sound. Granted this can be done, the more pertinent question has become: Who wants it?

That question has come to the fore in the case of the British-French Concorde, pushing into the background the news that a prototype has achieved the speed of mach 2.

Environmentalists have thought all along that the world could get along indefinitely—and more safely—without a new generation of aircraft insulting the atmosphere in ways that can only be guessed at. Persons whose tolerance for noise has been pushed to the breaking point can only cringe at the thought of sonic booms pummelling their sanity.

But now several airlines, supposedly panting to put customers on the latest flying machines, sound as if they could wait many years for the first production-line Concordes. Their fears are economic. The Concorde, a $25-million missile with little elbow room for possibly 120 passengers, looks like a money-loser even discounting $2 billion in develop-

ment subsidies from the British and French governments. TWA President F. C. Wiser sees need for a 30 to 40 percent fare surcharge. Pan Am's Najeeb Halaby proposes a long trial period before production models are built. It is doubtful how many of the airline options for Concordes will be converted into firm orders. Purchase of the Concordes would mean massive new capital outlays on top of the current, huge investments in jumbo jets.

It is questionable, also, how airline passengers will reaction to the advent of the supersonic age. Afer being educated to enjoy the spaciousness of the 747s, will they pay premium fares to be crammed into Concordes, their only reward being a faster trip?

Even though the parallels are not perfect (as in the size of the plane), the Concorde's troubles are relevant to the American supersonic transport project. As in the European case, those clamoring for development of an SST here are limited largely to a handful of manufacturers and their governmental sponsors. Yet there is demand for the taxpayers to finance the silly game—the Senate is being asked to approve a further $290-million subsidy. There are countless better ways to spend the money.

AMERICAN PRISONERS-OF-WAR LIBERATION EFFORT

The PRESIDING OFFICER. Is there further morning business? If not, the Chair lays before the Senate a resolution coming over under the rule, which will be read by title.

The legislative clerk read the resolution (S. Res. 486) by title, as follows: American Prisoners-of-War Liberation Effort.

Mr. FULBRIGHT. Mr. President, we discussed this matter with the distinguished Senator from Kansas and the leadership, and it was agreed that it would go over under the rules. I ask unanimous consent that it be placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object—and I shall not object—I just want to reaffirm the statement made by the distinguished Senator from Arkansas. It is, of course, the hope of the Senator from Kansas and many other cosponsors of the resolution that we can perhaps agree on hearings before a committee at an early time and have some agreement on reporting the resolution back to the Senate for action, and with at least that hope, if not understanding, I have no objection.

The PRESIDING OFFICER. Without objection, the resolution will be placed on the calendar.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON OPERATION OF SECTION 501, PUBLIC LAW 91-305

A letter from the Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, on the operation of section 501 of Public Law 91-305, the Second Supplemental Appropriations Act, 1970 (with an accompanying report); to the Committee on Appropriations.

MILITARY CONSTRUCTION—ARMY NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on the location, nature, and estimated cost of facilities projects proposed to be undertaken for the Army National Guard (with accompanying papers); to the Committee on Armed Services.

REPORT ON BASIC NATIONAL RAIL PASSENGER SYSTEM

A letter from the Secretary of Transportation, transmitting, pursuant to law, a preliminary report on basic national rail passenger system (with an accompanying report); to the Committee on Commerce.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report on improvements needed to up-grade the readiness of the Naval Air Reserve (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 information gathering and disseminating activities of the National Library of Medicine, National Institutes of Health, Department of Health, Education, and Welfare (with an accompanying report); to the Committee on Government Operations.

APPLICATION FOR LOAN UNDER THE SMALL RECLAMATION PROJECTS ACT

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, an application by the Techachapi-Cummings County Water District of Tehachapi, Calif., for a loan under the Small Reclamation Projects Act (70 Stat. 1044, as amended 71 Stat. 48), (with accompanying papers and a report); to the Committee on Interior and Insular Affairs.

AUTHORIZED COURTHOUSE AND FEDERAL OFFICE BUILDING AND PARKING FACILITY AT AKRON, OHIO

A letter from the Administration, General Services Administration, transmitting, pursuant to law, a prospectus which revises the authorized courthouse and federal office building and parking facility at Akron, Ohio (with accompanying papers); to the Committee on Public Works.

PETITION

A petition was laid before the Senate and referred as indicated:

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

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

"A RESOLUTION ENDORSING HOUSE JOINT RESOLUTION NO. 1258 AND SENATE JOINT RESOLUTION NO. 211 OF THE CONGRESS OF THE UNITED STATES OF AMERICA RELATING TO THE SETTLEMENT OF WAR CLAIMS

"Be it resolved by the Fourth Palau Legislature, Sixth Regular Session, October, 1970, that House Joint Resolution No. 1258 and Senate Joint Resolution No. 211 of the Congress of the United States of America relating to war claims be and are hereby fully endorsed as a legislative possibility during the current session of the United States Congress and;

"Be it further resolved that certified copies of this resolution be transmitted to the Honorable Cornelius Gallagher, Chairman of the United States House of Representatives Subcommittee on International Organizations and Movements, Speaker of the House of Representatives and President of the Senate of the Congress of the United States, Speaker of the House of Representatives and President of the Senate of the Congress of Micronesia, Assistant Secretary for Public Land Management of the Department of the Interior, William Nabors, Mariana District War Claims Committee, Trusteeship Council of the United Nations, High Commissioner, and District Administrator."

BILLS INTRODUCED

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

By Mr. RIBICOFF:

S. 4545. A bill to be known as the Urban Education Improvement Act of 1970; to the Committee on Labor and Public Welfare; and

S. 4546. A bill to be known as the Government Facilities Location Act of 1970; to the Committee on Banking and Currency.

(The remarks of Mr. RIBICOFF when he introduced the bills appear earlier in the RECORD under the appropriate heading.)

By Mr. MAGNUSON (for himself and Mr. JACKSON):

S. 4547. A bill to provide for regulation of public exposure to sonic booms, and for other purposes; to the Committee on Commerce.

(The remarks of Mr. MAGNUSON when he introduced the bill appear below under the appropriate heading.)

S. 4547—INTRODUCTION OF A BILL TO PROVIDE FOR REGULATION OF PUBLIC EXPOSURE TO SONIC BOOMS

Mr. MAGNUSON. Mr. President, I introduce for appropriate reference a bill to provide for regulation of public exposure to sonic booms and for other purposes.

On April 15, 1970, the Department of Transportation filed a notice of proposed rulemaking to ban civil supersonic flight over land. This proposed regulation was published in the Federal Register on April 16, 1970—35 F.R. 6189. In addition to the filing of this proposed amendment to the Federal Aviation Regulations the President of the United States, the Secretary of Transportation, and other representatives of the administration have stated that commercial supersonic flight over land will not be allowed. In spite of these assurances, some critics have contended that the regulation might be changed or revoked when commercial supersonic flight becomes a reality.

To dispel these unjustified fears and to assure the American people that there will be no overland flights in this country by supersonic aircraft at speeds causing a sonic boom which could reach the earth, my bill would adopt the language of the Department of Transportation's proposed regulation as legislation.

The prohibition, by law, of sonic booms caused by civil supersonic aircraft over land will not have any effect on the economic viability of the U.S. civil supersonic transport. The prototype program has proceeded upon the assumption that commercial supersonic flight over land would not be allowed and all marketing and economic projections have been based on this assumption.

Once the two prototypes of the civil supersonic aircraft have been developed and tested, a decision must be made by the manufacturers of the aircraft and the

airlines as to whether commercial production of the aircraft is in the national interest. I am confident that the United States "fly before you buy" prototype program will lead to the development of a supersonic transport which will be a technical, economic, and environmental success. The U.S. supersonic aircraft program has had the benefit of years of careful research and analysis which will result in a product which is far superior on all scores to those now under production in England, France, and Russia.

While I have the greatest confidence in the program and in the capability of the manufacturers to produce a superior aircraft, I feel that the decision of the manufacturers and the airlines to enter into commercial production after the testing of the two prototypes is a decision in which the public has an interest. Because of the public's interest in this decision, the bill would require the Secretary of Transportation to submit to the Congress and to the public a report covering all aspects of the prototype program upon the completion of the prototype development and testing program.

The report shall include a detailed analysis of potential environmental, economic, and international consequences that may result from production or nonproduction of a U.S. civil supersonic aircraft.

The report will specifically address the problems of airport-area noise created by the SST, measured from the runway sidelines and from ascent and descent patterns over the community. While I am confident that the supersonic transport will not create greater noise levels than those created by existing subsonic turbojet aircraft, the Secretary's report will be helpful in developing a complete record on the parameters of this problem in particular as well as detailing the other potential environmental consequences of widespread supersonic air transport.

The Congress, at this point, does not have information available on which to make judgments regarding the potential noise effects of supersonic transports. Data on this facet of the SST's environmental consequences will not be available until the prototype airframes and engines have been built and flight tested.

Flight testing of the prototype equipment will enable us to measure and understand potential noise problems and will provide definitive answers to these questions.

The report shall also make available data on all other civilian supersonic aircraft programs—including the Concorde and the TU-144—which are in development or in commercial operation at that time.

The report shall also set forth any recommendations for legislation or international agreements which the Secretary feels are necessary to insure a balanced national transportation policy which is efficient, productive, economically and environmentally sound. The Secretary's recommendations are not to be limited to the U.S. civil supersonic program but shall include recommendations, where appropriate, for any necessary regulation of all civil supersonic aircraft that may have any effect on the United States. I believe that such a report, with legislative recommendations will go far to assure the American people that supersonic aircraft operations will be conducted under conditions which will insure that such operations are compatible with this Nation's environmental standards, that they are economic, and that they will result in important benefits to the Nation's economy, to a balanced national transportation policy and to the American people.

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

The bill (S. 4547) to provide for regulation of public exposure to sonic booms and for other purposes, introduced by Mr. MAGNUSON (for himself and Mr. JACKSON), was received, read twice by its title, and referred to the Committee on Commerce.

ADDITIONAL COSPONSORS OF RESOLUTION

SENATE RESOLUTION 486

At the request of the Senator from Kansas (Mr. DOLE), the names of the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from Oklahoma (Mr. BELLMON) were added as cosponsors of Senate Resolution 486, relating to the joint Army-Air Force effort to liberate American prisoners of war held captive by North Vietnam.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 30, 1970, he presented to the President of the United States the enrolled bill (S. 2543) to prohibit the movement in interstate or foreign commerce of horses which are "sored," and for other purposes.

CONSUMER PROTECTION ORGANIZATION ACT OF 1970—AMENDMENTS

AMENDMENTS NOS. 1084 THROUGH 1089

Mr. HART submitted six amendments, intended to be proposed by him, to the bill (S. 4459) to establish a Council of Consumer Advisers in the Executive Office of the President and to establish an independent Consumer Agency in order to protect and serve the interests of consumers, and for other purposes, which were ordered to lie on the table and to be printed.

[The remarks of Mr. HART when he submitted and discussed the amendments appear later in the RECORD under the appropriate heading.]

ADDITIONAL STATEMENTS OF SENATORS

PREVENTION OF RHEUMATIC FEVER—A PLAN THAT WORKS

Mr. HANSEN. Mr. President, the Wall Street Journal has taken note of the success of Casper, Wyo., in a program designed to prevent rheumatic fever.

The article of Jerry E. Bishop, which appeared November 27, points out that there has not been a single case among the city's schoolchildren in more than 3 years.

Wyoming's "Oil City" uses a simple formula of self-help, and I believe that Senators and many of their constituents would be interested in this program.

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:

WYOMING CITY USES SIMPLE METHODS TO END RHEUMATIC FEVER FOR OVER 3 YEARS

(By Jerry E. Bishop)

A small city in Wyoming appears to have conquered rheumatic fever, that dreaded and still common childhood disease that can inflict crippling damage on the heart.

The town is Casper, which is situated in the northern part of the state and has a population of about 42,500. There hasn't been a single case of rheumatic fever among the city's 14,000 school children in more than three years, a period in which scores of cases would have been expected.

The key to Casper's success is a ritual that's performed daily in every elementary school classroom in the city. Each morning every teacher must ask whether any child in the class has a sore throat or a cold, and those who do are examined and, if necessary, given treatment designed to prevent rheumatic fever.

"We believe this is the first time a rheumatic fever prevention program has been successfully implemented in a civilian population," says Dr. Brendan Phibbs, chief of medicine at Natrona County Hospital, the city's only hospital.

HIGH-INCIDENCE AREAS

The Casper record is being watched with some astonishment by the nation's doctors and public health authorities. For one thing, Casper lies in the Rocky Mountain region, one of three areas in the U.S. where there is an unusually high incidence of rheumatic fever (the other areas are the Great Lakes region and New England).

More important, Casper health and school officials seem to have found a simple answer to rheumatic fever prevention that has eluded many other communities. For years, public health experts have argued that rheumatic fever could be wiped out with two simple medical tools, a throat swab and penicillin—and these are what Casper is using.

It is known that rheumatic fever occurs only after an infection by a certain bacteria called Group A beta-hemolytic streptococci, often called simple "strep." Rheumatic fever will develop in 1% to 3% of school-age children who are stricken, even mildly, by the ubiquitous "strep throat." If a sore throat can be identified as being caused by Group A strep bacteria, a simple 10-day course of penicillin treatment can cure the infection and prevent rheumatic fever. The method of identification is to swab the child's throat and send the swab to a laboratory where the bacteria can be cultured and identified in about 24 hours.

Despite such knowledge and the availability of penicillin for almost a quarter of a century, 100,000 school children are crippled by rheumatic fever each year, a spokesman for the American Heart Association estimates. The result is that 1.6 million Americans currently suffer heart damage from the fever and 14,000 people a year die of the effects of the heart damage.

ASPIRIN AND GARGLES

The reason, say health experts, is that a strep throat often is so mild that a child won't complain about it. Even if he does complain, the parent often will treat it with aspirin and gargles. And even if the child

is taken to a doctor he may not be properly treated. "Most physicians don't routinely take throat cultures on all cases of pharyngitis (sore throat), and a distressing number of physicians don't know how to treat streptococcal pharyngitis when it is diagnosed," charges Dr. Phibbs.

"Thus," he adds, "by what are euphemistically called conventional means of diagnosis and treatment, one is fortunate if one or two out of every 10 cases of streptococcal pharyngitis receive adequate therapy."

Upset at this situation, Casper officials, spearheaded by Dr. Phibbs, decided several years ago to force parents and doctors to treat strep infections. Hence, the sore throat program.

Grade-school children who respond each morning to the teacher's question about a sore throat or cold are sent to a central station in the school. There, their throats are examined for the telltale redness of a strep infection. A throat swab is taken and sent to the hospital laboratory for culturing.

A ROW A DAY

Then, just to make sure, every child is examined at least once a week, whether he has symptoms or not. This is done usually by taking one row of students out of each class room each day.

Each child found to be infected with strep germs is sent home with a letter telling the parents the child can't return to school until they have the signature of a doctor attesting that he has started the required penicillin treatment.

To handle the large number of examinations each day, several hundred adult volunteers are recruited. Local doctors then trained them in use of the tongue depressor and flashlight and educated them in the dangers of rheumatic fever. This has had "a tremendous educational effect." Dr. Phibbs says, noting that Casper now has "a couple of thousand moms around" who are well aware of how their doctors should handle sore throats.

The Casper program was put to a major test only three years after it started. In the 1957–58 Asian flu epidemic, strep infections broke out in epidemic proportions in the Casper school, striking 80% of the students. Of the 14,000 school children, however, only four developed rheumatic fever while there were 25 cases among pre-school children and young adults who weren't involved in the sore throat program.

A VERY LOW FIGURE

Recently, a U.S. Public Health Service team from Fort Collins, Colo., specializing in strep infections research, made a random check of students in the Casper area. They found only 1.9% of the students suffering strep infections at the time. By comparison, in three Colorado communities checked at the same time, anywhere from 11% to 20% of the students had strep infections.

"The figure 1.9% may be the lowest ever detected in a schoolchild population in the temperate zone," Dr. Phibbs told colleagues at a recent meeting of the American Heart Association. In addition, blood tests showed less than a third of Casper children had ever had a strep infection, while two-thirds of the Colorado children showed evidence of having encountered the germs at some time in their lives.

One by-product has been that Casper children, as a whole, probably receive fewer doses of antibiotics than most American children, since antibiotics usually are given only when the throat culture is positive for strep. This contrasts with the practice of many family doctors elsewhere of routinely giving antibiotics for every sore throat patient who walks in the office. Since many sore throats and colds are caused by viruses, which are impervious to antibiotics, many children receive the drugs unnecessarily.

The Casper program has been relatively cheap, costing about $8,000 a year, or about 20 cents per throat culture. However, Dr. Phibbs concedes this is remarkably low largely because he "begs, borrows or steals" a lot of help and equipment and because his laboratory workers are paid less than they might be in some other parts of the country. The cost to other communities, he says, might run 50 cents per throat culture.

COMPARISONS OF AMERICAN AND SOVIET SPACE ACCOMPLISHMENTS

Mr. ANDERSON. Mr. President, the landing on the moon of the self-propelled vehicle Lunokhod, carried by the Soviet spacecraft Luna 17, has once again stimulated comparisons of the American and Soviet space accomplishments and the relative merits of manned and unmanned lunar missions.

The activities of Lunokhod, there is no doubt, were impressive. But the true significance of this achievement is a matter of conjecture and debate. The most incisive and illuminating comments I have seen were contained in a letter to me from Dr. George M. Low, Acting Administrator of the National Aeronautics and Space Administration. In order that my colleagues might share Dr. Low's analysis, I will ask that his letter be printed in the RECORD at the conclusion of my remarks.

Dr. Low makes two major points, which I believe must be emphasized:

Lunokhod was an impressive feat, but it must not obscure the demonstrable fact that the United States retains a clear lead in space exploration and technology.

Even so, the U.S. space effort is ebbing dangerously.

We should not proceed at a breakneck pace simply to beat the Russians or to win the space race. But we must consider very seriously the problems inherent in dismantling our complex aerospace apparatus.

That apparatus was assembled over the years at considerable cost and with great care. The teamwork, both human and technological, was unprecedented in its sophistication and unmatched in its success. The government-university-business system represents a big investment, one which we are in danger of losing. We cannot allow thousands of highly educated and well-trained scientists and technicians drift away, management systems disperse, and technological abilities atrophy—we cannot, that is, if we expect to put that complex system to use again.

The U.S. space program is a victim of its own successes.

Once an American had walked on the moon, the culmination of a highly successful Apollo program, the space effort began to lose some of its public and political support. The budget began to drop rather sharply. Aerospace industries began to lay off technicians and production personnel.

I, for one, do not believe we should get into an expensive, futile "space race" with the Soviet Union or anyone else. But that does not mean we must abandon the American space effort, either. Instead, I firmly believe, we should continue a moderate, ongoing exploration program—at a level lower than its peak years, to be sure, but at a level high enough to keep the system together, now that it is operating smoothly and now that we have invested a good deal in it.

The space program is necessary not only for reasons of national prestige, but because of its purely scientific benefits and the "spinoff" applications in many fields.

Dr. Low's letter explains in some detail where we are now, the dangers of continuing our present course, and the necessity of maintaining both a manned and unmanned space flight capability. I ask unanimous consent that Dr. Low's letter be printed in the RECORD.

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

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., November 25, 1970.

Hon. CLINTON F. ANDERSON,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for my views on the significance of the present Soviet space flights to the moon. In addressing this subject, I found it best to discuss four related issues: the direct comparison of Apollo 11 and 12 with Luna 16 and 17; a review of the trends in United States and Soviet space programs; a discussion of the use of manned and unmanned space systems; and a brief conclusion about the significance of these flights, now and in the future.

COMPARISON OF APOLLO AND LUNA

Luna 17, with its self-propelled Lunokhod, and Luna 16, with its automatic sample return, are technically impressive; but as isolated events, their import to science and technology is relatively minor. We demonstrated United States scientific and technological leadership with Apollo 11, and that lead is still ours. We have now had four men now on the surface of the moon—they have none. We have returned 123 pounds of lunar material—they have returned 3 or 4 ounces. We brought together the best of our manned and unmanned capabilities when our astronauts emplaced an automated station on the moon that has now sent back scientific information for more than a year: we have gained an enormous amount of information about the moon, about its structure and composition, about its age and its properties—the Soviets have added very little.

So, when we view Luna 16 and 17 in the light of Apollo 11 and 12, the conclusions are clear: the United States leads today in space science and space technology. If we have any doubt about this, we need only imagine the reverse situation—Soviet cosmonauts on the moon, followed more than a year later by a few small automated American spacecraft. As a nation, we would not be satisfied with that situation.

TRENDS IN USSR AND U.S. CAPABILITIES

But when we view Luna 17, not as an isolated event, but in the context of the overall trends in the Soviet space program and in ours, we must reach another conclusion. These are the facts:

Our launch rate has been steadily decreasing, while theirs is increasing (see attached chart).

In 1970, so far, they have placed 74 payloads into space, while the United States has had 31.

They have seldom missed a launch window in the exploration of Venus and Mars; our planetary program has many gaps.

Soviet commentators have implied that the USSR has plans to return samples and use self-propelled vehicles on our neighboring planets; we have no such plans.

The Soviets have a systematic continuing manned space flight program. Soyuz 9, an 18-day mission and the longest manned flight to date, was their latest step.

They have demonstrated a capability, with their Zond spacecraft, for manned circumlunar flight, and could soon conduct such a flight.

The Soyuz and Zond programs could also lead to a manned earth orbital space station. The Soviets have stated that they expect to fly a space station before we do.

It has been reported that the Soviets are developing a booster in the giant Saturn V class; we have suspended production of ours. With such a booster, they would then be able to have permanent space bases in earth orbit, a manned outpost on the moon, or an automated planetary sample return capability.

We are rapidly losing the capability that made us first. On NASA programs alone, total employment has decreased from 420,000 in 1966 to a level of 160,000 now. Engineers and scientists are leaving the field by the thousands; young men are no longer going into these fields, because the future is uncertain. When the need again arises to rebuild our aerospace industry, to meet military requirements, or to meet a desire to move forward more rapidly in the exploration of space, we may no longer have the ability to do so.

Soviet research and development is estimated to be significantly greater than that of the United States—and growing at a rate of at least ten percent per year; United States research and development has leveled and is dropping.

Estimates of actual expenditures indicate that the USSR is spending somewhat more each year on their space programs than we are on ours. (In terms of percentage of gross national product, their space expenditures are more than double ours.)

From these facts, I can reach only one conclusion: unless we reverse the current trends in the U.S. space program, we must be prepared to give up our lead.

MANNED VERSUS UNMANNED SYSTEMS

The Soviet successes with Luna 16 and 17 have once again stimulated a debate on manned versus unmanned systems. Some of the Soviet statements and some of the comments in the U.S. have given the impression that Luna 16 and 17 show that the Soviets can accomplish unmanned (and at lower cost) what we seek to do manned (and at higher cost).

The fact is that the Soviet program, like our own, recognizes that manned flights offer important advantages in exploration and other complex missions. As I have already stated, they have a continuing manned program, appear to be increasing their manned capabilities, and are supporting a total space program containing strong manned and unmanned components. Today the Soviets are proud of Luna 16 and 17; but only a few months ago, they were just as proud of their cosmonauts' achievements with Soyuz 9, and rightly so.

In the United States, both manned and unmanned systems have made great contributions in the first 12 years of the space program. Our unmanned spacecraft have evolved into increasingly sophisticated and useful devices, including experimental and operational meteorological and communications satellites; geophysical and astronomical observatories; lunar spacecraft like Ranger, Orbiter, and Surveyor; and planetary probes like Mariner that brought back the first closeup pictures of Mars. Manned systems include Mercury, which demonstrated man's capability in space; Gemini, where man developed operational proficiency; and Apollo, where man first set foot on another body in space.

The principal goal of Apollo was to establish and to demonstrate United States preeminence in space science and technology through a *manned* lunar landing. But Apollo did more than that: it also demonstrated that important scientific results can be attained in manned space flight. It is virtually impossible to conceive of practical unmanned systems that could accomplish many of the most important things done by our astronauts—the discovery of unexpected features of the moon, the careful selection and documentation of lunar samples, and the reporting of conditions on the moon other than those measured directly by instruments selected in advance. Unmanned robot systems approaching the capabilities of the astronauts would, through their complexity, tend to approach manned systems in cost without ever matching their capability.

One may, in my view, generalize from these remarks as follows: When the details of a space mission can be defined in advance and when the task to be performed is relatively straight-forward, an unmanned system can best do the job; however, when objectives cannot be fully defined in advance, when we seek to explore the unknown or to perform tasks of great complexity, the presence of man with his unique intelligence and versatile physical capabilities offers essential advantages. And while individual unmanned systems may be less costly than those that are manned, a total unmanned program, which attempts to approach the capabilities of a manned system, would not be substantially cheaper. For these reasons, the U.S. space program makes use of manned and unmanned systems—each has its place in accomplishing the most for science, for applications, and in the exploration of the unknown.

CONCERN ABOUT THE FUTURE

In summary, if we view Luna 16 and 17 as isolated events, when we view them in the light of our past achievements, we can still be proud of what we have done—we can still state that we have demonstrated that our science and technology, produced by our way of life and in our system of government, is superior to theirs. We can still be proud of the high rate of scientific results and technological progress our total national program is providing.

But when we view Luna 16 and 17 in the context of the trends in our program and theirs, then we must be concerned about our future in aeronautics and space—about our position of leadership that we have worked so hard to achieve.

I am sending a similar letter to Chairman George P. Miller of the House Committee on Science and Astronautics, in response to his request.

Sincerely yours,

GEORGE M. LOW,
Acting Administrator.

EARTH ORBITAL, LUNAR AND PLANETARY PAYLOADS UNITED STATES AND U.S.S.R., CALENDAR YEAR 1970 (AS OF NOV. 19, 1970)

Month	United States	U.S.S.R
January	3	5
February	2	3
March	3	5
April	7	16
May	2	2
June	2	9
July	2	3
August	4	8
September	3	6
October	1	14
November	2	3
Total	31	74

Source: Satellite situation report.

NIGHT OF STARS AT WICHITA STATE UNIVERSITY

Mr. DOLE. Mr. President, this past weekend an event occurred that clearly demonstrates the thoughtfulness and concern of Americans for their fellow men. The event, "The Night of Stars," presented at Wichita State University, was a benefit performance by many leading entertainers to raise money to meet the human needs of the survivors of the Wichita State and Marshall University aircrashes. One hundred and six football players, coaches, and supporters died in the two airplane disasters, 31 from Wichita State, 75 from Marshall University.

The performers who volunteered their talents and gave up their Thanksgiving holiday to go to Wichita to prepare for the show included: Bill Cosby, George Gobel, Kate Smith, Phil Ford and Mimi Hines, Marilyn Maye, the Young Americans, Minnie Pearl, Lou Rawls, the Humble Pie, Mac Davis, Leif Erickson, Monty Hall and Gordon Jenkins. In addition to the entertainers, over 100 technicians from all areas of America went to Wichita to provide technical assistance for the production of the show.

"The Night of Stars" was a success. Ticket sales alone amounted to $175,000. The show was broadcast by all three major networks and was carried over 202 individual television stations across the Nation.

The true spirit of America was felt that evening. "Woody" Hayes, the outstanding football coach of Ohio State University, acting as President Richard Nixon's personal representative, delivered a message from the President that reflects that spirit.

Mr. President, I ask unanimous consent that President Nixon's message delivered at "The Night of Stars" be printed in the RECORD.

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

PRESIDENT NIXON'S MESSAGE

Along with countless other compassionate Americans, Mrs. Nixon and I join in spirit with those who are participating in the Night of Stars benefit for the survivors of the tragic Wichita State and Marshall University air crashes. These dreadful misfortunes have profoundly touched the lives of men and women all across this land.

The Nixon Family fully shares the widespread concern for those who grieve the loss of their loved ones. It is gratifying to us that so many of you have come to their assistance at this difficult time. We send our best wishes for the complete success of this heartwarming response to their needs.

URGENTLY NEEDED ECONOMIC ACTIONS

Mr. PROXMIRE. Mr. President, Saturday I released a letter to Chairman Paul W. McCracken, of the President's Council of Economic Advisers, proposing three urgently needed actions to get the economy moving again. In the letter I said that "the administration's 'game plan' has collapsed" and that "the time for action is long overdue."

I wrote McCracken that—

I hope very much that by the time you appear before the Joint Economic Committee in January the administration will have taken the following urgently needed actions:

(1) Institute a meaningful "incomes policy."

(2) Cut the military budget and cut it sharply.

(3) Stimulate housing through full funding of the Emergency Mortgage Credit Act of 1970.

I also said:

The administration should not let the natural instinct to "save face" prevent it from putting an incomes policy into effect. Now is precisely the time when it can be most effective.

In addition, it is clear that—

The much publicized cut in military spending has not taken place. While Congress cut appropriations . . . the actual rate of spending which the President controls has hardly dropped at all.

Pointing out that defense spending in the first quarter of fiscal year 1971 was at an annual rate $4 billion more than the budget estimate, the letter said that—

A major cut in military outlays . . . is an absolute must if inflation is to be stopped.

I proposed a $7 to $10 billion cut in military spending which I believe could—

ease inflationary pressures, reduce Federal spending and the Federal deficit, and make it possible to increase the money supply without adding to inflation.

The full funding of the Emergency Mortgage Credit Act of 1970 would cost only one-twentieth—$355 million—of the minimum military spending cuts I propose.

As a result at least 500,000 new homes could be built and 1 million new jobs for construction workers created now. Such action would take up the economic slack from the military cuts, provide both housing and jobs, and do so without adding to inflationary pressures.

I ask unanimous consent that the complete text of my letter to Chairman McCracken be printed in the RECORD.

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

DEAR MR. CHAIRMAN: The economy remains in great difficulty. When the Administration came into office, prices were rising at about 4.5 percent per year. Unemployment was at 3.6 percent. The original "game plan" was to reduce the rate of inflation to 3.0 percent without increasing unemployment.

But now unemployment is 5.6 percent and prices are rising at an annual rate of 6.0 percent—double the rate projected. Almost two million men and women who had jobs in January 1969 are out of work today. Moreover, almost all the economic experts expect unemployment to go up before it comes down.

The "game plan" has collapsed. The time for action is long overdue. I hope very much that by the time you appear before the Joint Economic Committee in January that the Administration will have taken the following urgently needed actions.

(1) Institute a meaningful "incomes policy."

The Administration should not let the natural instinct to "save face" prevent it from putting an incomes policy into effect. Now is precisely the time when it can be most effective. We do not face a demand inflation. We suffer from inflation induced by market power and administered prices. It is in these circumstances that the President can use the great power and prestige of his office most effectively to help stop price rises.

(2) Cut the military budget and cut it sharply.

The much publicized cut in military spending has not taken place. While Congress cut appropriations for FY 1970 by $6 billion, and the House has cut military appropriations for FY 1971 by $2 billion, the actual rate of spending which the President controls has hardly dropped at all.

The actual outlays for Defense in the first quarter of fiscal year 1971 were at an annual rate of $77.6 billion—$4 billion more than the 1971 estimate. In fiscal year 1970, the Administration spent $1 billion more than it estimated. The fact is that the cuts in Vietnam spending from $23 billion to $11 billion, in incremental costs, and the cuts in authorizations and appropriations made by the Congress are scarcely reflected in the rate of military spending which the President controls. The military is using the Vietnam cuts for its on-going programs. Regular spending continues from the backlog of funds. And the entire problem is made more difficult by the President's request for military aid for Israel, Cambodia, and other areas in addition to funds now in the budget.

The failure to cut back military spending is a major reason why inflationary forces continue strong. It has also contributed greatly to the $10 to $15 billion deficit for fiscal year 1971 which is now in the offing.

There is no way the President's goal of a fiscal year 1972 budget of $225 billion can be met unless there is a drastic reduction in military outlays now. Yet the Secretary of Defense is asking for more money, not less.

A major cut in military outlays which the President controls is an absolute must if inflation is to be stopped.

(3) Stimulate Housing through full funding for the Emergency Mortgage Credit Act of 1970.

Relatively small amounts of federal funds for housing can attract and stimulate vast quantities of funds from the private sector. By spending $355 million for housing under the Emergency Mortgage Credit Act, at least 500,000 new homes could be built and one million new jobs for construction workers created now. Because it affects not only lumber, bricks, and mortar, but home appliances, furniture, textiles, plumbing, glass, and dozens of other industries, the economic effects from stimulating housing ripple through the economy. In an industry where the demand is for at least 1 million units a year more than are now produced, where construction trade unemployment exceeds 12 percent, and where large quantities of capital are idle, full funding of the Emergency Mortgage Credit Act would be non-inflationary. When idle men are put to work on idle machines to produce a basic economic need there is no fundamental inflationary stimulus.

Such a program and plan of action is long overdue.

An incomes policy can help keep prices and wages in the administered price industries in line. This is the type of inflation occurring now.

A major cut in military spending—$7 to $10 billion—can ease inflationary pressures, reduce Federal spending and the Federal deficit, and make it possible to increase the money supply without adding to inflation.

The full funding of the Emergency Mortgage Credit Act of 1970, which would cost one-twentieth of the minimum military spending cuts I propose, would take up the economic slack from the military cuts, provide both housing and jobs, and do so without adding to inflationary pressures.

I hope the Administration will act and act now on these proposals. I hope that when you appear before the Joint Economic Committee in January you will be able to say that these policies have been put into effect.

With best wishes.

Sincerely,

WILLIAM PROXMIRE,
U.S. Senator.

THE PRESIDENT'S PERSONAL POPULARITY

Mr. DOLE. Mr. President, Republicans everywhere owe a debt of gratitude to President Nixon for his wholehearted participation in the recent election campaign, and it is gratifying to note that the latest Gallup poll shows that the President's personal popularity—at 57 percent—is virtually unchanged from before the election.

This information is contrary to the many learned analyses which purported to prove that the President had harmed his personal position by participating so vigorously in an off-year election. Some of these analyses were wishful thinking and some were well intentioned, but they have all been disproved.

In the last election the President campaigned hard for Republican candidates. With very few exceptions, he did not pick and choose his races. Instead, he went into almost all the States with key elections whether the Republican candidate was close or not. In so doing he proved once again that he is a loyal member of the Republican Party, one who believes in our party, and one who will work tirelessly to help our candidates get elected.

It was an unprecedented effort and it is satisfying to learn that the President's campaigning for our candidates did not have an adverse affect on his own popularity—despite the wishful thinkers.

MOTION PICTURE INDUSTRY HONORS IRVING H. LEVIN AS "PIONEER OF THE YEAR"

Mr. CRANSTON. Mr. President, it is my great pleasure to call to the attention of Senators the honor recently bestowed upon Mr. Irving H. Levin. Mr. Levin, who is the president and chief operating officer of National General Corp., has been chosen as the "Pioneer of the Year" by the Foundation of the Motion Picture Pioneers, Inc. The 32d annual "Pioneer of the Year" award dinner was held in New York on Monday, November 23, 1970.

Since the production of California's first commercially produced motion picture, "The Count of Monte Cristo," in 1908, the magic of Hollywood has contributed to the worldwide fame of California. Out of the tiny film colonies of those early days has grown a giant motion picture and television industry that has contributed to the greatness and diversity of my State.

Few industries in California have engaged in so many charitable enterprises as the motion picture industry. Leading the way in those charitable endeavors has been the Foundation of the Motion Picture Pioneers, an organization dedicated to the purpose of helping those in the motion picture industry who find themselves in need of assistance. Origi-

nally established as a social organization by the late Jack Cohn, of Columbia Pictures, the Pioneers' Foundation was formally launched as a permanent welfare activity in 1951, with this stated purpose:

To establish a self-perpetuating fund to assist Pioneers of the motion picture industry who find themselves in need. (A Pioneer is defined as one who has served the motion picture industry in some capacity for 25 years or more.) This assistance is to consist of direct financial aid, medical care and temporary subsistence during a period of unemployment for elgible applicants.

Mr. Levin is the 26th industry leader to be honored as "Pioneer of the Year" in the 32-year history of the Motion Picture Pioneers. He has had a long and distinguished career spanning more than 26 years in various executive capacities in the exhibition, distribution, and production phases of the industry. Entering the industry as a distributor in the 1940's, he associated with Charles Kranz in the organization of Kranz-Levin Pictures and Realart Pictures of California, Inc. This company developed into the largest independent film exchange operation in the United States. Soon after he entered the exhibition phase of the motion picture industry by purchasing and operating a number of theaters in southern California.

In the 1950's, Mr. Levin expanded into the production phase of the industry. He organized Mutual Pictures Corp., and was president of Filmakers Production, Inc., and Filmakers Releasing Organization. Later he joined American Broadcasting-Paramount Theaters, Inc., as head of the theatrical production and distribution subsidiaries and served as president of AB–PT Pictures Corp. and AB–PT Distributing Co., Inc., from 1956 until 1959 when he purchased these corporations.

In August 1961, Mr. Levin was elected a director of National Theaters and Television, Inc.—now National General Corp. In 1962 he was appointed vice president of the corporation and subsequently was named executive vice president. In 1966, he was given the responsibility of forming National General Productions, Inc., as the motion pictur producing arm of the parent company. In 1967, he spearheaded the formation of National General Pictures Corp. which distributes National General films and also the product of Cinema Center Films, the motion picture production company of CBS, Inc. In September 1969, Mr. Levin was elected president and chief operating officer of National General Corp. I urge my fellow Senators to join with me and the Motion Picture Pioneers in extending our hearty congratulations to Mr. Irving H. Levin as "Pioneer of the Year."

WELFARE CRISIS IN NEW JERSEY

Mr. CASE. Mr. President, at the recent 1970 annual meeting of the New Jersey Conference of Mayors in Atlantic City, N.J., Governor William T. Cahill discussed the growing welfare crisis in New Jersey and emphasized the urgent need for welfare reform.

Governor Cahill said:

We have no alternative but to replace our welfare system, as soon as feasibly possible, with a program of public assistance which will more accurately reflect the realities of the present age, and which will be responsive to the fact that our nation has undergone vast changes in the decades since our system of welfare delivery was first established.

New Jersey is not alone in finding it more and more difficult to support a welfare system that is inefficient, costly, and discriminatory. According to recent reports from the Department of Health, Education, and Welfare, many other States have experienced a sharp caseload increase in the last 6 months.

I ask unanimous consent that Governor Cahill's address be printed in the RECORD.

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

ADDRESS OF GOVERNOR CAHILL OF NEW JERSEY

Last February, while presenting my first budget message to the legislature, I compared the role of the Governor of New Jersey to that of the mythological Janus. I said that the Governor, like Janus, must look backward to what has and has not been done in the State, and forward to what should and must be done.

Without attempting to catalogue what I regard as my administration's successes and shortcomings, let it suffice to say that this has been a year of soul-searching and agonizing reappraisals and evaluations. Faced with a situation where burgeoning program expenditures were rapidly outstripping our ability to pay for them, I viewed as one of my major challenges upon taking office, the task of putting our State back on a sound economic footing—of raising new revenues to offset major budget deficits—of cutting back on wasteful, duplicative, or marginally valuable programs—and of reducing expenditures where this would be consistent with sound economic policy.

In short, I looked forward to that oft-elusive, although constitutionally-mandated, goal of a balanced budget. And even more, I was unwilling to accept as inevitable the thesis that annual budgets are susceptible only to increases.

From all of the preliminary figures available to me this month, it appeared that early next year I would be announcing a budget for fiscal 1972 which, for the first time in 27 years, would be substantially less than the previous year's budget. Our efforts, it seemed, were about to bear fruit.

I was therefore, shocked and dismayed to learn last week that new projected increases in one area of government assistance alone now threaten to undo much of the past year's efforts in the area of reducing the budget. I am speaking of New Jersey's public welfare assistance programs. I would like to outline to you for the next few minutes the magnitude of these projected increases, and to share with you what I regard as the impact of this new information.

As the Governor's task force on welfare management has already confirmed in its preliminary findings, we in New Jersey are now deep in the throes of a welfare crisis. Every year we watch the welfare rolls swell, while expenditures at every level of government likewise increase substantially. For example, the funds appropriated for the current fiscal year represent a $16 million increase over fiscal 1970. And during the same one-year period the number of persons receiving public assistance on a monthly basis in New Jersey increased by nearly 22 percent. And the figures for fiscal 1970 represent a $37.4 million increase over the public assistance expenditures in fiscal 1969, together with a 33 percent increase in the number of average monthly welfare recipients in the State.

To give you an even more dramatic illustration, I would like to show you what happened to the aid to families with dependent children assistance program during the period from 1965 through 1970. As you may know, this program, referred to popularly as AFDC, is the largest single component of New Jersey's entire welfare assistance program. Three-fourths of all New Jersey's public welfare expenditures go into this program. During that five-year period: (1) The average monthly number of welfare recipients rose from 106,000 to 306,000, a rise of nearly 200 percent; (2) net expenditures for this program, including Federal, State and county assistance, rose from $59 million to $216 million, a rise of approximately 270 percent; and (3) State expenditures increased from $17 million to $99 million, or a rise of nearly 500 percent.

What we have been doing, therefore, is perpetuating a system of welfare in New Jersey and in the United States, which competent evidence and statistical data have already proven to be inadequate at best and a failure at worst.

We have been content up to now to accept as normal and inevitable substantial annual increases both in the scope and cost of our welfare programs. But for me and hopefully for the Legislature and the citizens of New Jersey the alarm has been sounded.

Last week I learned that in order to continue our State public welfare assistance programs in fiscal 1972 on the same basis on which it is being operated during the current fiscal year, we must expect up to a $100 million increase in appropriations over and above the amount appropriated for fiscal 1971. This figure, which includes a $25 million increase in recommended medicaid appropriations, is the amount which my more pessimistic advisors foresee as the unavoidable minimum.

If so, this would mean a 53 percent increase over the amount appropriated for this year, and this would be accompanied by a 38 percent rise during fiscal 1972 in the average number of persons receiving welfare every month.

The best cost projection that I can obtain from my more optimistic advisers still would require a 19 percent increase, or $50 million, again including the $25 million increase for Medicaid, over and above the current fiscal year appropriations, together with a 26 percent increase in the number of welfare recipients.

In my judgment we have reached the point where we can no longer afford simply to accept these increases, nor can we remain on the sidelines while growing numbers of our underprivileged citizens become entrenched in a life cycle of poverty—victims of a system which actually makes a public welfare existence appear to be the more compelling and desirable alternative to gainful employment. And in this connection it does not make sense to me to constantly increase spending in an area for which there has not yet been devised an effective delivery system.

In a nationally televised interview last Sunday, Secretary of Health, Education and Welfare, Elliott L. Richardson stated that "we can't survive much longer with the ungodly mess we now have." Nationally, Secretary Richardson stated, welfare caseloads for the current year are already 20 percent above last year's figure, and at this rate caseloads are more than doubling every five years.

What, then, are our alternatives? From the outset, I want to emphasize that I am not against welfare. Obviously, public welfare as both a governmental concept and fact of life is extremely important and is with us

to stay. We all recognize that government has an obligation to come to the aid of our disadvantaged citizens. My concern is that as presently structured, our welfare system is not really aiding those citizens who truly need and deserve assistance.

As I see it, we have no alternative but to replace our welfare system, as soon as feasibly possible, with a program of public assistance which will more accurately reflect the realities of the present age, and which will be responsive to the fact that our nation has undergone vast changes in the decades since our system of welfare delivery was first established. Our own state provides us with a good example of the variety and depth of the changes to which I refer. In terms of its diverse problems, population, and distribution of urban, suburban, industrial, and agricultural land areas, New Jersey actually presents us with a microcosm of the problem which exists on the national level.

Let me sketch briefly some of the changes which have taken place in our own state. Sections of New Jersey have become part of the shifting, sprawling, urbanized complex of the northeastern seaboard now known as Megalopolis. In New Jersey, the outline of Megalopolis is a twenty mile-wide strip running the length of the state, with two-thirds of the state's 7,000,000 plus people living in this area. New Jersey's population density is the highest of any state in the union, with the result that we have been moving consistently toward increased urbanization and denser suburban communities.

The state's population increase during the last decade was approximately one and a quarter million persons. This rate of growth is due both to the excess of births over deaths and to an influx of new people. New Jersey has a large percentage of in-migration. In addition, the population of New Jersey itself is highly mobile—large numbers of persons in our state move between counties and within counties. One trend which is particularly discernible in this mobility has been a mass exodus from farms into urban areas, from farming and private housework into offices and factories.

New Jersey's cities have become increasingly congested as people from lower income groups pour in, looking for employment. As these groups have been moving into the cities, there has been a loss of middle income families to the surburbs. Central city is less and less able to attract and hold residents other than the underprivileged. The cities' congestion is therefore increased by the very people least able to cope with the difficulties of urban living. One characteristic of this movement is the loss by many persons of a sense of participation and loss of sense of self, as old, cultural patterns are discarded and new ways of adjusting have not yet emerged. To this we must add the dynamic quality of the relative poverty of the urban underprivileged which seems to either press persons in this status downward to welfare dependency, personal disorganization and crime, or push them upward to fresh opportunities and self-improvement.

In addition to changes in the pattern of urban-rural settlement, there have been changes in the composition of the population. Proportionately, the greatest increase in population has been in the dependent young and the dependent aged. During the 1950's New Jersey saw the phenomenon of an aging population, with elderly persons increasing in relation to the rest of the population. With the new rise in the numbers of the younger age group, New Jersey, as it has been expressed by the demographers, is now experiencing a so-called "younging" of the population.

It is clear that those who established the original programs of welfare assistance, upon which our present system is based, did not envision most of these very profound changes. The government's response to these critical changes over the years has been a patch work process that has largely been a failure.

If the blame were to be apportioned, the Federal Government would emerge as the main culprit for permitting this situation to deteriorate to its present crisis proportions. Individual States including our own, must share some of the blame. It is therefore clear that we must begin at every level of government to overhaul at once our programs of public welfare assistance from the bottom up.

In this connection, I am today recommending the following program of action:

First: I am calling upon the United States Congress, particularly the Senate, to seize upon the eleventh hour opportunity which it now has in its post-election session, and to pass the President's family assistance plan without further delay.

This message which passed the House earlier this year, presents a sensible approach to welfare reform. The bill incorporates the following key reforms: (1) It establishes a system of wage incentives which for the first time, on the Federal level, would reward a welfare recipient for working rather than penalize him; (2) establishes programs of job training, so that an unskilled and unemployed welfare recipient may have an opportunity to advance himself, rather than remain hopelessly and indefinitely dependent on the relief dole; (3) it establishes programs of day care, so that a welfare recipient burdened with the responsibility of young children may be able to seek employment or participate in job training; (4) it provides welfare recipients with assistance in finding jobs, and, corellatively, institutes penalties for not accepting reasonable employment, which may be available to that recipient; and (5) it establishes, for the first time, a national minimum welfare standard of $1,600, which the several States would be required to meet.

I have written to New Jersey's Senators urging their support for immediate passage of the administration bill. Similarly, I am publically calling on our Nation's Governors, regardless of political party or ideology, to urge, through their own Senators, swift enactment of the bill. As Secretary Richardson stated on Sunday, "This isn't a conservative-liberal issue; it's a question of sensible reform of an existing mess."

In terms of simple dollar amounts, passage of the Federal family assistance plan would mean that during the second half of fiscal 1972. New Jersey would receive from 12 to 19 million dollars in additional Federal funds. If passed, the scheduled effective date of the act would be January 1, 1972. But whatever the dollar amount, the projected increase in State appropriations for that fiscal year could be decreased proportionately.

This is the last chance, probably for years, for us to achieve meaningful welfare reform. Certainly, I have no power of prophecy, and cannot guarantee that the pending reform bill will be without flaws. But I am convinced that, with or without flaws, it presents a far more acceptable alternative than the present system.

Second: I have written to President Nixon and Secretary of Health, Education, and Welfare, Elliott L. Richardson, urging that Federal regulations governing the work incentive program in the federally-matched categories of AFDC be redefined, so that the earnings incentive for AFDC recipients would be calculated on gross income rather than on net income obtained through mandatory payroll deductions. If this were accomplished, very substantial savings would accrue not only to New Jersey, but to other States as well.

Let me explain for just a moment what this change would really mean, and how the need for it arose. In 1967, amendments to the Social Security Act included a work incentive program, the object of which was to stimulate persons on welfare to seek employment. The incentive feature provided that AFDC welfare recipients could retain a portion of their earned income. What happened, however, was that New Jersey public welfare administrators interpreted the Federal statute to mean they could place an administrative ceiling on the total amount of benefits and earned income that a recipient could receive. The administrative ruling in New Jersey stipulated that when an AFDC recipient's earned income reached a certain point, roughtly 133 percent of his welfare benefits, he would no longer be eligible to receive welfare benefits.

This was the basis under which the program was administered, up until recently when the Federal district court in New Jersey ruled against the administrative ceiling, and held that in calculating the amount of earned income a recipient could retain, the States must disregard the first $30 and one-third of all remaining earned income. New Jersey appealed the Federal court decision, and the issues involved are currently under review by the United States Supreme Court.

The effect of this determination was to markedly escalate during the current fiscal year the cost of public assistance programs, not only to the state, but to the counties as well. It is estimated that removal of the administrative ceiling has brought about an average increase of $55 per AFDC grant. Thus, for every 100,000 AFDC recipients, there has been a cost increase factor of approximately $5.5 million.

I believe that regardless of what the final outcome may be in the appeal to the U.S. Supreme Court, the revision in the Federal regulations which I have recommended is one which is both justified and necessary and one which would be of benefit to all states.

And third: within the next week, I intend to appoint a blue ribbon panel, to be composed of three mayors, three freeholders, three members of the Legislature, and three private citizens, which will be charged with: (1) evaluate the immediate and long-term impact of the projected welfare cost increase on both the fiscal integrity of our state and on the entire public assistance program in New Jersey; (2) defining New Jersey's options in dealing with this critical situation; (3) recommend alternative courses of action; and (4) report back to the Governor and the Legislature by the first of the year.

I expect that, as a part of its evaluation, the panel will consult with members of the Governor's task force on welfare management, which has for the past year been collecting substantial data on New Jersey's welfare programs, and has been preparing recommendations for changes. Specifically, I want the panel to evaluate those recommendations of the task force which may at this time be completed, and to determine which of them should be implemented immediately. According to preliminary reports that I have seen, the welfare task force is preparing a number of recommendations which closely parallel some of the key measures in the President's Family Assistance Plan, and these could be implemented on the state level regardless of whether the Federal bill passes.

In addition, there are a number of other problem areas in our state's public welfare assistance programs which I have observed, and which I would hope the panel would examine closely. Among these is the state program of assistance for the underemployed. This is a program funded entirely by the state of New Jersey and it is my understanding that New Jersey is among the few states that has such a broad and expansive program as this one.

I would like the panel to look into the problems of shelter costs. Reported abuses in the welfare system, and the payment of

monthly mortgages through welfare, particularly where no lien has first been obtained, to mention only a few.

These are only some of the areas which deserve critical and careful attention. And lastly, I want the panel to carefully evaluate whether we can afford even the optimistic lesser projected increase without first raising new revenues.

This administration has made every effort to cut back the tremendous overhead in the operation of State government. We instituted in the very first days in office, a job freeze and put a restriction on travel. We proposed and enacted an increase in the State sales tax. More recently, we have revised the budget drafting procedures with an eye toward placing a priority on the most important items and eliminating the "extras," and less than two weeks ago we received the Management Study Commission report with its recommended savings. I estimated that we will be able to save upward to $20 million in the next fiscal year as a result of their findings.

Yet, despite all of these measures by this administration, the anticipated increase in this welfare program will wipe out all our savings, all our anticipated surplus and will jeopardize many of our existing and proposed programs. I believe that it boils down to a single basic question. Should we permit a continuation of this welfare program to jeopardize other highly essential and desirable programs. Can we afford to curtail the narcotics program? Is there anyone who honestly believes we can eliminate aid to education? Do we want to stop our efforts in fighting organized crime? Are we willing to end our efforts to find adequate housing and adequate employment for a large segment of our population.

I think everyone here today would agree with me that the answer to these questions is a resounding no and I think we must find a solution to this welfare program so that we do not jeopardize other highly essential programs.

A STUDENT'S VIEWS

Mr. DOLE. Mr. President, I received a letter from a constituent which tells me a great deal about the young people of Kansas and of America in general. Today's youth are highly interested and concerned with the world around them and the events and processes in that world. They are well informed and give a great deal of serious thought to matters which many of their elders could do well to study with equal diligence.

Miss Nancy Felder, of Shawnee, Kans., wrote to share her views with me on U.S. policy in Southeast Asia. She said, in part:

I have never seen or heard of America backing out of any war. Korea was an undeclared war just like Vietnam. Maybe the reasons are a little different, but they have one thing in common, they were to stop communism.

If we pull out of the war, we have denied our reasons of being there. We are there to keep communism from spreading, and if you'd like to say—to keep the spread of communism to us. America the great.

Oh, yes; how about all the millions of men who have died fighting, trying to preserve freedom. If we pull out, we have committed murder of all the fighting boys who have died. We have killed them for a war we now, 5 years later, are trying to back out of.

I do believe that President Nixon's plan for Vietnamization is a very good plan. We should keep equipment and advisors there.

For a 14-year-old who is going to start high school this fall, I believe this letter shows considerable understanding of history and world political affairs. Miss Felder shows the makings of the best sort of adult citizen, informed, interested, and concerned enough to speak out. There are many more like her around the country, and we should not allow the distractions of a highly visible few to obscure that fact.

TIME HAS COME FOR US TO REGAIN THE LEADERSHIP IN FIELD OF HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, it is common knowledge that the United States has long been a world leader in the field of human rights.

We were among the leaders of the United Nations in the drafting and the subsequent adoption of the universal declaration of human rights. We led the drafting of the United Nations Conventions on Genocide, political rights of women, and forced labor.

Our Declaration of Independence is one of the world's foremost guarantees of human rights in existence today. This document recognizes the civil and political rights of our citizens.

But we cannot relax our pursuit of basic human rights, and rest on our laurels.

Bruno Bitker, in the conclusion of his statement entitled "United Nations Universal Declaration of Human Rights in the United States," pointed this out:

The idea that Americans are the architects of human rights has also led to the notion that these rights have been fully achieved within the United States. Obviously this is not the case. When compared to practices in many other nations the record of the U.S. must be considered remarkable. This may be especially true with regard to civil and political rights. These rights are part of the American heritage . . .

The articles of the Universal Declaration dealing with social, economic and cultural rights are not a similar part of American tradition. They are now accepted as part of our way of life, but they have become so more by way of a reaction to the depression of the 30's than to a deep philosophic acceptance of them as common law rights.

The fact is, however, that generally speaking, both groups of these rights are recognized in the United States under its own Constitution and laws. That they are not wholly honored in practice is a matter of grave concern. So long as a substantial number of our fellow Americans are jobless, do not have adequate housing, clothing, food, education, or medical services, we have not lived up to our commitments. If minority groups are denied full equality in fact, then we have failed to respect our own assertion of human rights; if freedom of speech, of thought, of the press, or any other of our civil and political rights are suppressed or denied to any American we have failed in this duty.

I believe all of us should give careful consideration to this statement by Mr. Bitker which was presented at the Governor's Conference on the United Nations commending the 25th anniversary of the U.N.

I believe we can renew our dedication to the fulfillment of the basic human rights of man by ratifying the Genocide Convention of the U.N., which has been reported favorably to the floor of the Senate by the Senate Foreign Relations Committee. I hope the Senate will act on this promptly.

SUGGESTION FOR WAGE-PRICE GUIDEPOSTS

Mr. McGEE. Mr. President, on Thanksgiving Day, the Washington Post published a suggestion for wage-price guideposts by its distinguished financial editor, Hobart Rowen. Mr. Rowen makes the point that no administration should pursue a wage-restraint policy without a price-restraint effort to match it. And he proposes a specific approach, concluding that it is far from perfect, yet "far preferable to the alternative of an economic crunch and heavy unemployment . . . or a new inflation created by an uninhibited expansion."

The need, Rowen says, is not for a policy of singling out labor as the villain of the current economic situation, but a policy aimed at restoring public expectations that both wages and prices will not continuously leapfrog. While there may be better formulas than he has suggested, Mr. Rowen has offered a specific plan that should help stimulate discussion. That, of course, is his purpose.

I ask unanimous consent, that Mr. Rowen's suggestion for guideposts be printed in the RECORD.

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

A SUGGESTION FOR GUIDEPOSTS

(By Hobart Rowen)

The heat is now on the Nixon administration to do "something" about prices and wages. The "something" of course, is a wage-price guidepost or "incomes policy," as urged by increasing numbers of respectable businessmen.

A recent, timely, argument for the use of a voluntary wage-price policy and selective credit controls was offered by the Committee for Economic Development, a leading "establishment" organization. It was the best CED report in years.

There are signs, as well, that the administration is preparing to use its jawbone, and maybe a bit of muscle to deal with glaring examples of inflationary behavior, like the recent increase in crude oil prices; there, the industry seems to be spoiling for a fight.

But anyone expecting Mr. Nixon to blossom forth with a tough controls program that will deal with the discretionary power of big unions or powerful industries may be due for a letdown.

It should be recognized that some of the most ardent advocates of an incomes policy are really talking about controlling wages. Witness, for example, the pressure for doing "something" that emanated from the Business Council last month.

What Messrs. Fred Borch (General Electrict) and Donald Burnham (Westinghouse) were talking about at that time was cracking down on labor, especially the construction unions.

Within the government, one leading advocate of an incomes policy suggests that for the good of the country, Mr. Nixon may have to "take on labor," perhaps to the point of considering compulsory arbitration.

This almost monolithic concern with the wage side of the picture runs through the argumentation, as well, of liberal Democrats who served Messrs. Kennedy and Johnson. For example, Gardner Ackley, a Chairman of the Council of Economic Advisers under Lyndon Johnson said in a speech at Ann Arbor the other day:

"It seems crystal clear to me that an incomes policy is meaningless unless—among other things—it aims directly at reducing the excessive wage gains made by powerful

unions. I don't mean the lettuce pickers, the hospital workers, or even the textile workers. I mean instead unions like the United Automobile Workers, the Teamsters, and the Steel Workers . . .

"Inflation is not going to be halted . . . unles we succeed in deflating a bit . . . the air of righteous indignation which powerful and already affluent unions are allowed by the rest of us to assume in their wage negotiations, and with which they rally their troops; unless we succeed in diluting the public sympathy and support which unions of the high-paid receive when they try to better their relative incomes; and the public acclaim and admiration which accrues for their great achievements on behalf of their poor and downtrodden members."

Mr. Ackley's own righteous indignation—and sarcasm—shines through such a statement. But the important point is that no administration can or should pursue a wage-restraint policy without a price-restraint policy. And while Mr. Ackley covers his tracks by saying that "a more responsible exercise" of the price-making power of the large enterprises is also needed, his emphasis is clearly on the wage side.

But despite the publicity given to wage increases in some major cases, like the Teamsters settlement, the New York Times settlement, and the recent deal made by General Motors, wages are not rising as fast as a casual reading may suggest. Excepting construction—where wages are soaring at rates that have to be considered out-of-hand—the average increase in pay this year is more modest than the public assumes.

The pendulum has been swinging: our current inflation was probably precipitated by the Vietnam war and Mr. Johnson's big deficits; the guideposts then existing failed to hold down profits, and wages suffered; rising pay scales finally brought about a labor catchup—and then some. Now, we are entering a phase where the cost-push pressure from the wage side is less severe than it appears to be.

In part, this is due to the fact that some of the more publicized agreements are heavily "loaded" for the first year. That means a big increase for the first year (which makes the recipients' pay checks look good right away) and much lesser changes in a second or third year.

Thus, while there is a public impression of 12 and 13 per cent wage increases (the construction settlements have in fact been in that range) the average industrial union settlement in the first nine months of 1970 has provided only an average of 6.3 per cent over the lift of the contract (compared with 5.9 per cent in the period a year ago.)

These gains, to be sure, are more than the 3 to 3.5 per cent trend rate of national productivity increase. But they suggest that the problem is something less than overwhelming.

Moreover, the rise in unit labor costs lately has been less than the rise in prices. The Department of Labor's analysis of productivity, wages, and prices published on October 31 shows that unit labor costs increased at annual rates of only 1.9 per cent and 2.9 per cent, respectively in the second and third quarters. But non-labor unit payments (which include interest, taxes, profits, rental income, depreciation, etc.) increased at annual rates of 9.8 per cent and 8.5 per cent respectively.

Thus, what is needed is not a policy of singling out labor as the villain of the current economic drama, but restoration of public expectations that both wages *and* prices will not continuously leapfrog.

This will take leadership by the President in what is admittedly a very difficult situation (which he helped earlier to create by abandoning an activist policy on wages and prices). What must be done is to establish a standard of acceptable wage and price behavior in the present circumstances.

Any such standard no doubt will work unfairly: it will discriminate against the large corporations, whose pricing actions are exposed. It will put the heat on bigger unions. It won't begin to touch the construction industry or the service area. But what are the alternatives?

Economic Council Chairman Paul W. McCracken and other officials complain from time to time that no one comes up with anything specific when talking about an income policy. Therefore, in the interest of stimulating a dialogue, I suggest the following:

Wage guidepost—3.5 per cent (to represent the approximate level of the national private economy productivity trend): plus that part of the consumer price increase that exceeds 1.5 per cent (which would represent the trend toward higher sales taxes and cost of services. This is more modest than the GM settlement, which in the next two years allows 3 per cent plus the full rise in consumer prices).

Thus, if the CPI were going up by 4 per cent, the wage guidepost suggested here would be 6 per cent (3.5 per cent for productivity and 2.5 per cent for a partial catch-up on the CPI).

Price guidepost—The general objective would be stated as the stabilization of the wholesale price index, not the CPI, recognizing that consumer prices are going to push up, even in a period of stability. Producers who had unusual cost increases (like utilities) would be allowed a one-time opportunity to pass them on in higher prices. But if the guidepost on wages is observed, then future increases would have to be based on proving hardship (financial impairment of a company would be a good example.)

This is far from a perfect or satisfactory system; there are probably other and better formulas or techniques. But it would seem far preferable to the alternative of an economic crunch and heavy unemployment, as suggested recently by the staff of OECD, or a new inflation created by an uninhibited expansion.

PILOTS, AIRPLANES, AND PILOT ERROR

Mr. SAXBE. Mr. President, a letter published in the Columbus Citizen-Journal on November 28 expresses my feelings on the subject of pilots, airplanes, and pilot error.

As the letter indicates, a time comes when a pilot is flying below what we call minimum descent altitude that no safety device now in use can be guaranteed to keep him from flying into the ground. I am a pilot myself, and have flown enough to know that at a time like the one described in the letter, the aircraft is in the hands of a human—not protected by a safety device.

The tragedy at Huntington, W. Va., graphically pointed up this problem—that in some instances the pilot is "on his own" in navigating and maintaining proper altitudes. I ask unanimous consent that Mr. Ratcliff's letter be printed in the RECORD.

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

PILOT'S RESPONSIBILITY

As a commercial pilot and an instrument flight instructor, I believe I qualify to speak on the subject of the tragedy that occurred at Huntington, W. Va., where most of the Marshall University football team perished.

There are certain regulations which we must abide by when flying on Instrument Flight rules. The one which seems to be applicable in this particular accident is called Minimum Descent Altitude, which is the elevation above the runway we can descent to and maintain until we have made visual contact with the runway. Further, in most Instrument Landing systems, there is a component called a Glide Slope which enables us to descend at a constant rate to the runway. When the Glide Slope is inoperative or not available, as in the approach to Huntington Tri-State Airport, the minimum altitude we can go down to is somewhat higher to compensate for the precision lost in this type of approach. At Huntington, the Minimum Descent Altitude is 1240 feet above sea level, which is 412 feet above the runway. The ceiling at the time of the accident was 300 feet above the runway. This information concerning the ceiling is normally given to the pilot prior to commencing his approach.

There also seems to be a misconception, by the reports we have read about the accident, concerning the use of radar in making an instrument approach. Namely—"Not having radar available at the airport, the controller could not inform the pilot that he was dangerously low." There are very few airports in the United States that have radar capable of determining the altitude of aircraft, included in these is our own Columbus International Airport. This type of installation is normally only available to military airports. The primary use of radar at an airport is to enable the controller to provide separation of aircraft and to provide guidance to pilots for intercepting the final approach course to the airport. Once the final approach course is intercepted, the execution, and the quality of the approach, is the sole responsibility of the pilot.

Although the instrument approach to a controlled airport is conducted with direct pilot-to-controller communications, in the absence of radar, you are "on your own" in navigating and maintaining proper altitudes. Pre-flight study of the latest information about your destination airport and understanding of the details of the Standard Instrument Approach procedures, including the minimum altitude you can descend to, is the responsibility of the pilot, not the controller at the airport, the fact that the airport is in a bad locale, or whether there is, or is not, radar available—Rodney C. Ratcliff, 892 Chatham-lane, Apartment N.

AMERICANS ARE FIRST IN AGRICULTURE

Mr. BELLMON. Mr. President, American food consumers are among the world's most fortunate people. Because of the high level of efficiency which American agriculture has attained, American wage earners are able to feed their families better and cheaper than are the wage earners of any other country on earth.

An editorial published in the October issue of the Farm Journal summarizes this condition extremely well.

I ask unanimous consent that the editorial be printed in the RECORD.

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

ELEVEN REASONS WHY YOU ARE NO. 1

Coming soon is National Farm-City Week, Nov. 20–26. The purpose of this week is to give farmers and city folks a chance to tell each other about their own business.

We think that you have a solid story to tell. Here are eleven positive points that you can make with trumpet and fanfare:

1. Food is better than ever. The quality is better; the selection is broader; and the safety is unmatched. Farmers are producing higher grades of food than ever before; the food leaves the farm in the best condition

ever; and food processing methods maintain quality better.

2. Food has more built-in services than ever. Thanks to prepared mixes, new food combinations, and easy-to-prepare food innovations, housewives spend less time preparing food, get more uniform quality with less waste.

3. Food prices have gone up less than other costs of living. Between 1950 and 1969, food prices (home and eating out) increased 46%—while other living costs climbed 55%. What a surprise that is to a lot of people! One reason for the surprise: the monthly cost-of-living report out of the Department of Labor usually highlights food costs. The news media play this up. Whenever a TV station does a program on the cost of living, where do they go? Down to the food store to interview shoppers.

4. Food prices have increased less than wages. Wages in manufacturing industries have climbed 122% since 1950—from $1.44 per hour to $3.19 last year—2½ times as much as the cost of food. A recent Gallup poll in New Jersey found that nearly nine out of ten city folks believe that food prices have gone up faster than wages.

5. We spend less of our income for food than ever before. We are now spending 14c per dollar of national personal income (before taxes) for food—11c for food eaten at home and 3c for food eaten "out." This is the lowest in history—and beats any other country.

6. Food prices are the most reasonable of all the "essentials." Let's say that rents, health care and taxes are "essentials." Rents have risen 50% and health care costs have soared 136% since 1950. And taxes, whew! Federal, state and local governments collected $71 billion in 1950—and a whopping $319 billion last year: 4½ times more!

7. Nowhere is food as reasonable as in the United States. In 1967 (most recent figures), we spent 19% of our private expenditures (after taxes and savings) for food. In the United Kingdom, it was 25%; in France, 29%; in West Germany, 33%; and in Russia, 55%.

8. Farmers' "take" has increased much less than in other parts of the food business. Since 1950, the prices that farmers get for food commodities have gone up only 17%—yet the prices farmers pay for everything climbed 46%. During the same time, food marketing costs—from farm to consumer—went up 51% to handle the same "market basket" of food. While we spend 14c per dollar of personal income for food, only 4.3c of this goes to the farmer.

9. Farmers are doing more than any other economic group to combat inflation. We get inflation and higher prices when money or wages increase faster than the output of goods. Farmers' output per man-hour is increasing three times faster than in non-farm industries. Output per man-hour in non-farm industries climbed 60% since 1950—but farmers' output per man-hour jumped 182%!

10. Our amazing farm productivity is a chief reason for our national affluence. The fact that we can spend 86c out of each dollar of personal income for things other than food allows us to support a wide range of consumer goods and services. We can pour money into education, the arts, household appliances, automobiles, sports, housing, highways, airplanes, electric power, hospitals, etc. Only 5% of our population now live on farms—leaving 95% to produce other goods and services. One farm worker feeds 45 people.

In India where they have only 40c left per dollar after buying food, the economy can't get off its back. Russia has a third of her work force tied up producing food—she can marshal resources to go to the moon, but it's a disappointing trip to the Russian food store.

11. Farmers are industry's best customer, using each year ⅓ as much steel as the automobile industry; enough rubber to put tires on 85% of the new cars; and more petroleum than any other industry. Farming employs more people than any other industry and is the biggest customer for the products of the nation's workers. In 1970, farmers' production expenditures will reach $40 billion—with another $32 billion of family spending.

You have an impressive story to tell—and you can use Farm-City Week to be aggressive about telling it.

ALF M. LANDON

Mr. DOLE. Mr. President, Kansas is proud of her Senior Republican Statesman, Alf Landon. As the Republican candidate for the Presidency in 1936, he brings a unique historical perspective to the issues of our day.

Today the New York Times published a guest editorial written by Alf Landon that exemplifies his sense of humor and refreshing insight. Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

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

PLAIN TALK FROM KANSAS

(By Alf M. Landon)

TOPEKA.—I am not as concerned about creeping Communism or creeping Socialism in America (although we had better make our unique system of welfare state and capitalism work) as I am at the creeping dominance in our domestic processes of a government by a plutocracy.

I agree with President Nixon's veto of the Political Broadcasting Bill. Not so much because the bill is discriminatory in that it applies only to broadcast media but because it does little to curtail the total expenditures of a candidate.

I favor repeal of the present provisions calling for equal time to all candidates. I advocate that the electronic news media be allowed to offer more free time to major candidates without the present obligation to offer the same amount of time to minor party candidates.

I am also opposed to the proposed direct popular vote for President and Vice President. This method could encourage any crackpot millionaire who wanted a sentence in history to file as a candidate for those high offices and we could have quite a few names on the ballot.

The present electoral college system needs reforming. There are several constitutional proposals pending to change that. Some of these have merits, but the right of an organized minority party is precious and must be preserved.

Today the photogenic appearance of a candidate is all-important in both primary and election campaigns. I mean some men go over better personally than they do on television or by radio. That has eliminated old-fashioned campaign oratory. I have always thought that William Jennings Bryan made the greatest single-handed campaign in the history of our country. I wonder whether he would have spoken as effectively if he had to read from a manuscript.

I remember Raymond Moley asking me in 1937 if I knew what Mr. Roosevelt had been afraid of in 1936. I replied I did not know of anything he had to fear. Mr. Moley said that President Roosevelt thought his radio delivery was so perfect people might think it was artificial. That was interesting because I had thought early in the campaign that there might be an advantage in the antithesis of our delivery. I guess I got too much antithesis.

I am speaking about the changes that have taken place in politics in our great and beloved country in comparatively recent years.

Better roads—better communication—better news coverage—better education—increasing protection of voting rights—all add up to a better informed citizenry more easily effecting changes in our government at the ballot box than heretofore.

People today are handicapped by a multiplicity of information—the "permissive" policies, as it were, of the publishers.

I have said ever since the 1968 election the danger of Wallace was over exaggerated. You can't base a political party on hate. Maybe I'm wrong—about that and about this "campus phenomenon."

We had a Populist party in the late eighties and nineties winning victories in combination with Democrats—electing Governors and Senators. However, the principles of the Populist party advocated in their platform have long been the law of the land.

The Ku Klux Klan, as I remember, elected a Senator from Indiana. In 1924, when I spent a night with the William Allen Whites, as I frequently did in those days, he said: "I think both the nominees of the Democrat and Republican parties belong to the Klan. I think it's time we count noses. I'm thinking of running for Governor on an independent ticket." I said: "Go to it. I'll be for you." He laughed the Klan out of Kansas—and the country generally, I think, also—as a result of that campaign.

However, you can't laugh off these "campus explosions" or, I guess, Wallace—or Agnew, for that matter.

I don't think the answer on the campus is the hard line. Or the talk about "permissive parents." I remember hearing a lot about the lack of "parental responsibility" in the Roaring Twenties. As I recall it, the German Revolution in 1848 was started in their universities and by the intellectuals.

There may be another factor and that is the feeling of the young that they are fenced in. They don't see the opportunity to strike out on their own.

This great change took place at the end of the free lands—when you could stand on the shore of the Pacific and look at Alaska. They fail to grasp the romance of free enterprise—when a Ford of a Chrysler could start a little automobile shop or a boy with a shirttail full of type could start a small newspaper.

What I'm groping for is that, as far as the campuses are concerned, the hard line is not the answer. Perhaps the era of the second thought is hopefully materializing—if we don't crush that with the hard line. And that goes for the arrogant academicians, who consider their schools the citadels of learning.

Alf M. Landon ran for the Presidency in 1936 on the Republican ticket against Franklin D. Roosevelt.

ISRAEL'S STRUGGLE FOR SURVIVAL

Mr. McGEE. Mr. President, Averell Harriman, writing in the New York Times of November 24, proposed a new-old approach toward the problem of helping Israel in her struggle for survival. It is lend-lease, just as proposed in 1940 by President Roosevelt. It would permit Israel to acquire the sophisticated armament needed to match that of its neighbors without overburdening that nation's economy. As Governor Harriman writes:

The knowledge that in the event of peace Israel would relinquish much of its sophisticated armament could serve as an incentive for the Arab States to negotiate.

Governor Harriman has advanced a thought-provoking idea which merits consideration. I ask unanimous consent that his article be printed in the RECORD.

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

[From the New York Times, Nov. 24, 1970]

WHY NOT LEND-LEASE FOR ISRAEL?

(By W. Averell Harriman)

President Nixon's request to the Congress for $500 million for arms to Israel makes urgent the immediate reconsideration of how we should aid Israel in her struggle for survival.

After Israel's success in the Six-Day War, the immediate military threat posed by its enemies disappeared and it was hoped that a peaceful settlement guaranteeing her security would shortly follow.

Unfortunately, no settlement was reached and hostilities continued. Meanwhile the Soviet Union poured arms into Egypt and Syria. The United States tried both through representations to the Soviets and by holding back on military supplies for Israel to check a Middle Eastern arms race. However, the Russians built up Egypt's and Syria's armaments far beyond what they had been before the Six-Day War.

The flow of Soviet weapons, provided in substantial part virtually as gifts, has required an economically costly and increasingly burdensome Israeli response. Israel is currently spending at least 25 per cent, and perhaps 30 per cent, of its gross national product on national security.

The American percentage for military expenditures, including Vietnam, for fiscal 1971 is about 7.7 per cent. Prior to the Six-Day War, Israel spent less than $200 million annually on military imports. The cost of military imports has quadrupled. Israel's balance of payments now shows an annual deficit of $1.2 billion on a current accounts basis.

The Israelis have the determination and ability to defend their democracy without support from outside forces—provided Israel's military equipment is adequate—not inferior in quality although obviously inferior in quantity. It is clearly essential to insure that Israel has sufficient weapons to defend herself. But it is also vital that Israel not be compelled to spend herself into bankruptcy or to undermine the fabric of her society. The recently passed Jackson amendment to the military procurement authorization bill recognizes Israel's need for financial relief by authorizing the sale of military equipment on a credit basis.

But credits must be repaid, and a skyrocketing external debt would further strain Israel. I well remember the unfortunate situation that occurred as a result of the inability of various nations to repay the large loans we made to them during World War I.

One possible alternative would be for the United States to make military equipment available to Israel on a grant (free) basis. Almost every nation threatened by Communist or Communist-supplied arms has at some time received American military grant assistance. Even such Arab countries as Jordan and Iraq have been given American arms. Israel is virtually unique in having had to contract to pay for all arms she received from the United States. Arab arms have been supplied without cost by not only Russia and China but also by Great Britain and France. However, at this late date to begin to give free arms to Israel would be seen by the Arabs as a provocative act and might impede our effort to bring about peace.

In December 1940 President Roosevelt made a brilliant proposal "to get away from the dollar sign" while providing arms to nations whose survival we wanted to support. He devised Lend-Lease—the loaning of military equipment on the basis that when it was no longer needed the unexpended part would be returned to the United States.

It seems to me that a similar program should now be adopted in supplying to Israel certain needed sophisticated military equipment. The great advantage of Lend-Lease is that under Lend-Lease the Arab nations could be assured that after peace had been achieved major items of sophisticated military equipment would not be kept by Israel but would be returned to the United States.

We must recognize that many Arabs have a real although unrealistic fear based in part on misinformation on what brought on the June 1967 war, that Israel is an imperialistic state bent on expanding her position. The knowledge that in the event of peace Israel would relinquish much of its sophisticated armament could serve as an incentive for the Arab states to negotiate. Equipment supplied under Lend-Lease should be carefully limited, as Israel, like her neighbors, must be encouraged to accept the fact that security lies not in strength of military forces but in a genuine peace settlement.

CORNELL UNIVERSITY DEPARTMENT OF BIOLOGY CALLS FOR 200,000-ACRE BIG THICKET NATIONAL PARK

Mr. YARBOROUGH. Mr. President, this week I received a petition signed by 40 distinguished members of the Cornell University Department of Biology calling for a Big Thicket National Park of 200,000 acres. This department, which spans both the New York State College of Agriculture and the Cornell University College of Arts and Sciences, has been a national leader in research on the environment, and it is most gratifying to receive a petition from such a prominent and respected group. Their petition is greatly appreciated, and will be added, along with a number of others from the scientific community, to the growing list of concerned Americans who are working hard to save the Big Thicket.

Mr. President, I ask unanimous consent that this letter, dated November 23, 1970, the petition from Cornell University and the names of the signers of this petition be printed in the RECORD.

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

CORNELL UNIVERSITY,
DIVISION OF BIOLOGICAL SCIENCES,
Ithaca, N.Y., November 23, 1970.

Senator RALPH YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: It is with great interest that I have learned of your attempts to save the "Big Thicket" area of Texas. Many of us at Cornell are interested in the area, which is one of the last of its kind and of extraordinary value to ecologists and other biologists all over the country. I only heard a few days ago that you might attempt to move the Big Thicket bill out of committee on to the Senate floor during the current session of Congress. The enclosed list of names, almost all professors of biology, is but a small sample of the number who would have signed had we had time to canvass the Campus as a whole. I sincerely hope you will meet with success, and that the Big Thicket National Park will come into being.

Very sincerely yours,

THOMAS EISNER,
Professor of Biology.

PETITION

We the undersigned believe and wish that 200,000 acres of the wilderness and virgin forest area described commonly as the Big Thicket be set aside and reserved and preserved as a national park and that these acres be adjoining each other and that as a wilderness area these 200,000 acres be designated as the Big Thicket and that the Big Thicket as a national park be preserved and protected by the laws which govern the protection of other national parks as set aside by acts of the Congress of the United States of America.

SIGNERS OF PETITION

1. Thomas Eisner.
2. Bruce P. Halpern.
3. Robert M. Grossfeld.
4. William C. Dilger.
5. Stephen T. Emlen.
6. Robert C. Lederhouse.
7. Robert R. Capranica.
8. Daniel N. Tapper.
9. Frank Rosenblatt.
10. Eric H. Lenneberg.
11. William T. Keeton.
12. H. W. Ambrose III.
13. David O. Holz.
14. J. M. Camhi.
15. R. D. O'Brien.
16. Howard Howland.
17. Jack Bradbury.
18. Jeff Dean.
19. Harry J. Stinson.
20. Bruce Wallace.
21. Anthony Blackler.
22. Ross MacIntyre.
23. Jack W. Hudson.
24. Peter F. Brussard.
25. Gene Likens.
26. Lee Miller.
27. F. Harold Plough.
28. William McFarland.
29. John N. Barlow.
30. R. H. Whittaker.
31. Peter Marks.
32. Walter Westman.
33. Judy Carrel.
34. Natalie Demong.
35. Nancy Schatz.
36. John H. Meyer.
37. James E. Carrel.
38. Don Aneshansley.
39. W. L. Brown, Jr.
40. La Mont Cole.

OPERATION 100 TONS

Mr. DOLE. Mr. President, the National League of Families of American Prisoners and Americans Missing in Southeast Asia is making another effort to obtain humanitarian treatment for those men held prisoner by the North Vietnamese.

This is a cause that must involve all honorable men. No effort can be spared in obtaining the humane treatment and release of these much mistreated prisoners.

Mr. President, I ask unanimous consent that information concerning this effort be printed in the RECORD.

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

OPERATION 100 TONS

We are in the process of collecting 100 tons of mail to be delivered to Minister Xuan Thuy in Paris at Christmastime. We feel that this will dramatically demonstrate to the North Vietnamese and to the world that Americans care very deeply about the more than 1,500 men who are prisoners of war or missing in action in Southeast Asia.

We believe that these letters should be hand-written, if possible. They should not

be abusive, and they should request humane treatment for all the men . . . particularly:

1. List of all prisoners held,
2. Free flow of mail,
3. Impartial inspection of prison camps,
4. Release of all sick and wounded,
5. An adequate diet.

Individual letters should be sent to POW/MIA, Box 1970, Washington, D.C. 20013. These will only require 6¢ postage. If you are conducting a letter-writing campaign at your school, church, community, office, etc. . . . they can be collectively sent to POW/MIA, 6600 Columbia Park Rd, Landover, Maryland, 20785, by December 15th.

The teamsters have agreed to truck this mail at their expense to New York, then the Longshoremen will load it and ship it to France. We feel very strongly that an overwhelming response from the majority of Americans will have a very positive influence on the North Vietnamese. There is proof that they are susceptible to world opinion, and an outpouring of mail at this Christmas season may very well be the one thing that will influence the North Vietnamese, Viet Cong, and Pathet Lao to grant humanitarian treatment to these brave men who have given so much and suffered for so very long.

If you want to offer these men a gift, send a letter showing your concern over their plight. This gift may save a life, and it could help to fill the empty chair at the Christmas table of the lonely families of these brave men next year.

Mrs. BOBBY G. VINSON,
National Coordinator.

WORLD LAW DAY

Mr. CRANSTON. Mr. President, last Wednesday was World Law Day. In a proclamation signed on October 30, President Nixon designated November 25 as World Law Day and called for appropriate public ceremonies across the country.

That day is a credit to the members of the legal profession around the world who are working through the World Peace Through Law Center in Geneva to achieve a world rule of law which will be a giant step toward the great goal of an ordered society enabling all men to live at peace. I commend them and the center for their promotion of World Law Day.

Probably the most important international law written thus far was adopted at San Francisco 25 years ago. The United Nations Charter, together with the Statute of the International Court of Justice, forms the cornerstone of our earth's future. It is a sound cornerstone, but it is only a beginning. We must be willing to rely on it, to use it, and to build upon it. I am proud to serve as cochairman, together with my distinguished colleague, Representative JONATHAN B. BINGHAM, of New York, of the United Nations Committee of Members of Congress for Peace Through Law.

The provisions of the charter and of the statute are a binding commitment under international law upon the contracting parties. I use the term "binding" realizing full well that they are not yet enforceable. And there is the great gap that must be filled.

We must move from binding commitments which are too often ignored or honored in word but not in deed to what every American demands in his own relations with others, enforcement of contract. We must move from unenforceable international law to enforceable world law.

I am not suggesting that any dramatic leap forward is now possible overnight. I am suggesting that there are many steps we can take that will lead us toward a peaceful world with enforceable law. One such step is to regard our commitments under the U.N. Charter and the Statute of the Court as binding upon ourselves. Though others, in our judgement, may flout these commitments, let us be true to self-esteem, let us be true to ourselves, by meeting our commitments fully as a binding obligation to ourselves and our national honor. I submit that our example will have a profound influence upon both friend and foe alike.

This means avoiding the use of force or the threat of force in our international relations. It means honoring our agreements under chapter VI of the U.N. Charter, to seek, as a first resort, the peaceful settlement of any disputes likely to endanger international peace and security.

Another step we can take is to seek the agreement of certain nations to take some longstanding disputes between them and ourselves, disputes which are of no great consequence to either's national security, to the World Court for a binding settlement. I intend to make specific proposals in this regard early in the 92d Congress.

Yet another step we can explore is the development of world habeas corpus—already expanding on a regional basis—as a protection against arbitrary arrest and unlawful detention.

I suggest one other specific step. The need to control and improve our human environment has now become apparent to people around the world. Here is one area in which there is general agreement that the world is one, one ecological unit. For any one nation to stop polluting the oceans will help, but unless there is universal agreement, action, and regulation in this area, and many others, we will not save our planet for the generations to come.

Here is an area of recognized need in which all peoples have a great stake. Here is an area in which it can truly be said, "United we stand, divided we fall." I believe that out of a common effort to save our environment can come an accepted system of enforceable worldwide laws that show us the way to effective law enforcement in other, more difficult fields, where world laws are needed to provide order as no one nation or group of nations can do the job alone.

I urge that this concept be kept firmly in mind in our Government's planning for the United Nations Conference on the Human Environment, to be held in Stockholm in June 1972. I urge that it be on the agenda at Stockholm.

These are only four steps that can be taken. I could submit many more. I trust that Senators will propose others. If World Law Day acts as a catalyst to suggest to each of us to pause and ponder upon concrete steps we can propose and promote—and if this is followed by action—this day will have led us toward an ordered world of freedom and justice and peace under law, and it will have served an extremely valuable function.

SACRED TAOS INDIAN AREAS

Mr. METCALF. Mr. President, according to the schedule, the Senate is going to consider H.R. 471, as amended, tomorrow. The amended bill provides for the protection of the sacred Indian areas described by the Taos tribe, including Blue Lake, and a grant in trust to the tribe of all areas including shrines, sacred groves, and the like, but not the surrounding forests as included in the House bill. Every identifiable shrine and every identified grove or sacred area suggested by the Taos tribe is protected by the Senate bill. The surrounding lands are not included, nor should they be included.

During the course of the debate, I shall enlarge on the foregoing propositions. At the present time I am going to read a statement that I have worked out in conjunction with the senior Senator from New Mexico (Mr. ANDERSON). My interest in this legislation is completely objective. I approached the hearings with an attitude of concern for the Taos Indian claims, but at the same time a concern that such claims must be proved. In my own State of Montana, several similar claims are pending, and this is a test case for them. I interrogated the witnesses on behalf of the Taos claimants carefully and thoroughly. When some of the witnesses, especially Mr. Bernal, were unable to answer my questions, they called foul. The questions propounded were never hostile, merely seeking clarification or information. I can say, insofar as I am concerned, that the witnesses for the Taos tribe did not prove the case for trust ownership of the entire 48,000 acres. I have consulted with the senior Senator from New Mexico (Mr. ANDERSON), and he and I concur in the following statement, which I ask unanimous consent to have printed in the RECORD.

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

STATEMENT IN SUPPORT OF THE SENATE VERSION OF H.R. 471: BLUE LAKE

For a number of years there has been pending in Congress proposed legislation affecting the Taos Indian Pueblo in the State of New Mexico.

Beginning in the 89th Congress, legislation was introduced in the Senate and in the House providing for the transfer of 50,000 acres to the Pueblo in place of a money award to which the Pueblo is entitled by reason of adjudication of its claim before the Indian Claims Commission. Legislation now before us is the product of many hours of hearings and testimony from proponents and opponents to a congressional settlement of the Tribe's claim. Our first hearings on this issue were held in the 89th Congress in connection with S. 3085. Again in the 90th Congress, several days of hearings were held on H.R. 3306 and on S. 1624 and S. 1625 introduced by the senior Senator from New Mexico. This year our Committee took two days of testimony from tribal spokesmen and others on H.R. 471 and S. 750. A copy of our most recent hearing is on the desk of each Senator.

In his message of July 8, 1970, President Nixon made reference to the pending Taos legislation and strongly recommended that this matter be resolved by the 91st Congress.

The bill which has been reported by the Senate Committee on Interior and Insular Affairs after many months of consideration is an attempt ot resolve this long-standing controversy. The bill does not have the unani-

mous support of the Committee but a majority of the membership believes that this a fair and reasonable solution that will do equity to the Indians of the Taos Pueblo and adequately protect their religious shrines and ceremonials.

The real question at issue is whether the Taos Pueblo should receive a trust title to 48,000 acres of land in the Rio Pueblo watershed in New Mexico, including their sacred Blue Lake.

The Indians have contended that they had "title" to this land, and that the Federal Government seized it in 1906 and put it in a national forest. In their testimony, the Indians say they are seeking "return" of the land which they desire to use for religious and ceremonial purposes only, and which they wish to keep in a primitive or wilderness state. The tribe further claims that lack of fee ownership of the land interferes with the practice of their religion, and that this causes uneasiness and a feeling of insecurity. They have further claimed that they are disturbed by people who come into the area.

The mere fact that the Tribe seeks trust title to the land is not sufficient cause for the Government to give them trust title. Many other tribes and individuals have sought land or other emoluments from the Government, but it does not necessarily follow that the Congress is obligated to meet such demands. Certainly Congress is obligated to consider these claims and requests, investigate carefully the merits and then make a decision on the basis of the facts developed. When the public estate—in this case public land—is involved, Congress is obligated to consider the public interest as well as that of the claimant. Dangerous precedents can be set that eventually lead to more and greater problems should Congress treat these matters lightly. The giving of title in trust to the Taos Indian Tribe in payment of a claim will depart from long-established policy. It will set a precedent allowing every other tribe to come in and ask for like treatment. Further, such action may lead to requests from many other tribes, already paid in cash, to have their claims reopened in hopes of obtaining land. In the case of the Blue Lake claim, Congress settled this problem in 1933 when it passed Public Law No. 28 which gave the Indians a permit and the accompanying House Report stated, "This is a settlement by land tenure in lieu of a cash payment. It is what the Indians desired." Apparently, the Indians had been contending for title, but Mr. John Collier, a former Commissioner of Indian Affairs, and other friends of the Indians, agreed to this type of settlement because Congress, realizing the possible consequences, felt that title should not be given to the Indians, but that their right to use of this area should be protected. In total disregard of this action by Congress, the Indians asked the Claims Commission to consider this claim along with another claim for 130,000 acres of land. The Commission did consider the claim as though settlement had not been made and this is one reason the problem remains with us today. The Commission disregarded previous action of Congress and on September 8, 1965 ruled that this claim had not been paid. To pass a bill now giving title to land in lieu of cash would upset the firmly established procedure laid down by Congress more than 20 years ago in legislation creating the Indian Claims Commission. It would set a precedent that would open the door for review and reconsideration of many other claims already adjudicated by the Indian Claims Commission. Would the Commission say to the Congress, "You must pay additional amounts on such claims"? I believe that changing the rules of claims settlements by giving land in lieu of cash would bog Congress down in a morass of claims that could not possibly be settled by payment in land. The mere statement in legislation or in debate that Congress would not consider this a precedent would be no bar to tribes wanting to file land claims. It is ridiculous to assume that such statements would prevent a host of claims from being submitted to Congress for legislative settlement—the very thing Congress wanted to prevent when it adopted the Indian Claims Commission Act of 1946 authorizing money judgments to successful claimants.

The Senate Committee is agreeable to guaranteeing the security of the Taos Indians in their use of this land for religious and traditional purposes. The Indians have already had this use; but in order to give them greater security, the Senate Committee has been willing to amend the Act of 1933 by striking any references to a permit and giving them the use of the land in perpetuity or for so long as they need it for religious and traditional purposes.

The Indians claim that they had title to this area because of recognition of their rights under Spanish and Mexican rule which were confirmed by the Treaty of Guadalupe Hidalgo. I refer you to page 2 of the Senate report, at the top of the page where you will see the quotation from the Spanish law on which this claim is based. In going into the history of all of the pueblos, we find that in most instances the Spanish government determined that the Pueblo Indians were entitled to approximately 17,400 acres of land (four leagues square) around their pueblo which they traditionally farmed and used in making a livelihood. The Spanish government failed to follow through and did not make a grant to the Taos Tribe. A grant by President Lincoln did confirm a 17,360-acre area to the Taos Pueblo which was in line with what the other pueblos had received. The fact that the Indians traditionally roamed, hunted and fished over other large areas of land does not mean that the Spanish government, by the above-mentioned Spanish law, gave them title. If this is true, then all of the Indian tribes up and down the Rio Grande valley would be entitled to much larger areas than they now have in their reservations and we would have to reopen all of these claims. By their testimony, the Taos Tribe has admitted the Apaches also used this area for hunting and fishing. On page 72 of the transcript of hearings before the Senate Subcommittee on Indian Affairs, May 18, 1966, Mr. Paul Bernal, spokesman for the Taos Tribe, referred to Apache Springs in this area and said that this area around the Springs was used by both tribes many years ago. "Therefore, this is a shrine that the Taos and Apaches used for years before the Apaches were driven out." It is perfectly clear that all of this area was not always exclusively used by the Taos Tribe as has been contended by supporters of the House bill. Further, on July 23, 1953, in hearings in Santa Fe, New Mexico, before the Indian Claims Commission, the Taos Indian attorneys, Darvin P. Kingsley, Jr., Frank E. Carlson of New York, and Richard Shifter of Washington, agreed that there had been conflicting claims by the Apache Indians; but that in order to simplify the handling of the claims by each tribe, an agreement had been reached for the Apaches not to file a claim for the same land claimed by the Taos Indians.

Let us examine the contention that the Taos Indians were deprived of title by the Government in November 1906 when President Theodore Roosevelt put this land in the national forest. All of the acreage that became the Kit Carson National Forest was a part of the public domain. Indian title, or aboriginal title as it is commonly called, was extinguished in the same manner that the Government extinguished the aboriginal or Indian title on other public domain. However, provision was made for protection of the area and for the Taos Indians' continued use. Later the Indian Claims Commission was created so that these claims could be heard and cash payment made. It would have been impossible to satisfy these claims by giving land. The Claims Commission has advised me that claims have been filed for about 90 percent of the entire United States.

The Indians have stated that they were squeezed out and denied the use of the Blue Lake area. The record is otherwise. As far back as 1903, Mr. Vernon Bailey, Bureau of Biological Survey, reported to the Agriculture Department that the Taos religion is an essential part of the Indians' lives and happiness, and stated, "You will be glad to know that both the sacred lake and mountain will be in and have the protection of the forest reservation." Again on January 11, 1908, Mr. Burt Philips, the Forest Supervisor, advised the Governor of the Pueblo that "there need be no uneasiness any time upon your part or upon the part of the Taos Indians that you will not receive full protection for irrigation and grazing interest in the section of country to which you refer." (Meaning the Blue Lake and Rio Pueblo area). And there is no hard evidence that full protection to the Indians' interest has not been given. From time to time to the present date, use of this area has become more restricted for Indian use and all of the land in the permit authorized by the Act of 1933, some 31,000 acres, is reserved for the exclusive use of the Taos Indians. Others cannot go into the area unless the permit is signed by the proper officials of the Tribe. There has never been any question about the Indians' use of this area. The Indians know this. There has been some discussion about cutting timber in an area not under permit to the Indians; but because the Indians objected, no further consideration has been given. The only commercial timber operation was on what is called the La Junta tract. This tract was traded to the Federal Government by New Mexico after it had been cut over under a State contract.

Under the Senate language of H.R. 471, we propose to include an addition of land to the use area, bringing the Indian use area to 48,000 acres, which should remove any anxiety from the minds of the Indian tribe. This acreage, so the Tribe contends, should have been the amount in the original permit. The mere fact that some individuals put out rumors that there are to be contracts to timber operators or that the land is to be developed for recreation purposes, cannot possibly cancel out the Government's agreement with the Indians in regard to the use of this area. Certainly the Indians realize this and know that they can come to Congress or to the Secretary of Agriculture for relief if anyone attempts to violate the agreements concerning the use of this area.

Another contention made by the Indians is that their land was seized. I think we should remember the Executive Order of July 7, 1928, signed by President Coolidge that withdrew this land from all forms of entry or appropriation for the protection of the watershed—the same watershed from which the Indians of Taos obtain water for irrigation and domestic purposes. Let us go back to the time of withdrawal of the area and its inclusion in the forest. We find that the background and history leading to its inclusion in the forest was to prevent misuse or overuse and to protect the watershed in the interest of the Indians and others. We must remember that there are many more non-Indians than Indians depending on this water. There is a public interest involved here as well as an Indian interest. I think it would be very difficult for the Indians to prove that they have been squeezed out and denied the use of this land. Such statements are simply not true.

Another aspect of the Taos situation that requires clarification relates to the claim for $297,000 and the 1933 award by the Pueblo Lands Board. I refer to page 3 of the

Senate report which points out that the Pueblo Lands Board had no right to agree to give land in payment of any Indian claim. Attorneys for the Indians knew this. It was explained to the Indians, but the tribe contended, "We do not want money, we want land." They did present a proposal to the Board offering to waive their right to money if they could receive the Blue Lake and Rio Pueblo watershed in lieu of the money. This was discussed again in the House and the Senate at subsequent hearings on bills to authorize payment of the various Indian claims, and the Senate Subcommittee on Indian Affairs which held hearings on May 8, 1931, on the conditions of the Indians in the United States recommended in their partial report that it would serve to meet the *economic* needs of the Indians if appropriate legislation were passed for patenting the Blue Lake area to the Indians or setting aside of the area by an Executive Order Reservation. Congress considered this recommendation in connection with H.R. 4014 which became the Act of May 31, 1933, Public Law No. 28, 73rd Congress. In reporting on that bill, the House Committee made the recommendation which is quoted on page 3 of the Senate report on H.R. 471. You will see that after discussion of this problem, the present permit act was approved as an award of land tenure in lieu of an award of money because it was desired by the Tribe. John Collier and other friends of the Indians had sought title to the land; but when they found that this was against public policy and would set a bad precedent, they agreed to the permit arrangement. I am not trying to say that the Indians and their attorneys were completely satisfied with this, but this was the decision of Congress. The Senate Interior Committee does not feel it should give title to this land now but we are willing, in the substitute language, to make a better and more secure arrangement for protection of the Indians' rights and use of the area and relieve them of any anxiety as to the good faith of the Congress.

Since H.R. 471 was ordered reported, we have heard from the Indian Tribe objecting to the provision which continues Forest Service control of this land. They claim that the Forest Service, the Department of Agriculture, and the Indians desire that the area be transferred to Interior. Up until this year, the Forest Service and Department of Agriculture have violently protested the deletion of this area from the national forest and its transfer to the Department of the Interior. The Agriculture Department, at heart, is still opposed to satisfying Indian claims by transferring national forest lands, but they have withdrawn objection as a result of orders from the White House. This area is an important watershed. Overgrazing has been experienced all over the west on Indian and other private lands. New Mexico has experienced overgrazing of various Indian reservations. In fact, the testimony in regard to this particular area shows that the Indian livestock overgrazed.

For example, testimony of Seferino Martinez, representative of the Taos Tribe, testifying in Santa Fe, New Mexico, before Claims Commissioner Louis J. O'Marr, July 23, 1953:

Martinez said that the Indians had used the Blue Lake area for grazing cattle and horses, including the La Junta Canyon area, formerly State land. Martinez stated that: "My stock remain (sic) grazing, would gradually travel north to Apache Springs, and from there still north to Whit Park and then from Whit Park to Bonita Park, still north and up near the Blue Lake area."

Attorney Kingsley asked: "Now would the livestock finally in the fall, graze in the Blue Lake area?"

Martinez: "Yes."

Kingsley: "At the time you started grazing livestock in the area, just how much livestock did the Pueblo of Taos as a whole own?"

Martinez: "I would say there were about 1,200 head of cattle and there were about between 1,500 and 1,600 heads of wild horses at the time."

I am advised by persons who know this country and the range that 2,800 head of livestock is far in excess of the carrying capacity of the Blue Lake area and the reservation.

I would like to further point out that the Indians objected strongly to a small corral in the Blue Lake area used by the Forest Rangers for their saddle horses and the corral was removed. The supporters of the House bill claim that the Indians were afraid of stream pollution in the Rio Pueblo. Certainly there was more danger from pollution from the nearly 3,000 head of livestock grazed by the Indians at one time than there would be from two or three horses in a corral. This is the type of argument that the proponents of the House bill use to try and show that the Forest Service is not protecting the watershed, or that unless the Tribe owns the land there is danger of stream pollution.

On page 46 of the 1966 hearings in the Senate, Mr. Greeley, Associate Chief of the Forest Service testified that, "My understanding is that there have been times in the past when there has been overgrazing." He further stated this was along the stream bottoms, but that under Forest Service supervision conditions have improved.

On page 67 of the 1968 Senate hearings, Mr. Greeley again testified of difficulties in controlling Indian grazing of the "drainage bottom areas and other more accessible areas." He stated:

"We have attempted to work with the Indians in taking steps to control overuse of drainage bottom areas and other more accessible areas. However, we have had difficulties in this. There is presently overuse of the forage resources where cattle tend to concentrate, and the watershed and range are being damaged in these areas."

Contrary to claims of the proponents of the House bill, this is further evidence that the Indians are not without fault and have been rather uncooperative with the Forest Service in preventing overuse of the land. The Bureau of Indian Affairs, which no doubt would be in charge of this land if transferred to Interior, does not have the personnel or type of organization in Northern New Mexico qualified to handle the protection of this watershed. The senior Senator from New Mexico, a member of the Interior Committee, objects strongly to turning this watershed over to the Department of the Interior. The Department of Interior would undoubtedly put it under the administration of the BIA, and I think you will find those who depend on the watershed in New Mexico strongly support Senator Anderson's objection to BIA control of this watershed.

The Indians claim that the Senate bill would permit the Forest Servcie to put into effect multiple use policies that would be incompatible with religious uses. I do not interpret the Senate bill as permitting multiple use. The report very strongly expresses the intent of the Committee to do the opposite. On page 6 of the report, it is pointed out that it is our desire to see that the Indians are able to use this land for religious and other traditional purposes, for their domestic water and wood and grazing, and for their exclusive use.

Opponents of the Senate language contended that the Department of Agriculture, Interior and the Pueblo all agree that the Forest Service supervision has not worked. I cannot find any testimony to that effect. The Indians have complained that they have been disturbed, but on direct questioning they could not give an instance. They could not show when they were denied use of the land. They could not show when anyone interfered with their ceremonies. They merely objected to the fact that some unauthorized people got into the area. They object to the Forest Service having any say about the administration of this watershed. Trespassers could go into the area under the Department of the Interior administration as well as that of the Forest Service, because this is a very large, unpopulated area and hunters and fishermen are known to trespass on many reservation areas in New Mexico. It would be very difficult to patrol every foot of the boundary and keep them out. The Interior Department could do this no better than could the Department of Agriculture. The Indians now have every right to patrol to keep people out. They would have this right under the Senate proposal. The Indians have testified time and again that the Forest Service has been cooperative. I refer you to the testimony quoted on page 5 of the Senate report. I can also refer you to the testimony before the Indian Claims Commission and testimony before the House Committee on Indian Affairs in which the Indians say the Forest Service has been most cooperative. I will admit that there have been several occasions where there was some disagreement between the local ranger and some of the Indians. The same thing could happen between a local BIA official and some of the Indians. With the establishment of the new ranger district—manned by Taos Indians themselves—authorized in the Senate bill, we would eliminate, or at least minimize, the chances for disagreement concerning officials required to go into the area for its protection.

The Indians have claimed that the Senate version affects the Pueblo's water rights. They are completely mistaken. In Section 4(b), we find these words: "Nothing in this Act shall impair any vested water right."

It is claimed that this Senate bill provides for automatic termination of Indian exclusive use rights without notice, hearing or other requirements of due process. The bill provides that the Indians may use this for so long as they need it and comply with the provisions of law. This would be true under the trust act proposed by the House. Congress would have the right to revoke the trust at any time it felt the Indians were not complying with the provisions of the trust. If there is any question about whether or not anyone in the Department could capriciously cancel the Indians' use, amendatory language could be supplied to remove any fears about this. However, tribal officials and their attorneys know they can always come to the Congress with any grievances about capricious action on the part of an official. They have brought their problems to Congress time and time again and corrective measures have been taken.

It is further claimed that under the Senate version, the exclusive use is conditioned upon protection of the watershed in the public interest and thereby subordinates Indian use. Indian use is not subordinate in the language of the bill. The Senate Committee wants to make sure that it is understood that not only are the Indians interested in protecting this watershed, but that there is a public interest as well. We cannot ignore this fact because hundreds of people downstream depend on this water.

Mr. President, another criticism I have heard about the substitute bill is that the proposal to set up the Forest Service ranger district providing jobs for Indians is illusory, and that there may be no Indians qualified for these jobs. This misses the point completely. The purpose of this provision is not to give Indians jobs—it was inserted in the bill only after discussions with Forest Service officials and the determination by Senator Anderson's office that the majority of the Forest Service employees in the Pueblo area are Taos Indians, and on assurances from the regional forester that the Department does have well-qualified Taos Indians to assume

the administrative positions in this district. Certainly, if the district is supervised by Taos Indians, the Tribe will have their own people who understand their ways, are sympathetic to the problems, and able to administer the area in a fashion compatible with the will of Congress and the interests of the Pueblo.

It is claimed that the substitute reported to the Senate will jeopardize rather than insure privacy of the Indian religious practices. This is purely conjecture. I see no basis for any such assumption and contend that the Senate bill protects the Indians for so long as they need this land for traditional purposes and are willing to comply with the terms of the Act by not commercializing the land.

Finally, it is claimed that the only sound way to assure the continued survival of Taos religion and culture is to transfer title to the lands to the Indians.

For the last 64 years the Indians have used the Blue Lake area either with or without a permit. No one has objected to that use. There has been no testimony to support the contention that the culture and religion of the Taos Indians will vanish if they are not given title to the Blue Lake area. It is true that contentions were made both by the Indians and others who support the transfer of title, but the facts are that the Taos religion and culture is much the same as it was 60 or more years ago. There has been little change except that most of the younger generation have gone to school and received some education. This has automatically changed the younger members of the Tribe and many do not now hold the same views about many things that their elders have. The population of the Tribe has more than doubled since the late 1800's and the tribal members themselves deny that their religion is dying out. Lack of ownership of this land has had little or no effect on the Tribe.

I think we have justifiable basis for putting some conditions into this act. I have before me a copy of the Albuquerque JOURNAL of November 15, 1970, with a full-page article entitled, "Taos Pueblo Seeks Return of Sacred Tribal Lands." This recites some of the history of this problem but the thing that concerns Senator Anderson and me is the reference to future use of the area. The spokesman for the Tribe, Mr. Bernal, said plans for the future of Taos are under a cloud because of the Blue Lake fight. "The Blue Lake fight is slowing everything," Bernal said. "We are hurt." The article further states that plans have been made. One project is a motel and tourist facility at the end of the Rio Crande Gorge bridge. The tract referred to has nothing to do with Blue Lake. It is far removed from the area in question. Whether or not they get Blue Lake has nothing to do with the building of a tourist facility. The Tribal officials deny th.y want the Blue Lake area for economic reasons. The article goes on to say that the lodge will be a two-story, 50-unit resort-type to start operation in 1973 and expanding to 95 units by 1982. Further, the article states the Indians are hopeful of developing arts and crafts. Certainly this work would be carried on at the Pueblo and can be carried on now. Blue Lake has no bearing on such a project because they propose this under the Economic Development Administration grant. Further it refers to recreation facilities for the young people. Surely this would be in the Pueblo or on the reservation land. The article points out that Tribal income from leases is virtually non-existent because the Tribe refuses to lease any part of its lands. It is stated that the Tribe realized $50,000 in 1969 from hunting, fishing and camping permits. Where was this hunting, fishing and camping done? The reservation is relatively small. Do they intend to expand this operation if they get Blue Lake and use it commercially? Is the Tribe issuing hunting and fishing permits on the Federal land in the permit area? We have had some reports on plans to use the Blue Lake area by people who have had discussions with the Tribal officials. That is why we want to make sure that this area is kept in a wilderness state and that the shrines and watershed not be desecrated. The Indians have said that they want this land only for religious ceremonies and traditional purposes; therefore, the Senate Committee made the bill tight enough to prevent its use for any other purpose, either by Indians or non-Indians. This bill was drafted only after a careful review of all of the testimony presented by the Indians during the years in which they had contended that they want protection only for their religious and ceremonial practices and others of a domestic nature. By their own testimony, they declare their desire that this be kept in a wild or primitive state, and they do not intend to commercialize it. The bill will preserve it in this fashion and for these purposes and this meets all the legitimate requirements of the Tribe.

AMERICAN PRISONERS

Mr. DOLE. Mr. President, the following is the text of a message I cabled today to Minister Xuan Thuy, representative of the Democratic Republic of Vietnam, Paris, France:

With the approach of the Christmas and Oriental New Year seasons, I call upon you to make a special gesture regarding U.S. Servicemen you hold prisoner in your country. I can think of no better way nor more appropriate occasion for you to demonstrate to the American people, and indeed to the people of the world, the humanitarian policy which you proclaim. In addition to the holiday ceasefire you have proclaimed, it would be particularly fitting for you to release the men you hold prisoner. I call upon you to set aside political differences and other grievances to accomplish this simple humanitarian act.

If the North Vietnamese are sincere, it is time they take some positive action. I hope my colleagues would join me with similar requests to demonstrate their concern for American prisoners.

MANAGEMENT OF WASTE IN COASTAL ZONE

Mr. HOLLINGS. Mr. President, concern for the problems of waste management in the coastal zone of the United States are growing, often without clear guidance where to turn. Many solutions to these problems have been proposed, but more often than not they turn on problems of committee jurisdiction rather than the substance of the waste management problems. During this past week the National Academy of Sciences and the National Academy of Engineering published an important contribution to our understanding both of the problems of waste management in the coastal zone and suggested programs to help remedy them. Entitled "Wastes Management Concepts for the Coastal Zone—Requirements for Research and Investigation," the study is a lucid and cogent work that I recommend to all of us who seek guidance on where to turn to combat our waste management problems. Some of the recommendations relate to legislation already under consideration in the Committee on Commerce: Management plans and programs for the coastal zone; designation of research preserves; support of coastal laboratories. Some of the recommendations, such as that to improve the quantity and quality of graduate education combining the interests of oceanography, ecology, and engineering, have already received strong impetus from programs such as the national sea grant program.

I want to convey my congratulations to the National Academy of Sciences and the National Academy of Engineering on the excellence of this report, and particularly to the Committee on Oceanography and the Committee on Ocean Engineering under whose auspices the study was carried out.

Mr. President, chapter 6, "Recommended Research and Investigation for Effective Coastal Wastes Management," and chapter 7, "Suggested Priorities and Estimated Minimum Effort Required," cogently summarize the problems of research and investigations needed and the estimated magnitude of the programs that should be undertaken. I ask unanimous consent that these two chapters be printed in the RECORD.

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

CHAPTER 6.—RECOMMENDED RESEARCH AND INVESTIGATION FOR EFFECTIVE COASTAL WASTES MANAGEMENT

Effective rational management of the growing volume and variety of wastes generated by our accelerating coastal urbanization requires immediate initiation of a coordinated, long-term national program of research and investigation involving government, industry, and universities. When such a program has begun to supply answers to the many questions raised in the preceding chapters, we can begin to expand effectively our present waste treatment facilities commensurate with the task of maintaining and even enhancing the quality of our coastal waters.

Toward this end, we present here four recommendations for action as developed at the National Academy of Sciences-National Academy of Engineering Coastal Wastes Management Study Session. They are organized to reflect our assessment of the areas in which effective management of society's wastes is limited by lack of knowledge.

Our recommendations do not comprise an exhaustive catalog of information deficiencies in coastal marine science and engineering. Rather, they represent our assessment of a reasonable first step among the many programs of basic long-term research, the design-related investigations, and the collection of specific laboratory and field data, needed for improved design, management, and evaluation of coastal wastes treatment systems.

Our nation enters the present era of awakened and increasing public concern for effective wastes management with an existing and substantial framework of facilities, knowledge, organizations, and competent personnel in the area of coastal wastes management. This framework constitutes a formidable resource for maintaining and enhancing the quality of the environment, and provides a basis for the evolution of expanded and more effective mechanisms for applying scientific and engineering expertise to the problems in wastes management.

GENERAL RECOMMENDATIONS

Concept and criteria for waste treatment

One of the greatest contributions that scientists, especially biologists, can make to

conserving marine values as to furnish quantitative guidelines to assist the engineers who have responsibility for designing waste-treatment and disposal systems. The design of such systems must become much more scientifically oriented than in the past. Historically such design has been concerned primarily with maintaining aerobic conditions in the receiving waters and in keeping these waters safe for human health. *This criterion is no longer sufficient.* Methods are becoming available for assessing a broad range of marine receiving-water values. Thus the engineer's design should become less based on the use of "standard" systems and instead be tailored to preserve and enhance the specific receiving-water values of concern.

Professional development and institutional arrangements

In response to the increasing emphasis on preserving and enhancing the quality of receiving waters, it is essential that the existing organizations and scientific and engineering expertise in coastal wastes management be used as a basis for the evolution of new and improved organizations and professional competence. Particular attention should be given to initiating or improving:

1. Coordination of scientific research and engineering investigation, with emphasis on dissemination of the information generated.

2. Planning for multiple use, including preservation, of the coastal waters and estuaries. Special attention should be given to the strength of local initiative in planning and operation within criteria reflecting local, regional, and national interests.

3. Development of regional policies, goals, criteria, and review procedures concerning resource development and use, including management of wastes, as they affect the coastal zone.

4. Allocation of a fraction of the cost of new wastes treatment systems and facilities to a program of monitoring waste discharges and receiving waters related to the facilities.

5. The quantity and quality of graduate education combining the interests of oceanography, ecology, and engineering.

6. Designation of research preserves to facilitate experimentation in estuaries and coastal waters in which the intrusion of other human influences is minimized.

7. International mechanisms for controlling persistent toxicants, such as chlorinated hydrocarbons, on both a worldwide and regional scale.

RECOMMENDATIONS CONCERNING MONITORING OF WASTE DISCHARGES AND RECEIVING WATERS

Research in support of a monitoring program

Implementation of an effective monitoring program requires the initiation of specific research projects to improve the monitoring capability. Recommended research and development projects include:

1. Develop uniform sampling procedures for mass emission rates and receiving water, with consideration of the requirement for data processing.

2. Develop methods for quantitation of floatable matter and films and for identifying their origin.

3. Review the methods for detection of persistent pesticides.

4. Develop a method for quantitation and classification of persistent organics.

5. Develop a method for quantitation of gross heavy metals and gross acute toxicity.

6. Develop methods for monitoring biostimulants and for interpreting the data.

7. Develop a method for quantitative description of biomass.

8. Develop methods for monitoring long-term effects in a community structure and its productivity.

9. Develop methods of monitoring trace metals (sediments).

10. Develop a method for quantitation of specific organics, especially in trace concentrations.

11. Identify the criteria necessary to define properly the wastes discharges that should be included in the category "significant" waste discharge.

A monitoring program

1. A program to monitor waste discharges and receiving waters should be initiated.

2. Characterization of wastes and receiving waters should take cognizance of the need for rapid, accurate, and economical methods for measurement of the selected parameters. In addition, instrumentation should be adapted or developed to perform the analyses and to transmit or record the observed data. Data analysis techniques should be developed so that corrective action can be initiated promptly.

3. Monitoring specifications must be examined periodically to insure their continuing adequacy and to remove redundancy.

Monitoring waste discharges

1. To implement a program of monitoring waste discharges, specifications should be developed for a core minimum program to be applied to all "significant" waste discharges. "Significant" waste discharges are to be defined as a result of a research project recommended above.[1]

2. The general objective of the core, waste-discharge monitoring program is to provide the minimum information needed to assess adequately the pollutional contribution of waste materials to the Nation's coastal environment. Specific objectives would include but not necessarily be limited to the following:

a. Provide quantitative information on the unit and total mass emission rates for the common significant groups of wastes from significant waste-generating activities such as municipal, industrial, agricultural, natural, and other sources so that:

(1) Adequate data are available for forecasting future waste contributions, based upon the level of future estimated waste-generating activity (population, industrial production, etc.);

(2) Accurate input data are available for use in various modeling systems to provide estimates of waste concentrations and their variation in space and time; and

(3) It is possible to correlate or develop functional relationships between waste emission rates and waste effects that are principally biological in character.

(b) Assess performance, on a gross basis, of waste treatment installations.

(c) Insure that adequate information is available to permit improvements in waste treatment and disposal system design and operation.

3. All samples (except for "grab" samples collected for special analyses for high decay rate constituents) collected for routine analysis should be near-continuous, proportional, composite samples which accurately represent the characteristics of the waste stream (i.e., floatable, suspended, and dissolved constituents) with respect to their true mass emission rates (i.e., lb/day). Sufficient samples should be collected to provide an adequate statistical description for both the constituent concentration and the mass emission rate of the contaminant. After the waste has been statistically defined, analyses not pertinent to the local problem or to the wastes characterization should be deleted.

4. The analyses indicated in Table 10 should be conducted on essentially all samples collected.

5. Information on the accuracy and precision of both the sampling and analytical methods should be obtained and reported.

6. Data should be obtained on the level of waste-generating activity (i.e., for municipal waste—population tributary; for industrial wastes—tons of each product/day; etc.) so that waste discharges can be reported on a unit mass emission rate basis.

TABLE 10—Recommended Core Program Analyses—Waste Discharges:

Floatable matter.	
Total and organic suspended solid.	
Acute toxicity.	
Persistent pesticides.	
Persistent organic compounds.	
Biostimulants.	
Gross heavy metals.	
Coliforms (or equivalent).	
Radioactivity.	
Method needs development.	
Methods adequate.	
Method needs review.	
Method needs review.	
Method needs development.	
Method needs development.	
Method needs development.	
Method under continuous review.	
Methods adequate.	

Monitoring receiving water

1. For implementation of an effective program of monitoring receiving waters, the objectives of the program should include:

(a) Provide intermittent or continuous characterization of the receiving body of water and its terrestrial and atmospheric interfaces. Measurements sufficient to define the significant nature of the water body throughout a time period should be specified on the basis of statistical validity.

(b) Provide a knowledge of all sources of mass movement into and residence time within the receiving-water body, establish the significant character of such sources, and evaluate the relative contribution of each to the nature of the water body.

(c) Provide for rapid data evaluation and indicate the response procedures appropriate for the given water condition.

2. Monitoring program data should be obtained with consideration of the following factors:

(a) Sampling procedures which provide samples representative of the condition of the air, land, and water interfaces at any time.

(b) Sufficient vertical and horizontal control points, so that the samples will adequately describe the system.

(c) Sufficient frequency of sample collection to validate the analyses within any preselected statistical confidence limits.

(d) Analytical procedures that are of defined precision in terms of the parameter being measured.

The character of one restricted water body or coastal regime is quite likely different from another; therefore, no detailed recommendation can be made concerning the items b, c, and d above without enumerating the definitive characteristics of each water body. This analysis hopefully will be accomplished by a monitoring program with enough sampling locations and with sufficient frequency to describe the system within reasonable confidence limits.

Table 11 presents a summary listing of the recommended core program analyses of the waters and sediments. It outlines the recommended application of the tests to either restricted waters, the open ocean, or both for assessment of the condition of receiving waters and the effect thereon of the discharge of treated effluents. The core minimum monitoring program is not intended to be applied in its entirety to all marine waters but only to those bodies of water that receive "significant" waste discharges.

[1] The term "significant" is discussed in Chapter 2.

TABLE 11.—SUMMARY OF RECOMMENDED CORE MONITORING PROGRAM ANALYSES—SEDIMENTS AND WATER COLUMN OF RECEIVING WATERS.

Analyses	Applicable region: Restricted water	Applicable region: Open ocean
SEDIMENTS		
1. Physical:		
(a) Particle size distribution (methods adequate)	×	×
(b) Temperature (methods adequate)	×	×
(c) Other observations may also be needed for particle density, in-place density, and thickness of waste deposits to permit an estimate of the volume and mass of wastes accumulated (techniques need evaluation)	×	×
2. Biological:		
(a) Quantitative description of the standing crop of benthic organisms (quantitative technique needs development)	×	×
(b) Other tests including an index of bottom respiration may be useful to indicate the amount of readily biodegradable organic matter in the deposit (technique needs development)	×	×
3. Chemical:		
(a) Concentration of organic matter by concentration of organic carbon or organic nitrogen (technique needs evaluation)	×	×
(b) Presence or absence of H_2S (quantitative technique needs evaluation)	×	×
(c) pH (technique adequate)	×	×
(d) Other measurements should be made for suspected toxicants when appropriate including specific trace metals (technique needs evaluation)	×	×
WATER COLUMN		
1. Physical:		
(a) Quantification of floatable material and films with analysis for determination of probable origin of material (method requires development)	×	×
(b) Water clarity by photometric or other methods (methods adequate)	×	×
(c) Temperature—continuous recording with depth or at least three points in vertical column (method adequate)	×	×
2. Biological:		
(a) Coliform determination (method needs evaluation)	×	×
(b) Biostimulatory characteristics (method to be developed)	×	×
(c) Assessment of biomass including standing stock and community structure to determine long-term effects of waste discharges (techniques to be developed)	×	×
3. Chemical:		
(a) Dissolved oxygen (method adequate)	×	
(b) Chlorosity (method adequate)	×	×
(c) pH (method adequate)	×	×
(d) Nitrates (method needs periodic evaluation)	×	
(e) Phosphates (method needs periodic evaluation)	×	

RECOMMENDATIONS CONCERNING PHYSICAL PROCESSES AND INTERACTIONS

Initial dilution and diffuser design

1. Present knowledge of buoyant jet diffusion is nearly adequate for design of outfalls (including a multiple port diffuser) to achieve a prescribed initial jet dilution and submergence below any given thermocline. However, further research is needed in a number of areas. Primarily, there is need for understanding of line sources, and how well multiple-jet diffusers may be represented by line sources. Although current effects on initial plume behavior are not well understood, they are not as critical a factor as density stratification in predicting initial dilutions due to jet mixing.

2. Methods do not exist for predicting the size and shape of the waste fields (of either conventional or heated effluents) that are developed at the end of the initial jet-mixing stage. Closely coupled with this shortcoming is the problem of lateral spreading due to density differences between the field and its environment. Research should be conducted on both of these problems.

3. For barge dumping of sludges in the ocean, research is needed on flows generated by suddenly released sinking sludge in a stratified environment.

4. Control of thermal waste in coastal waters involves the same kind of stratified flow problems as sewage disposal. Inasmuch as large submerged diffusion structures are not yet in use, some problems of large single jets need special study, such as the behavior of a buoyant surface jet injected in a stream perpendicular to the current.

5. Field studies of flow patterns and dilutions over waste outfalls are needed urgently to confirm design predictions and methods. Most of the hydrodynamics of buoyant jet mixing has been confirmed only in laboratory experiments. Similarly, the effects of hydrodynamic forces on the diffuser structures themselves require continuing investigation.

Physical processes in estuaries

1. It is necessary to develop a sound physical basis for quantitative predictive models of time and space variations of constituent distributions in estuaries. This project will require further work on theoretical, numerical, and physical models, including determination of the correlation between the models and field studies.

2. Further knowledge is required of the relationship of the mean circulation, tidal currents, and turbulent exchanges to the river inputs, external tides, external density distribution, wind, and the shape and size of the estuary.

3. Little is known of conditions responsible for the change in an estuary from a salt-wedge to a partially mixed estuary, or from a fiord to either a salt-wedge or a partially mixed estuary. These conditions need study, particularly in fiords.

4. In the development of models, both theoretical and numerical models should be stressed, as they include the possibility of the incorporating of biological, chemical, and physical processes at prototype scales.

5. Turbulence processes need investigation, as their dependence on density stratification and mean-velocity shear plays a dominant role in the behavior of estuaries.

Turbulent flux and diffusion

1. Detailed observational approaches to the problem of turbulent diffusion are needed. Simultaneous measurements of turbulent fluctuations in velocity, salinity, and other properties, together with environmental factors such as shears in mean velocity and stability of the water column are necessary. Likewise, tracer studies on a scale of 10–100 meters should be carried out under various environmental conditions.

2. There is need to develop predictive models for gross spreading of patches and plumes in the ocean from the combined effects of eddy diffusion (both horizontal and vertical) and shear in the mean velocity field. Item 1 above recommends steps that will provide a basis for this development, and will allow a better interpretation of previously reported values of gross dispersion coefficients.

3. Systematic tracer experiments should be carried out in subsurface waters in order to have more reliable information on the dispersion of patches or plumes. These experiments should include the use of artificial tracers, such as fluorescent dye, and studies of existing waste fields which occur at subsurface depths.

Physical processes in coastal areas

1. For a proper understanding of coastal circulation on all scales, a program of collection of oceanographic and meteorological data is recommended. The observations should be made over a long enough period of time to reveal all periodicities up to and including annual. Although such a program could be carried out by multiship operations, moored arrays of instruments capable of sampling the entire water column would probably be better. Such a program should permit evaluation of wind, river inflow, tide, and internal waves as transport mechanisms.

2. To improve our ability to predict the fate of wastes introduced into estuaries and coastal waters under specific environmental conditions, a study is recommended of the effects of intermediate scale variations in the current pattern on the time-varying concentrations of waste components at various distances from the source, using tracers such as fluorescent dyes as well as waste components from existing outfalls.

3. The large-scale processes which lead to exchange of coastal water with oceanic water should be studied. Development of a fluorometer capable of sampling at all depths, which is an order of magnitude more sensitive than any available at present, is needed so that large-scale dye-tracer experiments can be carried out economically. Alternatively, a more economical tracer might be developed for such work.

Decay of nonconservative constituents as related to physical factors

1. A series of controlled field experiments should be conducted to study the nonconservative properties of such constituents of waste-water as enteric bacteria and other toxic substances discharged into coastal and estuarine waters.

2. As soon as reliable detection and enumeration techniques have been developed, these studies should be expanded to include pathogenic viruses.

Interactions between floatable and settleable components of wastes and physical factors

1. Studies should be conducted to ascertain the prevalence, properties, and character of floatables that originate from waste water and sludge (including barged materials) in coastal waters and in estuaries. The substances comprising the various forms of the floatables (particulate matter, films, scum, and foam) should be identified as to primary source.

2. Investigations should be made to determine the means by which the floatables are collected and compressed into slicks or streaks on the water surface, as well as the natural mechanisms available for transporting the materials in the water surface.

3. Studies should be made to ascertain methods of treating or handling the waste waters and sludges that will reduce or eliminate problems of surface pollution.

4. Studies should be conducted to evaluate the movement and dispersion of releases of sludge at sites currently in use, such as in the New York Bight and off southern California. These studies should include, but not necessarily be limited to, investigation of the methods of introducing the sludge, i.e., by barge or outfall, and the transport mechanisms, including settling and resuspension, which influence the distribution and spread of the materials.

RECOMMENDATIONS CONCERNING CHEMICAL FACTORS

Chemical processes involving dissolved inorganic constituents

1. The concentrations and forms of trace elements believed to be biologically significant in the waters and sediments and their concentrations in organisms in different areas should be determined. Areas that should be examined are near the mouths of large rivers and coastal areas where freshwater inputs come primarily from wastewater discharges. The elements of concern would probably include but not be limited

to copper, zinc, cobalt, chromium, arsenic, molybdenum, selenium, mercury, cadmium, and lead.

2. The degree of complexing of trace metals by the organic and inorganic constituents of waste-water effluents, sea water, and estuarine waters should be evaluated in both laboratory and field studies. Temperature ranges in the natural environment, as well as in the vicinity of thermal outfalls, should be represented in the experimental program. Not only may the degree of complexing prove significant in controlling the behavior of the metal ions, it may also prove pertinent to an understanding of the action of organic residues. The forms in which the metals exist are important factors affecting their biological activity.

Chemistry of particles and processes in sediments

1. Experiments should be carried out to establish the effects on soluble components, particularly waste solutes, of flocculation, aggregation, coprecipitation, and sorption. A study should be made of the physical-chemical factors and the role of organisms in affecting the flocculation rates of sediments in estuaries and coastal waters. Pertinent variables appear to be the degree of dilution of fresh water suspensions entering sea water, the levels of organic matter, the pH of the mixture, the oxidation potential, the relative percentages of different clay minerals and other solid phases, the mixing characteristics of the flow, and the temperature.

2. The rates of aggregation and sedimentation of organic particles in the marine environment should be studied. Such factors as pH, temperature, organic-metal ion complexing at organic particle surfaces, and the concentration of inorganic particles should be evaluated. Organic debris appears to play a role in transporting trace metals to the sediments. The organic debris may associate with inorganic particles, thus affecting the sedimentation of inorganic phases (oxides, clays, silica).

3. The biological and chemical transformations occurring in contaminated and uncontaminated sediments should be determined, with particular reference to nutrients and trace elements. These studies should include considerations of concentration gradients, movement of water at the sediment interface, eddy diffusion, and the release of gas on the rates of transport from sediments to the water column. Also included should be the effects or changes from oxidizing to reducing conditions, and vice versa.

4. Adequate procedures should be developed for distinguishing among inorganic particles, living organisms, and dead organic matter, both in the water column and in the sediments.

Nutrient chemistry and biochemical changes

1. The fluxes of nitrogen and phosphorus in all phases of the cycles affecting the marine environment should be explored. The study should not overlook the fluxes due to rooted benthic plants, birds, and humans.

2. An understanding should be developed of the amount and character of dissolved and particulate organic matter in the ocean; its origin, including the contributions from rivers and waste discharges; its spatial distribution; and its biological significance.

3. A study of the factors that control the qualitative and quantitative aspects of phytoplankton blooms in estuarine and coastal waters should be carried out.

4. The effects of adding nutrients (phosphate, nitrate, silicate) and oxidizable carbon on the primary productivity and on the resulting organic load in restricted coastal environments should be determined. The relative effects of the individual nutrients are important considerations. The rates of oxygen exchange between the atmosphere and other sources (e.g., ferric oxide in sediments) and the costal waters should also be studied. These studies will help provide a basis for predicting to what extent re-aeration can compensate for the oxygen demand caused by the introduction of oxidizable carbon and nutrients from waste outfalls. Factors such as wind stress, depth, pressure head, density gradient and stability, and surface films such as petroleum should be considered.

5. The biochemical mechanisms for concentrating trace components by the biota, the subsequent effects of this concentration on the organisms involved, and the transport and further concentrating of these trace components as they move up the food chain should be determined.

6. Subtle, sublethal effects of waste products on physiological and biochemical processes—such as enzyme induction or inhibition, ion transfer across membranes, and chemosensitive reception—should be studied. Effects of these kinds may significantly influence the growth, reproduction, development, or survival of marine animals in ways not detected by conventional assay or toxicity tests, or population studies. It is in this area sublethal effects that ocean disposal of wastes may encounter its most serious problems.

The chemistry of specific wastes

1. Even with the establishment of improved safety criteria and redundant emergency systems, the probability of the occurrence of oil leakage and bilge washings from ships, of catastrophic events such as shipwrecks, and of oil seepage and operating well casualties on the continental shelf, indicates that research is needed on:

a. Natural biochemical processes responsible for degradation of oil films or oil droplets.

b. Techniques of analysis for detecting and characterizing low concentrations of oil in water and for identifying sources.

c. The effects of different oil dispersants in degradation of the oil, the toxicity of dispersant and dispersant-oil mixtures to marine organisms, and the uptake of the oil, dispersant, and/or dispersant-oil mixtures in the food chain.

d. The effects of added settling agents on bottom characteristics and on the benthos, and the fate of oil so deposited.

e. Fractionation of oil films on exposure to environmental influences, and the fate of residual materials in the sea.

f. The effect of oil films on the air-sea oxygen exchange, and interference in processes of biological productivity, such as changes in light penetration and mixing.

2. The fluxes of synthetic organic chemicals into the ocean through sewage outfalls, rivers, atmosphere, and biota should be determined. Priorities should be given to potentially hazardous or deleterious materials such as pesticides, detergents, fuel residues, certain solvents, etc.

Chemical consequences of man's physical activities

1. The effects of human activities (such as forestry, agriculture, terrestrial and marine mining, dredging, and impoundments), on the flow of inorganic suspended matter to the oceans, and on the distribution and character of the sediments should be determined. Among the potentially significant effects are those on transparency of overlying waters, oxygen demand from reducing sediments, transport or release of nutrients including trace elements, alterations of the benthos, silting of harbors, and erosion of beaches.

RECOMMENDATIONS CONCERNING BIOLOGICAL EFFECTS

1. Studies should be made immediately of selected existing outfalls and disposal areas in several distinct marine biogeographic provinces. These studies, and the relationships derived from them, must serve as an interim basis for improved evaluation of the acceptability of new disposal facilities and sites. Completely adequate techniques are not available for definitive assessment of all impacts of wastes on coastal waters. The studies should include at least the following:

a. Quantitative floral and faunal surveys in the immediate vicinity of discharge, within the measurable zones of influences, and at reference sites.

b. Sludge fields (when present).

(1) Measurement of the temporal and spatial dimensions of sludge fields.

(2) Chemical analyses of sample sludges from various outfalls with emphasis on substances likely to have biological importance.

(3) Measurement of the rates of biodegradation and utilization of sludge components by marine organisms.

c. Determination of the dissolved inorganic and organic substances resulting from coastal discharges and their effects by:

(1) A chemical inventory of components.

(2) Bioassays of both effluents and affected waters for toxicity and stimulation.

(3) A study of primary productivity and other community responses in affected waters.

2. A detailed examination of the public health significance of coastal discharges should be made, including:

a. Re-evaluation of the adequacy of traditional fresh-water biological indexes in marine waters and in organisms consumed by man.

b. Development and application of improved indexes.

3. Research on the biological concentration of waste components by marine organisms should be expanded and intensified. Special attention must be given to organisms involved either directly or indirectly in the food chain of man, without sacrificing adequate attention to the complete environment.

4. The input of DDT into the marine environment by the United States should be eliminated. To avoid repetition of the DDT type of problem, we further recommend that any material that combines the properties of mobility, chemical stability, low solubility in water, and high solubility in lipids be kept out of the marine environment unless it has been proven not to have the broad biological activity that is characteristic of DDT.

5. Long-range, properly designed, detailed, quantitative studies of the structure and dynamics of animal and plant communities and their relationship to waste disposal in carefully selected areas should be established and supported. These areas should include those that are relatively little affected, that are being affected at an increasing rate, and that are already seriously affected. Some of the studies should be done in designated and protected marine preserves. All should be related to the beneficial uses to which the particular coastal region is allocated.

6. Programs of physiological studies to define the tolerable limits of waste concentration for each of the specific uses envisioned for the coastal regions designated in a long-range plan should be established and supported.

7. Programs of systems analysis and model development that will improve prediction of the biological effects of various possible combinations of waste treatments, disposal systems, and uses of the receiving water should be instituted and supported. As more data become available from the studies suggested above, models can be continually refined.

8. All proposals for new installations, modifications, or activities that may result in major changes in the amounts or nature of the wastes should be reviewed to determine whether quantitative ecological studies of the biota are required, both before and after the change. If such studies would lead to greater protection of the biota, or would provide better bases for regulation, adequate funds for them should be included in the budget. Enough time must be allowed for

careful studies, especially those to be done before the change is made. Data from such studies would increase the accuracy of models and strengthen the objective bases for setting standards.

9. The U.S. Government should consider, and act effectively upon, the ultimate disposal problems and the biological effects of new products of any kind which, after release in the commercial market, could result in the impairment of the biological values of the marine environment.

CHAPTER 7.—SUGGESTED PRIORITIES AND ESTIMATED MINIMUM EFFORT REQUIRED

Our recommendations select, from among the broad scope of scientific and engineering research and investigation program areas in wastes management, those projects that we believe are essential and that should be assigned high priority to improve effectively our wastes management practices.

We have assigned relative priorities to each of the recommended projects within each of the major program areas. The minimum effort required for effective results and the period required for completion of specific projects has been estimated for each project. *These suggested priorities and allocations of effort are, of course, highly subjective.*

Although priorities were estimated within each of the major program areas, no attempt was made to compare priorities in each of the areas with those in the others. On the other hand, the minimum effort that is suggested for each of the program areas compared with the others indicates our estimate of the relative emphasis to be placed in each area of the total initial minimum program.

Further detailed refinement of priorities should be undertaken on a continuing basis by those within industry, government, and universities who, because of their responsibilities and competence in developing and utilizing the results of the research and investigation, will be involved in operational and research problems. Continued refinement of the estimates of effort required beyond the suggested initial minimum effort, and the refinement of time required for the initial and any additional effort, should also be undertaken.

PROGRAM AREA OF MONITORING WASTE DISCHARGES AND RECEIVING WATERS

The recommended routine-type monitoring program should be initiated immediately, should be expanded to meet management information requirements, and should be improved as monitoring techniques resulting from the recommended specific research projects become available. The monitoring program should be a continuing and a regular part of the waste disposal operation. No estimate of required effort for the actual field-scale monitoring program is given.

Table 12 lists the relative priorities and estimated minimum effort for specific research projects that will be required to implement the broad recommendations for a program of monitoring and investigation of waste discharges and receiving waters.

For waste streams like those in agricultural and industrial areas, additional research and development on specific sampling and analytical methods is required. For receiving-water monitoring, there also will be special development efforts associated with particular monitoring problems. The magnitude of this research and development may be equal to, or greater than, that required for the core monitoring programs recommended in this study.

PROGRAM AREA OF PHYSICAL PROCESSES AND INTERACTIONS

Relative priorities and estimated minimum effort for the recommended research and investigation in physical processes and interactions are presented in Table 13. The relative priorities for each project have been estimated within each of six sets of related projects. The estimates of effort represent that which we believe is required to conduct the recommended programs at a level that will provide beneficial results.

PROGRAM AREA OF CHEMICAL FACTORS

Relative priorities and estimated minimum effort for recommended research and investigation in chemical factors are summarized in Table 14.

TABLE 12.—PRIORITIES AND ESTIMATED INITIAL MINIMUM EFFORT FOR RESEARCH AND INVESTIGATION NEEDED FOR IMPROVING WASTE DISCHARGE AND RECEIVING-WATER MONITORING PROGRAMS [1]

Research required to implement the monitoring program	Research concerned with— Waste discharge	Research concerned with— Receiving waters	Estimated minimum total effort [2] (man-years)	Priority	Completion time
Uniform sampling procedures, relative to mass emission rates, receiving waters, data processing	X	X	11	A	S [3]
Floatable matter, method of quantitation	X	X	11	A	S
Films, method of quantitation		X	11	A	S
Persistent pesticides, review method of determination	X	X	11	B	S
Persistent organics, method of determination, quantitation	X	X	13	B	S
Gross heavy metals, method of quantitation	X		7	B	S
Gross acute toxicity, method of quantitation	X		7	A	S
Biostimulants, methods and interpretation	X		34	A	L [4]
Biomass,[5] method and quantitative description	X	X	27	A	L
Community structure, productivity,[5] methods for long-term effects		X	50	B	L
Trace metals (sediments),[5] method		X	11	C	S
Specific organics,[6] method of quantitation, trace concentration	X	X	13	C	S
Significant discharge, definition of	X	X	4	A	S

[1] The recommended Monitoring Program itself is not included.
[2] Total effort for this program area is 210 man-years.
[3] S is short-term (less than 5 years).
[4] L is long-term (less than 10 years).
[5] These projects must be examined in detail for compatibility with projects recommended under chemical factors and biological effects.

TABLE 13.—PRIORITIES AND ESTIMATED INITIAL MINIMUM EFFORT FOR RESEARCH AND INVESTIGATION IN PHYSICAL PROCESSES AND INTERACTIONS

Recommended research and investigation and estimated minimum total effort [1] (man-years)	Priority	Completion time
Initial dilution and diffuser design (37):		
Buoyant jet diffusion	B	S [2]
Waste fields	B	S
Barge dumping of sludge	A	S
Thermal waste	B	S
Flow patterns	A	L [3]
Physical processes in estuaries (185):		
Quantitative predictive models	A	L
Hydrodynamics	B	L
Estuary transitions	A	S
Biological and chemical processes	A	L
Turbulence processes	A	S
Turbulent (eddy) flux studies (72):		
Observational studies	A	S
Predictive models	A	S
Subsurface tracer experiments	B	S
Physical processes in coastal areas (360):		
Data collection	A	L
Intermediate-scale current patterns	A	S
Large-scale exchange processes	B	S
Decay of nonconservative constituents as related to physical factors (20):	A	S
Interactions between floatable and settleable components of wastes and physical factors (46):		
Character of floatables	A	S
Mechanisms of transport	B	S
Reduction of surface concentration	B	S
Case studies	A	L

[1] Total effort for this program area is 720 man-years.
[2] S is short term (less than 5 years).
[3] L is long term (less than 10 years).

TABLE 14.—PRIORITIES AND ESTIMATED INITIAL MINIMUM EFFORT FOR RESEARCH AND INVESTIGATION NEEDED IN CHEMICAL FACTORS

Recommended areas of research and investigation	Estimated minimum total effort [1] (man-years)	Priority	Completion time
Trace metals	50	A	S [2]
Complexing	22	B	S
Inorganic aggregation	22	B	S
Organic aggregation	17	B	S
Diagenesis	13	B	L [3]
Distinguish organic vs. inorganic	5	C	S
Nutrient fluxes	22	C	S
Organic matter distribution	13	B	L
Phytoplankton blooms	42	A	S
Anoxic conditions	17	B	S
Biochemical concentration	17	B	L
Sublethal effects	34	A	L
Oil spillage	134	A	S
Synthetic organics	17	A	L
Human physical activities	25	C	L

[1] Total effort for this program area is 450 man-years.
[2] S is short term (less than 5 years).
[3] L is long term (less than 10 years).

These recommendations, listed as specific projects, are indicative of broad areas of investigation, within which re-emphasis may be desirable in the future.

PROGRAM AREA OF BIOLOGICAL EFFECTS

Priorities and estimated minimum effort for project areas of research and investigation on biological effects are summarized in Table 15.

TABLE 15.—PRIORITIES AND ESTIMATED INITIAL MINIMUM EFFORT FOR RESEARCH AND INVESTIGATION IN BIOLOGICAL EFFECTS

Recommended areas of research and investigation	Estimated minimum total effort [1] (man-years)	Priority	Completion time
1. Intensive study of outfall areas and effects	620	A	L [2]
2. Public health significance of wastes	25	B	S [3]
3. Study of biological concentration mechanisms	40	B	S
4. Management of DDT		B	S
5. The structure and dynamics of coastal biological communities	370	A	L
6. Defining tolerable limits for each major use	190	A	S
7. Improvement of systems and models	35	B	S
8. Criteria for review of proposals for ecological study requirements		A	L
9. Evaluation of new waste products		B	L

[1] Total effort for this program area is 1,280 man-years.
[2] L is long term (less than 10 years).
[3] S is short term (less than 5 years).

POW RAIDS

Mr. THURMOND. Mr. President, in this afternoon's edition of the Washington Daily News, Mr. Ray Cromley has written a magnificent piece recounting the reactions of a prisoner of war to rescue missions over enemy territory. The article has special significance, and a guarantee of authenticity, because the prisoner of war was Mr. Cromley himself. The author was a POW in Tokyo during the famed Doolittle raids. Both these raids and the attempt of the Swiss Government to negotiate a prisoner exchange were of momentous importance

in boosting prisoner morale, regardless of the outcome.

Mr. Cromley writes:

The freedom in my soul and in my voice was not the thought of rescue or release (pleasant as release would be) that mattered so much as the thought that my country cared enough for me—for us . . .

And then he goes on to say:

I was a man and an American and nothing could defeat my soul.

There are some who would seek to downgrade the value of the Nixon administration's attempt to rescue the American prisoners in North Vietnam, but Mr. Cromley's testimony cuts across all such narrowminded criticism. As he writes:

It is hope that men require when they are prisoners of war. And a belief that their country cares.

Who would take away such hope from men in a POW camp? Who would consign them to hopeless waiting? The enemy technique has been to break down the morale of Americans, both those in POW camps, those in battle, and those at home, by refusing civilized contact and treatment and rebuffing attempts to secure humane treatment for our men. The whole technique has been to build up an atmosphere of hopelessness.

Mr. Ray Cromley's article effectively explains why the POW raid undercuts the enemy strategy, and I congratulate him on his stirring writing.

Mr. President, I ask unanimous consent that the article entitled "Bringing Hope to the Heart of the POW," written by Mr. Ray Cromley, and the article entitled "Why Ray Cromley Wrote This," published in today's edition of the Washington Daily News, be printed in the RECORD.

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

BRINGING HOPE TO THE HEART OF THE POW

I was a prisoner of the enemy in war. For six months of solitary confinement. In a Japanese prison in World War II. Perhaps, then, I can describe in some small way how the American prisoners of war now in North Vietnam feel after this attempt at their rescue. I don't know, of course. I can only think back 28 years to my own feelings.

I remember two things quite vividly from that time:

The Doolittle raid of April, 1942, and the visit of the Swiss Government representative after I'd spent about five and a half months in solitary.

(During the war the neutral Swiss Government represented U.S. interests in Tokyo).

I remember these two things strongly even today because they brought hope to the heart of one prisoner, who, thru no one's fault, had had no sign from his government and his country during the months of imprisonment.

It did not matter that the Doolittle raiders had not come to free those of us who were in prison, but were over Tokyo for an entirely different purpose. You could look out the barred window and see the American fliers were there. For hours afterward you could relive this flight by watching the rising smoke and by listening to the excited conversations of the guards. You could feel and hear and know yourself that something was being done—and in a way you could feel that it was being done for you. You were part of it.

Then the other incident. When the Swiss came, I cried. I cried because I said to myself "my country cares!" I said it again and again in happy agonizing gulps. In the months of holding in during daily questioning by teams of guards and of sitting, eating, sleeping in my cell, I had not realized how alone I had come to feel myself.

The freedom in my soul and in my voice was not the thought of rescue or release (pleasant as release would be) that mattered so much as the thought that my country cared enough for me—for us—that the Swiss should come to see each of us individually even for a few minutes and should be attempting, whether successfully or not, to do something for us.

I still remember the room in which the Swiss representative and I sat. I remember the expression on his face and the way his lips moved when he talked.

He asked me a few questions and we talked a little, the normal things men say to each other. He did not promise me anything. It was not yet clear then whether negotiations for an exchange of prisoners would be successful. But I walked back down that prison hall with music singing in my heart as loud, as strong, as powerful and as triumphant as the sound of a gigantic choir in a cathedral—as if heaven had opened wide.

I was a man and an American and nothing could defeat my soul.

I have never seen that Swiss again. But he will remain my friend until the day I die.

It is hope that men require when they are prisoners of war. And a belief that their country cares. And their wives and children.

With these a man can endure all things. Sickness, loneliness, beatings, death.

WHY RAY CROMLEY WROTE THIS

Ray Cromley, who is Washington correspondent for the news syndicate, Newspaper Enterprise Assn., was a correspondent for the Wall Street Journal in Tokyo on the day of the Pearl Harbor attack. On that day he was arrested and held in Nishi Sugamo Prison, in Tokyo.

He was tried, convicted of "sending information to the United States which could be used against the national defense of Japan" and sentenced to 1½ years in prison. An exchange of prisoners was arranged between the United States and Japan in July, 1943. He was moved into Sumire Concentration Camp about one week before exchange and was brought home—to New York—along with other exchangees on the SS Gripsholm in September, 1942.

Mr. Cromley grew so thin in prison that he couldn't keep his pants up, but after transfer to concentration camp he was fed well and ate eight meals a day to prepare himself for the trip home. When he enlisted in the U.S. Army eight months after his return home he had to sign a weight waiver in order to be accepted.

In the aftermath of the daring attempt to rescue U.S. prisoners of the North Vietnamese at the Son Tay prison camp near Hanoi, Mr. Cromley has been reflecting upon his experiences as a war prisoner and trying to put himself in the place of the men now held by the North Vietnamese. He describes his feeling in this article.

AIRPORT SAFETY MUST HAVE TOP PRIORITY

Mr. BYRD of West Virginia. Mr. President, the proposal to divert close to $250 million in trust funds from airport and airways improvements to Federal Aviation Administration operational programs seems to be ill timed and ill advised.

As chairman of the Appropriations Subcommittee on Supplementals and Deficiencies, which is now considering the proposal, I shall oppose any move that would take trust fund money away from high-priority items such as airport and airways improvements.

The trust fund was established by the Airport and Airways Development Act of 1970; and, through the implementation of what is commonly called a user's tax, the trust fund is expected to take in over $600 million this year. According to the law, that money is to be used on a priority basis, for airport developments grants, and airways equipment and facilities, including the installation of vital safety equipment. Any money still remaining in the trust fund could then be used for FAA operational programs.

In the supplemental appropriations bill now before my subcommittee, the administration is requesting $100 million for airport development grants—compared to the $280 million authorized by Congress for such grants. The request for airways equipment and facilities is $250 million, or $24 million below the amount authorized by Congress.

What the proposal suggests, then, is that we cut back much-needed development programs at our Nation's airports—that we deescalate, if you will, the installation of safety equipment and the general upgrading of our airports.

Just a little over 2 weeks ago, Mr. President, a plane carrying almost the entire varsity football team at Marshall University and a number of prominent citizens crashed at the Tri-State Airport in Huntington, W. Va. All 75 persons aboard, including the plane's crew, were killed.

I am by no means saying that this tragedy would have been avoided if additional instruments had been installed. We shall have to wait for the FAA investigation before determining what the cause of the accident was. Nevertheless, officials of the FAA have stated that the Tri-State Airport is one of many that are in dire need of improvements; and, very obviously, airport safety in every State in the Nation will suffer from a cutback in development programs.

Mr. President, I oppose the request to divert the trust funds from the priority programs the trust fund was primarily intended to bolster. I oppose any move that would give airport safety anything less than top priority.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. What is the will of the Senate?

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

The PRESIDING OFFICER. If there be no further morning business, morning business is closed.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION BILL, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1380.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read the bill (H.R. 17867) by title, as follows:

A bill making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1971, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGEE. 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. McGEE. I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill as thus amended be regarded as original text for the purpose of amendment, provided that no point of order shall be considered to have been waived by reason thereof.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wyoming? The Chair hears none and the committee amendments are considered and agreed to en bloc.

The amendments agreed to en bloc are as follows:

On page 2, line 10, after the word "law", strike out "$310,000,000" and insert "$396,870,000".

On page 2, line 12, after "World-wide", strike out "$150,000,000" and insert "$183,500,000".

On page 2, line 14, after the word "Progress", strike out "$75,000,000" and insert "$90,750,000".

On page 2, line 16, after the word "organizations", strike out "$85,000,000" and insert "$122,620,000".

On page 2, line 24, after "section 214(c)", strike out "$8,600,000" and insert "$12,895,000".

On page 3, line 1, after "section 302 (b)(2)", strike out "$4,000,000" and insert "$5,850,000".

On page 3, line 3, after "section 302 (b)(1)", strike out "$6,000,000" and insert "$7,960,000".

On page 3, line 9, after "section 402", strike out "$375,000,000" and insert "$414,600,000".

On page 3, line 13, after "section 451 (a)", strike out "$12,500,000" and insert "$15,000,000".

On page 3, line 15, after "section 252 (a)", strike out "$225,000,000" and insert "$337,500,000".

On page 3, line 20, after "section 202 (a)", strike out "$280,000,000" and insert "$570,000,000".

On page 3, line 25, after "section 637(a)", strike out "$50,000,000" and insert "$51,125,000".

On page 4, line 17, after the word "subparagraphs", insert "any of"; and, in line 18, after the word "general", strike out "purpose" and insert "purposes".

On page 5, line 11, after "section 235 (f)", strike out "$18,750,000" and insert "$37,500,000".

On page 5, after line 12, insert:

"SOCIAL DEVELOPMENT ASSISTANCE

"INTER-AMERICAN SOCIAL DEVELOPMENT INSTITUTE

"The Inter-American Social Development Institute is authorized to make such expenditures within the limits of funds available to it and in accordance with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out its authorized programs during the current fiscal year."

On page 8, line 4, after the word "than", strike out "$9,000,000" and insert "$10,000,000".

At the top of page 10, strike out:

"TITLE II—FOREIGN MILITARY CREDIT SALES

"FOREIGN MILITARY CREDIT SALES

"For expenses not otherwise provided for, necessary to enable the President to carry out the provision of the Foreign Military Sales Act, $272,500,000."

On page 10, after line 6, insert:

"PEACE CORPS

"SALARIES ANE EXPENSES

"For expenses necessary to enable the President to carry out the provisions of the Peace Corps Act (75 Stat. 612, as amended, including purchase of not to exceed five passenger motor vehicles for use outside the United States, $94,500,000, of which $31,400,000 shall be available for administrative expenses."

On page 11, line 3, after the word "appurtenances", strike out "$6,000,000" and insert "$6,952,000".

On page 13, line 7, after "5 U.S.C. 3109", strike out "$5,511,000" and insert "$5,787,000".

On page 14, after line 2, insert:

"INTERNATIONAL MONETARY FUND

"INCREASE IN QUOTA, INTERNATIONAL MONETARY FUND

"To finance an increase in the quota of the United States in the International Monetary Fund, $1,540,000,000 to remain available until expended: Provided, That this paragraph shall be effective only upon enactment into law of H.R. 18306, Ninety-first Congress, or similar legislation."

On page 17, after line 2, strike out:

"SEC. 504. None of the funds herein appropriated for 'International Financial Institutions' shall be available to assist in the financing of any project or activity the expenditures for which are not subject to audit by the Comptroller General of the United States."

On page 17, after line 7, strike out:

"SEC. 505. None of the funds herein appropriated for 'International Financial Institutions' shall be available to assist in the financing of any project or activity for which detailed justification is not available to the United States Senate and House of Representatives."

Mr. McGEE. Mr. President, there are a few technical amendments that should be made in order to conform the printed bill to the action taken by the committee.

The first such amendment on page 4, line 17, the words "any of" that were inserted after the word "subparagraph" should be inserted after the word "for".

On page 10, line 6, "title III" should be changed to "title II"; and on page 14, line 10, "title IV" should be changed to "title III".

On page 15, line 22, "title V" should be changed to "title IV".

The PRESIDING OFFICER. The Senator will send his amendments to the desk.

Without objection, the technical amendments are agreed to.

Mr. McGEE. Mr. President, the budget estimate for foreign assistance and related programs for fiscal year 1971 totaled $4,416,539,000. The appropriations subcommittee recommendation provides for new obligational authority amounting to $4,143,639,000. This is $1,922,678,000 over the amount allowed by the House of Representatives, but $272,900,000 under the total estimate.

The amount that the committee has recommended, however, includes the $1,540,000,000 for the increase in quota for the International Monetary Fund; and so, to keep this total figure in proper perspective, I think it is important that we think of it in net terms; that is, minus the increased quota for the International Monetary Fund. The committee has included the increase in quota in this appropriation action because of the time factor involved since our quota payment is due on January 1, 1971. However, in the event the amount is not authorized, the committee has included a proviso to the effect that the appropriation is without effect if H.R. 18306, or similar legislation is not enacted by the Congress.

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

Mr. McGEE. I yield.

Mr. JAVITS. I think it should be made clear for the record that the $1.5 billion is not appropriated money that is going to be spent.

Would the Senator be kind enough to tell us how much needs to be contributed by the United States as an additional subscription in the way of money and what represents residual authority to back up the activities of the fund?

Mr. McGEE. The increase in quota includes $385 million in gold, and a letter of credit in the amount of $1,155 million. This represents our portion in the upgrading of the International Monetary Fund reserves. All the participating nations are increasing it. I think the total increase is $7.6 billion, and this is roughly our share.

Mr. JAVITS. Therefore, of the total liquidity pool which is available to support the monetary systems of the world, the United States contributes, if my memory serves me correctly, something in the area of 20 percent?

Mr. McGEE. That is correct.

Mr. JAVITS. Of which—again in round figures—only something in the area of 20 percent plus represents a pledge of U.S. gold, to which the United States still has a claim as the U.S. gold contribution becomes part of the gold pool of the International Monetary Fund. So we retain, as it were, our equitable interest to the same extent as our contribution in that gold pool. Is that correct?

Mr. McGEE. Not only do we retain our equity in it, but also, as I understand it, we will have an increase in special draw-

ing rights, which can be lost if we do not contribute our increase in quotas by January 1, 1971.

Mr. JAVITS. That is correct.

Mr. McGEE. Which comes at a time when these new drawing rights would be to our advantage.

Mr. JAVITS. That is correct. The United States has already availed itself, has it not, in its international monetary operations, of drawing rights in the fund?

Mr. McGEE. The United States has already availed itself of that.

Mr. JAVITS. I think this is critically important, so that it should not be taken superficially as some expenditure of $1.5 billion. It is like depositing money in a bank in which we retain drawing rights and other proprietary interests. So that the United States has not been separated from its money, as it would be if this were a defense appropriation or an education appropriation or something like that.

Mr. McGEE. It is an exchange of assets. Transactions between the Fund and the United States are monetary exchanges through which the United States receives international reserve assets. The U.S. net position with the International Monetary Fund is a foreign exchange asset comparable to gold or convertible foreign currencies owned by the Treasury. For this reason subscriptions, as well as drawings and other transactions reflecting net changes in the U.S. position with the International Monetary Fund, are excluded from budget receipts and expenditures. Thus, this increase in our subscription will have no budget impact.

Mr. JAVITS. I thank the Senator. I think it is very important to make that point.

Mr. McGEE. And with the further caveat that I tried to specify in the opening comments—namely, that this all still hinges upon the official authorization of this sum by the appropriate legislative committee.

Mr. JAVITS. It is a fact that the drawing rights materially exceed the approximately $350 million of gold deposited.

Mr. McGEE. That is correct. In this measure, the United States stands to gain in a very substantial way.

Mr. JAVITS. Thus the United States gains by having the right to draw more than $350 million as well as benefiting from world monetary stability as do all other nations.

Mr. McGEE. That is correct.

Mr. JAVITS. I thank the Senator.

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

Mr. McGEE. I yield.

Mr. AIKEN. I might add that the reason why there has been no authorization for this $1.5 billion contribution to the IMF is that all the proposed increases in our contributions to international banking institutions are in the same bill, which was brought up last week. The principal contributions will be to the International Development Association, the Asian Bank, and the Inter-American Development Bank. I believe the contribution to the Inter-American Development Bank is the largest of all.

Mr. McGEE. Yes. The Inter-American Development Bank will get a billion dollars under that bill.

Mr. AIKEN. I had suggested a separate bill for the IMF contribution but that suggestion did not seem to catch fire. Now we have before the Senate a bill for our contributions to all of these organizations. It has been held up for some time now, one way or another, and whether there will be action on it this year remains to be seen. If there is no action this year, I would not expect that there would be action until about the first of March, which would make us in arrears. That fact will be nothing new for the United States, because for many years we were in arrears on our assessments to the United Nations, because the United Nations was operating on a year which terminated on December 31 and the United States was operating on a year which ended on June 30.

Although it would not be fatal if the authorization bill does not go through, it would be best to get it through as soon as possible; and with the consent of 99 other Senators and myself, it might be passed.

Mr. McGEE. I thank the Senator from Vermont for his comment. I agree with him that I think this is a correct approach to this matter and that it would be better if we could authorize it. I would also like to point out again, as I mentioned just a short while ago, a very important point which I want the Senate to be fully aware of. If our quota is not increased before January 1, 1971, we will lose up to $130 million in special drawing rights allocations. Action now is essential if we are to avoid this potential loss.

Mr. AIKEN. Nobody likes to vote for an appropriation that has not been authorized.

Mr. McGEE. Yes. We do not intend to do violence to that principle here, but we are voting with the proviso in the bill that this provision does not become operable as an appropriation until it is authorized.

Mr AIKEN. Unless the amount is authorized, we will probably be at least 2 months in arrears on the payment in meeting our obligation.

Mr. McGEE. At least, our action, through the appropriating process, will have been completed.

In the light of this colloquy, I think it would be well to separate the total sum in this bill in real cost from the appropriations by the Senate a year ago and by the action of the House of Representatives.

The Senate figure is $382,678,000 over the House figure this year, without the IMF funds. It is that sum that is in roughly the same proportion as the Senate addition to the House appropriations a year ago. The increase by the committee is really a modest one. Surely there will have to be some give and take in conference and we do not consider the $382 million difference an excessive bargaining position to take to conference.

The committee recommendation is already low in terms of preferences of this administration, because it is limited by the 2-year authorization of a year ago. The administration would have requested larger funds this year because of a number of factors that would have required it. But because of the 2-year authorization, it started with a figure lower than its estimate of a year ago.

With that in mind, the committee is recommending virtually a full restoration of the administration request in title I of the bill.

I think it is important to underscore the lower level at which we are starting because of the 2-year interval. Likewise, in terms of the real figures from last year, the apparent $200 million increase that the Senate figure represents from a year ago, in itself is in the development loan category. This derives not only from the fact that we are starting with a lower figure this year, but because the Congress, in its wisdom, earmarked approximately $100 million—for population programs throughout the world. As a consequence of that, some 30-plus million dollars in this hemisphere and $65 million elsewhere, we will find a sizable chunk of the development loan funds already labeled and set aside. So, to accommodate to the specification, we felt that the restoration of the $200 million in that category was very much in order. Except for that particular category, the other areas are approximates of the action of the Senate a year ago.

Mr. President, the budget estimate for foreign assistance and related programs for fiscal year 1971 totaled $4,416,539,000. The committee recommendation provides for new obligational authority amounting to $4,143,639,000, which is $1,922,678,000 over the sum allowed by the House but $272,900,000 under the estimate The sum recommended by the committee includes $1,540,000,000 for the increase in quota of the International Monetary Fund.

The estimate for the increase in quota of the International Fund was contained in Senate Document 91–110, dated November 17, 1970, thus the amount was not considered by the House. Therefore, if the $1,540,000,000 is deducted from the $1,922,678,000 which is the sum by which the Senate bill exceeds the amount recommended by the House, the amount of the Senate increase over the House-passed bill is $382,678,000.

Title I of the bill, which contains funds for economic assistance, military grant assistance, and the Overseas Private Investment Corporation—OPIC—includes a total of $2,204,400,000 for these purposes for fiscal year 1971.

The committee recommends $1,816,900,000 for economic assistance; $37,500,000 to be added to the reserves of the Overseas Private Investment Corporation; and $350,000,000 for military grant aid.

It would appear, Mr. President, that the committee has appropriated funds almost equal to the budget estimate for title I. However, the amounts set out in the bill do not tell the full story because the 1971 budget estimates were necessarily reduced to comply with the 2-year authorizing legislation passed in the first session of the 91st Congress. It will be recalled that this authorization provided $2,286,185,000 for both military and economic aid and for the Overseas Private Investment Corporation for each of the fiscal years 1970 and 1971, which amount

was $423,835,000 under the administration's request for fiscal year 1970 of $2,710,020,000. Necessarily, then, the administration's request for fiscal year 1971 had to be within the ceiling established by the previously passed authorizing legislation, and under the amount requested for fiscal year 1970 by $423,835,500.

Mr. President, in recommending almost the full amount of the necessarily reduced budget estimate in fiscal year 1971, the committee has taken cognizance of the fact that the need for economic and military aid is presently far greater than the budget estimate that was sent to Congress in January of this year. In fact, Mr. President, as this bill is being presented to the Senate, a supplemental estimate in the amount of $1,035,000,000 was just recently received by the Congress.

While the amount recommended by the committee for title I of the bill is more than a half billion dollars above the sum recommended by the House, the differences on an individual item basis are not that great. Actually, divergence of opinion between the House and the amount recommended by the committee is concentrated in four items; namely, the General Development Loan Fund, development loans for the Alliance for Progress, technical assistance, and supporting assistance.

For the General Development Loan Fund, the committee has recommended and appropriation of $570 million, which compares with the House allowance of $280 million. Thus, the committee has increased the new obligational authority for this item over the amount recommended by the House by $290 million. Of the amount added by the committee, $65 million is earmarked for carrying population programs authorized by title X of the Foreign Assistance Act of 1961, as amended.

For the development loans for the Alliance for Progress, the committee recommends a new obligational authority of $337,500,000, which compares with the House allowance of $225 million, an increase of $112,500,000 over the amount recommended by the House. Included in this appropriation is $30 million for population programs authorized by title X of the Foreign Assistance Act of 1961, as amended.

For technical assistance, the committee has recommended the full amount of the budget estimate of $396,870,000. This sum is divided into three separate technical aid programs. First, the worldwide technical aid program, which has a budget estimate of $183,500,000; second, the Alliance for Progress program with a budget estimate of $90,750,000; and third, for the various multilateral organizations a budget sum of $122,620,000.

The House made considerable reductions in the technical assistance program totaling $86,870,000 below the budget estimate and divided the reductions among the three aforementioned categories as follows:

For worldwide technical assistance, the budget estimate was reduced by $33,500,000, from $183,500,000 to $150,000,000.

For technical assistance, Alliance for Progress, the budget was reduced $15,750,000, from $90,750,000 to an even $75,000,000.

For multilateral organizations, the budget estimate was sliced severely by $37,620,000, from a budget estimate of $122,620,000 to $85,000,000.

Mr. President, the committee feels that perhaps the strongest overall program in the foreign aid field is in the area of technical assistance, which includes both bilateral and multilateral technical aid. Included among the multilateral aid programs is the U.N. development program, the U.N. Children's Fund, and the U.N. population programs.

In addition, for fiscal year 1971 the amount made available for the multilateral organization technical aid program includes $2 million for the initial operation of the special fund that has been created to finance the expanded U.N. drug control program. In this connection, on July 28, 1970, a resolution of the Economic and Social Council of the U.N. which was initiated by the United States, called for a special meeting of the U.N. Commission on Narcotic Drugs on September 28, 1970, in order to prepare a worldwide plan of attack against the explosive growth of drug addiction and its causes. At this session, the Commission recommended a substantial increase in the U.N. drug control activities and proposed that a special voluntary fund be established to finance them. The $2 million provided in the pending measure is in response to this recommendation of the Commission.

Title II of the bill, Mr. President, contains a House allowance of $272,500,000 for foreign military credit sales. Needless to say, authorizing legislation for the credit sales program appears to be helplessly deadlocked in a House-Senate conference at this time; consequently, the committee has not recommended any appropriations for this program for fiscal year 1971. However, since the House has included funds for this item in the bill, the amount ultimately allowed to fund this program will necessarily have to be resolved when a conference is held on this bill.

For title III of the bill, the committee has included a total of $1,939,239,000 to fund the Peace Corps, the administration of the Ryukyu Islands by the Army, assistance to refugees in the United States, the migration and refugee assistance program administered by our Department of State, subscriptions to the Asian Development Bank and the International Development Association, and an increase in quota of the International Monetary Fund. For all of these items, the committee has made the full budget estimate available with the exception of the Peace Corps wherein the committee recommendation of $94,500,000 is $4,300,000 below the budget estimate and the amount authorized by the Congress. I might add that this reduction of $4,300,000 was requested by the Deputy Director of the Peace Corps, Mr. Houser, when he appeared before the committee earlier this year.

Title IV of the bill, Mr. President, contains items covering the limitation of program activity and administrative expenses of the Export-Import Bank. New obligational authority is not involved in the case of the Export-Import Bank because Congress has authorized it to operate on borrowing authority from the Treasury. With regards to these limitations, the committee has concurred with the budget estimate and the amounts recommended by the House of $4,075,483,000 for program activity and $6,613,000 for administrative expenses.

Mr. President, this concludes my presentation on the bill. I am ready to answer any questions that Senators might have regarding any of the items in the bill.

Mr. FONG. Mr. President, I want to commend the distinguished chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations for doing an outstanding job in guiding the foreign assistance appropriations bill through the committee hearings and markup sessions. His broad experience in and keen understanding of foreign affairs were very instrumental in forging the appropriations bill that we have before us.

Mr. President, it is a fact that in the past few years interest among many Americans in the problems of the less developed countries of the non-Communist world and the U.S. effort to assist these countries have declined.

The reasons for this decline in interest and participation are both numerous and varied. They include: First, a growing preoccupation with pressing domestic problems and needs; second, a continuing Vietnam war demanding tremendous outlay in dollars; third, an easing of cold war pressures; fourth, numerous reports of waste in and mismanagement of assistance programs; fifth, conflicting reports on the effectiveness of development assistance in achieving stated goals; sixth, dissipation of agricultural and industrial progress by rapid population increases; and seventh, a lack of demonstrated appreciation.

It is generally agreed, however, that one of the main reasons for our participation is that, as the most powerful free country in the world, the United States has a fundamental interest in a peaceful and improving world environment. Today, many speak of the "community of nations," suggesting a new world order in which narrow conceptions of sovereignty and self-interest are replaced by a consciousness of the interdependence of nations. This in turn suggests the need to contribute to the building of a world community in which a reasonable level of material welfare comes within reach of all the peoples of all nations.

Just as we have learned that we can be neither safe nor comfortable in a nation sharply divided between the well off and the deprived, so must we also recognize that no wealthy nation can be safe or comfortable in a world where a majority of mankind is still impoverished and in need of hope and assistance.

Though great is our desire to help the developing nations of the world to achieve self-sufficiency in the shortest possible time, increasing and continuing deficits in our national budget, combined with greater demands of our people to

improve pressing needs at home, have accounted in a large measure for the modesty of this bill.

A perusal of the Senate figures indicates that the committee has appropriated funds almost equal to the full budget estimate. However, the amounts do not tell the full story because the 1971 budget estimates were necessarily reduced to comply with the 2-year authorizing legislation passed in the first session of the 91st Congress. This authorization provided roughly $2.2 billion for both military and economic assistance for each of the fiscal years 1970 and 1971.

While the Appropriations Committee has restored almost the full amount of the reduced budget estimate for fiscal year 1971, the committee is aware that the need for economic and military assistance may presently be far larger than the original budget request. The increased need can be attributed to the following developments: First, events in the Middle East have adversely affected an already grave foreign exchange reserve position for Israel; second, President Nixon's decision to reduce American troop strength in Korea has prompted the need for additional military aid to South Korea; third, the acceleration of the Vietnamization process and the expansion of the war in Cambodia has made it necessary for increased military and economic aid to that area.

Mr. President, in weighing the pros and cons of our foreign aid program in light of the various demands on our tight budget situation, I have come to the conclusion that the merits of the program far outweigh the demerits of it and that the request for financial assistance should be supported. I therefore request my colleagues to give this appropriations bill their favorable consideration and support.

Mr. JAVITS. Mr. President, I want to raise some questions with the distinguished Senator about a part of the bill which repeatedly has come to my attention while serving as a U.S. delegate to the United Nations this year; that is, the provision contained under supporting assistance of roughly $13.3 million for the United Nations Relief and Works Agency—UNRWA—which must be considered as coupled with the rest of the $8,900,000 in commodity assistance, making a total of $22,200,000 with respect to the operation of this agency. UNRWA deals with Palestine refugees wherever they may be—mainly on the west bank of the Jordan, under the military control of Israel—also in Jordan, Lebanon, Syria, and the Gaza Strip.

As Senators will note, there is in the bill a specific provision for $1 million additional for the education of these refugees.

I have looked into the situation carefully at the United Nations, and have also talked with the Director of the United Nations Relief and Works Agency.

It will be recalled that there has been acute dissatisfaction in the Senate, and in the other body, with the operation of these camps—alleged Palestine Arab refugee camps—which were the central source of one side of the recent bloody civil war in Jordan.

The camps have been considered primary centers for the training of guerrillas and commandos, and the headquarters of the Al Fatah—an Arab guerrilla organization. Even further, it is known that one camp was used as a place of concealment for the hostages from the hijacked aircrafts. These are serious matters.

In addition, the whole UNRWA operation looks like a bottomless pit in the sense that we are supporting a large number of people who are not being incorporated into existing nation states. The committee report points out, on page 13, the numbers involved, which I would like Senators to note.

It points out the number of refugees registered with UNRWA now numbers 1,409,659, of whom 819,388 are receiving rations from UNRWA. This complex of circumstances indicates that the whole operation is going nowhere and is simply a holding operation. When this is coupled with the abuse and actions so contrary to the policies of our Government emanating from the camps which are supported by an international agency to which the United States contributes 55 percent of total support, there are grounds for serious worry and concern. That is why we wrote into the authorization act—and I now refer to section 301(c) of that act, as amended, Public Law 91–175, which is the enabling statute to the appropriation which reads as follows:

> No contribution by the United States shall be made to the United Nations Relief and Works Agency for Palestine refugees in the Near East except on condition that the United Nations Relief and Works Agency shall take all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee receiving military training as a member of the so-called Palestinian Liberation Army or any other type of guerrilla organization or engaged in any act of terrorism.

Mr. President, before I ask the Senator a question, I would like to say that for years, notwithstanding my deep feelings about United States-Israel relations, I have supported the U.S. participation in UNRWA in such a major way to alleviate the plight of the Palestinian refugees. I still feel that this continues to be a critical element of stability in that area of the world.

I deplore the fact that we have now seen cases of very grave abuse that are so inimical to the interests of the United States and peace in the area. I have described those. There is a dismaying lack of progress in moving toward some real settlement with respect to the refugees which will terminate the need for an UNRWA-type of operation.

There is no question about the fact that a solution to the refugee problem must be incorporated into a peace settlement in the area or we will never be free of the terrible exacerbations caused by this problem.

Under all these circumstances, and bearing in mind that the mandate of this agency given by the United Nations expires in 1972, we are getting toward the point of deciding whether we want the United States to continue along the old UNRWA path.

I would like to ask the Senator, who has been very understanding in this situation, two questions:

First, did the committee receive any information to make it feel that the proviso which we wrote into the enabling legislation is being taken seriously, so that we are able to find out that the U.S. contribution is not being used to furnish assistance to any refugee receiving military training as a member of the so-called Palestinian Liberation Army or any other type of guerrilla organization or any refugee similarly engaged in any act of terrorism. That is pretty hard to believe, considering the recent civil war in Jordan.

Second, I wish to ask the Senator whether the committee considered having our State Department do something about terminating soon this anomalous situation, especially of terminating the present type of UNRWA operation—which has now been going on for 20 years.

Mr. McGEE. Mr. President, I say to the Senator from New York in regard to the first question that this refugee assistance has been carefully screened and that its recipients have been doubly screened to ascertain insofar as possible in this kind of difficult situation that the assistance is not going to someone receiving military training or is not treated in some other way that would be equally complicated and costly in terms of its original purpose.

We did go in depth into this question with the agency spokesmen and pressed them constantly for a followup on this. We have been steadily reassured that this extra scrutiny has been constant and that they have satisfied themselves as closely as is humanly possible that the individuals who receive it have qualified for it and do indeed meet the limitations of the proviso which this body included in the measure a year ago.

We are satisfied that this is a genuine effort rather than a nominal one and that it is being held to a minimum.

I say that advisedly because, as the Senator from New York and I both know, in that case there is a somewhat fluid situation under very tortuous circumstances and one can never be absolute in his judgment how tightly it is being followed through.

We are satisfied that the effort being made is a very real one.

I share with the Senator his expression of thought that, as frustrated and as complicated as this whole noteworthy operation has become, there would probably be something even worse than the kind of slippage the Senator has made reference to and that there would be something from this body that would even worsen the atmosphere with respect to possible face-to-face confrontations in the whole troublesome Middle East situation.

I think we are in agreement that this would not be the time to introduce such a new factor as would make even more difficult the prospects of a peaceful settlement in that part of the world.

With that in mind, we had to do the best we could with this very nasty situation and try to ride herd on it and keep the reins as tightly in our hands as human frailties permit. This is being done.

The ultimate termination of the matter, I would like to suggest, would be a little further down the road when we have a chance to see that the ultimate events make possible some settlement of some of the major differences in that part of the world.

Mr. JAVITS. Mr. President, would the Senator say that it would be the mood of his committee that we are not to be taken for granted and are not going to continue to go along with the UNRWA payment for another period of years on this "bottomless pit" basis?

Mr. McGEE. Mr. President, the mood of the committee is very clearly one to make certain that if this does not show a chance of correcting the conditions that brought it into being in the first place and if it does not show a chance of getting some place, even though it might take longer than hoped for at the outset, we are not interested in perpetuating conditions that the Senator referred to as a bottomless pit. It has been making headway. We are hopeful that new proposals and new formulas will be advanced for trying to resolve the refugee question in still other ways if it is possible to achieve a settlement of conditions in that part of the world. Just where those lines are to be drawn will have to await a settlement.

Mr. JAVITS. Mr. President, I would like to be sure that the UNRWA resolves this matter in a way that assures it does not give aid to any refugee involved in commando activities or of such people being on the ration list.

As the Senator says, I am sure there are plenty of holes in that. However, at least the Senator noted that our people are trying to see that the people who receive rations are not commandos. One never knows what happens to the rations when they get into the hands of a family. Undoubtedly, commandos eat many of the rations.

There is one thing that we should know about this matter. Although they do not actually maintain camps, they do furnish certain essential services. For example, water and sanitation are supplied by UNRWA. They furnish also other types of services.

I would hope very much that the committee would make it very clear to our authorities that we expect strict accountability in this matter. As we already know, because we have seen it, these camps have been used as the bastion of the effort to overthrow the government of King Hussein. They have even been used as a place in which the hostages from the hijacked aircraft were kept.

This is not acceptable to the United States and is contrary to the legislation passed by Congress concerning the use of U.S. funds by UNRWA.

When the chance is present, I hope that something far more constructive will be done about the Palestinian refugees than has been done until now.

Mr. McGEE. I believe the Senator is precisely correct that our buying time, in effect, is an operation that must have a terminal point. In most cases, time cannot be bought forever.

But I would again urge that there are other explosives present in this situation. It is unfortunate that the desperate plight of a younger generation of kids, who never knew anything in their lifetimes but hate because of having survived in these camps, become the tempting and almost automatic shields for these guerrilla operations to which the Senator referred; but there is still the case to be made from the humanitarian point of view for those in these operations and our effort is that we do not become unwitting humanitarians without weighing the other imbalances which the Senator so forcefully has set before us.

Mr. JAVITS. I thank the Senator. I believe this colloquy will be helpful to our authorities and the agency. I think it is a set of injunctions which is very badly needed. I thank the Senator.

Mr. McGEE. 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. McGEE. 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. McGEE. Mr. President, if the Senator from Oregon would like to have the floor in his own right, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, first of all, I am sorry I did not get in on the full colloquy between the distinguished Senator from New York (Mr. JAVITS) and the manager of the bill, the Senator from Wyoming (Mr. McGEE), because actually what I wish to address myself to at this time has to do with the subject of the UNRWA part of the budget and the underfunding of the refugee program which is represented by the $6 million deficit facing UNRWA today.

I had planned to offer an amendment at this time to increase the foreign aid budget by $1.5 million, merely to bring the United States up to the pre-June 1967 war percentage of our contribution to UNRWA, which at that time was 70 percent.

I shall not offer the amendment at this time. It is an amendment in which the Senator from Massachusetts (Mr. KENNEDY) had joined me. Rather, I will wait until the next session to make the case before the Committee on Appropriations.

Today I would like to comment on the tremendous need in the Middle East which is represented by 1.4 million human beings, our fellow human beings. I hope we can look at these people, not in titles or terminology of refugee or something impersonal, but that we think of them as human beings and realize there are some things we can do now, short of a full-blown conference to settle the political problems in the Middle East. Too often we fail to do things we can do to alleviate human suffering, which gives much fuel to the political problems we find difficult at the conference table.

The UNRWA budget today is functioning at 10 cents per refugee per day: 5 cents for food, 4 cents for education and technical training, and 1 cent for medical care and sanitation.

It is like many other things we learn to live with, by the fact they have existed for so long a time. If one were to visit refugee camps on the Jordan side of the river, as I have, one could not help but sense the human anxiety and suffering which gives rise to many of our political problems. That is why I feel we must do more than we have been doing to remove the causes of war, and other than to merely come up with some military answers for military problems that really are rooted in human problems.

Let me make clear that there is no responsibility which UNRWA has for the security of the area. Let us not confuse the military and political situations of the area with UNRWA, which deals totally with human suffering.

The UNRWA budget faces a $6-million deficit. This is due to the increasing number of refugees. Bear in mind that some of these refugees have been in camps since 1948 and they are increasing within the camp by natural procreation, and the increased numbers fleeing into camps from homes disturbed by political consequences of the times.

Cuts will be necessary if additional funds are not found, and education and technical training will be the areas in which cuts are first made. There must be funds for these areas because one finds in the past where men had the skills or semiskills they found themselves out of these camps. The main thing is to get the people out of the camps. As long as they remain in the camps we do more to provide backing for the Fedayeen, the Al Fatah, and other guerrillas than any one thing I know of.

Commissioner-General Laurence Michelmore recently reported that they cannot even supply the refugees with their monthly ration of soap due to this deficit. Things are in crisis proportions. We can realize these consequences and the evil and the bad that exist by even having such camps.

We further alienate the young who stand to benefit from the education and technical training, in that it will decrease their hope for the future and leading productive lives and it could push many of them toward the Fedayeen and create more violence in the area.

The United States contributed more than any other country in the past and up until the 1967 war our percentage was 70 percent of UNRWA's funds. Today it has decreased to 56 percent. In the foreign assistance appropriations bill of 1971 we find $13.3 million authorized and an additional $1 million recommended by the Commmittee on Appropriations as passed by the House.

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

Mr. HATFIELD. I yield.

Mr. McGEE. We have $13.3 million plus $8.9 million. That makes the total actually $22.2 million.

Mr. HATFIELD. I understand.

I thank the Senator from Wyoming.

If we add the $1.5 million, which I think should be the amount required to bring our part up to the pre-1967 level and help the agency meet its $6 million def-

icit, it would be for present needs only. It would not be for the expansion of the needs or for other problems that have gone unresolved in the refugee camps.

I want to emphasize that this would merely bring our portion of the $6 million deficit up to the prewar figure of 70 percent.

The administration recently requested a $1 billion appropriation for military equipment for Southeast Asia and Israel. All we would ask for here in order to bring this figure back up to our percentage of 70 percent would be $1.5 million, which is only .15 percent of the requested supplemental appropriation.

The amount we are requesting for UNRWA could lead to significant progress in alleviating the primary cause of the tragedy besetting the Middle East: the plight of the Palestinians.

I believe that peace will not be reached in the Middle East through military means alone. Until we realize this fact and effect a policy to deal with this reality, we will only create more misery and decrease the possibility and the hope for peace.

Even though we can get more excited about billions required for military appropriations, I wish we could bring into focus the requirements of human beings, which can be met with millions rather than billions, and get the right kind of priority.

I ask unanimous consent to have printed in the RECORD my testimony before the Appropriations Subcommittee for Foreign Operations relating to the problem of UNRWA.

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

TESTIMONY BY SENATOR MARK O. HATFIELD

Senator HATFIELD. My purpose in submitting testimony to this Committee is to stress to you the importance of increasing the contribution of the United States to the United Nations Relief and Works Agency (UNRWA) not only for increased technical-vocational training but also to alleviate the cash deficit UNRWA is facing in trying to meet its operational costs.

UNRWA is the primary agency dealing with the Palestinian refugees. Its responsibilities range from providing technical-vocational training to provide food, shelter and medical facilities for more than 1.5 million Arab refugees in the Middle East. The role UNRWA has played over the past two decades in this troubled area of the world has been of critical importance in giving the Palestinian refugees a constructive hope for the future and in mollifying the refugees' intense feelings of frustration, alienation and injustice. Some have argued that UNRWA is financing, consciously or unconsciously, the various guerrilla groups which have sprung up from the ranks of the Palestinians since the Six Day War in 1967. Through my travels in the area and the contacts I have developed, I have found no evidence to support this allegation.

I would like at this time to draw your attention to a "Letter to the Editor" by John Defrates, Chief, Public Information Office of the United Nations Relief and Works Agency which speaks to this important point.

JUNE 8, 1970.

The EDITOR,
Prevent World War III,
New York, N.Y.

DEAR SIR: In an article entitled "We Accuse UNRWA . . ." published in the winter-spring issue, 1970 of "Prevent World War III", serious allegations are made about UNRWA, leading to the conclusion that UNRWA is misusing funds placed at its disposal. The article is long on accusations and short on evidence, and the result is to give your readers a grossly distorted picture of the responsibilities and operational activities of this United Nations organization.

As the article has since been read into the U.S. Congressional Record, I am taking the trouble to explain the position of this Agency and I shall be glad if you will, in publishing this, give it the same prominence in your publication as you gave to the original article.

The function of UNRWA—and the purpose for which it is entrusted with funds—is to provide relief, health, education and training services for the needy among the Palestine refugees registered with the Agency and to provide assistance as far as practicable for other persons in the area who are displaced and in need as a result of the June 1967 hostilities.

This function is being carried out to the satisfaction of the United Nations General Assembly which, at its last session, again expressed its thanks to the Commission-General of UNRWA and his staff "for their continued faithful efforts to provide essential services for the Palestine refugees".

UNRWA has always taken all possible measures to ensure that contributions of governments and of other donors are used exclusively for assistance to persons whose eligibility has been established and who are present in the area where they are registered and in need of that assistance.

The criteria of eligibility have been defined in reports to the General Assembly, and the Agency's established administrative and budgetary practices and control mechanisms (including both internal and external audit) ensure that funds and supplies are safeguarded and that services and supplies are distributed only to persons previously determined to be eligible beneficiaries and identified as such at the point of distribution. Two-thirds of UNRWA's expenditures go to provide school-milk and hot meals for children, education and health services, which can only be used or consumed by the immediate recipient, and there is no possibility of diversion to an unauthorized recipient before or after the assistance is provided.

With regard to the monthly distribution of food commodities to refugee families, there is no evidence that supplies are subsequently transferred to military groups such as the Palestine Liberation Army or other similar organizations, and the Agency believes that *fedayeen* in training have their food and other needs met by these organizations and consequently do not benefit from UNRWA's assistance.

Since October 1969, the situation in refugee camps in Lebanon has been abnormal, in that armed men belonging to guerrilla organizations have been present and the Government's regular police and other staff have been absent. Arrangements for the governmental authorities to resume their normal responsibilities in these camps are still under discussion. Meanwhile, UNRWA's installations and services for the needy refugees in those camps, which accommodate only half the registered refugee population in Lebanon, have not been interfered with, except in a few isolated cases, and UNRWA's assistance has not been diverted to other purposes.

In east Jordan the number of *fedayeen* in the refugee camps has never reached the same proportions as in the camps in Lebanon in October/November 1969, and, so far as we know, no commando training has taken place within the boundaries of the refugee camps. The Jordan Government has continued to exercise its responsibilities within the refugee camps and, as in Lebanon, there has been no interference with UNRWA operations.

The circumstances under which UNRWA operates, which have always presented problems, have become much more difficult as the crisis in the Middle East has deepened and tensions have increased throughout the area. It is of the greatest importance that the essential needs of the refugees—for relief services, for health protection and especially for education and training—continue to be met, both from the humanitarian aim of ensuring the physical survival and health of the refugees and preparation of the young for a useful future life, and also from the standpoint of avoiding a catastrophic worsening of conditions in the area.

Consequently, the article "We Accuse UNRWA . . .", in attacking the integrity of UNRWA's operations and accusing UNRWA of "the gravest malfeasance", is not only grossly misleading but constitutes a disservice to those who are working for a just settlement of the refugee problem in the context of a just and lasting peace in the Middle East—the very peace which your publication claims to be working to advance.

Yours truly,

JOHN F. DEFRATES,
Chief, Public Information Office.

RESUMPTION OF TESTIMONY

Since the creation of UNRWA the United States has played a key role in that organization's development. Due primarily to the natural increase in the Palestinian population, UNRWA ended the last fiscal year with a $4 million deficit which was met by using its reserves for 1971, by cutting internal costs within the organization and by means of special contributions by various governments and voluntary organizations. This, however, leaves UNRWA facing a $5 million deficit for 1970–71 without any reserves. Consequently, the only manner in which the organization can meet this deficit without any new funding is to cut from general operating funds money previously allocated for technical-vocational training. This would have to be done in order to meet the more basic demands for food, shelter and medical facilities. The House of Representatives voted to contribute an additional $1 million for the "expansion of technical and vocational training of Arab refugees" which is very much needed and which I fully support, for this type of program is the source of hope for the refugees to meaningfully contribute to their society and is a major contributor to our hopes for peace in the Middle East.

I would like at this point in my testimony to include a general outline of the requirements for expansion of the technical-vocational training centers which have been proposed:

TABLE I.—ESTIMATED COSTS

Project	1970–71	1971–72	1972–73
A. Full exploitation of existing facilities			
1. Amman Training Center	$300,000	$350,000	$360,000
2. Gaza Vocational Training Center	80,000	80,000	85,000
Total	380,000	430,000	445,000
B. Expansion:			
1. Kalandia Vocational Training Center (1st phase)	620,000	.....	.....
2. Kalandia Vocational Training Center (2d phase)	.....	120,000	.....
3. Ein el Hilweh camp	.....	80,000	.....
4. Baqa's emergency camp	.....	370,000	.....
5. Huson emergency camp	.....	.....	470,000
6. Other projects	.....	.....	85,000
Total	1,000,000	1,000,000	1,000,000

EXPLANATORY NOTES TO TABLE I

A. Full exploitation of existing facilities

1. Amman Training Center

Prior to the June 1967 hostilities, the Agency's teacher training facilities for men and vocational and teacher training facilities for women in Jordan were concentrated in the West Bank at training centers located in Ramallah.

With funds (nearly $1,400,000) contributed by the American organization, NEED (Near East Emergency Donations, Inc.) a new training complex has been constructed on a site five kilometers south of Amman, close to the Amman/Jerusalem highway. When the center is fully operational in the 1971/1972 school year, 702 in the men's section; 250 teacher trainees and 152 vocational trainees in the women's section. The two sections will share certain common facilities e.g. library, assembly hall, science laboratories.

In the 1969/1970 school year certain minor staff costs will be incurred in the preparation of the center prior to its official opening in September 1970.

In the 1970/1971 school year a total of 487 students will enroll in teacher training courses and 76 students in vocational training courses.

The cost will rise to $350,000 during the 1971/1972 school year when the facilities of the joint center are used to full capacity.

No funds have been provided by NEED for the operation of the new training center.

2. Gaza Vocational Training Center

Originally built in 1954 for 187 day students in the mechanical, electrical and building trades, the Gaza Vocational Training Center was expanded in 1962 to accommodate 368 resident trainees in 12 courses. Even after this expansion there were still six or more applicants for every vacancy, and there is a growing need for vocational training for young refugees.

With funds (approximately $250,000) provided by Near East Emergency Donations, Inc. (NEED), the training and residential capacity of the Center is now under expansion from 368 to 556 places. Twelve courses, all of two years' duration, will be provided. 188 additional places will be available in the 1970/1971 school year.

B. Expansion

1. and 2. Kalandia Vocational Training Center (First and Second Phase)

Kalandia Vocational Training Center, located near Jerusalem, opened in 1954 and was UNRWA's first training center. Kalandia currently provides training facilities for a total of 376 students in the electrical, mechanical and building trades, and in commercial courses.

This proposal envisages the expansion of the center in two states—the first phase will be an additional 120 trainee places. Capital costs (construction and equipment) arising from the proposed expansion are estimated at approximately $2,000 per trainee. Recurrent costs (at $600 per year) over a five year period are estimated to be $3,000, resulting in a total cost of approximately $5,000 per place for a five year period. The second phase of the expansion will result in a further 24 places.

3. Ein el Hilweh Camp

The Agency proposes to establish in or near Ein el Hilweh refugee camp in Lebanon, one year courses (16 students in each course) to train young refugees as upholsterers and plasterer/tilesetters. Both courses, which will be on a day-student basis, will provide young refugees with the skills required to enable them to find local employment.

Surplus equipment for both courses is already available. Capital and recurrent costs for a five year period are estimated to total $80,000.

4. Baqa'a Emergency Camp

The Agency proposes to establish in or near Baqa'a Emergency Camp, in east Jordan, courses of one year's duration in the building and allied trades (i.e. builder/shutterers, plasterers, upholsterers, carpenters). The cost of establishing and operating such a center with a capacity of 100 places is estimated at:

Capital costs (purchase of prefabricated buildings, equipment, supplies, etc.)	$70,000
Recurrent costs ($3,000 per trainee for a five year period)	300,000
Total	370,000

5. Huson Emergency Camp

The Agency proposes to establish a similar project in or near Huson Emergency Camp in east Jordan, but offering instead one year courses for 100 refugees to train as general mechanics.

Capital costs (purchase of prefabricated buildings, equipment, supplies, etc.)	$170,000
Recurrent costs ($3,000 per trainee for a five year period)	300,000
Total	470,000

6. Other Projects

Consideration is being given to the establishment of a number of short courses in manual trades to provide refugees with the minimum skill required to enable them to find local employment. The comparative shortness of the courses would give such a project some of the virtues of a "crash" program and would reduce the element of capital cost in the training of each refugee.

RESUMPTION OF TESTIMONY

Senator HATFIELD. But money for purely operational purposes is sorely needed if UNRWA is to continue to adequately meet growing demands of increasing population. Last year the United States contributed $23.2 million, including the additional $1 million made available during that year. This, however, contrasts to the annual level of $24.7 million of earlier years. During that earlier time, prior to the June, 1967, war, the United States contributions comprised approximately 70% of UNRWA's government contributed income. Recently this annual ratio has fallen to 56% of the total. If our contributions were raised to the previously maintained level of $24.7 million, an increase of $1.5 million this year, as well as our calling upon other contributors to follow our lead, the deficit which UNRWA faces could be substantially reduced if not eliminated.

I would like to include in my testimony at this point a United Nations press release which includes the text of a letter from the Secretary General of the United Nations and a statement by the Commissioner-General of the United Nations Relief and Works Agency, both of whom stress the importance of the role UNRWA is playing in the Middle East and the gravity of UNRWA's present financial crisis:

SECRETARY-GENERAL TRANSMITS REPORT OF UNRWA COMMISSIONER-GENERAL ON FINANCIAL SITUATION OF AGENCY

Following is the text of a letter dated 13 August from the Secretary-General, U Thant, to member Governments of the United Nations, transmitting the report of the Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) on the financial situation of the Agency:

"I have the honour to transmit to you herewith a statement by the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East on the financial situation of the Agency. I trust that this statement will be brought to the attention of your Government as a matter of urgency.

"I share the concern of the Commissioner-General that it has been necessary already to curtail expenditures both by discontinuing certain subsidy payments to Governments, especially for health and education services, and by reductions in other parts of the Agency's programme. I also share his concern that further reductions in the Agency's services may have to be made unless its financial situation can be improved. Such reductions would inevitably, in the disturbed conditions of the area, have a profoundly unsettling effect.

"In the present circumstances, the Agency will be unable to meet its cash obligations beyond the first months of 1971, and its obligations will in effect exceed its cash assets by the end of this year. I earnestly hope that Governments will give urgent attention to this vital matter so that it will be possible for the General Assembly to act at the twenty-fifth session in such a way as to enable the essential work of the Agency to be maintained in the coming year.

"Accept, Sir, the assurances of my highest consideration."

Financial situation of UNWRA as of July 1970—statement by Commissioner-General

During the first half of 1970, the financial situation of UNRWA continued to deteriorate, and the threat of a breakdown in the Agency's services for the Palestine refugees became more imminent.

Appeals for additional funds, both within and outside the United Nations, and special efforts by the Secretary-General have brought a helpful response from a few contributors which is greately appreciated, but the total result has been quite inadequate. The income provided to the Agency is still nearly $5 million less than its total requirements. Since 1967 contributions have been at a higher level than than they were before, but the cost of providing essential services to the refugees has grown even faster.

Since 1967, the pattern of the Agency's expenditures to meet the recurrent costs of the principal programmes has been developing as follows:

[In millions of U.S. dollars]

	1968	1969	Estimated 1970	Estimated 1971
Recurrent costs:				
Relief services	19.0	19.7	18.7	18.9
Health services	5.4	5.5	6.0	6.3
Education services	16.2	17.6	20.3	21.8
Total	40.6	42.8	45.0	47.0

Note: Excluded from these figures are nonrecurrent costs for buildings, replacement of motor vehicles and other equipment, etc. Expenditures for school buildings, health centers, shelter and other improvements in the emergency camps are now made only if special contributions are received for these particular purposes.

As the above figures show, there has been very little change in the cost of maintaining basic relief services (monthly food ration, supplementary feeding, shelter, and special hardship assistance) at the minimum level. This is mainly due to the receipt of basic foodstuffs in kind and the restriction imposed by ration "ceilings." Health costs have increased (and in 1971 will be about 19 per cent above the 1968 level) because medical and sanitation services must be provided to more people, and the costs of supplies and wages have risen as well.

By far the most significant increase in expenditure has been in respect of education, which will have increased by 34 per cent in a

three-year period. This is principally due to the increased enrollment in UNRWA/UNESCO schools, largely as a result of the natural increase in the refugee population; for the school year 1970–1971 enrollment is expected to be 37 per cent above what it was at the end of the 1967–1968 school year. The level of teachers' salaries has also risen.

As income has fallen short of needs, the Agency has examined all possibilities of curtailing expenditure. In a sense this is a continuous process and savings have been achieved whenever possible from administrative economies or from reductions in programmes where feasible. Cumulative savings over recent years would amount to well over $1 million annually.

As foreseen in reports distributed to the General Assembly last year (A/7577, A/7614), much more far-reaching reductions have had to be considered. Some of them have been put into effect, at least provisionally until the General Assembly can once again review the Agency's programme and financing.

Expenditures have been curtailed by discontinuing certain subsidy payments to Governments, especially for health and education services, by discontinuing the distribution of soap with the monthly ration (except in the emergency camps), by reducing certain elements of the supplementary feeding programme, by reducing the number of university scholarships and by a number of other small economies. In total, these reductions would amount to nearly $2 million on an annual basis, and about $1.5 million up to 31 December 1970.

The possibility of proceeding with other reductions mentioned in the above-mentioned reports to the General Assembly has also been explored. In some cases, it was hoped that alternative ways could be found by which services could be maintained for the refugees but at lower cost to the UNRWA budget. These efforts did not succeed.

In view of the disturbed conditions in the area and the unsettling effect of further reductions in the Agency's services, the Commissioner-General in consultation with the Secretary-General and on the strong advice of the host Governments, has deferred the implementation of these further reductions in the UNRWA programme until the General Assembly can once again examine the problem.

Even if there are no adverse developments, and if contribution payments are received as and when anticipated, the Agency's obligations will, by the end of this year, exceed its assets in cash, or in a form readily convertible to cash; in fact, the Agency will not be able to meet its cash obligations beyond the first months of 1971.

Various possible means of providing additional funds to UNRWA were outlined in a note submitted by the Commissioner-General at the twenty-fourth session of the General Assembly (A/SPC/134). Members may find it of interest to review this paper in the course of formulating their views for the twenty-fifth session.

Unless the General Assembly acts at the twenty-fifth session, the likelihood is that the structure of the Agency will have disintegrated before the next session, either for lack of cash or, in the alternative, under the stresses caused by the dismantling of a major part of the structure in order to reduce expenditure.

RESUMPTION OF TESTIMONY

Senator HATFIELD. By raising our contributions to their previous level, giving $1 million for additional technical-vocational training and $1.5 million for operational costs, we will not only enable UNRWA to meet a financial crisis, but the United States will be making a most significant investment in the future peace of the Middle East as well.

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

Mr. HATFIELD. I yield.

Mr. AIKEN. The understanding of the Senator from Oregon for people in distress and need anywhere is well known. What he has said here today is simply an expression of that aspect of his character.

The treatment of the Arab refugees is one of the black spots in the history of the United Nations. This international organization has failed miserably in bringing about a solution to that problem. The situation today, the fact that they are $6 million behind in meeting their obligation, is not due entirely to the increase in the membership, although that is contributory, of course. It is due partly to the fact that certain countries have refused to pay their assessments for support of UNRWA.

I well remember 10 years ago when Yugoslavia presented to the U.N. a proposal to try to do something to solve the very bad situation in the Gaza Strip, and ran right into the adamant opposition of Russia.

I will say this: The President, last fall or early last summer, appointed a commission of 45 members to study the United Nations and make recommendations for improvements in its procedures. A subcommittee of 15 members is supposed to be working intensively, trying to come up with recommendations to make the organization more effective. I happen to be one of those 15 members. We are meeting in about a week here in Washington, and I shall be very glad indeed to present this situation to them again in the hope that even if we accomplish little, we will have made correct recommendations and put the responsibility where it belongs.

Should we fail completely, then I would expect that when the Foreign Relations Committee meets next year to consider foreign aid, if the Senator from Oregon presents this proposal for the United States to assume more of the burden, he will receive a very sympathetic hearing.

Mr. HATFIELD. I am very grateful to the Senator from Vermont for his comments and for his sympathetic understanding of this problem. I would only comment further by saying I believe it is a very, very inexpensive investment, even if the United States should have to bear, as we have on many other occasions, an out-of-proportion kind of responsibility for funding all these programs. We do not find the problem oftentimes in the matter of military weapons, but we do find it increasingly difficult to get funding for some of the human needs.

I would like to repeat something that was a great truth at the time it was applicable, and which would be true today. In the period of World War I, Mr. Herbert Hoover was director of food relief for the Low Countries, which were under great siege at that time, and the pressure was on for maintaining the Allied military blockade of the Low Countries. Mr. Hoover was fighting the possibility that the blockade would preclude his program of getting food to the civilian population of Belgium and the Netherlands.

The political personalities of that day who were in leadership of our respective allied countries were pressed by the military, on one hand, to continue the blockade, to prevent the relief program Mr. Hoover was heading, on the ground that we would make it more difficult for the German armies, by forcing a situation of starvation on the civilian population and making it more difficult to occupy the Low Countries, and permitting the Allies to achieve our military objective sooner. That was the argument of the military leaders.

On the other hand, Mr. Hoover countered by saying, which had more than an element of truth, that they might be able to achieve a more immediate or short-range military objective, but if the objective of ending World War I was to bring about a world in which we could have peace, then we would be sowing the very seeds for World War II by this very kind of inhuman action of forcing starvation and death upon civilians and nonmilitary people.

So it is in the case of the Middle East that we have human suffering that is going on unabated, that has been accepted as a way of life, that we, as a leading ethical nation of the world, have permitted. I believe we have reaped a lot of military plums for not acceding to human needs—namely, food, clothing, and shelter for displaced people who are called refugees.

I would like to feel that our committee could give not only a sympathetic hearing but some action that would bring about relief. I would venture the guess that it would ease military tensions and bring about a solution a little sooner than if we permitted this kind of infestation of poverty and hunger to go on, which would only cause more hostility and resentment on the part of the guerrillas of the Middle East.

I yield the floor.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McGEE. Mr. President, I have advised that the Senator from Missouri (Mr. SYMINGTON) is submitting a proposed amendment to the pending bill. The point of the amendment, which I shall now explain, would be to forgive payments for 1971 and 1972 on loans made for the benefit of the Weizmann Institute in Israel by the Agency for International Development.

The purpose of the proposed amendment is to try to assist the institute in achieving its request for some funds made necessary by the war going on there now, which has interrupted the flow of finances into the institute.

The committee was not able to recommend the total amount that they felt they needed, and that they verified in the hearings, simply because the requested amounts were not available for as many institutions as were in need.

As chairman of the subcommittee, I would express the view that we would be willing to take this proposed amendment to conference and see what might be done in that regard. If the payments

were waived for 1971 and 1972, what would be waived would be payments of approximately $1.3 million for each of those 2 years, which would bring the totals granted to the Weizmann Institute in this particular action to something over $3.1 million.

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

Mr. McGEE. I yield.

Mr. ELLENDER. Is this merely a postponement, or a cancellation?

Mr. McGEE. The proposal is that this would be a cancellation for only those 2 years—not, I repeat, for their other loans—because of the war.

Mr. ELLENDER. What is the total amount due, outside of what is being canceled out?

Mr. McGEE. The total amount due is about $22 million, and this amendment would not tamper with the balance of that. It is simply an expedient measure because of the war.

Mr. ELLENDER. As I recall, we have had no hearings at all on this issue, and the matter has not been submitted to the committee as a whole.

Mr. McGEE. That is correct. That is the reason that I was cautious about proposing a way in which we could give it some consideration. Perhaps taking it to conference would accomplish that.

Mr. ELLENDER. If the Senator does that, I hope he will obtain facts sufficient to submit it properly to the conference.

Mr. McGEE. We will have our ammunition available at the conference.

Mr. ELLENDER. I thank the Senator. Mr. President, I wish to make a very short statement.

As the record shows, I have been opposed to money requested for the aid programs since the early 1950's.

Many people believe that this program is being gradually phased out, when as a matter of fact it is not. The amount that we are now being asked to appropriate is far in excess of what we appropriated last year and in prior years.

I have been opposing the present program for quite some time, not because I am closeminded or prejudiced toward it but because I have studied the subject closely and found that the facts warrant my opposition.

I have made many trips throughout the world, examining the administration of this program, and, to say the least, there has been much waste of U.S. taxpayers' money.

The Committee on Foreign Relations has provided for a 2-year extension of this program, and this happens to be the last of those 2 years. I am very hopeful that when future authorizations are presented, this whole program will be minutely reexamined in the hope that we can drastically taper it down.

Mr. President, our national finances today are in bad shape. The last figures that I have been able to obtain on our overall national debt show it to be approximately $382 billion.

I have been in Congress 34 years come January 3. My first year here was the beginning of the 75th Congress, and that year both the Senate and the House of Representatives felt that President Roosevelt was being extravagant when he proposed that we appropriate for the first session of that Congress the sum of $9,184,000,000 to finance all the expenses of Government, including payments on the national debt.

During the second session, we appropriated $10,339,000,000, or a total of $19,523,000,000 for the entire appropriations during the 75th Congress.

Mr. President, the record now shows on this huge debt to which I have just referred, we must now cough up $21,600,000,000 annually—merely to pay the interest on our debt. And here we are, with this huge sum that we owe, with all the interest charges that we are compelled to pay each year, being asked to appropriate, under this bill, according to the committee report, which I have before me, $4,143,639,000.

This aid program started in 1948, as I recall, and the amount appropriated during that year was not quite as large as what we are now being asked to approve. Moreover, the sum I have mentioned does not cover all of the foreign aid. In addition to the sums I have just mentioned, in the Defense Department appropriation bill an additional $22 billion will be appropriated for South Vietnam and Southeast Asia, which must also be added in order to give a true picture of our foreign aid expenditures.

And, Mr. President, we should add to what we are providing in this bill the $1.5 billion we are spending for Food for Peace—and you cannot buy that with collar buttons; it takes cash to do it. Also, we cannot ignore the various contributions that our Government is making to the various banks to which we are now providing funds, and for which we expect no returns—not a dime. In the pending measure there is $20 million for the Asian Development Bank and $160 million for the International Development Association.

In the huge international funding bill (H.R. 18306), which will be taken up by the Senate in the near future, there is $1 billion to be authorized for the Inter-American Development Bank; an additional $100 million for the Asian Development Bank; $246.1 million for the World Bank; and the $1.54 billion for increase in quota of the International Monetary Fund, which is provisionally appropriated in this bill.

Mr. President, I believe it is time for us to wake up to our own condition. I have just returned from a trip over eastern and western Europe. I was not surprised at the prosperity I saw there. It is quite apparent. All those countries are doing well. They are trading with Russia, as well as with the countries of East Europe, and all are prosperous.

I am preparing a report that I hope to have ready early next year, and it will show astounding facts as to the condition of NATO, an organization that I have hoped for some time we would do away with. I looked into the condition of that organization 10 years ago, and the facts that I brought back to the Senate 10 years ago were unbelievable. Most of the divisions to be furnished by our allies were mere paper divisions. They were not combat ready. The only divisions actually combat ready in 1960 were our five divisions and a brigade from Canada. Out of the 12 divisions Germany was supposed to have there, all were paper divisions.

As to the situation prevailing there now, I cannot state now my conclusions in detail, because I do not have all the facts available, but I hope to finish compiling these within the next 60 days. I will be ready then to present to Congress a full report of the conditions in many of the countries of Eastern and Western Europe.

The countries of Western Europe are well able to provide for their own military preparedness, but somehow we must remain there. We have been there now for more than 20 years. We are carrying a big load with our 6th Fleet in the Mediterranean. We are carrying a big load throughout Europe. From the last reports I have been able to obtain, our yearly NATO obligations amount to almost $14 billion. I wonder how long we can keep that up and remain solvent.

Mr. President, I am very hopeful that the Committee on Foreign Relations can look into this foreign aid program again and look at it in light of our present financial conditions. To say the least, our financial condition is poor, and it is getting worse—with a budget deficit last June amounting to more than $2 billion. For the current fiscal year, the deficit could be as high as $20 billion. The carrying charge on this deficit alone will be almost $1¼ billion per year.

As I said earlier, all told the interest charge on our huge debt now amounts to $21,600,000,000; and if we continue this deficit spending as we have in the past, I fear for what is going to happen to our economy.

Mr. President, I just thought I would give these facts to the Senate. I am aware that I cannot defeat this foreign aid bill. I tried repeatedly in committee in the various areas and failed. However, I am not giving up. I will do my best to cut back on future authorizations of aid and I will carry the fight in the Senate Appropriations Committee.

As I have said, instead of this aid money decreasing, in view of the prosperity in Western Europe and in other parts of the world, we are being called upon to give more and more, something we cannot afford, and in the process we do violence to our own economy.

I repeat that I am very hopeful that if, as, and when the Committee on Foreign Relations looks into the foreign aid program for the next few years, before coming to Congress and saying how much we should continue to donate, give, grant, and loan at cheap rates of interest, that committee will take into account the condition of our own finances.

Mr. SYMINGTON. Mr. President, it is my understanding that at the desk is an amendment reading:

At the end of line 24 on page 2, delete the period and add the following,

And so forth. I call up that amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, delete the period "." and add the following: ", and the payments due in

1971 and 1972 on loans made for the benefit of the Weizmann Institute of Science by the Agency for International Development from funds available under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (P.L. 480) are hereby waived".

Mr. DOLE. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

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

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. COTTON. Mr. President, I ask unanimous consent to have printed in the RECORD a statement prepared for delivery by the Senator from Arizona (Mr. GOLDWATER).

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

RESTORING SIGHT THROUGH FOREIGN AID

Mr. GOLDWATER. Mr. President, the pending appropriation measure contains a small, but vastly important, amount of funds programed for the International Eye Foundation. As the sponsor of an amendment to provide $200,000 for this excellent organization, I would like to thank the Chairman of the Subcommittee on Foreign Operations, Mr. McGee, for his role in approving this sum. Next I would take only a few minutes of the Senate's time to discuss the purposes of the International Eye Foundation and to demonstrate why it is essential to provide Federal support for its programs.

Mr. President, the IEF came into being nearly 10 years ago. It is an American-conceived and American-manned program. In short, its aim is to succeed as far as possible in conquering world blindness.

This is an imposing task and, of course, the IEF cannot reach the goal alone. There are more than 16 million blind people in the world and the IEF has only a small paid staff and a force of volunteer physicians and nurses.

The IEF strives towards its goal by seeking to teach American skills to local doctors in host countries around the globe. In other words, the IEF runs a true "people-to-people" program. Its projects are undertaken at the request of the host country and are designed to phase out after a few years, leaving behind a self-supporting eye surgery-blindness prevention unit run by local people.

In a true sense, America is, through the medium of the International Eye Foundation, sharing its surgical knowledge with the world. And doing it on a free basis. This organization functions solely through the volunteer services of eye surgeons from hospitals and universities from all across the United States, who are sent to foreign areas where the need for their skills are the greatest. They operate, teach local doctors the intricate techniques of cornea grafting, instruct nurses in post-operative care, help organize eye banks, and at the same time, provide the education necessary to prevent blindness wherever possible. In every instance, the spirit of self-help is encouraged, and thereby the local doctors themselves become able to provide the care their people need.

Actually, the International Eye Foundation was first founded under the name of the International Eye Bank. However, soon after its beginning, there developed a groundswell of demand not only for the services an eye bank could provide, but also for the operation of training programs and instruction in methods of preventing blindness. These pressures continued to grow, and as a result, the Eye Bank took on more and more responsibility for providing both care and education. Thus it evolved in to the International Eye Foundation.

The Foundation is now being and always has been operated entirely as a people-to-people program. It has been operated solely with volunteer services and volunteer contributions of financial support. And, the Foundation has achieved a remarkable record.

It has conducted a very successful eye bank program which has provided eye tissue for over 6,000 cornea transplants. It has furnished training opportunities for 300 eye surgeons who have served in 36 countries of the world teaching and operating. What is more, it has helped to establish 29 eye banks in 26 countries.

It has done all this through private support. In fact, during the last year the general public donated 260,000 dollars to support the Foundation's sight-giving work. On top of this, the medical profession and American industry have given the Foundation in excess of a quarter of a million dollars worth of supplies, instruments, equipment, and voluntary services—a glowing tribute to the appeal and reputation of this impressive organization.

Also, it is significant to mention at this point that all of this has been accomplished through the efforts of a small paid staff. Indeed, the Medical Director, Doctor Harry King, Jr., of Washington, D.C., volunteers his services. Therefore, I can assure the Senate the work of this organization is not diluted by the waste of funds for administrative purposes. Donations given to this group are truly put to work doing the good that was intended by the givers.

Mr. President, with this background, you can understand why I have introduced an amendment on behalf of the International Eye Foundation. The Foundation simply has reached the peak of the assistance it can provide by relying entirely upon its own private resources.

It has the know-how. It has arrangements with over 80 American eye banks to use eye tissues which are considered surplus within the United States. It has proven its ability to fulfill a desperate need throughout the world. It has demonstrated that it is welcome across the globe. But the demands upon the Foundation have grown so enormous it is no longer able to provide with private resources all the services being requested in country after country where the rate of blindness is overwhelming, but where local facilities are inadequate and understaffed.

Consequently, Mr. President, I ask that the Foundation be given an incentive grant of $200,000 in order to give it the basic support needed to bring its good works within the reach of the many thousands of blind children and adults who can be helped by its services.

Mr. President, some Senators may have read, as I did, that the Federal Government recently announced it would grant $250,000 to support Washington's National Symphony Orchestra. This leads me to ask, can this country not do as much for the cause of alleviating blindness in the world as it does to assist musical interests in one of our cities?

In closing, Mr. President, I can only add that Congressional approval of this sum will help to promote good will toward the United States and peaceful relations with our neighbors. As Americans, we are blessed to live in a country that knows how to treat blindness and to restore sight to many who are blind. Sadly enough, this is not the case throughout the rest of the world, particularly in the newly developing countries and as close to home as our sister nations of Latin America. Accordingly, I can think of no better way to invest our foreign aid funds than to support the efforts of the IEF to ease the world's blindness problem with American know-how and American concern.

PALESTINIAN REFUGEE PROBLEM

Mr. NELSON. Mr. President, the United States has been the main contributor to the United Nations Relief and Works Agency—UNRWA; the Agency would not have been able to function without the generosity and concern of the American people.

It was hoped that through economic and technical assistance, UNRWA would conduct a self-liquidating program for the Arab refugees. But from the very beginning the Arab States refused to cooperate with any program calling for resettlement, claiming that any settlement of the refugee problem that did not involve the liquidation of Israel was an act of treason. Instead they insisted that the refugees must be repatriated to Israel. International programs for integration and resettlement, first projected in the early 1950's, were brushed aside. And so, over the years, the United Nations became an instrument for preservation of the Arab refugees in the UNRWA centers, as well as the political instrument for the advocacy of the Arab demand for repatriation.

The existence of UNRWA liberated the Arab governments from responsibility; they were under no compulsion to put up large sums for the care of the refugees and they could ignore programs for resettlement. Indeed, the fact that the international community and the United States were assuming the primary burden was interpreted by the Arab governments as an admission of guilt by the West for the plight of the refugees and an acceptance of the responsibility for reparations.

For some two decades the Arab refugees were held as hostages to the political and propaganda campaigns waged by the Arab governments against Israel. This campaign was always paralleled by military appropriations by the Arab governments in contemplation of a renewed war against Israel. During this period in fact, there were three wars: in 1948, 1956, and 1967.

In recent years the Arab leadership came to regard the Palestinians not merely as propaganda instruments but as human instruments of war. Beginning in 1965, active measures were taken by the refugee leaders to train them for military action. Refugees were frequently involved in terrorist attacks against Israel, but for the most part these were isolated and did not involve paramilitary organizations. In 1965 the international community began to take note of the fact that refugees were receiving military training to make war against Israel. Thus, on April 23, 1965, Arab authorities issued a decree calling up all able-bodied men in the Gaza strip for military service and it was revealed that a substantial number of the Palestinians from Gaza were in military training under the auspices of the Palestine Liberation Organization.

During this period Members of Congress questioned the failure of UNRWA to rectify its relief rolls and to eliminate from the list thousands who had died or who had gone to work and who were no longer eligible for relief. For years UNRWA was unable to do this because

of the opposition of the Arab States. But now a much more serious problem has arisen, because UNRWA is providing rations for refugees who are being trained for war against a member state of the United Nations.

Mr. President, in 1966, the House of Representatives Foreign Affairs Committee adopted the following wording to its Foreign Assistance Authorization Report:

No further U.S. contribution shall be made to UNRWA except on the condition that the Agency take all possible measures to assure that no part of the U.S. contribution shall be used to furnish assistance to any refugee who is receiving training as a member of the so-called Palestine Liberation Organization. The committee is firmly of the opinion that U.S. voluntary contributions should not be used to provide support, either directly or indirectly, to an organization whose avowed goal of prompting aggression is directly in conflict with our efforts to preserve peace and order in the Middle East region.

It is my hope that such wording as adopted 4 years ago is similar to the intent of Congress in its consideration of the foreign aid appropriations bill today. This wording would greatly reduce the chances for American funds—$13.3 million or 70 percent of funds provided to the United Nations for this purpose—to be used inadvertently to aid the members of the PLO whose expressed purpose is the annihilation of Israel.

The establishment of the PLO in 1964 introduced a new element into the operations of UNRWA. From its annual report submitted to the United Nations recently, we learned of its indefensible practice of using United Nations funds for the feeding of various members of the PLO. Such practices have prompted the New York Times to label the activities of UNRWA as calling on the U.N. to "subsidize the subversion of its peaceful purposes." The Commissioner-General of UNRWA has failed to deal with the problem of a U.N. agency subsidizing the terrorism the Security Council is trying to halt. This failure in large part stems from the agency's failing to draw the line between caring for the refugees and catering to the Arab terrorists.

In 1966, after the United States had declared its reluctance to contribute to UNRWA if the situation continued, the Agency turned to Arab states with a request for $150,000 the amount estimated to be going to Arab members of the PLO in refugee camps. Although the Commissioner-General of UNRWA had assured various member nations that their funds contributed to UNRWA would not be used to provide rations for men in training in the PLO, he has, by accepting the special donations amounting to $150,000, laid the U.N. open to the criticism and charge of having entered into a partnership with some U.N. members for the express purpose of feeding people who are conducting guerrilla activities. The language of the UNRWA report itself discloses this indefensible evasion:

Doubts have been expressed by some governments about the propriety of the Agency's issuing rations which may be consumed by young men in military training under the auspices of the PLO. The host countries do not consider the doubts well-founded. In the light of these differences, arrangements have been made for special added donations to the amount of $150,000 (dollars) which meets the costs of any rations consumed by the young men in question. The Commissioner-General is satisfied that these arrangements provide a practical means of disposing of the problem in so far as the Agency is concerned. Contributors to UNRWA, who may have been concerned about this matter, may thus be assured that their contributions will not be used to furnish assistance to refugees receiving military training under the auspices of the PLO.

This situation continued unchallenged, but as time went on the terrorist organizations became bolder in their operations in the UNRWA camps, which were transformed into centers for recruitment and the training of Arab terrorists. There was a glaring climax during the Jordanian civil war. The PLO units had entrenched themselves in refugee camps which became battlegrounds. Many refugees as a result were killed and left homeless in the fighting.

UNRWA estimates that there are 1,425,219 refugees in Egypt, the Gaza Strip, Jordan, the West Bank, the Golan Heights and Lebanon. It also estimates, as stated in hearings before Congress concerning the Foreign Assistance Act in 1965, that the proportion of ineligibles drawing rations may be as high as a third—Secretary Rusk's estimate—to one-half in the four host countries. Although the agency has made efforts to remove from its lists people that have died, are ill-qualified or are absentee, it has failed substantially if its own estimates of refugee ineligibles is correct. The Agency has contributed to the feeding of military personnel at the expense of some 324,187 children in east Jordan, on the West Bank, in Lebanon and Syria and in the Gaza strip for which no rations are available on a permanent basis.

The agency has subsidized the very terrorism that the U.N. is desperately trying to combat, has subsidized those organizations bent upon destroying what ever chances there are for peace in the Middle East. The agency, through its support for the PLO, has contributed to the increasing militarization and politicization, both of which are counterproductive to the agency's efforts and work. The agency is certainly guilty of substantial failures in its administration of the refugee relief program.

There is an urgent need to overhaul UNRWA. The U.N. agency should not be allowed to operate as a political and military instrument. At the very least the United States should reaffirm the action it took in 1966 in the U.S. Congress. This is a minimum request. We must inform the United Nations that we are no longer willing to contribute funds as long as UNRWA submits to the demands of the PLO. The situation could get worse; it is bound to improve only if action is taken now. Otherwise a listing peace will not be achieved in the Middle East.

Mr. McGEE. I ask for third reading, Mr. President, if there are no further amendments.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. McGEE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. McGEE. Mr. President, I had promised the Senator from Kansas to respond to an inquiry.

Mr. DOLE. I wonder whether the Senator from Wyoming could advise the Senator from Kansas whether any additional funds are provided because of the recent great tragedy in East Pakistan.

Mr. McGEE. No specific money is earmarked in this particular measure for emergency aid for Pakistan. There is approximately $126 million in the traditional foreign aid categories for Pakistan, but those are committed funds in several project developments there. If there were to be extra moneys for the crisis due to the recent disaster there, they would be confined to the contingency fund available, and that is a very small fund. There is $15 million recommended in the pending measure for the contingency fund.

Mr. DOLE. Does the Senator from Wyoming believe that it would be necessary that additional funds be authorized and appropriated for the rather vast tragedy that has occurred?

Mr. McGEE. I would think so, and I think it would be very urgent. I do not suppose, yet, that we in this country have begun to comprehend the frightening scope of that disaster. As a compassionate people, we must have a very deep interest in doing what we can there. I think it would be in order to move towards more positive and substantial assistance there than we have up until now.

Mr. DOLE. Mr. President, in light of the recent politically inspired attacks on the efforts of the Nixon administration to provide disaster assistance to East Pakistan, it should be made completely clear that the administration has met every request of the Pakistani Government.

On Sunday, November 15, President Nixon sent to President Yahya a message of sympathy and an offer of help. On the same day, Ambassador Farland released $52,000 in local currency from his emergency funds.

On Tuesday, the administration formed a high-level interdepartmental working group on East Pakistan disaster relief which provided immediate assistance of $10 million. There was also an initial shipment of 10,000 AID-financed blankets and 1,000 tents to Pakistan as well as the release of 50,000 tons of wheat, valued at about $5 million, for shipment to Pakistan.

On November 18, four large Huey helicopters and their crews were dispatched to Pakistan. On the 19th, 62,000 doses of typhoid vaccine donated by Church World Services were sent by commercial plane. On the 20th, a plane load of 90,000 pounds of high protein survival biscuits, and a planeload of 90,000 pounds of canned meat, baby food, and fruit were sent.

On Saturday, the 21st, four more Huey helicopters and crews, 50 16-foot motorboats, and two planeloads of concen-

trated food and plastic water bottles were dispatched to Pakistan.

On November 22, two planes loaded with 180,000 pounds of civil defense survival biscuits and additional corned beef and applesauce donated by CARE were dispatched. And in the next 2 days, additional planeloads of biscuits and 460 pounds of typhoid vaccine donated by the Catholic Relief Services and 30,000 more water bottles were provided. On November 25, the U.S. Department of Agriculture announced shipment of an additional $75.4 million worth of U.S. farm products under the Food for Peace program.

As of November 27, 10 commercial charter flights have been utilized at the direction of the Disaster Action Group, assigned by President Nixon to coordinate all U.S. Government efforts.

Critics of the American relief effort have specifically raised a number of questions about the U.S. helicopters being used in East Pakistan. They have accused the United States of ignoring the 4,000 helicopters stationed in Southeast Asia and delaying the relief effort by shipping helicopters from North Carolina.

I have checked into this matter, and it turns out that there is a quite rational explanation for the procedure employed by the United States. It is simply that shipping the helicopters from North Carolina is much faster than shipping them from Vietnam.

To redeploy helicopters from Vietnam would mean that the machines would have to be taken off the line, disassembled, crated, and then shipped by air to East Pakistan. It is estimated that this procedure would take about 5 days.

The helicopters in North Carolina are already disassembled and crated and simply have to be loaded on aircrafts for shipment to Pakistan. This procedure, including shipping, takes 2 days. For example, the last four helicopters shipped were in the air in cargo planes 6 hours after receipt of Pakistan's request for them.

It is not technically feasible to fly the helicopters directly from Vietnam to Pakistan. The helicopters in question have an operating radius of about 200 miles. Flying them direct would mean frequent stops for fuel which is simply not available along the flight path. In addition, the helicopter, despite its apparent ruggedness, is really a very fragile machine. Even if it were possible to fly them direct to Pakistan, they would then have to be stripped and undergo extensive maintenance before they could be used in the relief effort. Again, the total time factor would be longer than in deploying the mechanically perfect helicopters from North Carolina.

All of the facts I have mentioned could have been established with a simple phone call to knowledgeable authorities who are directly involved in the relief effort.

The response of both the U.S. Government and U.S. voluntary relief organizations has been both prompt and effective in helping the disaster victims. It is deplorable that some critics of the administration are spending their time trying to make political hay out of the disaster rather than making a substantive contribution to the relief effort.

Mr. President, as indicated by the Senator from Wyoming, I certainly feel that we have a great obligation in this great country. We are now estimating that perhaps, by the time relief gets to Pakistan, 500,000 more people may die. This is a calamity which exceeds my comprehension. We are a humanitarian country and we must continue our obligations. Yes, we have done a lot, but much more could be done by our Government, as well as other governments in the world.

Mr. JAVITS. Mr. President, I am so pleased that the distinguished Senator from Kansas has made this an issue in our debate today. The scale of the tragedy is almost beyond the imagination.

Speaking personally, my wife and I had an extended visit with the Pakestani Ambassador to the United Nations. Because of my wife's interest and my own, I have looked into this matter very carefully. Our country has done a great deal more than many other governments. Many other governments are paying no attention to this tragedy. They certainly should, from instincts of humanitarianism and religion if for no other reasons.

There is a fine voluntary organization getting started under the auspices of Robert Murphy, our former Under Secretary of State. Citizens can certainly join.

I should like to join the Senator from Kansas, one, in urging the rest of the world to do its share; two, in emphasizing the fact that from what I have seen, the United States will do everything that can reasonably be done, governmentally and privately, to give succor to these terribly unfortunate people in East Pakistan; and three, the big problem is apparently administration. The governmental machinery in West Pakistan is 1,000 miles from the scene of the disaster in East Pakistan, and there are political rivalries involved.

I would join the Senator from Kansas in the hope that perhaps international agencies like the United Nations and its various organizations; SEATO, and other organizations; including the United States if it is operating under those auspices, will make available personnel, medical teams, and similar skills which would normally be within the competence of the local governments in other situations, but required here on an unprecedented scale. We should also encourage other governments to do that.

Mr. DOLE. Mr. President, I appreciate the comments of the Senator from New York. It does occur to me, as I indicated, that much more can be done; but, as the Senator from New York so aptly describes, it is, by and large, a problem of administration. I would guess that at this time, probably thousands and thousands of survivors are trying to find some food, but unless they are stranded on some island or some inaccessible area, unless relief is given to them within the next week or 10 days or 2 weeks, thousands and thousands more will probably die because of administrative failure, and perhaps other failures we are not aware of at this moment.

Mr. JAVITS. Mr. President, I wish to make one or two comments before we lock this up and vote on the bill. I noticed with great interest, as again I refer to my own status as one of the two Senators who are delegates to the United Nations General Assembly, that there was stricken out, on a point of order in the other body, that part of the appropriation bill which would represent a sense resolution reiterating the opposition of Congress "to the seating in the United Nations of the Communist Chinese regime as the representative of China."

Now I wish to call the attention of my colleagues to the fact that the United States took a rather enlightened new attitude in the General Assembly with respect to that particular question and, in effect, left it open for a change in the direction of U.S. policy on this subject.

I realize that the House did not pass upon the merits of this matter and that it was stricken out on a point of order. I also realize that the Senate committee did not seek to insert it in the bill in any form. I am gratified by that. These kinds of provisions have been perpetuated, without any real thought, for many years. It is a good thing that the practice has been broken.

I merely rise to signalize the fact that we are in a phase of changing policy on this question. The deletion in the House of the traditional section 105 is a constructive and proper step.

I express my satisfaction that we in the Senate have not tried to load it back into this appropriation bill. It is a historic benchmark, indeed, with respect to this question.

Mr. President, the President has sent in a request for appropriations to implement the authorized military supplies to Israel in connection with the danger in which it has been placed because of the violations of the standstill and ceasefire in the region of Suez Canal on the part of Egypt, supported by the Soviet Union. He has made certain requests for other funds, too.

It is a fact that the request with respect to Israel is already authorized by law. The funds are not included in this bill. I think the explanation for that should be made clear to all the world and that the facts should be set forth in this record.

I hope the Senator will point out that it is true that the funds have been authorized and could have been included in this appropriation bill, but that because of the stage of hearings upon this matter this was not done, sympathetic as I know the Senator from Wyoming is, in this matter.

Mr. McGEE. Mr. President, the Senator knows that was not submitted to Congress until just recently. We felt that, rather than hold up items that had already been processed and heard, we would be better advised to go ahead. We tried to schedule our hearings on this matter for this week before the Subcommittee on Supplemental Appropriations headed by the distinguished Senator from West Virginia (Mr. BYRD), who was interested in the matter. I have been asked to handle the foreign assistance portions of the supplemental bill.

We tried to schedule hearings for this

week so that we might move as expeditiously as possible. However, both the Secretary of State and Secretary of Defense were unavailable. We are therefore holding the hearing next Tuesday, a week from tomorrow.

Mr. JAVITS. Mr. President, I thank the Senator. There ought to be some word of explanation on this policy.

Mr. McGEE. That is the only explanation.

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

The PRESIDING OFFICER (Mr. DOLE). The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from New Mexico (Mr. MONTOYA), the Senator from Idaho (Mr. CHURCH), and the Senator from Rhode Island (Mr. PELL) are absent on official business.

On this vote, the Senator from Rhode Island (Mr. PASTORE) is paired with the Senator from North Dakota (Mr. BURDICK).

If present and voting, the Senator from Rhode Island would vote "yea" and the Senator from North Dakota would vote "nay."

I further announce that, if present and voting, the Senator from New Jersey (Mr. WILLIAMS), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

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

Mr. SCOTT. I announce that the Senator from Delaware (Mr. BOGGS), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. MURPHY), the Senator from Alaska (Mr. STEVENS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

The Senator from North Dakota (Mr. YOUNG) is detained on official business.

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

On this vote, the Senator from Delaware (Mr. BOGGS) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Delaware would vote "yea" and the Senator from Texas would vote "nay."

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

The result was announced—yeas 43, nays 32, as follows:

[No. 402 Leg.]

YEAS—43

Aiken	Hughes	Packwood
Allott	Inouye	Pearson
Anderson	Jackson	Percy
Baker	Javits	Prouty
Bayh	Long	Proxmire
Brooke	Magnuson	Ribicoff
Case	Mathias	Saxbe
Cooper	McCarthy	Schweiker
Cranston	McGee	Scott
Dodd	McIntyre	Smith
Fong	Metcalf	Spong
Goodell	Mondale	Stevenson
Harris	Moss	Yarborough
Hart	Muskie	
Holland	Nelson	

NAYS—32

Allen	Ervin	McClellan
Bellmon	Fannin	McGovern
Bennett	Fulbright	Miller
Bible	Gurney	Stennis
Byrd, Va.	Hansen	Symington
Byrd, W. Va.	Hartke	Talmadge
Cook	Hollings	Thurmond
Cotton	Hruska	Tydings
Curtis	Jordan, N.C.	Williams, Del.
Dole	Jordan, Idaho	Young, Ohio
Ellender	Mansfield	

NOT VOTING—25

Boggs	Gravel	Randolph
Burdick	Griffin	Russell
Cannon	Hatfield	Sparkman
Church	Kennedy	Stevens
Dominick	Montoya	Tower
Eagleton	Mundt	Williams, N.J.
Eastland	Murphy	Young, N. Dak.
Goldwater	Pastore	
Gore	Pell	

So the bill (H.R. 17867) was passed.

Mr. McGEE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. McGEE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McGEE, Mr. ELLENDER, Mr. HOLLAND, Mr. MONTOYA, Mr. FONG, Mr. PEARSON, and Mr. YOUNG of North Dakota conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, the expeditious disposition of the foreign aid appropriations measure can be credited to its expert handling by the chairman of the Foreign Operations Subcommittee of the Senate Appropriations Committee, the distinguished Senator from Wyoming (Mr. McGEE). As always, Senator McGEE exhibited a degree of expertise about the measure that assured its efficient disposition. The Senate is deeply indebted to him and to his entire subcommittee for outstanding work on this funding measure.

Particularly, I wish also to commend the ranking minority member, the distinguished Senator from Hawaii (Mr. FONG). His contribution to the discussion assisted greatly in reaching final passage of the measure with full regard for the views of all Senators.

Joining as well to provide the high level of debate on the foreign aid measure were the Senator from Louisiana (Mr. ELLENDER), the Senator from Missouri (Mr. SYMINGTON), the Senator from New York (Mr. JAVITS), and many others. Their contributions and invaluable observations greatly enhanced our understanding and appreciation of this funding measure. We are grateful, as always, for their efforts.

ADDITIONAL TEMPORARY EXTENSION OF THE FEDERAL HOUSING ADMINISTRATION'S INSURANCE AUTHORITY

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House on House Joint Resolution 1403.

The PRESIDING OFFICER laid before the Senate House Joint Resolution 1403, a joint resolution to provide an additional temporary extension of the Federal Housing Administration's insurance authority, which was read twice by its title.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

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

Mr. BYRD of West Virginia. Mr. President, I ask that the Senate agree to the joint resolution as passed by the House of Representatives.

The PRESIDING OFFICER. If there be no amendment to be offered, the question is on the third reading of the joint resolution.

The joint resolution was read the third time.

The PRESIDING OFFICER. The question now is on passage of the joint resolution.

The joint resolution was passed.

Mr. BENNETT. Mr. President, I was trying to get recognition before passage of the joint resolution.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the passage of the joint resolution be reconsidered.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the passage of the joint resolution is reconsidered.

Mr. BENNETT. Mr. President, I merely wish to make the point that the FHA lending program is probably one of the most important and key elements in the continuing development of our housing program. There is a major housing bill before the House. It probably will be passed the middle of this week, but in order to be absolutely certain that anything that might happen to that bill would not make it impossible for FHA to continue its lending program, I think it is vital that this one month extension be passed. Within that time we can either get through the housing bill which the Senate has already passed or we can offer the Senate an additional extension which can carry late enough

into next year so that we can pass a major housing bill in the 92d Congress.

That is the reason for this extension. I urge that it be passed.

The PRESIDING OFFICER. The Chair again puts the question on the passage of the joint resolution.

The joint resolution (H.J. Res. 1403) was passed.

PROGRAM

Mr. SCOTT. Mr. President, may I inquire of the distinguished majority leader what is the next order of business, and since this is Monday, it would be well to know, if we could, what the several matters are which it is contemplated will be taken up.

Mr. MANSFIELD. Mr. President, in response to the queries raised by the distinguished minority leader, I must say that it had been anticipated that we would take up the Department of Transportation appropriation bill next, but that measure will not come up until Thursday.

As to the remaining items on the calendar, it seems that on every matter that the leadership turns to, there is an objection or a plea for delay or something of the same nature. Actually, there is little to choose from on the calendar. It certainly points up the fact that the leadership is faced with great difficulty in setting forth a program. It would be greatly appreciated if all concerned could strive to cooperate to the fullest in order to complete the Senate's business.

As it stands now, the bill to establish a Federal Broker-Dealer Insurance Corporation is being delayed temporarily.

An act to authorize U.S. participation in increases in the resources of certain international financial institutions, and so forth, is being delayed because of factors of which the Senate is well aware.

The House and Senate bills having to do with amending the Atomic Energy Act cannot be taken up because of circumstances over which the leadership has no control.

The bill to amend the Federal Trade Commission Act to provide increased protection for consumers—the so-called class action bill—was originally scheduled for today, but certain questions have since been raised, and probably it will not be taken up.

It was thought, then, that we would take up H.R. 471, an act to amend section 4 of the act of May 31, 1933, having to do with the Taos Indians Lake in the Carson National Forest, but unless circumstances dramaticaly change—that hopefully will be the pending business when we come in tomorrow.

So that leaves only one other bill at this time, about which, to the best of my knowledge, there is controversy but which, nevertheless, is available for action.

CONSUMER PROTECTION ORGANIZATION ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1375, S. 4459; that it be laid before the Senate and made the pending business. There is no other choice.

Mr. HRUSKA. Mr. President, reserving the right to object, will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. HRUSKA. I was informed a while ago that the report on the bill has not been printed and is not before the Senate. Am I correct in that?

Mr. MANSFIELD. It has been on the calendar since the 23d.

Mr. HRUSKA. We made inquiry for a copy of the report.

Mr. MANSFIELD. There it is.

Mr. HRUSKA. It was delivered earlier today. That is scant notice for a bill of this kind.

Mr. MANSFIELD. Well, we must do something.

It was understood on the part of the joint leadership that when we came back after the recess the Senate would accommodate itself as much as it could, regardless of individuals' views. If the Senate is to complete its work, there must be a degree of accommodation and cooperation, regardless of how one feels about certain bills. I plead that we go ahead and let us do what we can, because we have less than 3 weeks to go. There are many appropriation bills remaining. There is much legislation which is controversial and will cause some debate. If we keep on stalling and delaying, I think we are going to look foolish, and I do not want the Senate to look foolish.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The bill will be stated by title.

Mr. METCALF. Mr. President, did the majority leader suggest that H.R. 471 would be the pending business at the close of business tomorrow?

Mr. MANSFIELD. No; we are going to lay it before the Senate tomorrow, and I hope it will be early in the day.

Mr. METCALF. I completely concur, if it is made the pending business for Wednesday.

Mr. MANSFIELD. It will be the pending business tomorrow, may I say to my colleague, because tomorrow is Tuesday, and we will get started on it.

Mr. METCALF. We will get started on H.R. 471 tomorrow, at the close of business tomorrow?

Mr. MANSFIELD. No; at the conclusion of morning business, or, hopefully, shortly thereafter.

The PRESIDING OFFICER. The bill will be stated by title.

Mr. MANSFIELD. Mr. President, may I yield first to the Senator from Nebraska?

Mr. HRUSKA. Mr. President, I think we ought to discard any idea that anyone seeks to avoid debate. I do not think that is the idea here. Certainly, as to the consumers protection bill, we are ready to go ahead, Mr. President. The only thing is, it is a bill that is very important. I have about 10 or 12 amendments. It will require extensive debate and discussion. Other Senators have been heard to say they have amendments and they want to discuss the bill in depth.

What we would very much dislike—certainly I would very much dislike it—is to have that bill called up, discussed half a day or a few hours, then lay it aside and take care of other items, and then return to this bill. It is sufficiently important to require sustained and uninterrupted attention by the Senate.

Mr. MANSFIELD. Mr. President, may I say, if the Senator from Nebraska will permit me, that any bill reported by committee is entitled to that consideration, but we are faced with a limited amount of time. I would hope that the Senator would recognize the position in which the joint leadership finds itself, because, after all, what we are trying to do as far as this legislation is concerned, even though certain aspects of it are opposed by the administration, as I have been informed, is to face up to the program which the administration sent down.

Mr. HRUSKA. That we will be happy to do, Mr. President, but I do not see that justice can be done to this important bill by discussing it and treating it fragmentarily. It is far too important a measure, intruding, as it does, upon the entire judicial system of this country.

It is unfortunate that there is so much to be done in such a short time, but I do not believe it is good parliamentary practice to say, "We have only this much time, and therefore we must qualify and dilute the quality of our parliamentary product here, in order to accommodate the short number of days."

Mr. MANSFIELD. I would not worry about dilution of the parliamentary product, because sometimes it is pretty bad and sometimes it is pretty good, but overall it is very good.

The PRESIDING OFFICER (Mr. DOLE). The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 4459) to establish a Council of Consumer Advisers in the Executive Office of the President and to establish an independent Consumer Protection Agency in order to protect and serve the interests of consumers, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments, on page 4, line 20, after the word "compensation", strike out "of,", and insert "of"; on page 5, line 8, after the word "all", insert "executive and"; on page 6, line 20, after the word "shall", insert "so advise the President and recommend that he be authorized to"; on page 7, line 18, after the word "Section", strike out "5314" and insert "5315"; on page 9, line 17, after the word "Act", strike out "and" and insert "in order to"; on page 10, line 15, after the word "with", strike out "an" and insert "and"; after line 24, strike out:

(9) cooperate with and provide assistance to the Attorney General in carrying out his functions relating to the protection of consumers;

(10) perform such product testing as may hereafter be authorized;

On page 11, at the beginning of line 5, strike out "(11)" and insert "(9)"; in the same line, after the word "the", strike out "President, through the Council of Consumer Advisers" and insert "President and"; in line 6, after the word "and", strike out "for transmittal";

on page 13, at the beginning of line 10, strike out "generally" and insert "within the United States"; in line 11, after the word "of", insert "such"; in line 20, after the word "consumers", insert "within the United States"; in line 21, after the word "of", insert "such"; on page 14, line 1, after the word "consumers", strike out "generally" and insert "within the United States"; in line 2, after the word "of", insert "such"; in line 11, after the word "consumers", strike out "generally" and insert "within the United States"; in line 12, after the word "of", where it appears the first time, insert "such"; in line 18, after the word "consumers", strike out "generally" and insert "within the United States"; in line 19, after the word "of", insert "such"; on page 15, in line 4, after the word "consumers", strike out "generally" and insert "within the United States; in line 5, after the word "of", insert "such"; in line 17, after the word "a", insert "clear and concise"; in line 21, after the word "discretion,", strike out "and"; in the same line, after the word "writing," insert "and shall be available to the public."; in line 23, after "(g)," strike out "Representatives of the Director, designated by him" and insert "An officer or an employee of the Agency designated by the Director,"; on page 19, line 22, after "(l)", strike out "In conducting investigations under this section" and insert "In carrying out provisions of this section"; on page 20, line 4, after the word "the", where it appears the second time, strike out "Section." and insert "Agency."; at the beginning of line 13, strike out "shall," and insert "may upon petition by the Director,"; after line 21, strike out:

CONSUMER ADVISORY COMMITTEE

SEC. 206. (a) There is hereby established in the Agency a Consumer Advisory Committee to be composed of twelve members appointed by the President for terms of two years without regard to the provisions of title 5, United States Code. Members shall be appointed on the basis of their knowledge and experience in the area of consumer affairs and their demonstrated ability to exercise independent, informed and critical judgment. Representatives of consumer, business, labor, and other interested organizations shall be encouraged to recommend qualified candidates for appointment to the Council.

(b) The Committee shall advise the Director on policy matters relating to the functions of the Agency with respect to consumer interests including—

(1) the consideration of consumer interests by agencies of the United States;

(2) the attention devoted by public agencies to the consumer problems of the poor;

(3) the availability of information necessary for the making of intelligent consumer decisions; and

(4) the existing organization within the Federal Government of consumer protection functions and the need to reorganize such functions.

(c)(1) Members shall be appointed for two year terms, except that of the members first appointed, six shall be appointed for a term of one year and six shall be appointed for a term of two years as designated by the President at the time of appointment.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

(3) A vacancy in the Council shall not affect its activities, and seven members thereof shall constitute a quorum.

(d) The Director shall designate the Chairman from among the members appointed to the Committee. The Committee shall meet at the call of the Chairman but not less often than four times a year. The Director shall be an ex officio member of the Committee and is to be its Executive Secretary. The Committee shall keep a complete summary of the proceedings of its meetings, which shall be available to the public.

(e) Members of the Committee who are not officers or employees of the United States shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) The Director shall make available to the Committee such staff, information, and other assistance as it may require to carry out its activities.

(g) The Committee shall make such interim reports as it deems advisable and an annual report of its findings and recommendations (including recommendations for changes in the provisions of this Act) to the Director not later than January 31 of each year. The Director shall transmit each such report to the President for transmittal to the Congress together with his comments and recommendations.

On page 23, at the beginning of line 14, change the section number from "207" to "206"; on page 24, line 3, after the word "employee", insert "of the United States"; at the top of page 25, strike out:

(10) acquire by purchase, lease, condemnation, or otherwise, construct, improve, repair and maintain research facilities as may be necessary;

At the beginning of line 4, strike out "(11)" and insert "(10)"; at the beginning of line 7, strike out "(12)" and insert "(11)"; at the beginning of line 10, strike out "(13)" and insert "(12)"; in line 10, after the amendment just above stated, strike out "without regard to section 529 of title 31, United States Code," and insert "subject to appropriation Acts,"; after line 17, strike out:

(14) allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this Act as he deems necessary, including funds appropriated for construction, repairs, or capital improvements; and

And, in lieu thereof, insert:

(13) transfer funds made available under this Act to facilities of other Federal, State, local and private agencies and instrumentalities as reimbursement for utilization of their services, personnel, and information as authorized in paragraph (5) and appropriations Acts; and

On page 26, at the beginning of line 4, strike out "(15)" and insert "(14)"; in line 11, after the word "authorized", strike out "and directed"; at the beginning of line 20, strike out "Whenever time permits, before" and insert "Before"; in line 22, after the word "shall", strike out "consult with" and insert "notify"; on page 27, at the beginning of line 11, change the section number from "208" to "207"; in the same line, after the word "Section", strike out "5313" and insert "5314"; in line 15, after the word "Section", strike out "5314" and insert "5315"; in line 20, after the word "Section", strike out "5315" and insert "5316"; after line 25, strike out:

(d) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

On page 28, at the beginning of line 6, change the section number from "209" to "208"; in line 9, after "1972", insert "and"; in line 10, after "1973." strike out "and such sums as may be necessary thereafter."; on page 30, line 6, after the word "program", insert "or demonstration thereof"; on page ?2, line 2, after the word "legislative", strike out "groups;" and insert "groups, except where the Agency already is representing such interests;"; on page 34, line 15, after the word "out", strike out "by community action agencies"; after line 18, insert:

(8) provide, whenever appropriate, for cooperation and coordination with local offices of the Federal Trade Commission and any Consumer Protection Coordination Committees or Consumer Advisory Boards established under the Commission's aegis;

At the beginning of line 23, strike out "(8)" and insert "(9)"; at the beginning of line 26, strike out "(9)" and insert "(10)"; on page 35, at the beginning of line 4, strike out "(10)" and insert "(11)"; in line 11, after "Sec. 307." insert "(a)"; on page 36, line 2, after the word "by", strike out "community action agencies"; after line 3, insert:

(5) provide, whenever appropriate, for cooperation and coordination with local offices of the Federal Trade Commission and any Consumer Protection Coordination Committees or Consumer Advisory Boards established under the Commission's aegis;

At the beginning of line 9, strike out "(5)" and insert "(6)"; at the beginning of line 12, strike out "(6)" and insert "(7)"; on page 37, line 3, after the word "organization", strike out "75" and insert "50"; in line 9, after the word "to", strike out "plant" and insert "plant,"; on page 40, line 19, after "(6)", strike out "'person' includes natural persons, partnerships, corporations, and any other form of association;" and insert "'consumer' means any person who is offered or supplied goods or services for personal, family, or household purposes;"; on page 41, line 1, after the word "Rico," insert "and"; at the beginning of line 2, strike out "Samoa," and insert "Samoa;"; in line 3, after the word "Islands", insert "except as provided in section 302(a) of this Act."; in line 6, after the word "executive", strike out "agancy" and insert "agency"; at the beginning of line 9, insert "within the United States"; on page 42, line 11, after the word "dissemination", strike out "functions. Except" and insert "function"; in line 12, after the word "safety", strike out "hazards, before" and insert "hazard or extraordinary economic harm."; in line 18, after the word "information.", strike out "In such health and safety cases he shall give

reasonable notice to the owner or lawful possessor of such information."; after the amendment just above stated, insert:

(b) No information shall be disclosed if that information is inaccurate, misleading, or is not reasonably complete. Before disseminating any information which may injure the reputation or good will of a person or company (or its products or services) or which may disclose product names or otherwise may permit identification of a product or service with a person or company, the Director shall notify the person or company of the information to be disclosed, and shall afford an opportunity for comment, unless extraordinary health and safety hazards dictate otherwise.

On page 43, at the beginning of line 6, strike out "(b)" and insert "(c)"; and at the beginning of line 15, strike out "(c)" and insert "(d)"; so as to make the bill read:

S. 4459

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 "Consumer Protection Organization Act of 1970".

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of the Federal Government to protect and serve the interests of the people of the United States as consumers of goods and services which are made available to them through commerce or which affect commerce by establishing the Council of Consumer Advisers and an independent Consumer Protection Agency in order to facilitate the coordination of Federal programs and activities affecting consumers, to insure adequate representation of the interests of consumers in administrative and judicial proceedings, to provide information to consumers generally, to provide financial assistance to State and local consumer frauds and consumer protection programs, and to insure that the interests of consumers are considered by the Federal Government.

TITLE I—COUNCIL OF CONSUMER AFFAIRS

CONSUMER REPORT OF THE PRESIDENT

SEC. 101. (a) The President shall transmit to the Congress not later than March 1 of each year a report to be known as the Consumer Report, setting forth (1) the effectiveness of Federal programs and activities designed to carry out the policy declared in section 2, with particular emphasis upon the manner in which such programs and activities adequately protect the interests of consumers in the United States; (2) a review of such other programs and activities as the Council determines are of unique or national significance and suggesting areas most in need of attention; (3) a review of State, local, and private programs which are designed to carry out the policy set forth in section 2 and are assisted by the Federal Government, including an assessment of the success of such programs in protecting the interest of consumers; (4) an evaluation of the degree of cooperation and coordination among the departments and agencies of the Federal Government engaged in carrying out programs or conducting activities designed to implement the policy declared in section 2; and (5) a program for remedying deficiencies in existing programs and activities designed to implement such policy together with such recommendations for additional legislation as he deems necessary or desirable.

(b) The President may transmit from time to time to the Congress reports supplementary to the Consumer Report, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 2.

(c) The Consumer Report, and all supplementary reports transmitted under subsection (b) of this section, shall, when transmitted to Congress, be referred to the appropriate committees of the Congress, including the Committee on Government Operations and the Committee on Commerce of the Senate and the Committee on Government Operations and the Committee on Interstate and Foreign Commerce of the House of Representatives.

COUNCIL OF CONSUMER ADVISERS TO THE PRESIDENT

SEC. 102. (a) There is created in the Executive Office of the President a Council of Consumer Advisers. The Council shall be composed of—

(1) the Director of the Consumer Protection Agency; and

(2) two persons appointed by the President, by and with the advice and consent of the Senate, who by reason of their training, experience, and attainments are exceptionally qualified to appraise programs and activities of the Government in the light of the policy declared in section 2, and to formulate and recommend programs to carry out that policy.

No member of the Council who is otherwise an officer or employee of the United States shall receive additional compensation for service as a member of the Council. The President shall designate one member to serve as Chairman of the Council.

(b)(1) The Chairman of the Council is authorized to employ, and fix the compensation of such specialists and other experts as may be necessary for the carrying out of its functions under this title 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, and is authorized, subject to such provisions, to employ such other officers and employees as may be necessary for carrying out its functions under this Act, and fix their compensation in accordance with the provisions of such chapter 51 and subchapter III of chapter 53.

(2) The Chairman of the Council shall act on behalf of the Council in all executive and administrative matters.

(c) It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Consumer Report;

(2) to gather timely and authoritative information and statistical data concerning programs designed to carry out the policy declared in section 2, both current and prospective, to analyze and interpret such information and data in the light of the policy declared in section 2 and to compile and submit to the President studies relating to such programs;

(3) to assist the President in coordinating the programs and activities of all Federal executive agencies relating to the interests of consumers in order to avoid waste, duplication, and inconsistencies;

(4) to advise the President in establishing priorities, and when necessary, with the approval of the President, to resolve conflicts between Federal executive agencies engaged in such programs or activities;

(5) to conduct investigations, studies, surveys, research, and analyses relating to the protection of the interests of the consumer;

(6) to develop and recommend to the President national policies to foster and promote the protection of the interests of consumers, including recommendations relating to the most effective way to allocate Federal responsibilities and the level of government—Federal, State, or local—best suited to carry out programs and activities relating to the interests of consumers;

(7) to make and furnish such studies, reports thereon, and recommendations with respect to programs, activities, and legislation to carry out the policy declared in section 2 as the President may request.

(d) Whenever the Chairman of the Council determines that information or data developed pursuant to subsection (c) of this section should be made available to the States and localities he shall so advise the President and recommend that he be authorized to make arrangements for the timely dissemination of such information and data to such States and localities as he deems appropriate.

(e) The Council shall make an annual report to the President in February of each year.

(f) In exercising its powers, functions, and duties under this Act—

(1) the Council may constitute such advisory committees and may consult with such consumers, representatives of industry, agriculture, labor, State and local governments, and other groups, organizations, and individuals as it deems advisable;

(2) the Council shall, to the fullest extent possible, use the services, facilities, and information, including statistical information, of other Government agencies as well as of private research agencies, in order that duplication of effort and expense may be avoided.

COMPENSATION OF MEMBERS OF THE COUNCIL

SEC. 103. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(20) Chairman, Council of Consumer Advisers."

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(94) Members, Council of Consumer Advisers."

AUTHORIZATION OF APPROPRIATIONS

SEC. 104. There are authorized to be appropriated to carry out the provisions of this title such sums as may be necessary.

TITLE II—CONSUMER PROTECTION AGENCY

ESTABLISHMENT

SEC. 201. (a) There is established as an independent agency within the executive branch of the Government an agency to be known as the Consumer Protection Agency.

(b) The Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate for a term of four years. There shall be in the Agency a Deputy Director who shall be appointed by the President by and with the advice and consent of the Senate for a term of four years. The Director and the Deputy Director, in the event of a vacancy, shall be appointed for the remainder of the term for which his predecessor was appointed. The Deputy Director shall perform such functions as the Director may prescribe and shall be the Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director. Notwithstanding the provisions of this subsection the terms of the Director and the Deputy Director first taking office shall terminate on January 20, 1973. Upon the expiration of his term, the Director shall continue to serve until his successor has been appointed and has qualified.

(c) There shall be in the Agency a Consumer Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The Consumer Counsel shall be the chief legal officer of the Agency, and shall perform such duties as the Director may prescribe and shall be Acting

Director during the absence or disability, or in the event of vacancies in the offices, of the Director and the Deputy Director.

(d) The President by and with the advice and consent of the Senate is authorized to appoint within the Agency not to exceed five Assistant Directors.

FUNCTIONS OF THE AGENCY

SEC. 202. It shall be the function of the Agency to—

(1) represent the interests of consumers in proceedings before Federal executive agencies and Federal courts in accordance with section 203 of this Act;

(2) make grants to States, localities, and nonprofit private organizations to encourage and assist consumer protection programs in accordance with title III of this Act in order to prevent consumer frauds;

(3) receive and evaluate complaints from consumers and refer complaints to the appropriate Federal executive agency and State and local agency and take such other action as authorized by section 204 of this Act;

(4) conduct, support, assist, and coordinate research and economic investigations and surveys in accordance with section 205 of this Act;

(5) publish a Federal Consumer Register which shall set forth the times, places, and subject matters of major rulemaking proceedings by Federal regulatory agencies, civil actions and other useful information of national significance which relate to the protection of consumer interests, stated in language which is readily understood by consumers generally;

(6) disseminate information of importance to consumers, including information concerning consumer items which the Government purchases for its own use, in the most efficacious manner possible, especially through the publication and distribution of periodicals and other printed material which can be readily understood by consumers generally;

(7) cooperate with and encourage private enterprise in the promotion and protection of consumer interests;

(8) after consultation with the United States Office of Education, encourage the adoption or expansion of consumer education programs at all education levels, including consumer adult education projects, and consumer counseling services and provide technical assistance to public agencies and private nonprofit organizations for such programs;

(9) submit a report to the President and to the Congress at least once each year on the activities and programs of the Agency together with such recommendations including legislative recommendations as the Agency deems appropriate.

REPRESENTATION OF CONSUMER INTERESTS BEFORE FEDERAL AGENCIES AND IN FEDERAL COURTS

SEC. 203. (a) The Director may request or petition for the initiation of any proceeding with the responsibility and authority of any Federal executive agency concerning any matter which substantially affects the interests of consumers, but participation in such proceedings once initiated shall be in accordance with the provisions of this section.

(b) Whenever there is pending before any Federal executive agency any matter or proceeding not involving the internal operations of such agency, and the Director finds that the determination of such matter or proceeding is likely to affect substatnially the interests of consumers within the United States, the Director shall be entitled as a matter of right to intervene, with respect to any issue affecting the interest of consumers, within the time limits specified in the rules and regulations of such agency, in such matter or proceeding as a party to represent the interests of consumers. Upon any such intervention, the Director shall present to such agency, in conformity with the rules of practice and procedure thereof, such evidence, briefs, and argument as he shall determine to be necessary for the effective protection of the interests of such consumers.

(c) Whenever—

(1) there is pending before any Federal executive agency any matter or proceeding, or

(2) there is pending before any court of the United States any matter or proceeding to which the United States or any Federal executive agency is a party, other than a proceeding to which subsection (d) is applicable,

and the Director finds the determination of such matter or proceeding is likely to affect substantially the interests of consumers within the United States, the Director upon his own motion, or upon written request made by the officer or employee of the United States or of such agency who is charged with the duty of presenting the case for the Federal executive agency in the matter or proceeding, may transmit to such officer or employee all evidence and information in the possession of the Agency relevant to that matter or proceeding, and whenever the Director takes a position on any consumer issue in whole or in substantial part adverse to or different from that of the Federal executive agency, he may, in the discretion of the Federal executive agency or the court, appear as amicus curiae and present written or oral argument to such agency or court on such issue.

(d) (1) Whenever—

(A) the Director finds that a final action of a Federal executive agency has or is likely to have a substantial adverse effect upon interests of consumers within the United States or of any group or class of such consumers and takes a position on any consumer issue in whole or in substantial part adverse to or different from that of the Federal executive agency;

(B) the Agency was an intervenor in such an action; and

(C) a right of review is otherwise accorded by law, the Director shall be entitled as a matter of right to bring a proceeding in the appropriate court of the United States to review such an action with respect to any such issue in order to represent the interests of consumers within the United States generally or any group or class of such consumers.

(2) Whenever—

(A) the Director finds that a final action of a Federal executive agency has or is likely to have a substantial adverse effect upon the interests of consumers within the United States or any group or class of such consumers and takes a position on any consumer issue in whole or in substantial part adverse to or different from that of the Federal executive agency;

(B) there is pending before any court of the United States any matter or proceeding involving the review of such an action; and

(C) the Agency was an intervenor in such action, the Director shall be entitled as a matter of right to intervene in such matter or proceeding with respect to any such issue as a party to represent the interests of consumers within the United States or of any group or class of such consumers.

(3) Whenever—

(A) the Director finds that a final action of a Federal executive agency has or is likely to have a substantial adverse effect upon the interests of consumers within the United States or of any group or class of such consumers, and takes a position on any issue in whole or in subtantial part adverse to or different from that of the Federal executive agency; and

(B) the Agency was not an intervenor in any such action,

the Director may, at the discretion of the court, intervene as plaintiff or defendant or appear as amicus curiae in any proceeding brought to review such action with respect to any such issue in order to represent the interests of consumers within the United States or any group or class of such consumers.

(e) Under such regulations as he may prescribe, the Director may petition to intiate proceedings, seek leave to intervene or appear pursuant to subsection (b), (c), or (d) of this section, whichever is applicable, in any Federal executive agency proceeding upon a petition by a substantial number of citizens of the United States stating a cause of national significance requesting that he do so. Within sixty days after the receipt of the petition the Director shall notify the principal sponsors of the petition with respect to the action which he has taken. If the Director determines not to seek leave to intervene or appear the answer required by the preceding sentence shall include a clear and concise statement of his reasons therefor.

(f) Findings of the Director under subsections (b), (c), and (d) of this section shall be made in the exercise of his reasonable discretion, shall be in writing, and shall be available to the pubic.

(g) An officer or an employee of the Agency designated by the Director, for the purpose of this section, shall be entitled to enter an appearance before any Federal executive agency for the purpose of representing the Director in any proceeding pursuant to this section without compliance with any requirement for admission to practice before such agency.

(h) The Director is authorized, in any Federal executive agency proceeding to which he is a party, to request that Federal executive agency to issue on his behalf such orders, as authorized by the statutory authority of such agency, for the copying of documents, papers and records, summoning of witnesses, production of books and papers, and submission of information in writing as is relevant to the subject matter of the proceeding. The Federal executive agency to which such a request is made shall issue such discovery orders requested by the Director unless the Federal executive agency determines that the request for discovery is not relevant to the matter at issue, or is unnecessarily burdensome, or is not authorized by the agency's statutory powers.

CONSUMER COMPLAINTS

SEC. 204. (a) Whenever the Agency receives from any person any complaint or other information disclosing a possible violation of (1) any law of the United States, (2) any rule or order of any Federal executive agency, or (3) any judgment, decree, or order of any court of the United States, concerning consumer interests, the Director shall transmit such complaint or other information received by the Agency not later than sixty days after receiving such complaint or other information to the Federal executive agency charged with the duty of enforcing such law, rule, order, judgment, or decree, for appropriate action.

(b) Whenever the Agency receives complaints or other information disclosing any commercial or trade practice which it deems detrimental to the interests of consumers within the United States, and which is not included within the category specified in subsection (a) of this section, the Director shall transmit such complaint or other information not later than sixty days after receiving such complaint or other information to the Federal, State, or local agency whose regulatory or other authority provides the most effective means to act upon them.

(c) Whenever practicable the Agency shall ascertain the nature and extent of action taken with regard to complaints and other

information transmitted under subsections (a) and (b) of this section.

(d) Not later than sixty days after the receipt of any complaint signed and in writing, the Agency shall notify any producer, distributor, retailer or supplier of goods named or readily identifiable in each complaint received under this section of such complaint. The Agency shall notify any producer, distributor, retailer, or supplier of goods and services named or identified in any other complaint or information received or developed by the Agency of the matter complained of unless the Director determines there is a more effective means of remedying such matter.

(e) The Agency shall maintain for convenient public inspection and copying a current listing and brief summary of all consumer complaints signed and in writing received by it pursuant to this title. The complaints shall be arranged in meaningful and useful categories together with annotations of actions taken by the agency or person to whom any such complaint has been referred and the response of and actions taken by the person complained against. Names of complainants shall be removed if they so request. The Director shall carry out the provisions of this subsection not later than one hundred and twenty days after the receipt of any complaint, or promptly after the date on which the Agency receives a response from the person complained against, but in no event shall such complaint be made available to the public until the party complained against has had sixty days to comment on such complaint. The Director shall not include in the listing and brief summary required by this subsection any complaint which has been satisfied during the sixty-day period provided in the previous sentence, the evidence of such satisfaction having been provided to the Director.

ECONOMIC SURVEYS AND RESEARCH

SEC. 205. (a) The Director is authorized to—

(1) conduct research, investigations, conferences, and economic surveys concerning the needs, interests, and problems of consumers, including the execution of Federal laws for the protection of consumer interests,

(2) analyze and disseminate to the public information obtained or developed under this section.

(b) In carrying out the provisions of this section, the Director may recommend to other Federal agencies the conduct of research pertaining to the interests of consumers by such other agencies and obtain from any such agency a report on the action taken with respect to a recommendation under this subsection.

(c) Unless the Director determines that an economic survey or other research or investigation is essential to the performance of the functions of the Agency under this Act, no such survey, research or investigation which is substantially a duplication of any current or recent survey, research or investigation conducted by any other Federal agency shall be conducted under this section.

(d) (1) In carrying out provisions of this section the Director is authorized to require any persons, by general or specific order setting forth with particularity the consumer interest involved and the purposes for which the information is sought, to file with the Agency a report, or answers in writing to specific questions, relevant to the functions of the Agency. Any such reports or answers shall be made under oath, or otherwise as the Director may prescribe, and shall be filed with the Agency within such reasonable period as the Director may prescribe, unless additional time be granted in any case by the Director.

(2) Any district court of the United States within the jurisdiction of which the subject of an inquiry authorized by this section is found, or has its principal place of business, may upon petition by the Director, in the case of refusal to obey a valid order of the Director issued under this subsection, issue an order requiring compliance therewith, and any failure to obey an order of the court may be punished by the court as a contempt thereof.

(e) No compilation or summary of complaints that are signed and in writing shall be published under this section until sixty days after the date of receipt by the Agency of the most recent complaint contained therein.

ADMINISTRATION

SEC. 206. (a) The Director is authorized, in carrying out his functions under this Act, to—

(1) appoint and fix the compensation of personnel of the Agency;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

(3) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act;

(4) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him or in the Agency, and delegate authority for the performance of any function to any officer or employee of the United States under his direction and supervision;

(5) utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local and private agencies and instrumentalities with or without reimbursement therefor;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31, United States Code;

(7) adopt an official seal, which shall be judicially noticed;

(8) request such information, data, and reports from any Federal agency as the Director may from time to time require and as may be produced consistent with other law; and with the approval of the President convene meetings of the heads of those Federal agencies, or their designated representatives, on programs affecting consumers;

(9) arrange with the heads of other Federal agencies for the performance of any of his functions under this title with or without reimbursement and, with the approval of the President delegate and authorize the redelegation of any of his powers under this title;

(10) establish such regional offices as the Director determines to be necessary to serve more adequately the interests of consumers;

(11) accept unconditional gifts or donations of services, money or property, real, personal, or mixed, tangible or intangible;

(12) subject to appropriation Acts, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

(13) transfer funds made available under this Act to facilities of other Federal, State, local and private agencies and instrumentalities as reimbursement for utilization of their services, personnel, and information as authorized in paragraph (5) and appropriations Acts; and

(14) designate representatives to serve or assist on such committees as the Director may determine to be necessary to maintain effective liaison with Federal executive agencies and with State and local agencies carrying out programs and activities related to the protection of the economic interests of consumers.

(b) Upon request made by the Director each Federal executive agency is authorized to make its services, personnel, facilities and information (including suggestions, estimates and statistics) available to the greatest practicable extent consistent with other laws to the Agency in the performance of its functions with or without reimbursement.

(c) Attorneys in all proceedings under section 203 of this Act, except proceedings before the Supreme Court, shall be under the supervision of the Director of the Agency. Before bringing any action in a court or taking an appeal in any court pursuant to section 203 of this Act the Director of the Agency shall notify the Attorney General or his designee.

(d) Each member of a committee appointed pursuant to paragraph (3) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of a committee. All members shall be reimbursed for travel, subsistence and necessary expenses incurred in the performance of their duties.

COMPENSATON OF THE DIRECTOR, THE DEPUTY DIRECTOR, THE CONSUMER COUNSEL AND THE ASSISTANT DIRECTORS

SEC. 207. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(57) Director, Consumer Protection Agency."

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(95) Deputy Director, Consumer Protection Agency."

(c) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(130) Consumer Counsel, Consumer Protection Agency."

"(131) Assistant Directors, Consumer Protection Agency (5)".

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. There are authorized to be appropriated to carry out the provisions of this title $10,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $25,000,000 for the fiscal year ending June 30, 1973.

TITLE III—CONSUMER PROTECTION GRANTS

AUTHORIZATION

SEC. 301. For the purpose of assisting States, localities, and nonprofit private organizations to establish or strengthen consumer protection programs under this title, there is authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $25,000,000 for the fiscal year ending June 30, 1973.

ALLOCATION OF FUNDS

SEC. 302. (a) (1) From funds appropriated pursuant to this title for any fiscal year the Director shall allocate 80 per centum among the States for the purposes specified in section 304 of this title, as follows: Each State, other than possessions of the United States, having an approved plan shall be allocated $50,000, each possession having an approved plan shall be allocated $20,000, and the remainder of such 80 per centum shall be made available among the States according to their respective populations. The remaining 20 per centum of such funds for any fiscal year shall be allocated among the States for planning grants pursuant to section 303, as the Director may determine.

(2) For the purposes of this subsection the term "possessions of the United States" means the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(b) The amount of funds available to any State under subsection (a) for any fiscal year which the Director determines will not be required for such fiscal year shall be available for reallocation from time to time, on such dates during such year as the Director may fix, to other States, to the extent the Director estimates such State, or local public agency or nonprofit private organization within such State, needs and will be able to use such amount being reallocated.

PLANNING GRANTS

SEC. 303. (a) In order to encourage States and localities to prepare and adopt comprehensive consumer protection plans covering their respective jurisdictions, the Director is authorized to make grants to any State or local public agency to assist in preparing or revising such plan.

(b) The Director is authorized to make grants to any State and local public agencies, and nonprofit private organizations to assist them in meeting the cost of planning any project or program or demonstration thereof for which a grant may be made under the provisions of this title.

(c) The Director may require as a condition to any grants under this title within any State or locality that comprehensive consumer protection planning be undertaken and that, where he deems it appropriate, a comprehensive plan or plans be prepared within a reasonable period.

(d) No such grant may exceed 75 per centum of the cost of the planning with respect to which such grant is made.

GRANTS FOR CONSUMER PROTECTION PROGRAMS

SEC. 304. The Director is authorized to make grants to pay the Federal share of the cost of consumer protection programs, which may include the following—

(1) the establishment of strengthening of a Consumer Protection Agency which, in the case of the establishment of such an agency, shall be located in such department or agency of the State as the chief executive or the legislature of the State determines;

(2) the establishment, operation, and expansion of programs to license, or otherwise regulate, household appliance repairmen, motor vehicle repairmen, and home improvement contractors in order to provide improved consumer protection, including protection against—

(A) false advertising;

(B) failure to perform the work or service as advertised;

(C) performing unnecessary and unrequested work or services;

(D) failure to perform work or services as represented to the consumer and for which the consumer was billed;

(3) the establishment, operation, and expansion of programs requiring credit reporting agencies to adopt reasonable procedures for meeting the needs of commerce for credit information in a manner which is fair and equitable to the individual;

(4) the establishment and expansion of consumer education programs, with particular emphasis upon projects which give promise of assisting persons who reside in urban areas of high concentration of unemployed or low-income individuals and the encouragement of the introduction of consumer education courses in public school curriculums;

(5) representation of consumer interests before administrative and regulatory agencies, courts and legislative groups, except where the agency already is representing such interests;

(6) the establishment or expansion of consumer complaint centers;

(7) provision of counseling to consumers;

(8) enforcement of laws to protect the interests of consumers, including laws prohibiting fraud, deceptive practices, and unfair practices against consumers, and laws concerning monopolies and restraints of trade;

(9) study of State laws and regulations, and the laws and regulations of units of general local government, relating to the interests of consumers, and recommendation of improvements in such laws and regulations;

(10) research, studies, and analyses of consumer matters;

(11) the conduct of research, counseling, and educational projects concerning the nutritional value of food; and

(12) such other activities as may bear a direct and material relationship to the interests of consumers.

RECIPIENTS OF GRANTS

SEC. 305. Eighty-five per centum of the funds allocated pursuant to the first sentence of section 302 shall be available for grants to States which have adopted State plans in accordance with section 306 of this title. Not to exceed 15 per centum of such funds shall be available for grants to local public agencies and private nonprofit organizations for consumer protection programs not included in State plans. Until a State has submitted a State plan and the Director has apporved such a plan, or upon the failure of the State to carry out such a plan according to the terms and conditions specified in such plan, as approved, the Director may make grants directly to local public agencies and nonprofit private organizations for consumer protection programs within such State for the purposes set forth in section 304 of this title.

STATE PLANS

SEC. 306. (a) Any State desiring to participate in the grant program under this title shall designate or create an appropriate State agency for the purpose of this section and submit through such State agency, a State plan which shall—

(1) set forth a program under which funds provided under this title will be expended by the State directly or through grants to local public agencies or nonprofit agencies and organizations for the purposes described in section 304 of this title;

(2) provide for the proper and efficient administration of such plan and programs set forth in the plan;

(3) provide adequate assurances that the remaining cost of such plan and programs will be paid from funds derived from a source other than Federal funds;

(4) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant other Federal, or non-Federal, funds available for the purposes set forth in section 304 of this title;

(5) take into account the needs of units of general local government in the State;

(6) provide for effective use of existing resources and improvement of existing programs;

(7) provide for cooperation and coordination with State and local legal services programs and other consumer oriented programs carried out under the Economic Opportunity Act of 1964;

(8) provide whenever appropriate for cooperation and coordination with local offices of the Federal Trade Commission and any Consumer Protection Coordination Committees or Consumer Advisory Boards established under the Commission's aegis;

(9) provide that reports on programs receiving assistance shall be made in such form and containing such information as the Director may reasonably require;

(10) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement of and accurate accounting of funds received under this title; and

(11) contain such other terms and conditions as the Director may prescribe to assure the effectiveness of the programs assisted under this title.

(b) The Director shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

APPLICATIONS

SEC. 307. (a) Any local public agency or nonprofit private organization desiring to receive a grant under this title shall submit an application, at such times, in such manner and containing or accompanied by such information as the Director may prescribe. Such applications shall—

(1) set forth a program under which funds provided under this title will be expended for the purposes described in section 304 of this title;

(2) provide for the proper and efficient administration of such application;

(3) provide adequate assurances that the remaining cost of such application will be paid from funds derived from a source other than this title;

(4) provide, whenever appropriate, for cooperation and coordination with State and local legal services programs and other consumer oriented programs carried out by under the Economic Opportunity Act of 1964;

(5) provide, whenever appropriate, for cooperation and coordination with local offices of the Federal Trade Commission and any Consumer Protection Coordination Committees or Consumer Advisory Boards established under the Commission's aegis;

(6) provide that reports on programs receiving assistance shall be made in such form and containing such information as the Director may reasonably require;

(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure prudent use, proper disbursement of and accurate accounting of funds received under this title.

(b) The Director shall approve any applications and modifications thereof which comply with subsection (a).

PAYMENTS

SEC. 308. (a) From the amounts allotted to each State under section 302, the Director shall pay to each State which has a plan approved under section 306(b) and to each local public agency and private nonprofit organization which has an application approved under section 307(b) an amount equal to the Federal share of the amount needed for the purposes set forth in such plan or application.

(b) For the purposes of subsection (a), the Federal share for each State and local public agency shall be 50 per centum for each fiscal year and for each nonprofit private organization 50 per centum for each fiscal year.

(c) Payments under this Act may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(d) Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to plant, equipment or services.

WITHHOLDING

SEC. 309. (a) Whenever the Director, after reasonable notice and opportunity for hearing to the grantee under this Act, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of section 306;

(2) the application has been so changed that it no longer complies with the provisions of section 307; or

(3) in the administration of the plan or

application there is a failure to comply substantially with any such provision,

the Director shall notify any such grantee that no further payments will be made under this Act (or in his discretion, that further payments will be limited to programs or portions of the State plan or application not affected by such failure) until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made under this Act (or payment shall be limited to programs or portions of the State plan or application not affected by such failure).

(b) An agency or organization dissatisfied with a final action of the Director under section 306, section 307, or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the agency or organization is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Director or any officer designated by him for that purpose. The Director thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have jurisdiction to affirm the action of the Director or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Director may modify or set aside his order. The findings of the Director as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Director to take further evidence, and the Director may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Director 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. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Director's action.

RECORDS AND AUDITS

SEC. 310. (a) Each recipient of assistance under this Act shall keep such records as the Director shall prescribe, including records which fully disclose the amount and disposition of such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used and the portion of the total cost supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Director 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 that are pertinent to the grants received under this title.

TITLE IV—GENERAL PROVISIONS

DEFINITIONS

SEC. 401. As used in this Act—

(1) "Agency" means the Consumer Protection Agency;

(2) "commerce" means commerce between any place in a State and any place in another State, or between places in the same State through another State, and such term includes foreign commerce;

(3) "Council" means the Council of Consumer Advisers;

(4) "Director" means the Director of the Consumer Protection Agency;

(5) "Federal executive agency" means any department, agency, or independent establishment in the executive branch of the Government; including any agency described in section 551 of title 5, United States Code, and any wholly owned Government corporation;

(6) "consumer" means any person who is offered or supplied goods or services for personal, family, or household purposes;

(7) "State" means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands, Guam, American Samoa; and the Trust Territory of the Pacific Islands except as provided in section 302(a) of this Act.

CONSIDERATION OF THE CONSUMER INTEREST IN FEDERAL EXECUTIVE AGENCY DETERMINATIONS

SEC. 402. Every Federal executive agency in taking any action of a nature which can reasonably be construed as substantially affecting the interests of consumers within the United States of products and services, including, but not limited to, (1) the promulgation of rules, regulations, or guidelines, (2) the formulation of written policy decisions, or (3) the issuance of orders, decrees, studies, reports, or standards, shall, in taking such action, give due consideration to the valid interests of consumers. When, in the normal course of its operations, the agency concerned makes public a statement with respect to such action, it shall indicate in such public statement the manner of its consideration of consumer interests.

INFORMATION DISCLOSURE

SEC. 403. (a) Subject to the provisions of this section, the Director shall disclose to the public so much of the information he obtains under this Act as he determines will assist in carrying out the purposes of this Act. The Director may not disclose trade secrets or information which includes formulas, processes, plans or patterns of manufacture, research, methods of doing business, costs, names of customers or other competitive information otherwise unavailable to the general public except to other Government officials and to authorized committees of Congress and except, where such disclosures are necessary to assure protection of the interests of consumers and such disclosures do not unreasonably prejudice the interests of those owning or lawfully possessing such information, (1) in a judicial proceeding if ordered by a court, (2) in a proceeding in which he appears pursuant to this Act, or (3) in carrying out his survey, research, and information dissemination function in cases involving extraordinary health and safety hazards or extraordinary economic harm. Before disclosing such protected information in a court or in an agency proceeding or in carrying out the survey, research, and information dissemination functions, the Director shall give fifteen days' notice to the owner or lawful possessor of such information.

(b) No information shall be disclosed if that information is inaccurate, misleading, or is not reasonably complete. Before disseminating any information which may injure the reputation or good will of a person or company (or its products or services) or which may disclose product names or otherwise may permit identification of a product or service with a person or company, the Director shall notify the person or company of the information to be disclosed, and shall afford an opportunity for comment, unless extraordinary health and safety hazards dictate otherwise.

(c) In disseminating any information under the provisions of this Act which discloses product names, the Director shall take such action as may be necessary to assure that any disclosure or dissemination of such information includes a statement making it clear that products of a competitive nature are not included and that there is no intent to rate one product as better than another product, to imply that certain products are superior in quality to any other products, or that one product is a better buy than any other product.

(d) In any case in which information is disclosed or disseminated under this Act and is subsequently found to be inaccurate, the Director shall take such action as is necessary to assure a full retraction of the inaccurate information together with a statement of the new data in a manner similar to the initial disclosure or dissemination of such information.

SAVINGS PROVISION

SEC. 404. (a) Nothing contained in this Act shall be construed to alter, modify, or repeal any other provision of law, or to prevent or impair the administration or the enforcement of any other provision of law, or to affect the duty of the Administrator of General Services to represent the interests of the Federal Government as a consumer pursuant to section 201(a)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)(4)).

(b) Nothing contained in this Act shall be construed as relieving any Federal executive agency of any responsibility to protect and promote the interests of consumers in the United States.

(c) Nothing contained in this Act shall be construed to limit the rights of any person or group or class of persons, to initiate, intervene, or otherwise participate in any court or Federal executive agency proceeding.

FORCIBLE RETURN OF A DEFECTING SOVIET SAILOR A DISGRACE TO THE AMERICAN FLAG

Mr. JAVITS. Mr. President, I call the attention of the Senate to an incident which just occurred, in which a man seeking political asylum off a Russian fishing vessel threw himself aboard a Coast Guard ship and, by some strange circumstances which now seem hard for anyone to understand, found himself, some hours later, back in the custody of the Russians themselves, having been beaten insensible, according to the editorial in the New York Times, by other crew members of his Russian fishing vessel who came aboard the Coast Guard vessel *Vigilant*. The Soviet seaman was summarily denied asylum, God knows by whom, and sent back to this Russian ship; and that is undoubtedly the end of him.

I have just been advised that the United Nations High Commissioner for Refugees, who is in charge of the refugees' rights in the world—and we are a party to that particular convention—has just protested this matter to the Secretary of State.

I seems to me, Mr. President, that this incident requires investigation and public explanation. It is a very regrettable incident, assuming the accuracy of the report. Since it is the subject of a lead editorial in the New York Times, I am confident of its accuracy.

So, Mr. President, I shall look into it promptly, and if in my judgment it is worthy of it, I shall seek a hearing from the appropriate committee with respect to this matter. We will not know what is appropriate until we know whose decision this was, whether it was a State Department decision, a Coast Guard decision, or who did what. There seems to have been a breach and violation of

everything we believe in, in terms of asylum, and of the international agreements to which we are so much a party.

So that Senators may be apprised of the situation, I ask unanimous consent to have printed in the RECORD at this point the editorial from the New York Times entitled "Land of the Free."

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

LAND OF THE FREE

The forcible removal of a defecting Soviet sailor from a United States Coast Guard cutter with the cooperation of its American officers is surely one of the most disgraceful incidents ever to occur on a ship flying the American flag. It flouts the American tradition of granting political asylum and it may constitute a violation of the Geneva convention on refugees.

The seaman, Lithuanian in origin, sought refuge on the Coast Guard cutter Vigilant while it was negotiating with a Soviet fishing vessel in American waters off Martha's Vineyard. In brief, what then happened over a ten-hour period was that the captain of the Vigilant permitted Soviet sailors to come aboard the cutter, drag the defector from his hiding place, beat him senseless in the presence of American observers and finally transport him, in one of the American ship's lifeboats, back to the Soviet vessel.

An "explanation" offered by a Coast Guard spokesman was almost as bizarre as the incident itself. He said the decision to return the Lithuanian was made "in consideration of delicate international discussions which were being carried on regarding fishing problems." These talks, he said, "could have been endangered by any other course of action." To the Coast Guard, in short, the nation's obligations to those who fish for yellow-tail flounder exceed any obligation owed to a human being seeking safety and freedom on an American ship.

The real explanation is surely craven stupidity in high places, possibly accompanied by lethargy. The damage is done; it now is impossible to save the Lithuanian who believed, with the weight of history and tradition on his side, that he would be safe once he had jumped to an American vessel. What is imperative now is to take action to insure against any repetition of this incredible train of events.

This nation has expended tens of thousands of lives and hundreds of billions of dollars to resist Communist tryanny. Defectors from totalitarian rule have been warmly welcomed from many parts of the world. Refugees have repeatedly undertaken hazardous flights to an assured safe haven in the United States.

The Administration should call all those responsible in this episode swiftly to account and a prompt investigation by the Congress might be valuable as a deterrent against any repetition—ever—of the affair of the Vigilant.

CONSUMER PROTECTION ORGANIZATION ACT OF 1970

The Senate continued the consideration of the bill (S. 4459) to establish a Council of Consumer Advisers in the Executive Office of the President and to establish an independent Consumer Protection Agency in order to protect and serve the interests of consumers, and for other purposes.

Mr. MAGNUSON. Mr. President, S. 4459 is a bill which would establish a Council of Consumer Advisers in the Executive Office of the President, and establish an independent—I underline the word "independent"—Consumer Protection Agency, in order to protect and serve the interests of consumers, and for other purposes.

Having considered the same, the Committee on Commerce unanimously reported the bill out; but I must say that the reporting is pretty much—about 90 percent—a compilation of the fine work that was done by the Senator from Connecticut (Mr. RIBICOFF) and his subcommittee. The bill was then referred to the Committee on Commerce, and we agreed with the conclusions of his subcommittee—a subcommittee of the Committee on Government Operations.

PURPOSE

It is the purpose of this bill to: First, strengthen the implementation and coordination, of various consumer programs within the Federal Government; second, provide for the dissemination of needed consumer information; third, assure the systematic receipt, analysis, and disposition of complaints forwarded to the Federal Government by consumers; fourth, stimulate the informal settlement of consumer complaints; fifth, create a consumer advocate within the Federal Government to represent the consumer interest in the formulation and implementation of governmental policies—legislative, administrative, regulatory, or judicial—which substantially affect the interests of consumers; sixth, encourage the development of, and give financial aid to, State and local programs designed to improve the marketplace by assisting consumers in achieving their consumer rights, thereby rewarding legitimate business interests which already recognize and promote the consumer's; and seventh, undertake comprehensive studies of the way in which consumers are faring in the marketplace and make recommendations for improving the relationship between suppliers and consumers of goods and services.

SUMMARY

In order to accomplish the purposes enumerated above, the bill would establish a Council of Consumer Advisers to assist the President in formulating consumer policy. The Council would consist of three members—one of whom would be the Director of the Consumer Protection Agency—appointed by the President with the advice and consent of the Senate. One member would be designated Chairman.

The Council would serve the President and Congress by analyzing existing consumer programs within the Federal Government. The Council would monitor and evaluate consumer activities within various Government agencies, comparing actual performance with stated objectives. It would recommend to the President ways of properly interfacing various Federal consumer activities so as to insure their efficacy and avoid duplication and waste. And the Council would strive to coordinate Federal consumer programs with similar State and local activities.

The bill would also provide for the creation of a Consumer Protection Agency, independent of the administration but coordinated with it because of its Director's membership on the Council of Consumer Advisers. This Agency would consist of a Director, Deputy Director, Consumer Counsel, not more than five Assistant Directors, and a highly qualified staff of attorneys, economists, and other experts who would assist the Agency in ascertaining and promoting the consumer interest.

The Consumer Protection Agency would perform several important functions for consumers of this Nation. Most important, the Agency would perform an advocacy function, arguing the consumer viewpoint before regulatory agencies and courts. It would represent the consumer in the formulation and implementation of programs substantially affecting consumers. And it would fight for the removal of inequitable barriers to consumer participation in Government decisionmaking.

The bill would require the Agency to receive and systematically analyze consumer complaints sent to the Agency or to the Council of Consumer Advisers or forwarded to it by the legislative branch of the Federal Government. Data related to the complaints would be compiled and appropriately utilized in the formulation of legislative or other recommendations.

The Agency would be empowered to forward complaints to other agencies for their appropriate disposition; and procedures would be established to insure that consumers receive adequate responses. The Agency would also send complaints to those companies or individual businessmen implicated in complaints and provide them with an opportunity to correct any misunderstandings. In other words, the Agency would serve as a liaison between the consumer and supplier in order to promote the informal settlement of disputes.

The bill would require the Consumer Protection Agency to diseminate information of vital interest to consumers. Because "informed consumers are essential to the fair and efficient functioning of the free market system," the Agency's information dissemination operations would be as broad as time and budget permitted, but care would be taken to see that the information disseminated fairly treated all interested parties.

But no Federal consumer protection program alone could adequately serve the needs of consumers and legitimate businessmen on "Main Street, U.S.A." Therefore, the bill would provide for the funding of consumer programs at the State and local level. Governmental agencies and nonprofit private organizations would be eligible for funds on a participating basis, and they would be required to submit their own consumer protection plans as a prerequisite to receiving Federal funds. This planning requirement would help assure coordination of consumer activities at the State and local level in much the same way that the Council of Consumer Advisors and the Consumer Protection Agency would assure coordination and vitality of consumer programs at the Federal level.

Finally, the bill would provide an opportunity for comprehensive study of the consumer's position in the American

marketplace by creating a research capability within the Consumer Protection Agency. This research capability would, perhaps for the first time, permit comprehensive study of such subjects as consumer product testing so that any legislative action could have the benefit of carefully drawn, research-supported Agency recommendations.

LEGISLATIVE HISTORY

S. 4459, as reported from the Government Operations Committee by Senator Ribicoff, is a legislative amalgam of many different bills introduced in the 91st Congress. These bills recognize the need to provide consumer representation, to coordinate consumer programs, to disseminate consumer information, and/or to provide Federal assistance to State and local consumer protection organizations.

In the 91st Congress at least nine bills provided a foundation for S. 4459. The advocacy function was set forth in Senator METCALF's utility consumer council bill (S. 607), Senator HART's independent consumer council bill (S. 2959), the administration's bill (S. 3240) placing the advocacy function in the Justice Department, and Senator KENNEDY's bill (S. 3434) creating a public counsel corporation. The coordination function was covered in Senator NELSON's bill (S. 860), creating a Department of Consumer Affairs, the bills proposing an Office of Consumer Affairs in the Executive Office sponsored by Senators TYDINGS and BAYH (S. 2045), Senator PERCY (S. 3097), and Senator JAVITS—by request—(S. 3240). Bills fostering the development of State and local consumer protection or complaint settlement facilities consisted of Senator HART's Independent Consumer Council (S. 2959) and Senator JAVITS' S. 861 which is the basis for the Federal grant provisions in S. 4459. The legislative proposals providing for dissemination of consumer information in the form of product testing or something similar were S. 860 creating a Department of Consumer Affairs, S. 2959 creating an Independent Consumer Council, S. 3165 creating an Independent Consumer Protection Agency, and the administration's Consumer Product Testing Act (S. 3286).

This committee had jurisdiction over three of the above bills, S. 861 providing Federal assistance to the States, S. 2959 creating the Independent Consumer Council, and S. 3286, the Consumer Product Testing Act. Senator Moss, chairman of the Consumer Subcommittee, held hearings on S. 2959—October 16, and November 3, 1969—and S. 3286—March 4, 1970. The substance of S. 861 was thoroughly investigated by the committee through its staff. This staff investigation included an analysis of existing State and local consumer protection activities—governmental and other. Particular attention was given to activities of the Federal Trade Commission and the Office of Economic Opportunity—activities involving Federal participation in State and local consumer protection programs.

An intriguing aspect of S. 4459's legislative history was the emergence of the idea that a consumer advocate should be independent and unfettered by political pressures from the administration. This idea was first prominently set forth legislatively in Senator HART's independent consumer council bill (S. 2959). Senator HART said the following upon introducing his bill:

> Only a cockeyed optimist can expect any agency established as an arm of the executive or Congress not to reflect constantly the prides and prejudices of its master. If top appointments also are made by either the executive or Congress, the control of philosophy is even more absolute.
>
> It simply is not realistic—and ignores human nature—to establish a consumers' watchdog on Government under those conditions and expect it to perform fully up to anticipations.

The Hart bill was, in essence, a quasi-public corporation completely autonomous from Government save for certain financial ties. After initial hearings and staff review an amended version of S. 2959 was prepared but never introduced, although certain provisions of the amended bill parallel S. 4459.[1]

The notion of "independence" advocated by Senator HART was so attractive that proponents of legislation creating a Department of Consumer Affairs shifted ground and opted for an independent Consumer Protection Agency. Although an independent Consumer Protection Agency theoretically fell short of the "independence" contained in Senator HART's proposal, many consumer activists in and out of Congress settled on this form.

Given this background, the independent Consumer Protection Agency in S. 4459 is designed to be a unique creature in the Federal Government. Although the President would appoint the Director, the Director would serve for a definite term; he would not be subject to dismissal by the President—except for clear malfeasance of office. And although the Office of Management and Budget would presumably handle the budget requests of the Consumer Protection Agency, the Agency, in accordance with its authority, could take issue with budget actions when they substantially affected the interests of consumers. Thus, the Consumer Protection Agency would be free of some of the fetters which Senator HART foresaw in the creation of "a consumers' watchdog on Government" in the executive. The legislative history of S. 4459 suggests the Agency would be quite independent.

The Congress could help assure the "independence" of the Consumer Protection Agency by diligently exercising its advice and consent, oversight, and appropriation powers. This committee especially could have a constructive role because it would handle the Agency's nominations and be responsible for oversight.

Of course, in final analysis the Agency's "independence" would be a direct function of the integrity and dedication of the individuals in the Agency. And this would be true even if the Agency had no connection at all with the Federal Government.

[1] See appendix for text of amended version of S. 2959.

BACKGROUND AND NEED

1. CONSUMER ADVOCACY

The energy and effectiveness of consumer protection regulation diminishes in direct proportion to the absence of vigorous external surveillance and initiative. No single fact of bureaucratic life emerges with more striking clarity from the legislative oversight and investigatory activities of this committee.

Unhappily, we have witnessed a virtually unvaried pattern first of growth and promise, then debilitation, in the implementation of consumer laws. Congress enacts a new law; the agency charged with regulatory responsibilities issues a bold pronouncement of its plans for implementation; Congress turns its attention to new issues which press for the legislative limelight.

Then come the inevitable delays in implementation; regulations are eroded; the Agency begins to lose its initial sense of mission and purpose. In the end, the Agency finds itself facing each day only one consistently concerned constituency—the very industries it regulates. In time regulator and regulated begin accommodating to the needs of the other, sometimes unconsciously, and the consumer interest may be shortchanged.

In this Congress alone, our committee in its investigations and oversight hearings[2] has seen this pattern emerge; in pesticide regulation; in the regulatory response to the knowledge of hazardous lead and mercury contamination; in the lackluster implementation of the Flammable Fabrics, Fair Packaging and Labeling and Hazardous Substances Acts among others. Even in the implementation of the National Traffic and Motor Vehicle Safety Act, which the committee has closely monitored through a series of oversight hearings, there have been serious inadequacies and delays.

The Heffron report prepared for the National Commission on Product Safety created by legislation originating in this committee, examined the implementation of Federal consumer safety legislation including the Automobile Safety, Flammable Fabrics and Hazardous Substances Act programs. The report's summary conclusions are both disturbing and instructive:

> The administration of these programs has been marked by too much timidity and inordinate delay, although there have been some instances of effective action. The Food and Drug Administration has taken over 2 years to bring to completion proceedings for a proposed ban on the commonly recognized and highly dangerous poison, carbon tetrachloride, and this same agency failed to use its authority to ban carbon tetrachloride provisionally, as a substance posing imminent hazard to public safety, pending com-

[2] In the 91st Congress the Senate Commerce Committee has held more than 36 days of hearings on consumer bills or consumer programs ranging from warranty legislation (S. 3074), to consumer class action (S. 3201), to fair packaging and labeling oversight, to investigations concerning the nutritional content of dry breakfast cereals. In those hearings the committee has received testimony from more than 110 witnesses. Add to this the investigations undertaken by the committee, and a clear pattern of consumer activism emerges.

pletion of the administrative proceedings. The Department of Commerce has failed to take steps to apply even the weak existing flammability standard to dangerously flammable blankets, bedding, and other interior furnishings, which were made subject to safety regulation over 2 years ago, and the Department has only this year begun initial proceedings for a special flammability standard relating to children's wearing apparel. As for the automobile safety program, although a few important standards have issued, they have been drawn mainly from safety features already incorporated in the vehicles of most domestic manufacturers.

These, as well as other disappointments in the consumer protection programs, are all the more alarming because, by and large, Congress has granted to the agencies concerned powers generally adequate to deal with the regulatory problems involved.

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As if instinctively, the agencies approach problems so as to seek accommodation with the regulated industry and to avoid major conflict with it. Ironically, the timidity with which the agencies approach their task seems endemic to the administrative process established for consumer protection.

The financial, technical, and legal resources of the regulated industries are far greater than those of the agencies. Administrators apparently fear that a major conflict in rulemaking or enforcement would tie up so much of the agency's resources that its ability to press its program would be hamstrung. They fear also that the entrenched economic interests they regulate could retaliate through the legislative process, particularly through appropriations, since legislators with a direct constituent interest, such as a particular manufacturing plant in their district or State, may be more responsive to such local economic interests than to generalized consumer interests. Then, too, administrators running these programs find that their agencies, due to lack of resources or inadequate staffs, cannot provide them with the backup data they regard as necessary to withstand challenge from the regulated industry. Like many laymen, they seem to be wary of lawyers and fear a court test of their policies.

Continual communication with representatives of the regulated industries causes agency preoccupation with the economic burdens and dislocations that specific safety standards would impose. The Government penchant for multiple layers of review preceding final decision produces conflicting interests within the agencies, which may create a stalemate and allow industry representatives to probe for the soft spots receptive to delay. In sum, the consumer safety regulatory process in fact has too often been a dialogue between Government and industry, with informal communications not open to public scrutiny.

* * * * *

To counter industry arguments and the institutional constraints limiting vigorous agency action, an independent voice speaking for the generalized consumer interest should be intruded into the administrative process. That voice should be heard in the critical phases of standard setting before specific proposals are published, and later, when formal proposals have been formulated. The ubiquitous presence of the consumer spokesman should stiffen the spine of the most timid official.

* * * * *

Congressional hearings, special investigations, such as the Heffron report, the remarkable work of public interest law firms and other advocates can help to stem the decay in promised consumer protection. But these activities are necessarily sporadic: Congressional committees are compelled to turn their attention from the implementation of past legislation to the processing of new legislation. Moreover, the resources and expertise necessary for effective, constant surveillance simply do not exist anywhere. Private consumer advocates, too few in number, and with limited resources, are able to concentrate only on the most conspicuous failures in consumer regulation.

S. 4459 would create an independent Consumer Protection Agency without regulatory authority. In this committee's judgment only such an agency: independent, permanent, adequately staffed with a systematized consumer mailbag and research capacity can assure governmental responsiveness to the very real needs of American consumers rather than to bureaucratic imperatives.

2. CONSUMER INFORMATION

But even if the regulatory agencies were to perform their functions flawlessly, the committee has time and again produced evidence that consumers often lack basic information and know-how to make those informed choices which are the cornerstone of the free market economy. The preamble to the Fair Packaging and Labeling Act enunciates as national policy that "informed consumers are essential to the fair and efficient functioning of the free market economy."

Yet in its consumer investigations, the committee has found it is often impossible for a consumer to make a rational choice. For example, as a byproduct of its work in automobile safety, the committee found consumers universally confused by competing claims among various brands of tires. So drastic, in fact, was the absence of unuseable information on tire quality that Congress added to the Motor Vehicle Safety Act a specific directive to the Secretary of Transportation to develop a uniform quality grading system for tires.

The committee again recognized the need for information when urging that the Federal Trade Commission establish a tar and nicotine testing laboratory which now produces semiannually reports on the tar and nicotine content of all cigarette brands marketed in the United States. Such information may well enable those smokers who are unwilling or are unable to stop smoking at least to reduce the hazard of their smoking.

Oversight hearings on the Fair Packaging and Labeling Act this year revealed substantial discontent on the part of housewives who could not obtain information which they considered essential to their basic daily choices of food for their families. The absence of price per unit labeling made it difficult for them to identify the most economical brands or sizes. And the absence of uncoded labeling of perishable commodities rendered them incompetent to determine the relative freshness of milk and eggs and other highly perishable commodities. For a vast range of products in the marketplace characterized by the increasingly complex fruits of technology, the consumer must thread his way through a maze of conflicting, sometimes meaningless, certainly confusing, claims.

The result of these pervasive consumer confusions has, in many cases, rewarded the marketer making the loudest claims rather than the producer of the product which performs best. The recent executive order by the President providing for the limited dissemination of the results of Government testing of consumer products wisely recognizes the need for examination of such information. But as the President's Consumer Adviser, Mrs. Knauer, herself observed, these tests at best provide only a limited range of information for a relatively few products.

Again there are encouraging breakthroughs in the voluntary dissemination of consumer information particularly by supermarket chains which are voluntarily adopting price per unit labeling and open date labeling.

Nevertheless, it is clear that much remains to be done, not only in the collection and dissemination of information in a form usable and comprehensible to consumers, but also in the examination of proposed new systems for the development and dissemination of consumer information, such as the "tel-tag" programs tested on a pilot basis in Great Britain and Sweden, which are similar to the administration proposal for developing consumer product testing standards.

Among its activities in this area, the Agency would be required to produce a Federal Consumer Register to serve as a basic consumer information text for the country. This Register would be a laymen's version of the current Federal Register, but include only those matters which substantially affect consumers. Such a publication stripped of all "legalese," would enable consumers to be aware of and to participate in Government proceedings which affect them. The concept of publishing a Federal Consumer Register has been approved by the Administrative Conference of the United States.

The preparation of the Federal Consumer Register need not be duplicative of the work undertaken in order to prepare the Federal Register. The technicians responsible for drafting Federal Register material routinely prepare memoranda for agency or departmental heads summarizing and explaining the issues represented in the publication. These memoranda could be used by the agencies in preparing Consumer Federal Register submissions for the Consumer Protection Agency.

3. HANDLING OF CONSUMER COMPLAINTS

Every Congressman and Senator, every committee involved in consumer legislation has seen the volume of consumer complaints soar in the past decade. Time and again the dissatisfied consumer finds himself up against a vast impersonal manufacturing or retailing organization. Finding himself corresponding with an unthinking computer or an unresponsive hierarchy, he will, in desperation, write to his Congressman and Senators, the President's consumer representative, or perhaps the Federal Trade Commission. But nowhere in the Government is there an agency with sufficient resources and authority to provide for the systematic receipt, analysis, and handling of these consumer complaints.

The Canadian Government has been responding to the developing needs of Canadian consumers. Through its Department of Consumer and Corporate Affairs Canada has developed a system by which consumer complaints can be mailed to "The Consumer," Box 99, Ottawa, with the assurance that the agency will know how to reach the responsible parties and will pursue the complaint with concern and diligence.

The alienation of citizens from our institutions, both public and private, is a matter of growing concern. Unless these institutions can be made more responsive to just complaints, this alienation will plainly fester and grow. The Agency's complaint handling authority is, therefore, critical.

4. INFORMAL DISPUTE SETTLEMENT

Of course the resolution of disputes involve more than the efficient communication of consumer complaints to the responsible parties. Not infrequently, the rights of the consumer and the responsibilities of the manufacturer or retailer are obscure and ambiguous. In many cases each party insists he is in the right. Our Anglo-Saxon system of jurisprudence leads us to the courts for the resolution of such civil disputes. Yet, as our hearings on consumer class actions amply demonstrated, the courts are an illusory forum for the redress of consumer complaints of $10, $50, $100 or even $500. The costs of an attorney, to say nothing of the inconvenience of court procedures, force the consumer to accept the buffetings of the marketplace, no matter how fraudulent or unjust. Yet while the manufacturer or retailer may in such cases avoid the payment of a claim, he will not avoid the costly and damaging ill-will engendered by such disputes. Thus, it is not surprising that there has been growing interest in the development of informal dispute settlement mechanisms.

Recently, the major appliance manufacturers sponsored the formation of MACAP—the Major Appliance Consumer Action Panel—designed to facilitate and to assure fair mediation of consumer complaints. Similarly the National Association of Better Business Bureaus is undertaking drastic reforms, in part motivated by the desire to find fair, flexible and expeditious mechanisms for deciding consumer complaints. In recent years, the American Arbitration Association has pioneered in the development of simple arbitration for consumer complaints, particularly in the dry cleaning field.

Yet today these efforts remain sporadic and embryonic. The Consumer Protection Agency is needed to spur and facilitate the widespread development and utilization of informal disputes settlement mechanisms. But such mechanisms can never be a panacea for all consumer problems.

5. AID TO STATE AND LOCAL CONSUMER PROGRAMS

Of course, the Federal Government can not offer complete protection to each and every American consumer in every remote corner of the American marketplace, although it can do much to alleviate the more flagrant and more widespread abuses. It can attack pockets of abuse in certain local areas, it can remove barriers to the Federal courts so that consumers in all parts of the country as a class can help themselves, it can take the foul play out of the warranty game, and it can assure that certain information is made available to reach the consumer. But comprehensive consumer protection at the State and local level is at least equally essential if light is ever to shine upon the dark side of the marketplace.

Some States and municipalities have done a laudable job in providing protection to consumers within their jurisdiction. The State of Washington, for example, has had an active and effective consumer program in the office of the attorney general since 1960. Its little "FTC Act" served as a model for other States in the sixties, and its recent revision of that act should guide legal developments at the State level in this decade. Massachusetts and New York have also been very active in consumer protection at the State level. And New York City has pioneered in consumer protection at the municipal level through its articulate spokeswoman, Bess Myerson Grant.

There have been several efforts at the Federal level to assist States, localities, and private nonprofit corporations in their consumer protection activities. In 1966, at the suggestion of Chairman MAGNUSON, the Federal Trade Commission began a demonstration project in the District of Columbia. In this demonstration a consumer office was set up to act as a one-step consumer complaint center. The office staff received all complaints and obtained sufficient data for an initial investigation. Complaints were then handled by the office or forwarded on to other appropriate agencies for their consideration.

On the basis of the Federal Trade Commission's experience with this project and its own reappraisal of its consumer function, it has now reorganized so as to give its field offices greater power to investigate without first referring complaints received in the field offices to Washington, D.C. At the same time, the Commission has launched a project designed to coordinate its activities with those of State and local agencies. In addition to acting as a clearinghouse for information and maintaining contact with the State attorneys general, the Commission has begun establishing consumer protection coordinating committees comprised of State and local consumer protection officials and consumer advisory boards designed to involve distinguished citizens of the community in consumer protection.

In addition to the Commission's efforts, the Office of Economic Opportunity has been attempting to serve consumer needs at the local level.[3] It is estimated that about 20 percent of the cases handled by Legal Services in OEO involve consumer matters. In addition, OEO has undertaken specific programs designed to help the Nation's low-income consumers. These programs have two major thrusts: the support of consumer activities in State and local agencies, and the creation and support of community education and complaint resolution offices. Also OEO is experimenting with several ombudsman models that may assist consumers in obtaining redress in the marketplace. The committee strongly endorses these programs and encourages their continuation.

Unfortunately, present Federal efforts have not been coordinated. It seems that both the Federal Trade Commission and the Office of Economic Opportunity have failed to work with each other when undertaking their local consumer programs.

There is presently a strong need to provide Federal assistance to State and local consumer programs. There is a corresponding need to insure viable coordination between Federal consumer efforts and State and local programs. S. 4459, through its grant-in-aid program to States, local agencies, and private nonprofit organizations would meet those needs. A national network of agencies, coordinated and dedicated to the consumer interest, would spring up to insure "law and order" in the marketplace, and in so doing might relieve certain anxieties and pressures that detract from the general "law and order" of the community.

There is a final need for action in the consumer area: there is a need for competent research and investigation to ascertain the plight of consumers—and businessmen—in the marketplace and to make recommendations for adjustments

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[3] In 1970 the Office of Program Development in OEO sponsored three local consumer programs. In the Washington, D.C. area OEO has funded to the level of $200,000 in fiscal year 1970 the Neighborhood Consumer Information Center (NCIC) which is affiliated with Howard University. NCIC's complaint center has been very successful in achieving informal settlement of consumer disputes. Its education department has made some progress in bringing vital consumer information to low-income consumers. And its public relations department is working with Mrs. Knauer's office to air cases describing the plight of poor consumers.

In the State of Washington OEO has committed $150,000 to a program being carried out by the Washington State Attorney General designed to attract private attorneys to the business of representing aggrieved consumers. By conducting seminars, drafting model pleadings, and researching particular issues, the Washington project directors hope to make the local bar a positive force for consumer protection. With Washington State's new class action authority and treble damages for "unfair or deceptive acts or practices" the Washington project may prove very beneficial to consumers.

In Massachusetts the OEO is funding ($150,000) a project to see if research and investigation independent of the consumer complaint process can be the basis for effective rule and regulation under a "little FTC" statute. This project, too, holds some promise.

Unfortunately, OEO plans for consumer programs in fiscal 1971 are thin. Either because of monetary restrictions or reorientation within the Office, imaginative plans for consumer programs holding promise for low-income consumers are being set aside. This is unfortunate, particularly when such programs could serve as useful models for the Consumer Protection Agency, if and when it begins funding local consumer programs.

that will better serve consumers and, promote the free market system.

This particular need is acutely felt by those committees in Congress who struggle to protect consumers without ignoring the legitimate needs of suppliers. The data available to committees is virtually nil. That which is available is often tainted because it has been collected through research financed and directed by the very industry whose practice may be in question.

In those areas where it has recognized that it cannot act without more information, Congress has been forced to constitute special commissions to provide it with the facts. In the case of the National Commission on Product Safety and the Automobile Insurance Compensation System Study this has proven very satisfactory. The final report of the National Commission on Product Safety and the Heffron report prepared for the Commission under contract, testify to the way in which studies can constructively advance the work of the legislative and executive branches, and the same can be said of the Department of Transportation's automobile compensation system study.

But the commission or special study approach is somewhat wasteful. Competent researchers must quit what they are doing to undertake the project and then must find something else to do when the project has been completed. And the research data collection operations must be geared up and then torn down or transferred to some existing operation.

The Consumer Protection Agency would be competent to undertake research at all times, and one of the most important long-term consumer needs would be fulfilled.

I wholeheartedly recommend the bill to the Senate. As I say, the architect of the bill was the Senator from Connecticut, therefore, although the bill technically came out of the Committee on Commerce, it is not a Commerce Committee bill; it is a case of the Committee on Commerce putting its wholehearted approval upon a bill that the Senator from Connecticut had worked long and hard upon. I yield the floor to him.

Mr. RIBICOFF. Mr. President, I thank the distinguished Senator from Washington, whose help has been very important and very necessary.

Mr. President, the purpose of this bill is to strengthen the organization and improve the operation of Federal consumer protection activities. To achieve this, it establishes a Council of Consumer Advisers in the Executive Office and a Consumer Protection Agency in the executive branch. Together, they will provide what is now lacking in our consumer protection efforts—effective program coordination, a vigorous advocate to represent the consumer interest in the regulatory process, and support for State, local, and private consumer protection organizations.

This bill is the product of 18 months' work by the Government Operations Committee. First, we held 11 days of hearings on five different proposals. Then we combined the best features of all of them into one carefully drawn bill. As a result S. 4459 advances the public interest without harming private interests. The bill was overwhelmingly approved by the committee.

The proposed legislation is designed to provide a more effective organizational framework for the multitude of Federal consumer programs. It is modeled after the reorganization of our environmental protection programs which Congress recently approved. There is a small White House unit to assist the President in coordination and policy development and an action agency to protect the consumer interest.

The Council, created by title I, will be composed of the Director of the Agency and two other persons appointed by the President with the advice and consent of the Senate. The President will designate the Chairman of the Council.

In addition to its other responsibilities the Council will prepare a yearly report on the progress of consumer interests. It will review the efficiency and effectiveness of Federal consumer protection programs. The report will suggest priorities for governmental action and recommend new legislation to meet emerging consumer needs. Last, the report will assess the efforts of State, local, and private efforts to protect the consumer.

With so many departments and agencies engaged in consumer protection activities, it is vitally important that a top level executive branch organization evaluate program performance. We need to determine, on a continuing basis, whether programs are actually achieving their intended results. The Council will perform a valuable function in reporting on the success or failure of consumer programs.

Title II is the heart of the bill. It establishes the Agency and defines its functions.

The Agency will be headed by a Director appointed with the advice and consent of the Senate for a term of 4 years. A Deputy Director will be appointed in the same manner for the same length of time. The terms of the Director and Deputy Director will be coterminous with the President. He is also authorized to appoint the other principal officers of the Agency: a Consumer Counsel and up to five Assistant Directors.

The Agency's mandate will cover a broad spectrum of the consumer interest. It is authorized to carry on eight major activities:

First. Represent the consumer interest before Federal departments, agencies, and courts;

Second. Refer consumer complaints concerning the actions of business;

Third. Publish information useful to consumers;

Fourth. Conduct economic surveys and research;

Fifth. Provide financial and technical support to State, local, and private consumer organizations;

Sixth. Promote consumer education programs;

Seventh. Cooperate with business in its consumer protection efforts; and

Eighth. Perform or supervise such product testing as may later be authorized.

Consumer advocacy is the most important new principle established in the bill. Section 203 provides that the Agency shall represent the consumer interest before other Federal agencies and the courts. Intervention in policymaking and adjudicatory proceedings will be the primary means by which the consumer's voice is heard in the decisionmaking process.

This is not a new or novel idea. The Commerce Department tends to support business interests and the Labor Department, the interests of the workingman in the councils of government. Hence, it is appropriate for the consumer, as a purchaser of goods and services in the marketplace, to have a governmental advocate to defend his interests.

Consumer abuses are a kind of silent violence in the marketplace. Adherence to law and order is needed there every bit as much as it is in the city streets. The damage of marketplace abuses can destroy lives and property. An independent consumer protection agency will stand as the consumer's representative to assure that their interests are heard and weighed in governmental regulatory processes.

Section 203 has been tightly written to permit CPA intervention only where it is appropriate and then, only in accordance with strict terms and conditions. But the Agency can have a real impact on consumer matters. It will, for example, be able to participate in license, rate, and route proceedings. It can oppose inflationary rate increases or unjustified service cutbacks. Thus, it will serve as a friend of the consumer, helping to guard his pocketbook and preserving his right to quality service from those who serve the public under Federal authority.

A second responsibility of the CPA will be handling consumer complaints. Section 204 provides that it will receive and transmit to other Federal authorities, within 60 days of receipt, consumer complaints regarding the violation of any Federal laws, administrative rules or orders, or Federal court decrees. Other types of complaints will be referred to Federal, State, or local authorities.

Recognizing the legitimate need of private businesses to protect their name and goodwill, section 204(d) provides for the referral of all complaints in writing and signed to the firm named, or identifiable, within 60 days of receipt by the CPA. Oral or other types of complaints will also be referred to the party complained against when this would be the most effective way of handling the matter.

All complaints in writing and signed, plus the responses to them, will be made public unless evidence is submitted to the Director that the complaint has been satisfied. Where this occurs, the complaint will not be published. We believe this represents a fair balancing of the interest of business in having adequate notice and an opportunity to satisfy a complaint, and the right of the public to know what products and services have

been the subject of complaints to the Government.

A third function of the Agency will be to conduct economic surveys and research. Section 205 gives the Director authority to investigate a wide variety of subjects concerning the needs, interests and problems of consumers.

The research work of the Agency can make a valuable contribution to the protection of the consumer interest. At present, no agency of Government is conducting such consumer research. The knowledge it gains could help consumers get more value for their dollars and enable the Government to do a better job of safeguarding their interest.

The Director is authorized to publish the information he learns, but this is clearly limited by section 403 of the act. This forbids him from disclosing trade secrets or similar protected data to the general public.

Closely related to the research program is the provision for publication of consumer information. The market mechanism will function better if consumers have the information necessary to make an intelligent choice among competing products. Thus section 202 (6) authorizes the Agency to develop and publish useful consumer information in an easily understood form. The bill specifically includes in this category information from other Government agencies concerning consumer products they purchase for their own use. The Director is authorized to publish the information he obtains by brand names wherever relevant and is not confined to releasing generic information only.

We believe this approach is superior to the recent Executive order placing responsibility for the release of Government consumer information in the General Services Administration. The CPA is the logical choice to undertake this assignment, not the Government's purchasing office. Moreover, the order speaks only of making available "selected product information." Thus, there is no guarantee that meaningful brand name data will be published. The Executive order is also deficient in failing to specify how this program will be funded and staffed. In sum, the order is vague and lacking promise that consumers will really benefit from it.

Under this bill, the Agency will be able to obtain access to the product information of the General Services Administration, Veterans' Administration, and other Federal departments and agencies. When publishing the results of product tests which may be conducted hereafter by the CPA or other agencies, it will not state that one product is better than another or is a better buy. Evaluative judgments are not authorized. Where information is released concerning certain competitive products, as, for example, a number of nationally advertised laundry detergents, the Director must state the limited scope of the test and make clear that not all competing products were included. If any information published is later found to be inaccurate, the Director must make a full retraction and publish the correct information in a manner similar to the original.

The average American is unaware of the multitude of day-to-day Federal activities reflected in proposed, revised, and recently promulgated rules, regulations or determinations which have a substantial impact on the price, quantity, quality, labeling, safety and other aspects of products and services available for his use as a consumer. A bulletin of general distribution containing an easily understood summary of current information in areas of consumer interest, including notices of proposed rulemaking, could serve a widespread public need, supplementing the Federal Register, and agency and private publications of a more technical or more limited nature.

Accordingly, to advise consumers of Federal actions affecting them the Agency is directed by section 202(5) to publish a Federal Consumer Register. Initially, the bulletin should concentrate on items published in the Federal Register, but as it gains public attention, it should be broadened to contain other materials of national significance secured from public and private sources. This might include speeches of major officials relating to consumer affairs and court cases concerning trade practices detrimental to the consumer interest.

Consumer protection is not the responsibility of the Federal Government only. The States, local governments, and private organizations have an important role to play. Many violations of consumers' rights are local in nature and may best be handled at that level. The Federal Government should encourage other governmental and private units to remedy these violations whenever possible.

In February 1969, Senator JAVITS introduced S. 861 to provide financial assistance to State and local government consumer protection programs. This bill provides the basic framework for title III.

Thirty-eight States now have some form of specifically designated consumer offices, although the responsibilities and powers of the offices vary widely among the States from an advisory capacity to actual enforcement of consumer protection laws. In 12 of the 38 States there are two or more consumer offices with divided or coordinated responsibilities. In four of the 38 States, there is a consumer office within the office of the Governor. In 32 of the 38 States, there is a consumer fraud or protection agency or bureau in the office of the attorney general. In 15 of the 38 States, there is an independent consumer protection office or department of State government, or a consumer office functioning within another department of the government. Additionally, five cities and four counties have consumer offices with widely varying responsibilities and powers.

A recent newspaper survey of 20 States indicates that many State and local agencies lack the authority and funds to do a proper job. Arizona's consumer fraud division is staffed by only two professional employees and California has reduced the funds for its consumer fraud unit for the second consecutive year. Missouri has sufficient funds for only three lawyers to spend just half their time on consumer protection matters with three investigators. Most agencies also acknowledged that they are not reaching those most in need—the urban poor—despite a growing effort to do so.

To provide State, local, and private nonprofit organizations with the funds they need to improve their work, title III establishes a grant program designed to assist them. It is patterned on the grant provisions of the Crime Control Act of 1968, with a requirement for a State plan, a minimum allocation for each State, plus additional funds based on population.

The total estimated cost for the first year of this bill would be a maximum of $20 million. The authorization for title I provides only such sums as may be necessary. It would be inappropriate to specify a definite sum for the activities to be performed by the Executive Office. The President should submit a request after the bill has been enacted. However, in a letter to the subcommittee in March, Mrs. Virginia Knauer, Special Assistant to the President for Consumer Affairs, estimated a budget of $1.1 million for her office under the provisions of S. 3240. This appears to represent an appropriate figure for the Council for the remainder of the year.

The first-year authorization for the CPA is set at $10 million. This is substantially less than half the funds requested for the FTC, and slightly less than half the funds sought for the Equal Employment Opportunity Commission. It would provide a modest beginning, but would enable the Agency to make a good start toward recruiting the lawyers, economists, engineers, and other top-flight professional people who will be needed by it.

The authorization for the first year of the grant program is put at $7.5 million. The funds for the grant program should be less than the amount for organizing and beginning operation of the Agency. This will insure that the emphasis the first year will be on an efficient and effective start, not dispensing money across the Nation.

After 3 years, the authorization for the Agency and the grant program are set at $25 million each. This should be reasonable in view of the task facing the Agency.

Mr. President, everyone is for the consumer, but the real question is what specific actions Congress will take to protect and advance his interests. This bill is designed to translate from rhetoric to reality the consumers' rights recognized by all.

Consumers are dissatisfied with the quality of goods and services they receive in the marketplace. They are skeptical of the effectiveness of existing Federal consumer programs. They do not believe their interests receive fair consideration in the regulatory process.

The CPA can be a powerful opponent of inflation. Each year, Federal boards and commissions approve billions of dollars of rate increases and route changes. Who speaks for the consumer in these proceedings? No one. His interest is now unrepresented.

This bill is intended to remedy that situation. The Consumer Protection

Agency will advocate the consumer interest in the policymaking processes of government, implement the right of the consumer to be informed, and safeguard his right to choose. This could result in large savings to the consumer and enhance his influence in the Federal Government. In addition, the Council will pull together current programs so that they will be more meaningful.

These two agencies provide a workable, responsible framework for Federal consumer protection activities in the 1970's. They will respond to the consumers' needs in a practical manner.

The bill creates an effective agency for consumer representation in the Federal Government, but with powers limited and confined to fit its needs. This is a tight bill. It has been carefully drafted to focus the Agency's actions on those activities which cause economic harm to the consumer as a result of transactions in the marketplace or expose him to health and safety hazards resulting from the purchase of goods and services. The Agency will not become involved in actions unrelated to the fundamental interest of people as consumers.

I have reviewed the amendments proposed by the Commerce Committee and find them acceptable. They further strengthen and improve the bill. I have discussed them with the chairman and the ranking minority member. We will accept them en bloc.

The bill has now been approved overwhelmingly by two committees. I urge its passage by the Senate.

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

The PRESIDING OFFICER (Mr. DOLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. 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, this bill before us is of the highest importance and of the greatest interest to us all. I hope very much that we will not have to complete action on it tonight.

I would like to address myself to this bill in the capacity of the acting ranking minority member of the Government Operations Committee. I know that every Member of the Senate will join me in expressing the sense of sadness which we all feel because the ranking minority member of the committee, the Senator from South Dakota (Mr. MUNDT), cannot be present to take his place in the debate and to deal with the matter, as I know he would, in a most considered way. In his absence we all feel most sad. We all express the hope that he might return to us soon to take his proper place with us.

My colleagues and I on the committee will do our utmost to pay tribute to the thinking of the Senator from South Dakota with respect to this matter.

It is my understanding that a number of amendments will be proposed to the bill. I hope that debate on them may be deferred until tomorrow so that the Senate and the White House may give earnest consideration to the points of view which will be expressed.

Mr. President, the White House has assumed a serious and important role in consumer protection through its appointment of Mrs. Virginia Knauer as the Special Assistant for Consumer Affairs. Tremendous interest has been engendered in the country by her activities as well as by the activities of many States' attorneys general with respect to consumer fraud and consumer protection.

I am very proud to note that the attorney general of my State, Attorney General Lefkowitz, has been a leader in this field.

His thoughts and description of his modus operandi, which he has presented to the White House, have been of great use to Mrs. Knauer's office.

The activities on behalf of the consumer have not been limited solely to State and Federal governments.

Activities of young, indefatigable, and zealous crusaders, such as Ralph Nader, have been a very important factor. Often they have been very controversial. Many people have been made rather angry and serious litigation over these matters has often resulted. It has certainly stirred interest in consumer protection, however.

Mr. President, I wish to address myself next to the considerations of our subcommittee, so graciously and effectively chaired by the Senator from Connecticut (Mr. RIBICOFF), and the thoughts behind the development of this bill.

The Executive Reorganization Subcommittee of the Government Operations Committee held 11 days of hearings on five different bills concerned with the organization of the consumer activities within the Federal Government.

Among these was the administration bill, S. 3240, which I introduced for the Senate's consideration. Like the bill now before us, this bill proposed to consolidate a number of consumer protection activities of the Federal Government.

That was a highly important and desirable initiative which had to be pursued and I am pleased that the administration responded.

The administration's bill would have established an Office of Consumer Affairs in the White House to have principal responsibility for coordinating Federal consumer programs. It would have established a Consumer Advisory Council to advise the Director of the Office of Consumer Affairs on matters relating to the consumer interest. And it would have established a Consumer Protection Division within the Department of Justice to represent the interest of consumers in administrative and judicial proceedings.

Mr. President, it must be remembered that the bills pending before the Government Operations Committee deal essentially with governmental organization. In this case the committee dealt with how the Government generally should organize its consumer protection activities. It did not deal with the individual rights of the consumers to sue. That question inheres in the Judiciary and Commerce Committees. Such a bill most likely will be considered by the Senate—the class action bill.

The Government Operations Committee has seen a great need for someone to guide the consumer and fight for him, someone to whom the consumer can repair in terms of a redress for his grievances, which are many.

This is especially true because we have developed a highly articulated merchandising system which depends very heavily upon advertising, which make many representations to the consumer upon which the consumer is invited to act. These representations are not always true or accurate.

Mr. President, I did my utmost to carry the ball for the administration in the committee in terms of the way in which the administration wanted to see a consumers' protection plan carried through.

After a great deal of work I became convinced that it was impossible to carry through the plan of the administration as it had been proposed to us, and that it was necessary to work out, with full respect for the administration's ideas, some other way.

We retained the functions which the administration deemed essential for consumer protection in this bill. Although we placed the advocacy function in an agency, we retained the coordinating function in a Council of Consumer Advisers in the White House, conceptually what the administration had proposed for its office. The advocacy function was limited to intervention in other agencies' or departments' proceedings—cases could not be initiated by the consumer advocate.

Throughout the bill there are precautions provided against an abuse of the Agency's processes. A great effort has been made in every way to reassure the public that an agency with such a sensitive and broad effect upon the economy will not be an agency which will go out with a shotgun and look for targets and opportunities.

Mr. President, we have really, in a basic and constructive sense, compromised on this bill—both those on the minority and on the majority side. I hope that this balance will be appreciated by the Senate and that the matter will not be further compromised.

There is no question about the fact that the pending bill attempts to provide a decisive means of assuring that the performance of the Government in respect of consumer interests reflects the commitment of the Government in this area.

Mr. President, I really do not know of any Member of Congress—certainly none in the Senate—who would not wish to see a commitment of the Government to protect the consumers succeed. I believe that in essence—bearing in mind what I have said about the fact that we had a problem with the creation of the Agency per se—that the bill does carry out this commitment in a very real way.

As I mentioned, it creates a Consumer Protection Agency with the power of advocacy on behalf of the general consumer, whose Director and Deputy Director will be appointed by the President, each with a 4-year term, coterminous with that of the President.

It establishes a three-man Council of Consumer Advisers in the White House with the Director of the Agency serving

as one of its members, and the President, if he chooses, could appoint Virginia Knauer as one of its members.

Further, it authorizes something that to me is critically important—which I introduced as legislation and which has found general favor—a grant-in-aid program for State and local governments and nonprofit private consumer organizations which are engaged in consumer protection.

Mr. President, I shall stand with the Senator from Connecticut (Mr. RIBICOFF) on the bill, because I feel it represents about the best balanced compromise, everything considered, that can be worked out in the interest of the consumer, in the interest of the authority of the Federal Government, and the interests of governmental organizations.

The Agency which would be created will have neither regulatory nor enforcement powers. It would be authorized to represent consumer interests before Federal departments, agencies, and courts; refer consumer complaints concerning actions of business to an appropriate agency—such as the Federal Trade Commission, the Department of Justice, or wherever they might properly go; publish information useful to consumers; conduct economic surveys and research; and provide financial and technical support to State, local, and private consumer organizations. The Agency would promote consumer education programs and cooperate with business in consumer protection efforts.

These particular authorized functions have been of great concern to businessmen, and so we have been very careful to insure procedural safeguards and to prevent unwarranted interference by the agencies into Government or business activities not directly concerned with the consumer.

We placed limitations on the Agency's advocacy powers—in that they cannot initiate suits. For example, the right of the Agency to appeal to the courts, the Agency's subpena powers, the public inspection of complaints, the release of trade secrets, and the publishing of information. All of these areas are carefully set forth with limitations so as to prevent excesses or impositions, with none of them so restrictive as to seriously hamstring the Agency or the consumer interest which is involved.

We sought to achieve in the subcommittee a balance of the consumer interest with the legitimate interest of business. I think we have successfully carried out this balance.

After carefully considering the idea of putting the advocacy function in the Department of Justice, we did not do it and chose to put it in the Agency instead. I feel that was a compromise. There is no question about that. But I am confident there was no other way to get a bill reported. I feel that the deep public interest which is involved demanded that the bill be reported and that we do our utmost to get it enacted into law.

We sought to make the Agency reasonably independent, but we did not separate it from the Government itself. The bill does not separate the Agency entirely from the executive branch or from Congress. The Agency will monitor the action of government and take appropriate action for consumers, but not sit as an ombudsman, illusive and unaccountable to any other governmental authority. It is not authorized to compel, that is, to initiate, other governmental units to act. If we let it do so it would make it a super agency. In the other hand we subject the Director, Deputy Director, Consumer Council, and five Assistant Directors, all to be appointed by the President, to the advice and consent of Congress and that keeps the Agency accountable to Congress and not merely window dressing for the executive branch.

Mr. President, this bill provides for a three-man—it does not necessarily have to be all male, as I said a moment ago—Council of Consumer Advisers, the primary responsibility of which is to assist the President in coordination of Federal consumer programs and the development of Federal consumer policies. The critical importance of this Council in the Office of the President is that it will set the criteria. One member of the Council will be the Director of the Agency. This will insure the greatest degree of efficiency in the programs, as there will be a free flow of information to and from both the Agency and Council. The Director of the Agency will be in a position to recommend legislation.

The Council will also assist and advise the President in the annual consumer report which the committee felt would be a splendid review of consumer matters, as well as serve as a basis for future action on the part of both Congress and the executive branch in this area.

Mr. President, the committee believed a council to be an appropriate body to represent the consumer in the highest councils of government. The responsibilities which this bill assigns to it would be far broader and more profound than those presently handled by the Office of Special Assistant to the President for Consumer Affairs. A council allows for prestige and visibility in the executive branch greater than that of an office, and with the Director of the Agency a member of the Council, policy decisions will be based on the most up-to-date assessment of consumer needs.

Title III, modeled after S. 861, a bill I introduced in February 1969, authorizes the Federal Government, for the first time, to make consumer protection grants to States and local governments—and limitedly to private nonprofit organizations—for the planning and operation of consumer assistance programs.

These grants are essential for a comprehensive protection of the consumer, for consumer protection should not be the responsibility of, nor can it be handled by, the Federal Government alone. The local units of government are frequently in the best position to curtail fraud and deception in the marketplace, and by encouraging and supporting them we will offer the consumer the quickest and most direct assistance possible.

Thirty-eight States along with a number of cities have some type of consumer protection unit. These are, generally speaking, short of funds and are only able to be of limited usefulness to the consumer.

The problems concerning the consumer, as shown by the better business organizations and organizations of that type throughout the country, are peculiarly indigenous in many areas. Accordingly, there is wide latitude in the type of grants the Director may make. In addition to general "planning" grants, the Director may make "action" grants, among others, to regulate household appliance repairmen, motor vehicle repairmen, and home improvement contractors; to require credit reporting agencies to adopt fair and equitable credit information procedures; to create and expand consumer education programs especially in urban areas of high concentration of unemployed or low-income individuals—which incidentally Mrs. Knauer has just strongly urged be done; to establish or expand consumer complaint centers; and to provide for research, counseling, and education projects concerning the nutritional value of food.

The conditions with which the applicant must comply serve primarily as guidelines. They insure that the applicant has coordinated his program with existing OEO or FTC consumer programs—to encourage harmony and avoid duplication—and to insure that their programs will be as effective as possible. There is also provision to insure that local agencies which might show a need for consumer grants would be able to receive them, if the State is unable or finds it unnecessary to have statewide programs.

It seems to me that these grant programs have enormous capability for accelerating solutions, making infinitely more efficient and broad consumer protection activities throughout the country.

As attorney general of New York, I had enormous consumer protection activities in that office. My successor, Attorney General Lefkowitz, has expanded those materially. So I know how critically important it is and how much good can be done, with only the least feeling on the part of business that there is any danger of harassment.

It is also very important to note—and I am sure that the Senator from Connecticut made this clear—that this bill does not deprive the Federal Trade Commission, the Department of Justice or any other agency or department of its jurisdiction. Obviously those jurisdictions remain unimpaired.

Before I conclude, I would pay tribute to the Commerce Committee, to the Senator from New Hampshire (Mr. COTTON), and to the Senator from Washington (Mr. MAGNUSON), ranking members on each side of the aisle, for the work they put into this bill, and for the celerity with which they passed it through the committee. They could have buried it or turned it out, as they did. I also pay tribute for the very large number of amendments—if my memory serves me correctly, over 30—which were added to the bill by the Senator from New Hampshire (Mr. COTTON). These were designed to further balance the two needs—the need for consumer protection and the need for some assurance that legitimate business would not be victimized or harassed.

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

Mr. JAVITS. I yield.

Mr. COTTON. I thank the distinguished Senator from New York for his kind comments concerning the chairman of our Commerce Committee, the Senator from Washington (Mr. MAGNUSON), and myself, as the senior Republican on that committee.

I cannot take great credit for these amendments. They were the result of a joint effort on the part of the majority and minority staffs of our Commerce Committee, and were carefully considered by the full committee. They were, in large measure, perfecting amendments.

I think perhaps the most important amendments were those restoring the appropriation power of the Congress, through its Appropriation Committees, over what might have resulted in opened-ended expenditures. Also, our Commerce Committee eliminated what was felt to be a superfluous Consumer Advisory Committee within the independent Consumer Agency. We have so many advisory committees and task forces in the Government now that I think they fall over each other.

I would like to say to the Senator from New York that I certainly cannot and shall not attempt to speak for the chairman of our Commerce Committee (Mr. MAGNUSON). However, if the amendments of the Committee on Commerce were to be adopted en bloc, then, although there are features of the bill on which I have expressed reservations in individual views in that committee's report, the Senator from New Hampshire, nevertheless, feels it would provide the basis for compromise and expeditious action.

Mr. JAVITS. I thank the Senator from New Hampshire. I might say that, the way things work around here, the statement he has made will likely be the most decisive in terms of getting the bill into law, because we know how easy it is to kill these proposals.

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

Mr. JAVITS. I yield.

Mr. RIBICOFF. I would like to take this opportunity to pay tribute not only to the Senator from New York for his untiring efforts and his sense of cooperation in trying to get a constructive bill, and the Senator from Illinois (Mr. PERCY), who always since the day he came to the Senate has been deeply concerned with the problem of the consumer and the obligation of the Government to the consumer, but a great tribute to the Senator from Washington (Mr. MAGNUSON), the chairman, and the ranking Republican member, the Senator from New Hampshire (Mr. COTTON).

I believe many of the en bloc amendments improve the bill. I hope, before its consideration is over, the Senate will agree with those who worked so hard in both the Committee on Government Operations and the Committee on Commerce, and take a long-needed step to protect the consumers of this country.

Mr. JAVITS. I thank my colleague very much for his remarks.

I would like to say, in conclusion—and then I shall yield the floor—that the work of the Senator from Illinois (Mr. PERCY) on our committee, having had such vast business experience himself in the manufacture of a highly technical product for consumers and having been the former head of one of our great camera companies in the United States, was of tremendous help. I doubt very much that this bill could have been worked out without the expertise which he brought to it, and I would like to pay tribute to him.

Finally, I think what has been done on keeping close tabs on how the whole procedure set forth in this bill operates will be extremely useful. I think it is going to be important to have an agency which does not fly before it walks. It is going to be important to realize, to the fullest extent practicable, the part to be played by the State and local consumer protection agencies, with which I have had experience. I think it is going to be critically important to help business develop confidence in dealing with the consumer protection agencies.

If we believe this can be done not only will the bill become law at an early date but it will become the kind of law which is successful because people on both sides—consumers and the businesses that are dealing with it—have confidence in its purposes and the integrity of its administration.

Mr. President, I approach the debate, the effort to secure the passage of this bill in the Senate in that spirit, and I hope very much that as we continue with whatever amendments are offered that spirit will emanate from us all.

I yield the floor.

Mr. PERCY. Mr. President, I would, first, like to express appreciation to my colleagues, who have been overly generous—perhaps it is due to the fact that Thanksgiving has just passed—in expressing their gratitude. They have given me more credit than I deserve.

I will say, though, that I have sought to devote myself to the recognition that the American economy is a consumer economy.

Producers have traditionally had many, many advantages. They are well organized. We know, for instance, in our own experience, that we are called on many times by able lobbyists, representing all sorts of manufacturing and merchandising interests, who present their arguments clearly, concisely, effectively, and forcefully. Sometimes we wonder how they get all their work done for all the help we get on the legislation they suggest to us.

But I have been impressed with the fact that in my 4 years' experience in the Senate, I have not really seen that kind of organized effort for the consumer. I think it is primarily because the American public looks to the legislators, to the executive branch of Government, as well as to the courts, to protect their interests.

That, then, is our primary responsibility—to recognize that the consumer is not as well organized as his counterpart in the marketplace and to recognize that we have a great responsibility in insuring that representations made to the consumer, the quality of products offered him, and the prices charged him are fair. This is, in my judgment, a very grave responsibility.

If I may be personal for a moment, I remember, at a time when our company offered a lifetime guarantee on a product, I received an irate letter from a man who had purchased a film splicer. He said that he had had cause to repaint it, and found that when he removed the paint, the casting had little porous holes in it. He felt that amounted to an imperfect casting, though it did not affect the function of the product at all.

We checked the records, and found he had purchased the product 17 years before he had occasion to register this complaint, but I considered a lifetime guarantee to be a lifetime guarantee, so we sent him a brand new product. It has been my consistent experience in business that the best support a business has is its satisfied customers. In fact, we have a company in Chicago in the merchandising field, Marshall Field, whose motto is, "The customer is always right." I think that is, generally, the principle upon which legitimate business has been based—satisfied customers create the best markets for the future.

I have found also that legitimate businesses, well-organized trade associations, and chambers of commerce have been receptive to our taking the lead in seeking to provide assurance to the American consumer that he is adequately protected and his interests have been thoroughly considered.

For that reason I have been very pleased indeed to work with my colleagues who have regarded their responsibility as one of protecting the consumer. The distinguished Senator from New Hampshire, who has worked in the Committee on Commerce as ranking minority member, has been immensely helpful, as other Senators have stated. So has the distinguished Senator from Washington (Mr. MAGNUSON) also been helpful. I have had the privilege of working intimately, over a period of many months, with the distinguished Senator who serves as our subcommittee chairman (Mr. RIBICOFF), and seen the tenacity with which he has recognized that something must be done to correct some of the inequities we discover.

The Senator from New York (Mr. JAVITS), presently the ranking minority member of the Government Operations Committee in the absence of the Senator from South Dakota (Mr. MUNDT), has been immensely helpful also. His experience and skill in recognizing that a legislative answer can and must be found to provide the degree of protection not now afforded to the consumer has been inspiring to the rest of us likewise engaged in this mission.

Thus I am privileged at this time, Mr. President, not to speak at great length, but merely to indicate to the Senate and my colleagues my enthusiastic support for the Consumer Protection Organization Act of 1970 and outline some of the reasons I consider it worthy of other Senators' support and enactment.

It really is not necessary to remind anyone these days of the urgency of this task; the occasions of consumer abuse and lack of fundamental fairness in the marketplace are notorious, a notoriety which yields its own urgency. Neither is it necessary to rehash the evidence of the Government's—at all levels through the years—haphazard attempts to deal with consumer problems; where the law itself was not inadequate, official disinterest too often left the consumer to fight his own battles.

It is encouraging to me that we have finally begun to recognize that our long-time indulgence of the principle of caveat emptor is now unrealistic and inequitable. If it is not too late, and it is certainly not too early, Congress must act now to qualify that presumption. The consumer is deserving of having his interest considered routinely at the points of decisionmaking. He is likewise to be afforded basic protections against fraud and exploitation.

Title I of this bill sets up a Council of Consumer Advisers. Title II creates a Consumer Protection Agency. Title III outlines a program of consumer protection grants to State, local, and private nonprofit organizations who qualify under the terms of the bill. And contained in title IV are provisions requiring the consideration of the consumer interest in all Federal executive agency determinations as well as standards of information disclosure by the Consumer Protection Agency. This legislation represents the best efforts of Republicans and Democrats on the Government Operations and Commerce Committees in the Senate; it also reflects in part the important and helpful suggestions of the Nixon administration, which has set out with the avowed purpose to better protect the interests of the consumer in this country.

As already explained, the bill before us incorporates my original idea of a high-level Council of Consumer Advisers in the Executive Office. It creates a three-member body to be responsible for policy setting, coordination, assisting the President in the preparation of a consumer report, setting priorities and information gathering. In short, it promises to lend the prestige visibility and clout of the Presidency to consumer protection efforts.

The need for this sort of executive coordination and policy setting is well-documented. Recent studies prepared by the Library of Congress indicate that there are presently some 76 consumer activities involving 34 different departments and agencies in the Federal Government. Nine separate governmental units implement the truth-in-lending program; three enforce the truth-in-packaging legislation. This situation greets the aggrieved consumer seeking recourse—a situation which in my judgment adds insult to injury. I am deeply gratified that the Government Operations Committee saw fit to include this important concept in the bill it has reported to the Senate.

I have also been pleased by the care with which the committee sought to balance the powers it has vested in the new independent Consumer Protection Agency. I confess that I had initial reservations concerning the wisdom and propriety of setting up an autonomous governmental unit to monitor not only the consumer activities of the marketplace but of other governmental agencies as well. Such an agency could, I thought, be as potentially abusive of industry's rights as some industries had been of consumers' rights; such a plan obviously would not solve any problems. But I want to assure Members of the Senate, who might have raised in their minds this same question, that every attempt has been made to include important safeguards and limitations so to bring the powers granted in line with standards of commercial fairness and parity.

Under this bill, for instance, the Consumer Protection Agency is precluded from initiating any proceeding before any other Federal agency or court, its powers being limited to those of intervention according to four carefully drawn conditions.

The subpena power of the CPA is limited to the extent that discovery of information can be sought only as the CPA stands in the shoes of the Federal agency in whose proceedings it has intervened. This means the CPA must request that the other agency order disclosure. In securing data for economic surveys, the CPA must set forth with particularity in its order the consumer interest involved and the purposes for which the information is sought.

The disclosure powers of the CPA do not permit divulgence of trade secrets or similar data to the public. Furthermore, ratings of products, implications that certain products are superior in quality, suggestions that one product is a better buy than another are all precluded under the terms of this bill. Where information is disseminated or disclosed and the information is later found to have been erroneous, the Director is under an affirmative burden to retract the information and state the new data in a manner similar to the initial disclosure.

Safeguards have also been incorporated concerning public inspection of consumer complaints.

I take the time, Mr. President, to outline these provisions in detail to emphasize the fact that the bill is just about as fair as we can make it. It is certainly consistent with our responsibility to meet the demands of both the consumer and the honest businessman. As I have frequently stated, good consumer protection legislation is in the interest of both buyers and sellers. The buyer wants the most for his money with the least inconvenience; the seller relies on the return of a satisfied customer. Consumer protection is not a partisan issue, and this bill reflects that understanding.

The report of the National Commission on Civil Disorders listed among the 12 most deeply held grievances leading to discontent and disorder the problems of consumer frustrations. It is no wonder, particularly in light of the estimate that out of $750 billion spent last year by consumers, approximately $200 billion received no value in return.

Substantive law is finally reaching a point where it can be considered adequate to the task of protecting consumers' interests in the marketplace. But the machinery of protection is still clearly lacking. The fact that one case has taken 29 years for the consumer to get relief, while it may be an extreme example, serves to restate the compelling need for new Government procedures.

Mr. President, in my judgment, the proposed legislation now before the Senate is far better than any other similar bill before this Chamber or the other Chamber. It is strong, but fair; it breaks new ground without destroying the tried-and-true principles of free enterprise; and it assures for the first time that systematic consideration will be given the consumer interest wherever that interest is being debated and decided upon in Government.

I urge my colleagues to support its passage.

Mr. HART. Mr. President, before discussing the bill that is before the Senate, I, too, want to express my appreciation to Senator RIBICOFF and those who were associated with him in the effort which is culminated today by the appearance before the Senate of a consumer protection bill. Moving any measure of this character through committee is an extraordinarily difficult undertaking. Pressures, always highly motivated but not always objective, immediately appear to resist even the most modest of proposals.

As the able Senator from Connecticut understands, I have expressed sharp disappointment with respect to certain features of the bill; but I would be completely out of line if I were to suggest, much less imply, that certain features of the bill before the Senate do not represent substantial progress in the protection of the American consumer. Indeed, certain of the proposals contained in the bill before the Senate have been advanced in earlier years by others of us in the Senate and in Congress.

I think that the Committee on Government Operations and—under Senator MAGNUSON'S leadership—the Committee on Commerce have contributed substantially to the progress we all seek to see in terms of protecting the American consumer, because, as a result of the appearance of this bill on the floor, we now have an opportunity further to strengthen it and thereby to advance further the cause that all of us espouse, the protection of the consumers of this country.

The specific proposal for a consumer organization to look out for the special interests of the consumer dates back, as far as our research goes, to 1959 and to the able late Senator from Tennessee, Estes Kefauver. On paper, it has had impressive support, with several versions drawing more than 20 cosponsors in the Senate. Over these years, as we have developed an understanding of the problem, it has taken many forms: A Department of Consumers, an Office of Consumers, similar to the bill that now pends in the House, up to the bill that is now before the Senate, S. 4459, which establishes a Federal agency. None of these earlier proposals moved very far until Senator RIBICOFF and Senator MAGNUSON, the chairmen of the committees reporting these bills, had brought to us S. 4459.

Again, these congressional leaders are to be congratulated for their perseverance and their dedication. Without it,

we would not be offered an opportunity to consider actually establishing a consumer organization.

It would be no surprise that I am delighted that we are this far. I remember cosponsoring in 1959 Senator Kefauver's bills, and again when he offered them in succeeding years, in 1961 and 1963. Indeed, I became a chief cosponsor in 1965, 1967, and 1969.

Clearly, the consumers should have an agency to serve their special interests, just as other groups are represented by such Departments as Labor and Agriculture and Commerce. It is not surprising that I have developed some definite ideas as to what ingredients such an agency should have if it is to be of maximum effectiveness. I feel that the consumer protection agency which would be established by the bill before the Senate still lacks some of these ingredients. It would be my hope that as we work on this bill, this additional strength could be added to it. I have a concern that some of the ingredients it does have would tend to hamper the agency so that it could not effectively represent the consumer—at least, not in the fashion that I think a majority of us seek with respect to such an agency.

So it is my intention, Mr. President, as we proceed with this bill, to propose amendments which I believe would add strength and vigor and force to the agency. At the conclusion of my remarks, I shall ask unanimous consent to have printed in the RECORD the amendments, six in number, and ask that they be printed.

There are two major areas of concern with respect to S. 4459 in its present form. While the title of the bill recites that it is an independent agency and the declaration of policy talks about an independent agency, it seems to me to have a built-in loyalty to the chief executive officer of the country, the President, rather than to the consumers.

I have reservation, also—the second major concern—that it is unable to act as the consumers' lawyer in a fashion and a form which would make for a maximum of effectiveness in its representation of the interests of the consumer.

So, Mr. President, the first of the amendments that I shall ask to be printed would alter the method of designating the top officials of the agency. In the bill as it has been reported, the top eight officials are named by the President—with the advice and consent of the Senate, it is true. Two of these officials, the director and the deputy director, would serve terms identical with the term of the President.

The amendment that I intend later to call up is for a nine-man Board of Directors—three to be appointed by the President and three by each majority leader of the two Houses of Congress. The Executive Director would be named, in turn, by this Board of Directors and he, with the approval of the nine-man board, would fill the other top slots.

It seems to me, and I suggest that on consideration others might agree, that this is a step toward making the agency what the drafters of the legislation intended when they designated this an independent Federal agency; and yet, realizing that we cannot have a Government agency totally independent of the reach of either the administration or Congress—and perhaps should not—it would share the existing influence more to Congress and less to the President. It would introduce a balance, if you will, Mr. President, between the executive and the legislative branch.

There is another way of making this more of an arm of Congress than the President. Some of the amendments that I intend to offer would release the agency and clear the agency from the exclusive control of the Bureau of Management and Budget. Under the amendment, the budget request would come directly to Congress as well as to the Bureau of Management and Budget, giving Congress a real chance to evaluate the needs of the agency as the agency sees them, and not solely as the Budget Bureau may see them.

Under the amendment which I intend to offer, the Consumer Protection Agency would bypass the Budget Bureau and the Industry Advisory Committees when sending out informal questionnaires or when making public statements. This, it seems to me, is important if the agency is to act in the very best interests of the consumer.

On the question of whether the agency should become a consumers' lawyer, of course, I respond affirmatively.

Many of the matters coming to the agency, I foresee, can be handled by negotiation, or through the normal proceedings of governmental agencies. Publicity, too, can be a powerful weapon. But anyone who has been reading consumer mail over the years, I think might agree that frequently there arises a situation where the ultimate recourse for relief is to the courts. Among the amendments I propose is one which would make this access to the courts an assured one. Under the bill as presented, the hurdles and the limitations on the reach of the agency with respect to its right to appear in court is hedged.

Mr. President, the fact that I am proposing in the first of these amendments an appointing process that involves the majority leaders of the Senate and House raises a question that is traditional in this body. We have never done it before. This does not obligate us to assume that logic compels us, therefore, to reject it merely because it has never been undertaken before.

We have not yet effectively given the consumers of this country a viewpoint and a lever. It does not mean we shall not and ought not undertake it here.

The fact that the appointing process suggested in the amendment is a new one, similarly, should not cause us to reject it out of hand.

The report of the Committee on Commerce, on page 4, includes an excerpt from testimony that the senior Senator from Michigan offered the Committee on Commerce when considering S. 2959, my bill, that would establish an independent consumer council. The excerpt, perhaps not graceful, underscores the concern I have that, in present form, the independence of the agency is such that it strains, if one wants to describe it as really independent, an absence of a greater measure of independence and raises a possibility—the concern I voiced in the testimony—that may continue to be entertained with respect to the bill before us.

In that testimony I said:

> Only a cockeyed optimist can expect any agency established as an arm of the executive or Congress not to reflect constantly the prides and prejudices of its master. If top appointments also are made by either the executive or Congress, the control of philosophy is even more absolute.
>
> It simply is not realistic—and ignores human nature—to establish a consumers' watchdog on Government under those conditions and expect it to perform fully up to anticipations.

In spreading the appointing authority between the executive and the leadership of the two Houses, I attempt to respond in part to the concern I voiced in the testimony. Admittedly, it does not go all the way. I sense that at this point in our experience with legislative efforts to give the consumer a voice in affairs that intimately affect him, Congress is not prepared to go further. Indeed, there may be difficulty in persuading the Senate to go as far as a sharing of the appointment as between the President and Congress.

I hope very much, however, that we shall be able to make that modification.

I hope very much that the veto power which the Bureau of the Budget would have over this agency may be reduced if not eliminated.

For the reasons that I have in summary outlined, I hope very much that the amendments, after further discussion, will be agreed to. Finally, Mr. President, I hope that with some modifications, the bill will become the law.

I conclude, as I opened, by saying that contained in the bill as reported by the committee are objectives which many of us for long years have sought to see realized. This is the opportunity. But, in reaching for those goals, let us make certain that we are not constructing a machine which will destroy the consumer to whose service we shall claim the machine shall be put.

Let us be sure that we do not put on the road a vehicle which is ineffective in achieving its objective but merely in its existence and creation will provide the alibi for delaying for long years more adopting procedures that will in fact respond to the myriad problems that confront the American consumer in today's marketplace.

Mr. President, I submit the six amendments, and I ask unanimous consent that they be printed in the RECORD.

AMENDMENTS NOS. 1084 THROUGH 1089

The PRESIDING OFFICER (Mr. BAYH). 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 (Nos. 1084 through 1089) are as follows:

AMENDMENT NO. 1084

On page 8, strike Section 201, lines 1–25; on page 9, strike lines 1–8 and substitute the following:

"SEC. 201. (a) There is established as an independent agency an agency to be known as the Consumer Protection Agency.

"(b) The agency shall be headed by a 9-member Board of Directors, three of whom shall be appointed by the President in such manner as to stagger their terms for 2, 4 and 6 years respectively; three of whom shall be appointed by the Speaker of the House of Representatives in such manner as to stagger their terms for 2, 4 and 6 years respectively; and three of whom shall be appointed by the Majority Leader of the Senate in such manner as to stagger their terms for 2, 4 and 6 years respectively; subsequent appointments shall be for 6 year terms and shall be made by the office making the original appointment. Vacations shall be filled by the office making the original appointment for the remainder of the term vacated. The Board of Directors may elect a chairman and such other officers of the Board as they may deem and adopt rules, regulations, and by-laws for the orderly carrying on of business and for carrying out the purposes of this Act.

"(c) Members of the Board shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under Section 5332, Title 5, United States Code, for each day they are engaged in the actual performance of their duties, including travel time; and while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by Section 5703 of Title 5, United States Code, for persons in the Government service employed intermittently.

"(d) The Board of Directors, by majority vote, shall appoint a Director and Deputy Director who shall head the agency and serve at the will of the Board and under such rules and regulations as the Board may prescribe. The Director shall nominate, by and with the consent of the Board, a consumer counsel for the agency who shall be chief legal officer of the agency, and shall perform such duties as the Director may prescribe and shall be Acting Director during the absence or disability, or in the event of vacancies in the offices of the Director and Deputy Director.

"(e) The Director by and with the consent of the Board of Directors is authorized to appoint within the agency not to exceed five assistant Directors."

AMENDMENT NO. 1085

On page 9, line 12, delete the word, "executive," insert a comma after the word "agencies" and add the word, "Congress."

On page 11, line 13, after the word "request" insert a comma and add the words "file complaints."

On page 11, line 15, strike the word "executive" and insert the words "or any federal court" after the word "agency".

On page 11, line 18, strike the words "the provisions of this section" and insert the words "the rules or regulations governing practice and procedure before the federal agency, the Congress, or court."

On page 11, line 20, strike the word "not."

On page 12, lines 9–25; page 13, lines 1–25; page 14, lines 1–25; page 15, lines 1–25; and page 16, lines 1–4, strike the language included within the above pages and lines and insert the following:

"(c) The agency shall have standing as a party in equity in any proceeding under subsections (a) and (b), including the right to intervene and all rights to appeal as may be provided by law."

On page 16, line 5, delete "(e)" and insert "(d)".

AMENDMENT NO. 1086

On page 20, line 9, insert the following sentence after the period: "Notwithstanding 31 U.S.C. section 18(b) any investigation, survey or research undertaken pursuant to this section may be done without consultation or approval of the Office of Management and Budget or any other executive branch agency."

AMENDMENT NO. 1087

On page 28, line 10, insert the following after the period:

"The Consumer Protection Agency shall prepare an annual request for appropriations each fiscal year after 1973. The request shall be presented simultaneously to the Office of Management and Budget and the appropriate committees of Congress on or before February of each year by the Board of Directors."

On page 28, line 20, following the period insert the following:

"The Consumer Protection Agency in consultation with the representatives of recipients of grants under this section, shall prepare an annual request for appropriations each fiscal year after 1973. The request shall be presented simultaneously to the Office of Management and Budget and the appropriate committees of Congress on or before February 1 of each year by the Board of Directors."

AMENDMENT NO. 1088

On page 35, line 6, after the period insert the following:

"(12) Contain safeguards to ensure that the agency designated or created by the state will effectively represent the consumer."

AMENDMENT NO. 1089

On page 44, line 12, insert the following language after the period:

"Nothing in this Act shall be construed by any court or agency as affecting the discretion of any court or agency to permit any person or group or class of persons to initiate, intervene or otherwise participate in any court or agency proceeding."

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. BAYH). The Chair, on behalf of the Vice President, pursuant to Public Law 70–770, appoints the Senator from Montana (Mr. METCALF) to the Migratory Bird Conservation Commission in lieu of the Senator from Maryland (Mr. TYDINGS), resigned.

THE SST

Mr. PROXMIRE. Mr. President, it is my understanding that within the next few days, probably on Thursday, the Senate will take up the consideration of the Department of Transportation appropriation bill.

As Members of the Senate realize, this bill carries within it an appropriation of $290 million for funding the supersonic transport. This is a matter of great controversy. It is a matter on which I expect that there will be a close vote in the Senate. It is a matter on which there have been a great many new developments over the past 12 months. It is a matter on which I think that the Senate will make a historic decision.

If the Senate approves the supersonic transport in its vote on Thursday, there is then every likelihood that the program will be funded to its completion. I think that this is likely to be a critical vote.

I think that in discussing the supersonic transport, we should first of all put it in the perspective of the capability of this country to expend $290 million for this kind of program. I think that there are many good programs which we all want. There are many programs that many of us feel should be funded more fully than they are. However, it is unfortunately necessary for us to make some hard, tough decisions to cut back expenditures in fields in which we would like to make them.

I happen to be one who strongly opposes the supersonic transport. I think that such a strong case against it has been made that we should not go ahead with it even if we did not have the problem of limited funds. Under the present circumstances where we have a very tight budget, regardless of what attitude the administration takes, even those who favor the SST should reconsider their vote in view of the tough choice on priorities we face.

I think it is most important to eliminate any expenditures that are not absolutely necessary. I say that primarily because two newspaper articles have come to my attention over the weekend. One of them was a remarkable article in the New York Times of Sunday which goes into the tremendous needs of our cities and documents them.

The article points out that in city after city the financial situation has become really critical. The cities are in a state of crisis. We know that in the city of New York, the mayor and a number of other officials have taken cuts in their salaries and that some people have been laid off.

Many people feel that New York is an exceptional case in this respect. But it is not. Financial crisis is the rule, not the exception. I expect to go into this in detail in a few moments. However, I want to call attention to the fact that there will be great pressure brought to bear upon the Senate and the House of Representatives to provide more funds in the coming year. Many will feel that more funds are necessary and desirable and that they must be granted. We will have to do this within a very constricted budget. I say that because of another article by Ed Ward, published in the New York Times of yesterday. Mr. Dale is an extremely competent reporter on economics, about as able as any whom I know. He makes a fine analysis of a relatively new concept in economic thinking, but one which has at last been accepted by the administration and by

economists generally. That is the concept of the unemployment surplus. That concerns the fact that in determining how much we spend, we should do so on the basis of trying to balance Federal revenues at a level of full employment. "Full" employment is determined as a level of unemployment of 4 percent—and this is an assumption made by many economists—they say that once unemployment gets below 4 percent, inflation is likely to become unacceptable.

If we assume that that is our target level, then we can calculate on this basis how much money we can spend and have the budget in balance if we have a 4 percent level of unemployment. The point is that if we have 5.5 percent or 5.6 percent of unemployment, as we have at the present time, we can run a very large deficit and justify it on the grounds that with that level of expenditures and with the tax rates being what they are, the budget would come into balance. As unemployment diminishes and as profits go up and we proceed in the direction of full employment, the concept of "full employment surplus" can tell us how much of a deficit is a responsible one.

This is something that many conservatives refused to accept in the past. The administration refused to accept it for a long time but in the last few months they have accepted it. They agree this is a sensible and a desirable position.

It is a sound concept because if you attempt to balance the budget when unemployment is high it is cruel and it means the attempt to balance the budget will insure a continuance of the high level of unemployment, and further there will be restraint from providing the kind of economic growth and the kind of stimulation that is needed.

Anyone who follows this matter can agree that this is a more liberal concept than we had before and it permits a larger amount of expenditures. But even on this new liberal basis of estimates in the coming year we will be limited to $228 billion.

In view of the desperate needs of our cities and urgent requirements elsewhere, we will not be able to go ahead with any programs that are not justified as absolutely essential to our national well being.

This is why I am raising this supersonic transport question this evening and trying to put it in that perspective. I would like to debate the matter with my friends who feel it is a good program, and who feel they would like to go ahead and do something for the aviation industry. I would like them to consider the great importance at this time, in view of the needs that are so urgent, and the fact we have a definite ceiling on the amount we can spend, that our cities are in such dire straits, and we have so many other needs we all would like to further, including sudent loans and health needs, which we have to reduce and cut because funds are not available.

I wish to review some of the arguments on the SST.

One of the arguments made in favor of the SST is that it would help our balance of payments; that is, as we build these planes we would sell them abroad for $50 million or so a copy and we would have several billion dollars flow into this country. In addition, it is said if we did not build the plane we would have to buy it from abroad and dollars would flow out and our balance of payments would be adversely affected.

The question of whether it would adversely affect the balance of payments was put to a panel of experts by President Nixon in 1969. The principal authorities on this were officials from the Treasury Department. These Treasury experts at that time decided that the SST would not be favorable to our balance of payments but unfavorable. The conclusion on the part of the Council of Economic Advisers was the same. Recently the Senator from Arkansas (Mr. FULBRIGHT) asked 16 outstanding economists—the biggest names among economic experts in our country, including Friedman, Heller, and others—and the opinion was overwhelming, 15 to 1, against building the SST for balance-of-payments reasons. Fifteen of these 16 economists said it would be a mistake to build the SST and that the balance of payments would not be benefited.

The second argument for building the SST is that the Concorde being built by the British and the French would be such an efficient plane it would give Britain and France a big advantage in the international aviation industry.

The fact is the United States at the present time has a dominant position in the aviation industry. That dominant position has been achieved because we have free enterprise in the aviation industry. The Government is not involved in it and we have not had subsidization for private aircraft research and development in the past.

This SST approach would get the Government into construction and into the operation of the airlines, and in a big way. I think that would be a serious mistake. On the basis of the testimony of experts who appeared before the Joint Economic Committee the Concorde is very unlikely to become a serious competitor with our jumbo jets and supersonic jets. It is small, it is not nearly as fast as our supersonic plane would be, there is some question if it can fly from London to New York without carrying a payload and if it does not carry a payload there would be no economic value in the Concorde.

The Concode also raised very substantial problems with regard to the environment in England. Of course, they are conscious of the potentiality in producing an advanced plane that would give them prestige and an advantage in aviation, but in spite of that there has been complaint about the terrific noise of the Concorde and other disadvantages. So there are real indications that the Concorde not only may not be an effective competitor, but may never be produced.

Overruns have been great and they have had to put in substantially more money than was anticipated. There is a definite possibility that if we reject the SST on Thursday or Friday that the British then would stop production on the Concorde, would opt out of it, and the international SST race would be postponed until we solve some serious technological problems.

There has also been a great deal of question, of course, about the environmental impact of the supersonic transport, in the first place, the impact in terms of noise. All of us are aware of the complaints by people who live in or around airports about the subsonic jets. Well, as the song goes, "Baby, you ain't seen nothin' yet." The testimony before our joint committee by one of the outstanding scientific experts was that it was estimated that sideline noise—by that he meant noise within 2½ miles of takeoff at the airport—would be 50 times greater with the supersonic than it is with the subsonic jet. Of course, there is some question as to whether it would be 50 times as great. We had the testimony of an expert, who was the SST adviser for Presidents Nixon, Johnson, and Kennedy, the last three Presidents. Some people say that that estimate is wrong; that it would be only three or four times as great. At any rate, it would be a crashing, thunderous roar.

One sonar expert from the Massachusetts Institute of Technology has written that the impact of the supersonic transport will be so great that if 500 of them were in operation—and the estimate is there would have to be 500 in operation if it were to be a successful operation—the impact would be so great that any house within 15 miles of the Kennedy Airport in New York—and, of course, there are hundreds of thousands of such homes—or 9 miles from the San Francisco airport or the Los Angeles airport, where the supersonic transports would operate, would have to be soundproofed at a cost of $6,000 per house.

So it can be seen why there is such a rising tide of opposition and indignation on the part of the public to the supersonic transport. Private polls taken on the question show that opposition to the SST has been 8 to 1, 9 to 1, and 10 to 1 against.

In addition, there is the problem of upper atmosphere pollution caused by the SST. The SST is entirely different from the present subsonic jet. The supersonic transport cannot fly at 25 or 30 thousand feet; it must fly at 60,000 feet. At that level the atmosphere is extremely thin, and the emissions have a far more profound effect because they disintegrate much more slowly, because the atmosphere is too thin. At that level the moisture emitted from the SST would warm the atmosphere and have a destructive effect on the ozone. The ozone is that part of the envelope that surrounds the earth which makes it possible for human life. Without ozone, ultraviolet radiation would be so intense that plant life, animal life, and human life would not be able to exist. If any part of the ozone is destroyed, it can have a serious effect, sometimes a fatal effect on people, animal life, and, of course, on plant life.

The expectation on the part of responsible authorities is that the SST would reduce the ozone from 5 to 10 percent. Many people say that, if it is reduced as much as 9 percent, it can have a serious effect, perhaps a fatal effect, on some an-

imals, and perhaps on some humans, because of the increase in ultraviolet radiation.

It is true that this is in part speculative, because we do not have 500 of those planes flying. We would have to have them flying before we determined whether or not they would have a lethal effect, but responsible scientists say this is their expectation. It is this kind of nightmare which should be studied before we go ahead and spend $290 million more and make it likely to continue with a plane that could have a serious effect on this planet.

Few people realize that the SST has been given an extraordinary priority. It not only has been given red carpet treatment in terms of funding, but also has been given DX priority; that is, in procurement of vital materials in short supply, the construction of the SST has been given special priority, a kind of superiority over 99 percent of our military programs and over all civilian programs. The SST is the only nonmilitary program that has been given this DX priority. It can only be given by the President of the United States.

This is another indication of the extraordinary, red carpet, special, privileged treatment given to the supersonic transport.

This is something which certainly should give us pause, in view of the fact that the SST will provide a benefit to a very small proportion of our people. It has no military value, on the basis of all the testimony we received. The SST will benefit only about one-half of 1 percent of our people, those who fly overseas regularly. The rest of the population would be benefitted only if we assumed that loud noise is good for one, because the rest of the population is going to have to suffer from the loud noise. They would not benefit, because only those who fly overseas regularly would benefit. We have assurances that the airplane will not fly overland because of the supersonic boom, which would be very noisy. So if we confined the airplane to the use of those who fly overseas regularly, only one-half of 1 percent of the American people would benefit. They are affluent people, who could well afford to pay for this cost, without having the Government subsidize it.

I want to make another point in this connection, and that is that the people in the Department of Transportation who are responsible for the SST have become aware of the environmental problem and they have agreed that a research panel should be appointed to study the problem. The trouble is that those who would be most likely to give a competent, objective opinion of the effect of the SST on the environment are not on the panel. Nobody is on that panel from the Department of the Interior. Nobody is on that panel from the Department of Health, Education, and Welfare, or from the Office of Science and Technology. Nobody is on that panel from any of the three agencies that comprised the environmental panel of last year's Presidential Commission that reviewed the legislation and which opposed it. So the panel is loaded with people from Commerce, from the Air Force, from the Federal Aviation Agency, which, of course, is the principal proponent of the legislation.

The Department of Transportation itself is involved. In addition there are private interests involved from McDonnell, Douglas, and American Airlines. They are on the panel. So they have loaded the panel. If that panel arrived at a recommendation that the environment would be adversely affected, it would be an astounding surprise.

There are other reasons I might go into. I wanted to review some of the principal arguments against it before I got into my main argument this evening.

When President Kennedy announced that we should go ahead with the SST, he said that "in no event" should we spend more than $750 million on it. This appropriation would bring us to $1 billion, because we have already spent about $710 million. This proposal involves $290 million. We would spend about $1 billion on it if we went ahead with this appropriation. We would, therefore, exceed the amount President Kennedy said we should expend. This would not be close to the end of the amount we would spend. The estimated cost by the Department of Transportation to build the two prototypes would be $1.342 billion—80 percent over the ceiling we were promised in 1963. But even this is only a fraction of the total eventual cost to the Federal Government. Here are the reasons:

But the cost will be far higher.

First, the Government's present cost estimates cover just phases 1, 2, and 3 of the program; that is, planning, research, and development and design competition and construction of the two prototypes.

Second, there is a substantial likelihood that the government will get involved in phase 4, the certification stage, and phase 5, the early part of the production stage.

The reason we were sucked into, brought into, pulled into this operation, in which the Federal Government funds 90 percent of the cost of the prototype, was the argument, "Well, you cannot expect private industry to provide such an enormous amount of money on something so speculative, something so risky. So what you have to do, if private industry does not come up with it, is have the Federal Government get into it."

The argument I am making is that the SST is still very risky. If anyone does not think so, I ask him to talk to any of the airlines. None of the airlines have indicated a real enthusiasm for this program.

And I might also point out that the subsequent phases are going to be a great deal higher. If $1.3 billion is too much, the $3 to $4 billion of production costs will really be too much; and there is every reason to expect that the Federal Government is going to be expected to be sucked into phases 4 and 5, the certification phase and the production phase.

I might point out something I have not mentioned until now, but I think this is an appropriate place to state it: If the position of the Federal Government on the SST were that of an investor who expected to invest in a stock in the stock market, the Securities and Exchange Commission would reject in a minute the license of any broker who would sell to an investor the kind of investment that the Federal Government is making in the SST.

Proponents say, "After all, what is all the sweat? Why worry about spending all this money? The Federal Government will get its money back anyway." If the SST is a great success, the Federal Government they say, "will get back its money with interest—get it back and get a billion dollars in addition."

The trouble with that argument is the following:

First, the Federal Government does not get its money back unless there is a very large number of these planes produced. One noted economist estimated on the basis of the advantages of flying on the SST—and he calculated them very carefully on the basis of the earnings of people who might fly on the SST, and so forth—about 139 SST's would be built.

It is true that this is far fewer than the Department of Transportation or the industry expects. But if that economist is correct, it would mean that the Federal Government would get back nothing—it would lose every single penny we put in. All this money would go down the drain. The Federal Government would get nothing back; but under those circumstances, both the airlines and the Boeing Co., which produces the SST, would get their money back and make a profit to boot. They would get their money back with interest.

Mr. President, what kind of deal is that? They say, "It is too risky for private enterprise to get into; they do not want to get into it by themselves." But it is not too risky for Uncle Sam. They are asking Uncle Sugar to put up 90 percent of the money and take virtually all the risks.

If the plane is a big success, then what happens? The Federal Government gets its money back with about 4.5 percent interest—less than the Federal Government has to pay for money it borrows. What does that mean? That means the Federal Government, even if everything works out, will lose money, because we have to borrow money now, and pay far more than 4.5 percent because we have a deficit, in order to invest in the SST.

So there is just no way the Federal Government can come out. Can you imagine telling an investor, and expecting to sell anything to him, "Look, there is a chance that you will lose everything you have got. Some good economists say, not that it will, but that it might work out, and if it does work out, we will give you less than you would get if you invest in absolutely riskless, tax-free Government bonds."

That would be a ridiculous investment to make, but that is exactly the kind of investment the Government is being asked to make now.

As I say, this billion dollars from Uncle Sam is only the beginning. That was confirmed by Under Secretary of Transportation Beggs before the Joint

Economic Committee last spring. I asked him about this, and Secretary Beggs said the Government might have to make available to the SST manufacturer, in addition to the $1.3 billion for the prototype version, an additional $1 billion above and beyond prototype development, in the event that private financing proves unavailable; and there is every indication that private financing is likely to prove unavailable, partly because the airlines are not now in good financial shape; partly because they have already invested heavily in the jumbo jet; and partly because they find, when they make these enormous capital investments, that they are in bad financial condition for some years thereafter. So to expect the airlines to pick up this tab is expecting a great deal, and it is very likely that the Federal Government will be in it for at least another billion dollars.

That would bring the total Federal Government investment to the vicinity of 2.3 billion. But that does not take into account an overrun.

And, Mr. President, overruns here are very likely. Overruns come when you get into a new kind of technology, new kinds of techniques, new kinds of metal—areas that have not been explored before.

This is a new technology. We are now using on the SST not aluminum, the usual metal which has been used in such cases, and has been used in the Concorde, for example, but something called brushed titanium honeycomb.

Brushed titanium honeycomb is a very exotic new metal. It might work out perfectly, but the experience has been that these things require adjustment and change, and have to be tested over and over again. And here is where the overruns come.

We have had the experience with our Defense Department that the average overrun—not in new, exotic areas—on 23 major new weapons systems has been 50 percent. So I think, with this new kind of metal, there is every reason to expect an overrun which would be very high indeed. Fifty percent, I think, is a modest expectation. A reasonable expectation would be that the costs would soar from $2 billion to $3.5 billion.

Experts have testified publicly that Government costs on the SST will run to $3 to $5 billion. Gen. Elwood Quesada, highly qualified to speak on this matter, who was formerly head of the Federal Aviation Agency, is now a director of one of the top airlines in the country, and was right in on the ground floor as FAA Chairman when the SST was started, said he expected it to cost $2 to $3 billion. Dr. Richard Garwin, science adviser to Presidents Kennedy, Johnson, and Nixon, made the same kind of prediction.

As the Department of Transportation says, we are not half way through this project. As a matter of fact, we are not even one-third through. We are barely 20 percent along, and 80 percent of the costs still lie ahead. So under the circumstances, as I say, we have to consider the impact of the costs on the Federal budget.

I have made the argument tonight, and the principal argument I want to make and reinforce, is that the main difficulty we face for the next 10 years in Congress is how we are going to be able to meet the tremendously serious needs of our society in the environment in our cities, for health, and in all kinds of other ways. We are going to be strapped again and again, faced with the question of whether or not we can go to the people of America with higher taxes. Anyone who experienced the recent election knows how hard that is going to be. No one with a serious estimate of the economic and political situation today would argue that we could go this year to the American people with a tax increase. This administration is not going to do it; we know they are not. They have indicated they are not. They have some kind of vague proposal about a tax on leaded gasoline, but that will not get through the House of Representatives this year, and there is little likelihood next year. There is more likelihood of a tax decrease, because of the economic situation.

Under these circumstances, for us to try to provide additional funds for anything like the SST, it seems to me, is very wasteful and very foolish. It means we will not be able to provide the funds we need to provide for education, for health, and for our cities, which are really up against it in a very serious way, and now laying people off, although they are suffering in those cities very serious unemployment. The main issue that now emerges in national politics is, will the Nixon administration stick to its principles on the national budget?

The Nixon administration has lately taken a more liberal view on the budget. Casper Weinberger, when he first went in to head the Budget Office, said they wanted a balanced budget, period, even in periods of high unemployment. Mr. Weinberger, I am happy to say, has now revised that view, and understands that you cannot have a balanced budget with unemployment as high as it is. So let us assume that there will be a deficit. Let us calculate the budget so that it will come into balance only as we approach 4 percent unemployment. This means we are assuming we would get the higher income that would come in if we had another 2 million people working, with the income taxes they would pay, the higher income that would come in if we had more production and, therefore, higher production and a higher corporate income tax yield. This would mean, on that full-employment basis—providing for a bigger budget next year—one that could go as high as $228 billion. But that $228 billion is going to be very hard for President Nixon to stick to. He will not be able to stick to it if we are going to go ahead with projects like the SST, unless he makes some cuts in other very essential programs that I think almost all Members of the Senate and the House want very dearly to resist. After all, the SST is not going to educate a child; it is not going to cure anybody who is ill; it is not going to provide any kind of opportunity for people to be able to improve themselves. It is not going to meet any essential need in this country.

The argument for the SST now boils down to the fact that we have an unemployment situation, and it is particularly bad in the State of Washington and some of the other States that might have subcontractors in the SST, so why not go ahead with the program? It may be wasteful; at least, you are going to put people to work.

The answer to that is that this is not a productive way to put people to work. After all, this is an industry where you hire people who, by and large, over the years are highly skilled and are in short supply. Most of the employment will not come in 1971 and 1972. It will come in 1978, 1979, 1980, and 1981. This is when you will get into production. In those years, how will we know what the employment picture is going to be? If we make the kind of progress we should make economically, we should have close to a full-employment economy at that time. We should work in that direction. We should make assumptions that that would be the situation. If we do that, with the 50,000 jobs that would be available in 1978 and 1979. The SST would be inflationary. It would mean that instead of people working on counteracting environment pollution, instead of people working on improving the health of our people, instead of people working in education and housing, they will be working in building a plane which will pollute the environment.

The question is, How about the immediate jobs? This would provide some 20,000 jobs in the next couple of years in the prototype construction. Well there is a far more productive way to provide jobs and far more of them than this. If we take that $290 million and fund the emergency mortgage credit bill which is now law—I was the author of the amendment that provided this—we could provide a payment for the difference between the present 9-percent mortgage on housing, which is the reason why people are not buying homes and 7 percent.

People cannot buy a home now, because if they go to buy a $20,000 home, the interest on that $20,000 home is $38,000. It is that high because the mortgage is 9 percent. If we can get the mortgage down to 7 percent, we can bring in literally hundreds of thousands of people who now cannot afford to buy a home but can buy a home if the mortgage is that low, so that monthly payments are low enough for them to afford it. This is not my calculation. This is the calculation of the Federal Reserve Board and the Housing and Urban Development Administration.

If we take that $290 million from the SST and fully fund that housing bill, it would provide not 20,000 jobs, not 200,000 jobs, but 1 million jobs. This calculation is based on the fact that if you reduce the interest rate from 9 to 7 percent, it would mean that you could produce 500,000 new homes, and 500,000 new homes means 1 million jobs. This is the way to put the people in this country to work. They would go to work in the State or in Washington, where they have a big lumber industry, as well as in Oregon. They would go to work all over America. They would go to work in West Virginia, Wisconsin, New York, and elsewhere.

Furthermore, you would be meeting a desperate need not of a few people who want to fly overseas a little faster but of the hundreds of thousands of people who need new homes and cannot afford them, who are now living in inadequate housing, doubled up with relatives, living in trailers, living under circumstances that are undignified and unnecessary.

Mr. President, I am about to conclude. In concluding, let me say that I think we ought to recognize that other programs would contribute more to the quality of life in this country, as well as to jobs, far better than the SST.

One of the most ironic figures, which I cannot get out of my mind, is the fact that we are being asked to spend $290 million this year to produce an SST that will pollute the environment, pollute the air, and we are spending $105 million to combat air pollution. We are being asked to spend $290 million to increase air pollution and we are spending $105 million to reduce it. Does that make sense? It does not make sense to me. We are being asked to spend $290 million this year for transportation for one-half of 1 percent of the people, the jet set, to fly overseas, and we are spending $204 million this year for urban mass transportation for millions of people to get to work. Does that make any sense? I do not think so.

We are being asked to spend $290 million this year for the supersonic transport and $85 million in the entire country for consumer protection. In other words, we are spending some three times as much—more than three times as much—for the SST as we are for protecting the consumers of this country, and of course every American is a consumer.

These are programs which are vital to us all—not an SST which will get a tiny handfull of businessmen and tourists to Europe just a couple of hours faster.

Mr. President, the SST has no place in the Federal budget. If there is to be an American SST, let private industry finance and build it. That is the way every other U.S. aircraft has been built. That is the way to make and keep our aviation industry strong, not by panicking headlong into some competition with Britain and France and Russia to build a lemon that no one really wants.

Mr. President, this afternoon several scientists representing the National Academy of Sciences are making a presentation to William Magruder on the problem of the SST's potential environmental impact. The report apparently deals with the question of ozone depletion, and voices concern over the possible increase in ultraviolet radiation that might ensue. I spoke about that a little earlier in this speech. The National Academy of Sciences is going directly to the Department of Transportation and is trying to bring this matter to the attention of the people who are responsible. The question of ozone depletion has been hotly debated all summer and fall. We would welcome hearing what the impartial group from the National Academy of Sciences has to say. We have appealed to the Department of Transportation to give us this information. They have refused, as they have refused repeatedly to give us information on the reaction of the agencies to the environmental study that was made available to them by the Department of Transportation on the effect the SST would have on the environment. On both these points the Department of Transportation has not made the information available.

Mr. President, in mid-September, the Department of Transportation filed its preliminary draft of a section 102 environmental report with the Council on Environmental Quality. That was required by the Environmental Quality Act. Eleven Federal agencies, under the law, were to submit comments on the report within 30 days. That was in September. Those reports should all have been in by now. My staff called the Department of Transportation last Wednesday, more than 60 days after the time the initial report was filed, and asked the Department of Transportation about these agency comments. We were told that the Department of Transportation has only some of these reports, that DOT would not make available the comments that it does have.

In other words, we are being asked to vote on a $290 million appropriation without having information available, which is the very purpose of that act. Why are these reports supposed to be made? They are supposed to be made so that Congress will be fully informed and will know what the situation is when it votes on these appropriations. Otherwise, we might as well not have such a requirement. The Senate is entitled to have these comments. There is no excuse for not making them available, either. Clamping the lid of secrecy on these comments at the very time when the Senate is about to make a decision on the SST is totally without justification.

Mr. President, I ask unanimous consent that the two articles from the New York Times and an editorial be printed at this point in the RECORD.

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

NIXON TEAM FACES TEST—STICKING TO PRINCIPLES ON BUDGET

(By Edwin L. Dale, Jr.)

WASHINGTON.—A fundamental question is emerging as the Nixon Administration nears the final decisions on its budget—and economic policy—for next year. The question is simply stated: Will the Administration stick to its principles about the budget?

Despite a good deal of wavering on such things as school integration, this Administration has tried to have some principles, particularly in the sphere of economic policy. On the matter of Government spending it has elaborated, and frequently stated, two principles of great importance:

Federal Government outlays should not exceed the yield of the tax system at high employment—that is, when the economy is operating with roughly 4 per cent unemployment.

Total tax rates—Federal, state and local—have gone about as high as they should go.

The principles have some interesting consequences, and the first people who should realize them are Governor Rockefeller and Mayor Lindsay.

If the first principle is lived up to in the next budget, there will be no more than about $228-billion of outlays. Given a depressing array of unavoidable increases in existing expenditures, starting with the pay of the millions of Federal employes, this outside limit means— esteemed Governor and Mayor—that there is not much extra dough for you. A little, yes; but not much.

It will, in fact, require a major act of will by Mr. Nixon to keep expenditures as low as $228-billion, without granting the states and cities an extra nickel apart from the slow-starting revenue-sharing plan he already has proposed.

The fascinating thing about the high-employment budget concept is that it sets a much firmer ceiling on expenditures than all of the old budget concepts. A second-year student in public finance can calculate in 10 minutes what "high employment revenues" will be, with a range of error of no more than $5-billion in a budget of well more than $200-billion.

The reason for this is that "full employment" gross national product is a reasonably precise figure, and the revenue from any given G.N.P. is also a known figure, within very limited error. Paul W. McCracken, the chairman of the Council of Economic Advisers, has not only conceded this point but has expressed gratification that the high employment budget principle sets an outside limit on expenditures.

And so it does. The figure is about $228-billion for the fiscal year 1972, give or take a few billion. The only thing that could change the figure is an increase in tax rates; but that, apart from being politically unlikely, violates the second principle.

The balanced full-employment budget concept has another implication. If it is adhered to, there is no such thing as a strongly stimulative Government fiscal policy, to help the economy return to full employment. Without going into all the nuances, budget policy can be a little stimulative, but not massively so. By the same token, it is important to remember, there is no such thing under this concept as a dangerously inflationary Government fiscal policy.

One does not bother about an actual deficit in the budget, except for the possible impact on the money market and interest rates because of Government borrowing. But, by the same token, one knows that a deficit, as such, is not stimulative. Revenues are low because the economy is sluggish. Indeed the budget itself—its actual expenses and revenues—hardly means anything at all in the economic sense: "deflationary" or "inflationary," stimulative or contractionary. A budget with a small high-employment surplus—the aim outlined by the Administration—is essentially neutral.

The clear companion to the idea—though not always stated—is that Federal Reserve monetary policy must do the expanding or contracting.

The only way to have an overtly stimulative budget is to raise expenditures—or cut taxes—so that there will be a high-employment deficit. This conclusion is now a fairly widely accepted gospel, and not only in this country. It could be done, of course, and there is already vague talk of it for next year, both inside and outside the Administration.

Gardner Ackley, the former chairman of the Council of Economic Advisers, said openly the other day that he would not mind a high-employment deficit next year, given the present degree of unemployment and idle plant capacity.

But such a decision by this Administration would be a clear breach of principles long enunciated. It could well add to the "inflationary expectations" that still are only

barely beneath the surface in this society, including the financial markets.

One can grant that consistency is the hobgoblin of little minds. One can even argue that consistency is good in some things and not in others. But one can wonder, too, whether a society can live well with a Government that has a forked tongue.

[From the New York Times, Nov. 27, 1970]

CITIES CUT BACK JOBS AND SERVICES IN FINANCIAL PINCH—ACTION IS FORCED BY INFLATION AND DECLINING TAX BASE—MANY CONFRONT CRISIS

(By Paul Delaney)

WASHINGTON.—The twin pressures of continued inflation and a declining tax base are forcing many of the nation's major cities to lay off workers, trim services and adopt other belt-tightening measures.

Reports from cities around the country this week showed that those city officials who had earlier complained of financial troubles are now warning that the situation may be reaching crisis proportions. And even in those cities where the picture is less bleak—such as Atlanta, Milwaukee and Houston—municipal leaders say they fear a change for the worse in the near future.

The financial problems of the cities were exemplified in New York last week when Mayor Lindsay laid off 500 employees to save the city $2-million a year. And the Mayor and 25 top officials agreed to take $1,000-a-year pay cuts as their personal response to the budget crisis.

RUNNING OUT OF FUEL

Baltimore's Mayor, Thomas J. D'Alesandro 3d, likens the money supply for his city to fuel for Gen. George S. Patton's tanks:

"You run as far as you can, but when you run out of gas you've got to stop."

Boston's budget director, Richard E. Wall, said that next year "is going to be a bad year, our expenses are very great and rapidly increasing." And Richard Clark, budget director of Denver, commented:

"The basic situation is that over a period of at least 10 years our expenditures have increased at a rate of from 10 to 12 per cent, while revenues from the existing tax structure have increased about 3 or 4 per cent a year."

The National League of Cities reports that while local governments have raised their tax collections by 499 per cent since World War II, city costs have risen by almost 550 per cent.

The cities are caught in the crunch of increased operating costs, added to the exodus of higher income groups and industry, leaving the inner cities to lower income residents, which results in a lower tax base.

To meet the growing problems, city officials have taken a number of steps, as follows:

Cuts in city service, programs and budgets are becoming widespread. San Diego reduced downtown rubbish collections from twice weekly to once a week, the same as the residential schedule. Because of the defeat of a tax proposal, in the Nov. 3 election, trash collection and snow removal in Cleveland will be sharply cut this winter.

Dallas has shelved the planned construction of a $50-million city hall and cut expenditures for equipment for the fire and police departments, for street resurfacing, traffic control programs, land purchases and community health programs.

"The curtailed capital expansion program is at the expense of the future," George Schrader, the assistant city manager, remarked. "The curtailment of planning efforts in a community such as Dallas is a reduction of services."

NO MONEY FOR TREES

In Kansas City, Mo., a monument to the city's money crisis is 6,000 dead elm trees. No funds were appropriated to replace them and money to remove the dead ones has not been provided to contend with the Dutch elm disease that is killing them.

In Los Angeles, there is no money for several new station houses, scientific equipment helicopters and a special department for police liaison with citizens.

Vacancies are not being filled. Mayor D'Alesandro of Baltimore ordered all city department heads to hold the line on planning, and to draw up an alternate set of figures 5 per cent below current spending. Denver will save $1.3-million by not filling vacancies this year. And several departments in Pittsburgh are operating far below strength. Kansas City is not filling police department vacancies.

Layoffs and dismissals are becoming common. In Cleveland, 89 police cadets were laid off. Mayor Peter F. Flaherty of Pittsburgh began an austerity drive by discharging 30 cleaning women and has dismissed a total of 350 since he took office last January. Another 300 city employes reportedly will be let go early next year.

Almost all cities have increased taxes, but that is a step many politicians are reluctant to take, especially in an election year. Several elections will be held next year, and the money crisis is already a major political issue in many places.

In Seattle the City Council cut $1.5-million from Mayor Wes Uhlman's $88.8-million budget for the 1971 fiscal year. The Mayor branded the cut "a strange witches' brew of ineptitude and backroom politics," and the fight was on. The city, meanwhile, enacted increases in water and sewer rates. The theory is that if the council adopts the requested budget, there will be no cuts in city services.

BIG RISE IN TAX

In Los Angeles, Mayor Samuel W. Yorty complained that the tax on his home jumped from $1,408 in 1969 to $2,128 this year under a combined city-county rate schedule that rose this year to the highest level in history. Hartford's tax rate has nearly doubled since 1961, and the prospect is for further increases.

Kansas City's situation has been termed a near disaster. The voters rejected a 24-point revenue package last December that included a sales tax, a higher earnings tax and 17 bond propositions. A special election will be held Dec. 17 with only the earnings tax and a business profits tax on the ballot.

With the police department getting the biggest single share of the money, followed by the fire department, the drive to solicit support for the increased taxes has revolved around the "public safety" issue. However, the situation is complicated by the fact that a new city administration will be elected next March 30. Some citizens felt that the new administration should determine what kind of revenue package it wants and they recommended postponing the vote.

SLOWDOWN BY FIREMEN

The firemen have pressed demands for salary increases by engaging in a work slowdown. They are making only emergency repairs on their equipment and the fire alarm office will accept only emergency calls for resuscitators and actual fires.

Some cities' financial frustrations have been heightened by the loss of state and Federal aid because of declines in population. Some funds are granted on a per capita basis, and such cities as Cleveland, Baltimore, Chicago, New York, Los Angeles, Boston, San Francisco and Detroit will presumably lose some assistance. Some cities in Connecticut are considering asking the state General Assembly for massive fund increases.

Nevertheless, the National League of Cities has warned: "Central cities should not kid themselves that the state or Federal governments or the suburbs will come through with enough aid and relief to close the whole gap between local spending at the present rate of increase and local revenue from today's local tax practices."

"Once again the question is not whether, but how," the league says in its magazine, Nation's Cities. The question is not whether cities must do far more to help themselves financially, but how best the cities hold down their own local costs and step up their own local revenues."

"We were told by Mayor Flaherty to submit austerity budgets for 1971 and keep costs down," commented Joseph Cosetti, the city treasurer of Pittsburgh. "We are trying to apply new technology, new business machines and computers, but I think these just achieve better service without lowering costs.

"In February and March there were layoffs in every department. Lands and buildings [department] let out 30 cleaning women; the refuse department closed a city incinerator, resulting in 80 or 90 layoffs; cashiers, clerks, typists and appraisers have been laid off."

And, adding a political note similar to those that have kept a controversy going between Mayor Flaherty, who is politically independent, and other city officials, Mr. Cosetti said:

"We did that because in the past employment has been used by the Democratic organization. We asked 'Who do we need?' without regard to political consequences."

PATCHWORK PROCEDURE

Mr. Clark, Denver's budget director, says the city gets by with a "patchwork" procedure that consists of "taking money from capital construction, increasing the rate of taxes or introducing new taxes. You can't continue to exist without doing something of this nature."

William G. Sage, auditor-controller of San Diego, said his city was in better condition than many others, but might be in real trouble next year.

"We have been about three years behind other states in reaching the crisis stage, but our reserves are just about used up and things are getting worse all along." Mr. Sage said, "We'll need new sources of revenue, or we'll have to cut back services."

Atlanta's finance director, Charles Davis, explained that state law required the city to plan its expenditures below the previous year's income. Thus, he said, Atlanta is in excellent shape."

In addition, the Federal Government contributes $50-million for urban renewal, the model cities program, the airport and other projects, as well as $— million for pollution abatement. But Mr. Davis was concerned that if the Federal Government reduced its aid, the city would have to pay the tab.

Houston ended 1969 with a surplus of $14-million, and the healthy financial picture that is expected to continue because the tax bases have been broadened to include alcoholic beverages, tobacco products and building materials.

Credit for Houston's enviable financial situation is given to Mayor Louie Welch, who is regarded as an adept money manager.

[From the New York Times, Nov. 28, 1970]

SHOWDOWN FOR THE SST

The approval by the Senate Appropriations Committee of additional funds for the supersonic transport was no surprise. The real showdown on this hotly disputed issue will come in the next few days on the Senate floor where advocates of the SST will encounter much stiffer opposition.

Like most complicated human enterprises, the supersonic transport was conceived and has been pushed forward for a variety of reasons, some good and some bad, some deliberate and some almost unconscious. Basically, the plane is another advance in aviation technology, and every technology has its own inherent momentum.

If something is technically possible, the natural impulse of technicians is to do it, regardless of the cost or consequences. But the technological impulse has met a powerful check in the environmental argument. Ear-splitting noise, architectural and physical damage, and supersonic pollution are convincing reasons for not carrying airplane development to this further stage.

National prestige is yet another argument for this plane. No powerful nation can entirely ignore considerations of prestige. But a country which was first to put men on the moon need hardly worry about its ranking in the ratrace of the nations. Such a country can afford to invest its wealth in more mundane and useful undertakings such as medical schools, child care centers, passenger trains, and sewage disposal plants.

Advocates of the plane have of late returned full circle to their original chief argument, which is economic. You may not like the sonic booms or the terrifying noise at ground level, they say, but the United States has to develop the plane anyway to protect its balance of payments. The Russians and a British-French combination are building their own planes, and these foreign models will capture the SST market if the United States holds back. Leading economists have repeatedly demonstrated that this economic case has many holes, but it will undoubtedly be presented in the Senate again as if it were air tight.

With the struggle over this project now reaching the critical point, personalities also play a part. A pair of popular and influential committee chairmen—Senators Magnuson and Jackson of Washington—are lobbying intensively for the SST because much of the work would be done by the Boeing Company in their state. It is regrettable that there is no coherent policy for making use of the talents of the unemployed engineers and technicians in Seattle, San Diego and other centers of high unemployment.

But if the Congress wants to rescue them with public funds, there are many more productive projects than SST in which they can be used. In any event, Senators would be abysmally irresponsible to decide this important question not on its merits but because they want to do a personal favor for "Maggie" Magnuson and "Scoop" Jackson.

On balance, the arguments for stopping the SST are decisive. The plane has no dependable markets since the airlines do not really want it. The noise pollution would be severe. The ecological threat to the air in the stratosphere from the plane's vapor is indeterminable and could be catastrophic. More American prestige in this field would be superfluous. The resources of the Boeing Company and the talents of its ex-employes could be put to better use. In short, before the Government's commitment becomes fantastically expensive and irrevocable, the Senate should put a stop to the SST now and for the foreseeable future.

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 6951. An act to enact the Interstate Agreement on Detainers into law; and

H.R. 15216. An act to authorize the Secretary of Defense to lend certain Army, Navy, and Air Force equipment and to provide transportation and other services to the Boy Scouts of America in connection with the World Jamboree of Boy Scouts to be held in Japan in 1971, and for other purposes.

OCCUPATIONAL SAFETY AND HEALTH ACT

Mr. YARBOROUGH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2193.

The PRESIDING OFFICER (Mr. BAYH) laid before the Senate the amendments of the House of Representatives to the bill (S. 2193) to authorize the Secretary of Labor to set standards to assure safe and healthful working conditions for working men and women; to assist and encourage States to participate in efforts to assure such working conditions; to provide for research, information, education, and training in the field of occupational safety and health, and for other purposes, which were to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Occupational Safety and Health Act".

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 employee of 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, Johnston 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 promulgated 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 regard 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 emergency 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 relevent 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 employees 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 States 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, Unied 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 notices 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 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 contumancy, 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 thoe 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 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 particularity 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 Commisison 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 Commission.

(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 sucessors 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.—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 disposition 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 Secertary, the court which grants such relief shall set a sum which it deems proper for the payment of such costs, damages, 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 issued 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 and 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 dis-

closed 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 respect 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, and which standards, when applicable to products which are distributed or used in interstate commerce, are required by compelling local conditions and do not unduly burden interstate commerce,

(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)(1), 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 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.

(h) The Secretary may enter into an agreement with a State under which the State will be permitted to continue to enforce one or more occupational health and safety standards in effect in such State until final action is taken by the Secretary with respect to a plan submitted by a State under subsection (b) of this section, or two years from the date of enactment of this Act, whichever is earlier.

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 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 or 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 evaluations 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 employments 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 effecting additions to or alteration 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 of 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 States' 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 contrator 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 sub-

contractor (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 section 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 appropriations 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 undertaking supplied by other sources, and such other records as will facilitate an 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.

And amend the title so as to read: "An Act to assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes."

Mr. YARBOROUGH. Mr. President, I move that the Senate disagree to the amendments of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon; and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. BAYH) appointed Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, Mr. JAVITS, Mr. PROUTY, Mr. SAXBE, Mr. SCHWEIKER, and Mr. DOMINICK conferees on the part of the Senate.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER (Mr. BAYH). The pending order of business is S. 4459, the proposed Consumer Protection Organization Act of 1970.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 1 minute p.m.) the Senate adjourned until tomorrow, Tuesday, December 1, 1970, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 30, 1970:

U.S. CIRCUIT COURTS

Donald R. Ross, of Nebraska, to be a U.S. circuit judge of the eighth circuit, vice Harry A. Blackmun, elevated.

U.S. DISTRICT COURTS

Franklin T. Dupree, Jr., of North Carolina, to be a U.S. district judge for the eastern district of North Carolina, vice a new position created by Public Law 91-272 approved June 2, 1970.

James H. Gorbey, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania, vice a new position created by Public Law 91-272, approved June 2, 1970.