Mrs. Wagner is one of dozens of people whose lives have been touched by a military helicopter ambulance project under way here and in four other states.

Called MAST—Military Assistance to Safety and Traffic—the project dispatches helicopters manned with military medics to civilian medical emergencies at a moment's notice.

Nearly 100 patients have been airlifted by MAST helicopters stationed here since the six-month test project began July 15.

One mission came after Bill Wagner, 19, of Houston, was stricken with aeroembolism—air in the blood vessels—while scuba diving recently near Austin, Tex.

Wagner was rushed to an Austin hospital, but doctors said he needed emergency treatment in a compression chamber. The only one in the area is at Brooks Air Force Base in San Antonio, more than 80 miles away.

A MAST helicopter based here at the Army's Ft. Sam Houston was ordered to Austin.

Then began a low-altitude race to San Antonio at speeds of up to nearly 130 miles per hour.

One of the two pilots on the flight, Capt. Pat Clayton, 27, of Houston, a veteran of 1,300 combat flying hours in Vietnam, said a helicopter was called in this case rather than a conventional ambulance because time was a critical factor.

"We tried to stay as low as we could," Clayton said. "Every time we'd get to a high altitude the patient would really feel it."

The big "Huey" chopper flew at an average altitude of just 50 feet for the 40-minute flight.

A Brooks spokesman later said Wagner was stricken when, as he ascended from the lake's depths, pressure in his lungs built up to such an extent that it allowed air to get directly into his bloodstream.

The helicopter had to fly low to avoid exposing the patient to the decreased atmospheric pressure of high altitudes, which would make the amount of air in the blood vessels expand.

"He would have died before we got him there in an ambulance," Wagner's mother said of her son.

Wagner was under treatment in the compression chamber for more than 10 hours. He was hospitalized a week and is still taking medication.

MAST is the first military effort of its type, and doctors, hospital administrators and officers say they hope it's here to stay.

Government officials say only that an interim report will be presented in Washington soon and a decision on continuing MAST after the end of the year will follow the report.

The MAST program here, on standby 24 hours a day to serve a 10-county area covering 9,500 square miles, has airlifted, free of charge, patients ranging from premature babies to heart attack victims.

But more than half of the patients have been traffic accident victims—MAST's main purpose.

On a recent visit to inspect the MAST program, Defense Secretary Melvin Laird, who set up the project, noted that highway traffic accidents are the greatest killer of young people in the nation today.

"When I saw the rapid evacuation and treatment of casualties in Vietnam," he said, "I thought this was one lesson we could apply at home."

A joint effort of the defense and transportation departments, MAST was first introduced at Ft. Sam Houston.

It has since been expanded to areas surrounding two other army posts—Ft. Carson, Colo., and Ft. Lewis, Wash.—and two air bases—Luke AFB, Ariz., and Mountain Home AFB, Idaho.

Most of the MAST patients have been civilians, but the large military population here also has benefited. Roughly 25 per cent of those airlifted by MAST choppers here have been active or retired military personnel or military dependents.

Although Vietnam experience is not a requirement, the 26 officers and 30 enlisted men in the MAST program at Ft. Sam Houston are Vietnam veterans.

"There's nothing like combat training for medics," said Capt. Raymond Snyder of the local sheriff's patrol division. "You can tell they are real professional people."

Ross Rommel, state traffic safety administrator, said he would like to see MAST programs expanded to areas where emergency medical service is now virtually nonexistent, like isolated parts of West Texas.

The transportation department has financed several short-term demonstration projects with helicopter ambulances. One such federally funded program, now operating at Minneapolis, began March 1 with a $320,000 budget and has airlifted more than 60 patients.

But military officials say the best feature of the MAST program is that it costs nothing extra.

Capt. Tom Ely, executive officer of the unit that flies the rescue missions here, noted his organization is a training outfit, with more than 300 hours of flying time alloted per month.

So far, he said, less than 90 flying hours have been spent on MAST missions.

"We're already authorized money to fly those hours," he said. "As far as additional funding, under this system there really is no additional funding."

SENATE—*Thursday, December 10, 1970*

The Senate met at 10 a.m. and was called to order by Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri.

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

O Thou Creator Spirit, whose supreme act of making man in Thine own image we recall on this Human Rights Day, make us mindful of who we are and for what purpose we are here. We thank Thee that our fathers taught us that all men are created equal and in Thy image, to live under Thy dominion. We thank Thee for the divinely bestowed gifts of life, liberty, and the pursuit of happiness. Especially at this season we thank Thee for the incarnation of Thyself in a man who lived, toiled, suffered, died, and rose again to set all men free from captivity to evil, to bring new life, to proclaim the eternal destiny of the soul and the supreme worth of every man. May the spirit of Him who went about doing good fall upon us and may we serve Thee day by day not only in the exercise of our own rights but in the extension of these rights to men of every race and nation. May we be given grace to live in the spirit of Him who said: "Whosoever findeth his life shall lose it again but whosoever loseth his life for My sake shall find it again."

We pray in His name. 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., December 10, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

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

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT—ENROLLED JOINT RESOLUTION SIGNED

Under authority of the order of Thursday, December 10, 1970, the Secretary of the Senate, on Thursday, December 10, 1970, received the following message from the House of Representatives:

That the Speaker had affixed his signature to the enrolled joint resolution (H.J. Res. 1413) to provide for a temporary prohibition of strikes or lockouts with respect to the current railway labor-management dispute, and it was signed by the Acting President pro tempore (Mr. METCALF).

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, December 9, 1970, and early this morning, be dispensed with.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from New York (Mr. JAVITS), there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

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.

AMENDMENT OF SMALL BUSINESS ACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 4536.

The ACTING PRESIDENT pro tempore (Mr. EAGLETON) laid before the Senate the amendment of the House of Representatives to the bill (S. 4536) to amend the Small Business Act which was to strike out all after the enacting clause, and insert:

TITLE I—SMALL BUSINESS ADMINISTRATION

SEC. 101. Paragraph (4) of section 4(c) of the Small Business Act is amended—

(1) by striking out "$1,900,000,000" and inserting in lieu thereof "$2,200,000,000";

(2) by striking out "$300,000,000" and inserting in lieu thereof "$500,000,000"; and

(3) by striking out "200,000,000" and inserting in lieu thereof "$300,000,000".

TITLE II—AUTHORIZATION FOR PRESIDENT TO STABILIZE PRICES, RENTS, WAGES, AND SALARIES

SEC. 201. Section 206 of the Economic Stabilization Act of 1970 (84 Stat. 799–800; Public Law 91-379) is amended by striking out "February 28, 1971," and inserting in lieu thereof "March 31, 1971,"; and by striking out "March 1, 1971," and inserting in lieu thereof "April 1, 1971,".

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, with the permission of the distinguished Senator from Ohio (Mr. YOUNG) and the distinguished Senator from Massachusetts (Mr. BROOKE), who are to be recognized now, I ask unanimous consent that I may proceed for about 4 minutes at this time.

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

S. 4576—INTRODUCTION OF THE CRIMINAL INJURIES COMPENSATION ACT OF 1971

Mr. MANSFIELD. Mr. President, the Senate has passed every major Presidential request for stern measures against criminals. In addition the Senate has initiated and passed several measures on its own, calling for stiffer action against criminals. No matter how stiff our legislative stance against the criminal has been, however, the Senate did not repeal the Constitution. And the Constitution provides strict protections for the accused until his guilt is established by a jury of his peers in a court of law.

Nothing should be done to change those constitutional protections. They are basic and they benefit us all—the guilty and the innocent. Indeed, every American should be proud that our system provides so fully for the individual in this regard and nothing should be done to disturb this fundamental concern.

At the same time, society is obliged to take stronger measures to deter crime; it should provide for speedier trials for the accused, for more police on the beat, for better prison facilities—facilities that will at least assure that upon his release, the prisoner is not even more menacing than he was when first incarcerated.

To help in the total fight on crime, back in 1968, the Law Enforcement Assistance Administration was established to channel vitally needed resources to States and local communities and thereby update police facilities and equipment. Hopefully, when fully implemented, that program will lead the way to vastly improved and more effective police efforts. But there is another dimension to this problem of crime; a dimension heretofore largely ignored. It concerns those who suffer because of crime. It concerns the victim. For him the protection of society has been grossly inadequate. To him, unlike the accused, the protections of our Constitution do not fully extend.

Up to now our concern has focused mainly on the criminal. With the proposal I will introduce, it is hoped that that focus will shift, at least in part, to his victim.

At the very least, the victim of the crime should be made whole and under my proposal he would be. Provided is a form of compensation for those who suffer from criminal violence. Any person who is personally injured in the perpetration of any crime would receive pecuniary compensation. There would be established a Federal Violent Crimes Compensation Commission which would make direct awards to the victim for injuries suffered in the course of the crimes committed within the narrow Federal jurisdiction. In addition, a system of block grants to the States would underwrite similar State compensation commissions for the victims who suffer from crimes within the State and local criminal jurisdictions.

I would say further that when the protection of society is not sufficient to prevent a person from being victimized, society then has the obligation to compensate the victim for that failure of protection. The measure I introduce covers everyone. The unsuspecting victim of rape. The policeman ambushed answering a routine call. The fireman shot down by a sniper when responding to an alarm. The ghetto dweller, the suburbanite. In short, the measure I introduce provides for all who suffer from criminal violence.

Mr. President, this is a time for bold action. This is a time for Congress to demonstrate to the people of America that it is as interested in the problems and suffering of victims of criminal acts as it is in protecting rights of accused criminals. Therefore, as the next Congress convenes a month from now, I shall reintroduce my proposal and urge its prompt consideration. The victim of crime deserves no less.

Mr. President, I send my bill to the desk, ask for its appropriate reference and that its text be printed at this point in the RECORD.

The ACTING PRESIDENT pro tempore (Mr. EAGLETON). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 4576) to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes, introduced by Mr. MANSFIELD, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 4576

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

TITLE I—SHORT TITLE AND DEFINITIONS

SECTION 1. This Act may be cited as the "Criminal Injuries Compensation Act of 1971".

DEFINITIONS

SEC. 102. As used in this Act the term—

(1) "child" means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and a child conceived prior to but born after the death of the victim.

(2) "Commission" means the Violent Crimes Compensation Commission established by this Act.

(3) "dependent" means those who were wholly or partially dependent upon the income of the victim at the time of the death of the victim or those for whom the victim was legally responsible;

(4) "personal injury" means actual bodily harm and includes pregnancy, mental distress, nervous shock, and loss of reputation;

(5) "relative" means the spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, spouse's parents';

(6) "victim" means a person who is injured, killed, or dies as the result of injuries caused by any act or omission of any other person which is within the description of any of the offenses specified in section 302 of this Act;

(7) "guardian" means one who is entitled by common law or legal appointment to care for and manage the person or property or both of a child or incompetent; and

(8) "incompetent" means a person who is incapable of managing his own affairs, whether adjudicated or not.

TITLE II—ESTABLISHMENT OF VIOLENT CRIMES COMPENSATION COMMISSION

SEC. 201. There is hereby established an independent agency within the executive branch of the Federal government to be known as the Violent Crimes Compensation

Commission. The Commission shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman, who shall have been a member of the bar of a Federal court or of the hghest court of a State for at least eight years.

(b) There shall be appointed, by the President, by and with the advice and consent of the Senate an Executive Secretary and a General Counsel to perform such duties as the Commission shall prescribe in accordance with the objectives of this Act.

(c) No member of the Commission shall engage in any other business, vocation, or employment.

(d) Except as provided in section 206(1) of this Act, the Chairman and one other member of the Commssion shall constitute a quorum. Where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

(e) The Commission shall have an official seal.

FUNCTION OF THE COMMISSION

SEC. 202. In order to carry out the purposes of this Act, the Commission shall—

(1) receive and process applications under the provisions of this Act for compensation for personal injury resulting from violent acts in accordance with title III of this Act;

(2) pay compensation to victims and other beneficiaries in accordance with the provisions of this Act;

(3) hold such hearings, sit and act at such times and places, and take such testimony as the Commission or any member thereof may deem advisable;

(4) promulgate standards and such other criteria as required by section 504 of this Act; and

(5) make grants in accordance with the provisions of title V of this Act.

ADMINISTRATIVE PROVISIONS

SEC. 203. (a) The Commission is authorized in carrying out its functions under this Act to—

(1) appoint and fix the compensation of such personnel as the Commission deems necessary in accordance with the provisions of title 5, United States Code;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals;

(3) promulgate such rules and regulations as may be required to carry out the provisions of this Act;

(4) appoint such advisory committees as the Director may determine to be desirable to carry out the provisions of this Act;

(5) designate representatives to serve or assist on such advisory committees as the Director may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the purposes of this Act;

(6) use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

(7) without regard to section 529 of title 31, United States Code, 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;

(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

(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 Act.

(b) Upon request made by the Administrator each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates and statistics) available to the greatest practicable extent to the Administration in the performance of its functions.

(c) Each member of a committee appointed pursuant to paragraph (4) of subsection (a) of this section shall receive $——— a day, including travel time, for each day he is engaged in the actual performance of his duties as a member of a committee. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

TERMS AND COMPENSATION OF COMMISSION MEMBERS

SEC. 204. (a) Section 5314, title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(55) Chairman, Violent Crimes Commission".

(b) Section 5315, title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crime Commission".

(c) Section 5316, title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(130) Executive Secretary, Violent Crimes Commission

"(131) General Counsel, Violent Crimes Commission".

(d) The term of office of each member of the Commission taking office after December 31, 1971, shall be eight years, except that (1) the terms of office of the members first taking office after December 31, 1971, shall expire as designated by the President at the time of the appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after December 31, 1971; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(e) Each member of the Commission shall be eligible for reappointment.

(f) A vacancy in the Commission shall not affect its powers.

(g) Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(h) All expenses of the Commission, including all necessary traveling and subsistence expenses of the Commission outside the District of Columbia incurred by the members or employees of the Commission under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Executive Secretary, or his designee.

PRINCIPAL OFFICE

SEC. 205. (a) The principal office of the Commission shall be in or near the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place.

(b) The Commission shall maintain an office for the service of process and papers within the District of Columbia.

PROCEDURES OF THE COMMISSION

SEC. 206. The Commission may—

(1) subpena and require production of documents in the manner of the Securities and Exchange Commission as required by subsection (c) of section 18 of the Act of August 26, 1935, and the provisions of subsection (d) of such section shall be applicable to all persons summoned by subpena or otherwise to attend or testify or produce such documents as are described therein before the Commission, except that no subpena shall be issued except under the signature of the Chairman, and application to any court for aid in enforcing such subpena may be made only by the Chairman. Subpenas shall be served by any person designated by the Chairman;

(2) administer oaths, or affirmations to witnesses appearing before the Commission, receive in evidence any statement, document, information, or matter that may in the opinion of the Commission contribute to its functions under this Act, whether or not such statement, document, information, or matter would be admissible in a court of law, except that any evidence introduced by or on behalf of the person or persons charged with causing the injury or death of the victim, any request for a stay of the Commission's action, and the fact of any award granted by the Commission shall not be admissible against such person or persons in any prosecution for such injury or death.

TITLE III—AWARD AND PAYMENT OF COMPENSATION

AWARDING COMPENSATION

SEC. 301. (a) In any case in which a person is injured or killed by any act or omission of any other person which is within the description of the offenses listed in section 302 of this Act, the Commission may, in its discretion, upon an application, order the payment of, and pay, compensation in accordance with the provisions of this Act, if such act or omission occurs—

(1) within the "special maritime and territorial jurisdiction of the United States" as defined in section 7 of title 18 of the United States Code; or

(2) within the District of Columbia.

(b) The Commission may order the payment of compensation—

(1) to or on behalf of the injured person; or

(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person;

(3) in the case of the death of the victim, to or for the benefit of the dependents or closest relative of the deceased victim, or any one or more of such dependents;

(4) in the case of a payment for the benefit of a child or incompetent the payee shall file an accounting with the Commission no later than January 31 of each year for the previous calendar year;

(5) in the case of the death of the victim, to any one or more persons who suffered pecuniary loss with relation to funeral expenses.

(c) For the purposes of this Act, a person shall be deemed to have intended an act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of forming a criminal intent.

(d) In determining whether to make an order under this section, or the amount of any award, the Commission may consider any circumstances it determines to be relevant, including the behavior of the victim which directly or indirectly contributed to this injury or death, unless such injury or death resulted from the victim's lawful attempt to prevent the commission of a crime or to apprehend an offender.

(e) No order may be made under this section unless the Commission, supported by substantial evidence, finds that—

(1) such an act or omission did occur; and

(2) the injury or death resulted from such act or omission.

(f) An order may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of such

act or omission, or if such act or omission is the subject of any other legal action. Upon application from the Attorney General or the person or persons alleged to have caused the injury or death, the Commission shall suspend proceedings under this Act until such application is withdrawn or until a prosecution for an offense arising out of such act or omission is no longer pending or imminent.

OFFENSES TO WHICH THIS ACT APPLIES

SEC. 302. The Commission may order the payment of, and pay, compensation in accordance with the provisions of this Act for personal injury or death which resulted from offenses in the following categories:

(1) assault with intent to kill, rob, rape;
(2) assault with intent to commit mayhem;
(3) assault with a dangerous weapon;
(4) assault;
(5) mayhem;
(6) malicious disfiguring;
(7) threats to do bodily harm;
(8) lewd, indecent, or obscene acts;
(9) indecent act with children;
(10) arson;
(11) kidnaping;
(12) robbery;
(13) murder;
(14) manslaughter, voluntary;
(15) attempted murder;
(16) rape;
(17) attempted rape;
(18) or other crimes involving force to the person.

APPLICATION FOR COMPENSATION

SEC. 303. (a) In any case in which the person entitled to make an application is a child, or incompetent, the application may be made on his behalf by any person acting as his parent, or attorney.

(b) Where any application is made to the Commission under this Act, the applicant, or his attorney, and any attorney of the Commission, shall be entitled to appear and be heard.

(c) Any other person may appear and be heard who satisfies the Commission that he has a substantial interest in the proceedings.

(d) Every person appearing under the preceding subsections of this section shall have the right to produce evidence and to cross-examine witnesses.

(e) If any person has been convicted of any offense with respect to an act or omission on which a claim under this Act is based, proof of that conviction shall, unless an appeal against the conviction or a petition for a rehearing or certiorari in respect of the charge is pending or a new trial or rehearing has been ordered, be taken as conclusive evidence that the offense has been committed.

ATTORNEY'S FEES

SEC. 304. (a) The Commission shall publish regulations providing that an attorney shall, at the conclusion of proceedings under this Act, file with the agency a statement of the amount of fee charged in connection with his services rendered in such proceedings.

(b) After the fee information is filed by an attorney under subsection (a) of this section, the Commission may determine, in accordance with such published rules or regulations as it may provide, that such fee charged is excessive. If, after notice to the attorney of this determination, the Commission and the attorney fail to agree upon a fee, the Commission may, within ninety days after the receipt of the information required by subsection (a) of this section, petition the United States district court in the district in which the attorney maintains an office, and the court shall determine a reasonable fee for the services rendered by the attorney.

(c) Any attorney who willfully charges, demands, receives, or collects for services rendered in connection with any proceedings under this Act any amount in excess of that allowed under this section, if any compensation is paid, shall be fined not more than $2,000 or imprisoned not more than one year, or both.

NATURE OF THE COMPENSATION

SEC. 305. The Commission may order the payment of compensation under this Act for—

(1) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;
(2) loss of earning power as a result of total or partial incapacity of such victim;
(3) pecuniary loss to the dependents of the deceased victim;
(4) pain and suffering of the victim; and
(5) any other pecuniary loss resulting from the personal injury or death of the victim which the Commission determines to be reasonable.

FINALITY OF DECISION

SEC. 306. The orders and decisions of the Commission shall be reviewable in the appropriate court of appeals, except that no trial de novo of the facts determined by the Commission shall be allowed.

LIMITATIONS UPON AWARDING COMPENSATION

SEC. 307. (a) No order for the payment of compensation shall be made under section 501 of this Act unless the application has been made within two years after the date of the personal injury or death.

(b) No compensation shall be awarded under this Act to or on behalf of any victim in an amount in excess of $25,000.

(c) No compensation shall be awarded if the victim was at the time of the personal injury or death living with the offender as his spouse or in situations when the Commission at its discretion feels unjust enrichment to or on behalf of the offender would result.

TERMS AND PAYMENT OF THE ORDER

SEC. 308. (a) Except as otherwise provided in this section, any order for the payment of compensation under this Act may be made on such terms as the Commission deems appropriate.

(b) The Commission shall deduct from any payments awarded under section 301 of this Act any payments received by the victim or by any of his dependents from the offender or from any person on behalf of the offender, or from the United States (except those received under this Act), a State or any of its subdivisions, for personal injury or death compensable under this Act, but only to the extent that the sum of such payments and any award under this Act are in excess of the total compensable injuries suffered by the victim as determined by the Commission.

(c) The Commission shall pay to the person named in the order the amount named therein in accordance with the provisions of such order.

TITLE IV—RECOVERY OF COMPENSATION

RECOVERY FROM OFFENDER

SEC. 401. (a) Whenever any person is convicted of an offense and an order for the payment of compensation is or has been made under this Act for a personal injury or death resulting from the act or omission constituting such offense, the Attorney General may within — years institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action.

(b) Process of the district court for any judicial district in any action under this section may be served in any judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

(c) The Commission shall provide to the Attorney General such information, data, and reports as the Attorney General may require to institute actions in accordance with this section.

EFFECT ON CIVIL ACTIONS

SEC. 402. An order for the payment of compensation under this Act shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

TITLE V—VIOLENT CRIMES COMPENSATION GRANTS

GRANTS AUTHORIZED

SEC. 501. Under the supervision and direction of the Commission the Executive Secretary is authorized to make grants to States to pay the Federal share of the costs of State programs to compensate victims of violent crimes.

ELIGIBILTY FOR ASSISTANCE

SEC. 502. (a) A State is eligible for assistance under this title only if the Executive Secretary, after consultation with the Attorney General determines, pursuant to objective criteria established by the Commission under section 504, that such State has enacted legislation of general applicability within such State—

(1) establishing a State agency having the capacity to hear and determine claims brought by or on behalf of victims of violent crimes and order the payment of such claims;

(2) providing for the payment of compensation for personal injuries or death resulting from offenses in categories established pursuant to section 504;

(3) providing for the payment of compensation for—

(A) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;

(B) loss of earning power as a result of total or partial incapacity of such victim;

(C) pecuniary loss to the dependents of the deceased victim;

(D) pain and suffering of the victim; and

(E) any other pecuniary loss resulting from the personal injury or death of the victim which the Commission determines to be reasonable, and which is based on a schedule substantially similar to that provided in title III of this Act.

(4) containing adequate provisions for the recovery of compensation substantially similar to those contained in title IV of this Act.

STATE PLANS

SEC. 503. (a) Any State desiring to receive a grant under this title shall submit to the Commission a State plan. Each such plan shall—

(1) provide that the program for which assistance under this title is sought will be administered by or under the supervision of a State agency;

(2) set forth a program for the compensation of victims of violent crimes which is consistent with the requirements set forth in section 502;

(3) provide assurances that the State will pay from non-Federal sources the remaining cost of such program;

(4) provide that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this title; and

(5) provide that the State will submit to the Executive Secretary—

(A) periodic reports evaluating the effectiveness of payments received under this title in carrying out the objectives of this Act, and

(B) such other reports as may be reasonably necessary to enable the Executive Secretary to perform his functions under this title, including such reports as he may require to determine the amounts which local public agencies of that State are eligible to receive for any fiscal year, and assurances that such State will keep such records and afford such access thereto as the Executive Secretary may find necessary to assure the correctness and verification of such reports.

(b) The Executive Secretary shall approve a plan which meets the requirements specified in subsection (a) of this section and he shall not finally disapprove a plan except after reasonable notice and opportunity for a hearing to such State.

BASIC CRITERIA

SEC. 504. As soon as practicable after the enactment of this Act, the Commission shall by regulations prescribe criteria to be applied under section 502. In addition to other matters, such criteria shall include standards for—

(1) the categories of offenses for which payment may be made;

(2) such other terms and conditions for the payment of such compensation as the Commission deems appropriate.

PAYMENTS

SEC. 505. (a) The Executive Secretary shall pay in any fiscal year to each State which has a plan approved pursuant to this title for that fiscal year the Federal share of the cost of such plan as determined by him.

(b) The Federal share of programs covered by the State plan shall be 75 per centum for any fiscal year.

(c) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(d) Grants made under this section pursuant to a State plan for programs and projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated under section 603.

WITHHOLDING OF GRANTS

SEC. 506. Whenever the Executive Secretary, after reasonable notice and opportunity for a hearing to any State, finds—

(1) that there has been a failure to comply substantially with any requirement set forth in the plan of that State approved under section 503; or

(2) that in the operation of any program assisted under this Act there is a failure to comply substantially with any applicable provision of this Act;

the Executive Secretary shall notify such State of his findings and that no further payments may be made to such State under this Act until he is satisfied that there is no longer any such failure to comply, or the non-compliance will be promptly corrected.

REVIEW AND AUDIT

SEC. 507. The Executive 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 a grantee that are pertinent to the grant received.

DEFINITION

SEC. 508. For the purpose of this title the term "State" means each of the several States.

TITLE VI—MISCELLANEOUS

REPORTS TO THE CONGRESS

SEC. 601. The Commission shall transmit to the President and to the Congress annually a report of its activities under this Act including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded, and the number and amount of grants to States under title V.

PENALTIES

SEC. 602. The provisions of section 1001 of title 18 of the United States Code shall apply to any application, statement, document, or information presented to the Commission under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 603. (a) There are authorized to be appropriated for the purpose of making grants under title V of this Act $——— for the fiscal year ending June 30, 1972; $——— for the fiscal year ending June 30, 1973; and $——— for the fiscal year ending June 30, 1974.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the other provisions of this Act.

EFFECTIVE DATE

SEC. 604. This Act shall take effect on January 1, 1971.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Ohio (Mr. YOUNG) is now recognized for 15 minutes.

TOO MANY GENERALS

Mr. YOUNG of Ohio. Mr. President, the Armed Services Committee has reported to the floor four nominations for promotion in the general officer ranks of the Army. In committee, I voiced opposition to one of those promotions, that of Lt. Gen. Henry Augustine Miley, Jr., from the grade of lieutenant general to general. Lieutenant General Miley is no doubt an able general officer. He was promoted to the rank of lieutenant general in June 1969. He has been in his present grade but a year and 5 months. Four years or longer appears to be the customary or average length of time spent in grade at that level. I am questioning the wisdom of such a quick promotion at the very top.

On September 30, 1968, our Army and Air Force had a combined total of 2,422,000 officers and men. On September 30, 1970, that figure had decreased to 2,052,000 officers and men. This is a decrease of about 370,000. Yet, on September 30, 1968, the Army and Air Force had a combined total of 961 general officers. On September 30, 1970 this had decreased to 941. On September 30, 1970 though the total Army and Air Force was 370,000 less than in 1968, there were only 20 fewer generals.

The breakdown within the individual services is as follows: The Army in September 1968 had 257 brigadier generals, 200 major generals, 45 lieutenant generals, and 17 generals for a total of 519 general officers. On September 30 of this year there were 255 brigadier generals, 197 major generals, 44 lieutenant generals, and 15 full generals, for a total of 511. We have today in the Army two fewer brigadier generals, three fewer major generals, one less lieutenant general and two fewer full generals than we had in 1968. This is a decrease of 8 for the overall period.

The Air Force in September 1968 had 226 brigadier generals, 160 major generals, 43 lieutenant generals and 13 generals for a total of 442 general officers. By September 30 of this year that figure had decreased to 430 general officers consisting of 217 brigadier generals, 158 major generals, 42 lieutenant generals and 13 generals. The 2-year decrease consists of nine fewer brigadier generals, two fewer major generals and one less lieutenant general, a decrease of 12.

It is evident despite the substantial reduction of 370,000 men in both the Army and Air Force, we have experienced only a token reduction in the number of general officers. It seems our Army and Air Force are top heavy with too many generals just like the armies of most Latin American republics. Furthermore, in some instances we seem to reward our generals for their blunders by promoting them. It is evident we have too many generals and more coming along.

Gen. Melvin Zais, the commanding general who directed 10 frontal assaults on Dong Ap Bia Hill, later sorrowfully referred to as Hamburger Hill by those GI's who survived 10 disastrous frontal attacks in 10 successive days from May 10 to 20, 1969, and following the 10th and last of these frontal attacks, the defending VC forces slipped away to the sides or rear. The surviving GI's were some of the finest units of the U.S. Armed Forces, paratroopers of the 101st Airborne Division. Evidently it never occurred to General Zais with his forces far superior in number to the VC to encircle Hamburger Hill or strike on either flank with some troops climbing either side of Hamburger Hill in addition to the repeated frontal assaults. This one frontal assault following another seemed symptomatic of the mentality of U.S. commanders who cast strategy aside for repeated frontal attacks. Those nine frontal attacks and that 10th frontal assault on the 10th day cost the lives of 60 GI's with 25 missing, presumably dead, and 308 wounded.

Shortly after this hill was captured our generals ordered its abandonment. Then about that time the distinguished senior Senator from Massachusetts (Mr. KENNEDY) denounced this lack of strategy and the abandonment of Hamburger Hill. Then a token force of about 20 GI's were stationed on the hill which will be known forever to surviving GI's of the 101st Airborne Division as Hamburger Hill. Some months afterward General Zais himself said that Hamburger Hill had no military significance. Yet, General Zais was promoted. He is now the Deputy for Operations of the Joint Chiefs of Staff for our Army. This top post is a key decisionmaking general's job in the Joint Chiefs of Staff. If this is a fact, it would seem such position should require the services of an officer of unquestionable good judgment.

In 1862 Gen. Ambrose Burnside at the battle of Fredericksburg commanding a superior force opposed to the Confederate forces led by Generals Lee, Jackson, and Longstreet made six repeated frontal assaults across the Rappahannock River and up the hill called Marye's Heights. General Longstreet termed the frontal assault of General Burnside's Union troops a death march. Following the sixth frontal assault General Bhrnside retreated. President Lincoln fired General Burnside. General Zais

who had ordered 10 suicidal frontal assaults was not fired. He was promoted.

Mr. President, I do not question the dedication, sincerity, or patriotism of any field grade or general grade officers in our Armed Forces. I do feel, however, that the size of our officer corps should be kept in proportion to the size of the Armed Forces, not allowed to expand needlessly.

FRANCO'S PERSECUTION OF THE BASQUES: STORMS STIR BENEATH THE CALM IN SPAIN

Mr. YOUNG of Ohio. Mr. President, those of us familiar with the history of our sad involvement in Vietnam recognize that it has many parallels in our past and present. The familiar pattern of support for certain governments which we have found acceptable to us and support for certain groups that are seeking to overthrow governments we dislike is familiar to us all. Only the uninformed or the incredibly naive are not aware that our invicible government, the CIA has sponsored attempts to overthrow the governments of Guatemala, Iran, Cuba, and more recently Laos. Most of us are also aware that we support, with massive economic or military aid or with written or tacit understandings of support, several other governments, some of which could not survive on their own. I have only to mention the so-called Republic of China on Taiwan formerly known as Formosa to illustrate this point. That corrupt old warlord and dictator of Taiwan is maintained in power by our Air Force and 7th Fleet.

It is common knowledge that we support many other governments which, likewise, do not have the support of a majority of their citizens. Several Latin American nations are in this category, and in Europe the nations of Greece, Portugal, and Spain. Franco is maintained as dictator in Spain solely by our military presence there and billions of dollars in aid to Spain. This policy is not only wrong on principle, but contains a danger that even the most militant and conservative politician must recognize. When opposition to our "puppets" arises—and in such totalitarian countries, it invariably does—we are automatically involved. In some cases the commitment can be considerable, as in the nations of Southeast Asia. In others, such as Haiti and other Latin American dictatorships we can pick up the tab more easily. In all cases, however, in the interests of our national honor, we should attempt to insure that aid which we provide to another nation is not used by that government to maintain its position against domestic opposition, or to suppress legitimate protest within its national boundaries.

In recent months, Mr. President, a situation has arisen in a European nation which threatens to place us once again in the position of aiding and abetting a dictatorial regime in the suppression of its opponents. I refer to the actions of the Franco regime in Spain, which has been carrying out a systematic program of harassment and persecution of the Basque people in northeastern Spain ever since 1936, when Franco conquered the then independent Basque Republic of Euzkadi, aided by Nazi planes. During the war, which was characterized by unusual cruelty and savagery on the part of Franco's forces and Nazi bombers, I regret to report that the United States turned down a cargo of 500 Basque children whom their parents were trying to evacuate as the fighting in that area of Spain intensified.

Since the 1936 period both Basque nationalism and the Franco government's attempts to oppress it have continued, although virtually unreported in this Naton's press. Only the arrest, trial, or execution of Basque nationals are reported in brief articles, with little or no background information. In recent years, arrests have greatly increased.

The situation has reached crisis proportions with the Franco government's arrest and trial of 16 Basque nationalists, including two Catholic priests. A state of emergency has been clamped upon one Basque province suspending major constitutional rights, empowering police to hold suspects indefinitely without trial and to search houses without warrants. The trial itself, which began on December 3, has all the familiar hallmarks of a political trial. The defendants, six of whom are on trial for their lives, are manacled in pairs, and the defense lawyers are continually being ruled out of order when they attempt to make objections to the proceedings. The youngest defendant has testified to being beaten and tortured by police for 9 days following his arrest before the court president cut off testimony by saying the police were not on trial. The trial has sparked widespread unrest and protest in the Basque country where 70,000 to 80,000 workers have gone on strike.

Even more disturbing are reports coming out of Spain that our Central Intelligence Agency is conducting a training program designed to help the Franco regime cope with such dissidents, as well as with other moves in the direction of popular government that freedom-loving Basque people hope will follow Franco's departure from power. Naturally, we usually have no way of knowing the activities of our invisible government in such matters until the commitment is greatly expanded. It is significant, however, that Generalissimo Franco, standing beside President Nixon in Madrid announced to the nation that the new so-called bases agreement signed between the United States and Spain, was a "commitment without reserve." Our own officials naturally deny that such a commitment exists, since this subterfuge allows them to blatantly disregard the Senate's constitutional prerogative to advise and consent to ratification of treaties. We have heard such denials all too often in the past.

It would be tragic if our aid to the Franco dictatorship were to be used in any way that contributed to the ruthless and unjust repression now taking place in northern Spain.

Whatever influence we have with the Spanish Government as a result of the over $3 billion which we have poured into the coffers of Franco's Spain since 1953 should be used to encourage policies of moderation and tolerance toward all Spanish citizens, including this heroic people. The senior Senator from Idaho (Mr. CHURCH) whose State contains the largest Basque community outside the Iberian peninsula, has frequently described the proud heritage of their unique culture. The composer Maurice Ravel and the Latin American liberator Simon Bolivar were Basques. The qualities of self-confidence, industry, and love for liberty have been strongly instilled in this ethnic group, which numbers some two and one-half million men, women, and children in Spain and an equal number abroad.

In the interest of calling attention to the largely ignored struggle of these people, I ask unanimous consent that an article by a journalist quite knowledgeable on Spain, and a recent visitor to the Basque country, be reprinted in the RECORD at this point as a part of my remarks. Mr. President, I refer to an article by Larry Fernsworth, nationally known and respected special correspondent, published in the Milwaukee Journal of Sunday, November 29, 1970, under the caption "Storms Stir Beneath Calm in Spain."

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

STORMS STIR BENEATH CALM IN SPAIN

(By Larry Fernsworth)

The Spain where the trial of Basque nationalists is to be held is a land of grim happenings, quite in contrast to the Spain in holiday dress which President Nixon was shown on his visit there last month. He was carefully shielded from knowledge of such events, although he might have known about them by reading the free press of Europe, or the uncensored writings of exiles, or if he could have had private talks with nongovernmental Spaniards.

But the Spain of Generalissimo Francisco Franco has its military courts and its Tribunals of Public Order to take care of Spaniards who "slander the nation."

Glimpses of this other Spain emerged as I traveled through the country not long ago, renewing old acquaintance. They are further elaborated in Spain's underground press, publications by Spanish expatriates in places like Paris, Toulouse and New York's "Iberica"; in letters that Spaniards manage to send to the outside world and in international journals of wide circulation and high prestige like Le Monde of Paris and the Journal de Geneve. Few such reports are carried in most United States newspapers.

CATALOG OF TROUBLES

Some recent items from uncensored sources:

"Workers paralyze the subway of Madrid. . . . The government threatens to militarize striking workers. . . . Three construction workers shot dead when police open fire on striking construction workers in Granada. . . . Police beseige 500 workers in Granada cathedral for four days. . . . Basques in Pamplona clash with police as they protest against the assassination of strikers. . . .

"Spanish intellectuals and workers cry out against new military agreement with Spain, accuse the U.S. of collaborating with Franco and other dictators. . . . Spanish intellectual leaders are heavily fined without benefit of trial for presenting petition of protest against the bases agreement to U.S. Secretary of State Rogers on his visit to Spain. . . . Carlists importing arms to oppose acession of Don Juan Carlos as king after Franco.

"Anticlericalism of the right grows in Spain as worker priests and other Catholic activists

side with the left. The Vatican gives no comfort to Franco, wants the Concordat radically altered, wants the state shorn of its powers to intervene in the church and to nominate bishops. . . . Police harass Basque priests who refuse to bless opening of a branch bank, calling it a publicity stunt."

"Thirty-six Spanish lawyers punished for protesting against rigged secret trials of civil and military courts. . . . Basque lawyers suspended. . . . Students join with Basque guerrillas—one gets 33 years in prison, another gets 20. . . . Civil Guard batters Basque students. Government dissatisfied with police chief of Basque provinces—No. 1 torturer, whose techniques failed to silence Basque rebels, is removed."

BASQUES BEAR BRUNT

As you learn of these grim happenings in Spain, it seems you always find the Basque people bearing the brunt of the Franco regime's oppressive attention.

Basque priests have particularly angered the government by throwing in their lot with Basque workers and by whole heartedly espousing the cause of Basque nationalism.

The government's anger rose high when they asked the United Nations in May of last year to investigate the violations of human rights by the Spanish government. They asked the International Red Cross to investigate prison atrocities. They called upon the minister of justice to abide by the law. They asked the hierarchy of their own church to rally to the defense of the people.

Five Basque priests who started a hunger strike in the residence of the Roman Catholic Bishop of Bilbao issued the following statement in the hope of calling world attention to the warfare being conducted against the Basques by the Spanish dictatorship:

"The Basque people live under an authentic reign of terror. . . . Human rights are abolished while citizens are persecuted and tortured. . . . The police hunt human beings like animals. . . . Radio-TV and the press are in the hands of the government, the facts are concealed, untruths are spread for the benefit of the regime."

The Spanish government called the Basque actions "military rebellion." Police broke into the bishop's residence in violation of the Concordat and arrested the priests. Their lawyers were given four hours to prepare their case before a military court. Two received 10 year prison sentences. The other three received 12.

This was one—but only one of the incidents in the warfare against the Basque people during the 30 years of the Franco regime.

There are many Basque priests in prison along with Basque workers, students and political figures who have stood together in the struggle for their concept of Basque independence.

Leaflets of the Basque underground described some of the prison horrors of which the Basque priests complained.

Women as well as men were stretched out on long tables with feet and heads hanging over the edges, former prisoners reported. While several police held them down, water was drenched over their faces, into ears, nose and mouth.

When 31 women, ages 18 to 28, were jailed for alleged "illegal propaganda," their questioning was accompanied by psychological torture, it was reported. They were made to listen to taped screams of human terror, cries of anguish, of suffering, interspersed with hysterical shrieks of laughter. Then they themselves were insulted, clubbed and whipped.

Although the Basques are fighting for what they call their independence, most do not, by that term, mean separation from Spain.

They mean independence in the sense of the right to govern themselves within the framework of their own culture as they did in centuries past and according to the charter of self-government enjoyed under the Spanish Republic, which the onslaught engineered by the Franco-Mussolini-Hitler collaboration obliterated in the Spanish Civil War of the 1930's.

"We want independence, not merely for today or tomorrow but for all time," a Basque underground leader told me. "We want the government of Spain to respect our personality. Our culture is neither Spanish nor French but Basque. We are looking ahead. We are asking "what happens after Franco?" We want to share in whatever happens. We see a new future for Spain, foresee that it will be obliged to emerge from its isolation.

"We are democratic in every sense of the word and we want our share in bringing about democracy after the passing of Franco and to make our contribution to the Spanish order.

"All Spaniards are in the same boat. A new generation has grown up since the Spanish Civil War of the thirties and that new generation is irritated. A monarchy, if such is to follow the passing of Franco, must be a neutral element for all Spaniards."

But the Basques do not accept the kind of monarchy carved out for Spain by Franco who named as his successor Don Juan Carlos, son of the exiled Don Juan de Bourbon who, in turn, is the son of the deposed late King Alfonso XIII.

Carlos represents what Spaniards label "continuismo," meaning continuation without interruption of what Franco calls his "sacred crusade." Neither the Basques nor any of the other liberating forces of Spain want any of that.

They look hopefully toward the elder Don Juan who did not participate in the Civil War and who has pledged himself not to make war on any political party.

HIERARCHY IS CAUTIOUS

The Franco regime is further infuriated against the Basques because they have the moral support of the liberal wing of the church, including some bishops. While many priests wholeheartedly side with the workers and with the liberating movements, not only of the Basques, but of the Catalans and of Spaniards in all parts of the country, a benevolently inclined part of the heirarchy at the same time acts cautiously and there are popular complaints that they ought to be more forthright.

Pope Paul VI himself has made gestures favoring the Basques and other elements seeking freedom from the dictatorship's oppression.

Franco's warfare against the Basques began during the Civil War, when Basque churches were bombed even while priests were celebrating mass. After the capture of long-resisting Bilbao in 1936, 14 Basque priests were shot without trial, more than 200 priests were imprisoned. Today Basques in exile affirm that "many of them lie in unremembed prisons, locations unknown."

Franco's propagandists have often asserted that what happened was because the Basques were "Reds," and such alibis were chorused by Franco's claque abroad. While some of the Basques did turn toward communism, most are obviously nationalists, fighting for their human rights.

WE SHOULD IMMEDIATELY NEGOTIATE THE RETURN OF OUR PRISONERS OF WAR

Mr. YOUNG of Ohio. Mr. President, much heat but little light has been produced in this Chamber and throughout the Nation by the discussion and debate surrounding the plight of our prisoners of war. Numerous tales of suffering and torture are recounted in the news media, and organized attempts are made to fan up popular sentiment about the issue. I fully share the emotions of Americans who sincerely desire the humane treatment and safe return of all our courageous fighting men.

Yet, I also know that all the letters sent by Americans to Hanoi, all of the trips to Paris by the wives of prisoners, and all of the allegations of prisoner mistreatment will not improve the lot of our American prisoners of war, unless there is the genuine possibility of obtaining some agreement where it really counts, at the diplomatic level. Most intelligent Americans know this well, and so do administration leaders, and moreover, so do some of the very individuals and interest groups who are attempting to politicalize this issue. In the process, they are providing the families of prisoners with false hopes and encouraging them to pursue paths that are, I regret to say, likely to prove fruitless and probably even counterproductive. I recall the emotional and grisly display set up in the Capitol as a result of action of a Texas multimillionaire, purporting to show a "typical" North Vietnam prison cell complete with a rat and emaciated prisoners of war. There are probably indeed some American prisoners of war being held in deplorable conditions in North Vietnam. We do not, Secretary of Defense Laird has informed us, have cameras which are able to see through prison walls in North Vietnam, so we can only surmise the extent of this mistreatment.

We do know, however, about the squalid and deplorable conditions which existed in the tiger cages, those inhumane torture chambers at Con Son Island operated by the militarist Saigon regime. The victims tortured here included suspected VC's as well as political prisoners. Hundreds of men and women were locked in 5-by-9 windowless stone cages, five or more to a cell, in filthy conditions. Piles of lime were placed on the catwalks above the cells to be thrown onto the prisoners.

It is in reality a war crime that from 1963 on every prisoner of war taken by our GI's is immediately turned over to the ARVIN forces of Thieu and Ky who manacle them, hood them, and lead them away for "questioning," which in most cases consists of torture in various forms. On occasion they are immediately executed, as when the former national police chief of south Vietnam, General Loan, now a high official in the Saigon regime, shot and killed a VC officer, his hands bound behind his back, immediately following the time he was captured by an American GI.

The United States is a signatory to the Geneva agreement for the humane treatment of prisoners of war. We have acted in violation of that treaty as we are aiding and abetting continuing torture by our friendly allies—too friendly to fight much, but skilled in torture and murder of prisoners of war. Those of us who have served in World War II never witnessed such violations of the Geneva Convention, never saw hooded and manacled prisoners of war. Very recently, inmates of a South Vietnamese prison, the Tanhiep prison near Bien Hoa, 15 miles north of Saigon, told of political prisoners being detained even after

the expiration of their sentences and of brutal guards, who have beaten, tear-gassed, and scalded with acid prisoners of war and political prisoners they are interrogating. Continuous detention of political prisoners is the familiar hallmark of the totalitarian dictatorship, and merely adds to the growing mountain of evidence pertaining to the true nature of the Saigon militarist regime.

It is possible to assume that there are imitations of these abuses in North Vietnam. My point, however, is that little progress can be made by attempting to escalate the rhetoric in comparing these atrocities on each side.

For every battle of Hue, there is a Mylai incident, for every assassination of a village chief in the south, there is one carried out by ARVIN forces, or even by the national police chief himself. We must take it for granted that abuses exist on both sides and engage our energies to a solution of the problem; an alleviation of the suffering.

Recently our military forces in South Vietnam undertook in the night a commando raid by helicopters in North Vietnam one claimed purpose being to release some Americans held as prisoners of war. Our military intelligence was bad. There were no Americans held as prisoners in this compound. I will not comment upon the wisdom of this tactic. It speaks for itself. I think the President and his advisers in the military, upon whom he appears to rely almost exclusively, should surely realize that the chances for successfully completing another such foray are even bleaker now than before, having lost the advantage of surprise.

I therefore recommend again, as I have recommended on several past occasions that this Government initiate negotiations with the Government of North Vietnam for the exchange of the 36,000 VC and North Vietnamese now being held by the forces of South Vietnam in trust for the United States—in direct violation of the Geneva Convention, incidentally—for the fewer than 900 American prisoners of war estimated to be in North Vietnam and held by VC forces at various places in South Vietnam.

I propose that this exchange be negotiated through the good offices of a third party, preferably a nation such as Sweden, which has an unassailable record of neutrality and international service and under the auspices and management of the International Red Cross. The North Vietnamese, VC, and American prisoners could be evacuated in transport ships or planes to this neutral location, where they would be interned until all negotiations for their release were completed.

All expense of this temporary resettlement and the operation thereof to be handled by our Government. The reasons for this suggestion are quite significant, and should be obvious to those who understand the Oriental mind, and who remember other prisoner exchanges in our history. The concept of "saving face" is extremely important to Asians, and the North Vietnamese would not want to engage in a barter which was followed by an exploitation of the released men for political purposes. We have ordinarily paraded our released men before the TV cameras. They are usually much thinner largely due to the lower caloric value of rice diets. Also in every instance in the past they have been extensively briefed by U.S. officials. Without a doubt many of our unfortunate officers and men have been poorly fed and mistreated. If officials from a neutral country are handling the exchange, there will be no official pressures upon the released men from either of the two governments handling the exchange to exploit their ordeal. Nine American prisoners of war have been released without explanation by Hanoi in the past 2 years, and in some cases, the released prisoners recounted tales of mistreatment and brutality. Hanoi officials are reportedly concerned about international opinion on the prisoner issue, and would probably require that some form of guarantee be made that the issue not be exploited. Here is one proposal which might be accepted, as the Pentagon claims that the Vietcong are suffering a shortage of manpower due to heavy losses. I would suggest that the United States offer to defray all the costs of the exchange of prisoners of war. We were certainly eager enough to bear the costs involved when we secured the release of the captured survivors of the Bay of Pigs. In fact we paid what amounted to a huge ransom to Castro. I know of no previous war in which we have not conducted a prisoner exchange.

We will not be able to obtain our men with even a ton of letters or through a public relations campaign. This has been made evident to every thoughtful American. They are worth more than that. We should through the United Nations or at any possible international level negotiate for the exchange of prisoners of war.

ORDER OF BUSINESS

Mr. YOUNG of Ohio. Mr. President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order the Senator from Massachusetts is recognized for not to exceed 30 minutes.

THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

Mr. BROOKE. Mr. President, in less than 6 years the United States will celebrate its 200th anniversary—indeed a momentous occasion for all Americans. During 1976 and in the years which precede this national celebration there will be an unparalleled opportunity to remember the origins of our laws, the foundations of our institutions, and the achievements of our forebears. More significantly, these next 5 years offer an equally fitting and provocative challenge to all of us as we ponder the Nation's next 10 decades and try to determine the priorities and goals of America's future.

I have the privilege of serving on the American Revolution Bicentennial Commission with three of my distinguished colleagues, Senators COTTON, PASTORE, and BYRD of Virginia. This 35-member Commission was charged by Congress in 1966 with the responsibility for planning, encouraging and developing the country's bicentennial celebration in 1976. This year on July 4 the Commission submitted its report to the President, offering its carefully considered recommendations for a meaningful, national celebration. The Commission's report was transmitted to Congress on September 11 by President Nixon, together with his own comments and recommendations. Thus Congress now has before it the basic guidelines and goals of the bicentennial as well as some specific proposals.

I think it is important to review these goals and guidelines for in their implementation lies a firm foundation for a distinctly national and inspired anniversary. The basic premise, and, in my opinion, the great strength of the celebration is that the American people will have an opportunity in their own communities to create, shape and participate in the anniversary on a personal basis. The Commission has urged that three maxims be kept in mind as plans are made: First, that the bicentennial reach all people in these 50 United States; second, that our commemoration encompass the span of our formative years; and third, that we utilize this opportunity to reexamine the founding principles which have sustained and which will perpetuate our cherished way of life. The goal of the bicentennial, simply stated but not easily achieved, is to awaken in all of us a firm, personal commitment to excellence and to the true spirit of 1776.

The Commission further offers three major themes for our national observance. These themes look to the past, the present, and the future of America. It is hoped that through this framework all programs, activities, groups, and individuals will find consummate expression.

The theme Heritage 1976 will permit examination of our history, its relevance for today, and its significance for tomorrow. Recommended programs include the Congress of Liberty—an international symposium on the history and meaning of liberty—the junior historian program—an active forum to involve students in the study of history—and efforts to preserve our historic sites and documents by such institutions as the Library of Congress, National Archives, and the Smithsonian Institution.

Through the theme Open House U.S.A. emphasis will be on all activities that promote understanding, such as mobility, sharing of experiences, and hospitality. Some of the events proposed for Open House U.S.A. are Arts on Parade, Liberty Day 1976—the program for the Fourth of July 1976—the winter Olympics, invitation to the world—an open invitation to people of other nations to participate—and an international exposition. It is to the international exposition that I shall later direct my remarks.

The third theme, Horizons 1976, offers a means for finding by 1976 the solution to many of today's problems. Not unmindful of the enormity of its request, the Commission asks each individual and organization to undertake at least one bicentennial project. Some suggested programs for this kind of involvement are the call for achievement program and the rebirth of our Nation's Capital, Washington, D.C.

I have mentioned briefly the plans for the Nation's commemorative events in 1976. These plans show a recognition of the strength and power in America's magnificent pluralism. Last year, President Nixon, in talking about the bicentennial, quoted one of the Founding Fathers, reminding the Commission members that—

We act not just for ouselves, but for all mankind.

The President further adjured the Commission that this must be a truly national occasion, and that the celebration must go directly to the people and derive its strength from the people. I could not agree more.

Mr. President, while I support the Commission's report, there is however one recommendation which Congress is asked to consider that I must oppose. That recommendation is there be, in 1976, an international exposition in the city of Philadelphia, Pa. In my judgment the philosophical premise and the practical implications of an international exposition will defeat and vitiate the fundamental goals of a meaningful bicentennial. Such an event is so inappropriate and inhibiting that my three senatorial colleagues and one House Member on the Commission joined with me in voting against this recommendation. No other proposal so severely polarized the Commission.

Some historical background is necessary for an understanding of the alternatives facing the Congress. During the past year the cities of Boston, Philadelphia, Washington, and Miami offered proposals for staging an international exposition as the focal point of the bicentennial celebration. Both the Commission and the President selected the city of Philadelphia, and challenged its citizens to create an exposition which will have commemorative, historical emphasis, and which is cultural and inspirational, rather than commercial, in intent. Sanction of the exposition by the Bureau of International Expositions is being sought. As many of my colleagues will recall, the United States joined this prestigious international organization in 1968. Thus, the Federal Government has new statutory responsibilities for the conduct of an exposition. As host it will now be the Federal Government, and not a private development corporation, which has the overall responsibility to guarantee the fulfillment of obligations to foreign nations. We can no longer be simply a participant as we were in the New York World's Fair of 1964. Moreover, one of the arguments advanced by the Secretary of State at the time that the Senate considered accession to the BIE was that membership would allow this country to play a more vital role in determining the manner in which the vehicle of an exposition continues to be used to dramatize the memorable ideas, aspirations, and achievements of mankind. With this in mind, it seems incumbent upon us to look very carefully at the projected plans for the proposed exposition.

Since July 4 and the submission of the Commission's recommendations, the Philadelphia 1976 Bicentennial Corporation has refined its plans. The exposition as now proposed will be concerned with three elements: International participation, historic commemoration, and community development. Application has been made to the BIE to have the exposition classified as a Category II exposition. Under that category foreign nations are not obliged to construct national pavilions. Rather, exhibit space is provided by the host country. The Philadelphia Bicentennial Corporation has therefore been negotiating with the Penn Central Railroad to purchase the air rights over 30th Street Station in Philadelphia. The structures to be built there would become the site for the major exposition activities. An integral part of the plan for this area is the development of theme pavilions, in which ideas and problems in such fields as science and ecology would be addressed concurrently by participating foreign countries. There will be additional activities in the historic areas and at smaller sites throughout the community. While this framework provides for international participation, equal emphasis will be given to the agenda for action program as part of the exposition. The agenda for action is largely concerned with community urban renewal efforts which can also stand as demonstration projects.

In addition to these programmatic aspects, the corporation has defined needed improvements in transportation and other support facilities which must be completed if Philadelphia is to be able to handle the influx of those in attendance, estimated to average 256,000 people per day.

Financial estimates of the cost of this exposition were published in the Philadelphia Inquirer on October 15, 1970. In 1970 dollars, the total cost of the exposition is expected to be $1.2 billion, of which the Federal share requested is $556.6 million, with an additional $165 million in guaranteed loans. The remainder of the cost will be shared as follows: The city of Philadelphia is being asked for $113.5 million, of which $44 million will be in self-sustaining funds; the Commonwealth of Pennsylvania will contribute $93.8 million; and $246.2 million will be raised from private developers.

Of the total $1.2 billion, approximately $277 million is to be spent on the exposition per se, with the Federal share set at 18 percent or $49.8 million. The same amount, that is, $277 million, is to be spent on the agenda for action program, but the Federal share for this public works program is 82 percent or $229 million. The obvious conclusion to be drawn from these figures is that Philadelphia can afford an exposition, but it must ask the Federal Government to bear the major burden of providing for its basic needs. In addition, for the development of highway and transit facilities, $324 million is needed, of which $277.8 million is the Federal share. An additional $293 million will be used to create "private development opportunities related to major sites."

These are the facts and I would add that therein lie some provocative proposals. However, there is much to be questioned, much to be debated, and, frankly in my judgment, much to be deplored. In recent weeks, within the Philadelphia community itself, active and articulate dissent has been voiced about such an expenditure of money. When municipal workers are being laid off, with the Philadelphia school system near bankruptcy, when the city's transit system is ensnarled and with the city's share of the plight afflicting all of our urban centers, it is certainly no surprise that a growing number of Greater Philadelphians are gravely concerned about the wisdom of expending their already too limited funds on an exposition. During the recent election campaign, Pennsylvania's Governor-elect Milton Schapp expressed similar reservations, pointing out the need for replacement housing for those whose homes will be torn down and the necessity for heavy reliance on Federal reimbursement. It is also a matter of record that the Commonwealth of Pennsylvania itself is experiencing serious economic difficulties.

Additionally, some officials in the Department of Commerce, the Federal agency charged with the responsibility for evaluating the Philadelphia proposal, have questioned whether the exposition as proposed will even be attractive to the international community. Specifically, they question whether other countries would find interest in the agenda-for-action program, which is, in truth, directed mainly toward alleviating pressing local community problems. In my opinion, this is indeed another valid consideration.

We must also consider the proposed international exposition in terms of its effect on our entire country. The American Revolution Bicentennial Commission has stated that we must have a national celebration. Yet at this early date, even before the implications of the international exposition have been sensed, most people think that the bicentennial is going to be in Philadelphia. Indeed, the Commonwealth of Pennsylvania has already adopted the slogan, "The Bicentennial State," in its recent industrial development promotions. While this attitude certainly does not reflect the intent of the Commission, nonetheless it is almost inevitable. A single event of this magnitude and duration will detract from and deny what can be admired and enjoyed in all parts of our Nation. Every State would welcome international visitors. Every visitor would appreciate the rich diversity of our land. Every city needs urban renewal funds. Should we then in good faith allocate enormous sums of money for pavilions when so many urgent needs cry out for attention? I think not.

The alternatives to an international exposition are far more compelling. In a celebration that is not only national but nationwide there can be ample expression of the unique character of each region, State, city, and town. My own State of Massachusetts, which played a major role in the events leading up to the Declaration of Independence, will, I know, wish to dramatize its contributions to the growth of our country. This is only fitting and proper, and is equally applicable to the great city of Philadelphia, as well as others.

I was particularly interested in what seem to me are inspired plans of the Independence National Historical Park Advisory Commission of Philadelphia. In cooperation with the National Park Service, a master plan has been developed for permanent additions to and further restorations of the Independence Hall area, for which $1.4 million of Federal funds have already been appropriated. The Chairman of the Commission, Mr. Arthur C. Kaufmann, offers another project as well. Mr. President, I would like at this time to share Mr. Kaufmann's eloquent and provocative thoughts with you. I quote from the June 11, 1970, issue of the Philadelphia Evening Bulletin:

> The Bicentennial Commission of Pennsylvania . . . has wholeheartedly approved a unique program which we have suggested.
>
> This envisages the erection of several buildings adjacent to the Independence Hall areas, in which international conferences of multi-lingual nature may be held—similar to those held in the past in The Hague and at Geneva (whose) buildings are presently outmoded.
>
> Philadelphia can then become the place in the world with modern facilities which will focus national and international attention on Philadelphia and Pennsylvania.
>
> With the assistance of the federal, state and city governments it is our intention to endeavor to complete the program in time for dedication in 1976, when we proposed to hold the first World Conference on Peace ever to be convened.
>
> Following this, it is intended to hold a convocation on education; then one on health and welfare—and to endeavor to discuss other social problems which confront not only America but the world.
>
> Thus we can say to the peoples of the world that on America's 200th anniversary, instead of simply holding another world's fair, we are using this occasion to try to make America and the world a better place in which to live in the years to come.

Mr. President, I find in this proposal the thought, creativity, and inspiration that should be the hallmark of all Bicentennial programs. My distinguished colleagues from Pennsylvania can take justifiable pride in their Commonwealth and their constituents. Yet as we look to our past for lessons to be learned, we must remember that today we are 50 States, and 200 million people. Let us adopt the President's suggestion that each week during 1976 be devoted to a different State. Such a program will offer sufficient focus for the anniversary and belies the need for an exposition. We should indeed invite people of other lands to visit us. I urge that we make our Nation's Capital a symbol of our great achievements. Wherever possible we should support the expansion across the country of pilot programs for such desperately needed facilities as day care centers and housing. Commendable proposals, like that of Polis 1976, which would provide a rapid rail system throughout the Thirteen Original Colonies, employing the latest techniques in communications to inform and entertain the traveler, need to be studied and evaluated. Let us do so. And let us do so with the not unreasonable hope that member and nonmember nations of the BIE would welcome a new, exciting expression of national character. To build on what we have—to create permanent contributions of the bicentennial—to challenge the Federal agencies and departments, business and labor, our institutions, our universities, every church, every organization and every citizen to set goals and vigorously pursue them—this is the power of the bicentennial.

Seventeen seventy-six was indisputably a magnificent year in our history. We declared our right to freedom, our intent to build a nation, and our belief in ourselves. We did so with vision and boldness. One hundred years later, on the threshold of the Industrial Revolution, we reaffirmed our faith with an international exposition in Philadelphia, one of the first of its kind. In 1876, we quite properly invited the world to view our new achievements in industry and our genius with technology, two endeavors responsible for much of our success in the following 100 years.

Now, as we approach 1976, it is for us to infuse our 200th anniversary with the same pioneering spirit and to direct our actions toward the needs and the promise of the new century. Let us not be content with imitating the creations of the past if they are not applicable to our needs and to our times. Let us find the vision, the faith, and the will to shape 1976, even as our Founding Fathers determined their future in 1776. After the birthday party is over and the candles have been extinguished, let us be proud that in the aftermath there remain meaningful and lasting accomplishments.

Near the end of its report to the President, the American Revolution Bicentennial Commission said:

> America has a past to honor and a future to mold. The threshold of Century III is before us. The traces we leave as we step over that threshold will be the marks by which history will remember and judge us.

Mr. President, I pray that my esteemed colleagues in the Congress of the United States will not allow this great Nation to enter its third century of national life with a costly and ephemeral international exposition to mark the passage.

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

Mr. BROOKE. I am happy to yield.

Mr. KENNEDY. I commend my colleague and friend from Massachusetts for his comments concerning the bicentennial celebration. He serves on the Commission, and has had a unique opportunity to study the various proposals. In addition, he has a deep sense of history which makes his comments on this subject extremely important.

I share the views of my distinguished colleague of the most appropriate way to celebrate the bicentennial. I had many questions when our own State proposed a bicentennial celebration which included large expenditures of State funds and private funds as well as Federal funds. It was my strong feeling then, and remains so now, that the proper commemoration of the bicentennial ought to encourage as many Americans as possible to appreciate our history, our traditions, and our background. I believe we can accomplish this without spending millions of dollars on a multitude of gaudy pavilions.

We can best demonstrate our respect for the past and remind ourselves of the great traditions of our country by understanding its institutions, and by seeking to make those institutions better respond to the complex problems of our times. This seems to me many times more meaningful than constructing a host of exhibition halls. As I understand, this is a major thrust of the Senator's statement.

Mr. BROOKE. Mr. President, I certainly thank my senior colleague for his comments. I could not agree more with his appraisal and his understanding of what this Nation's bicentennial celebration should be.

It is quite accurate that the city of Boston did make these proposals to the Bicentennial Commission. As my colleague will recall, there was much debate and discussion at that time, even within the Commonwealth of Massachusetts. There was a serious question about the site location, as the Senator will recall, and a serious question about the enormous Federal contribution as well as the very large State and city contributions, These same questions have been raised with respect to the city of Philadelphia, which is experiencing great difficulty in choosing a site, and certainly great difficulty in financing.

We all want a very meaningful bicentennial, but we do not want a gigantic birthday party and, the morning after, awaken to find that we have made no permanent and lasting contributions to the future of our Nation.

I am very hopeful that my colleagues in the Senate and in the House of Representatives, at the appropriate time, will join with Senators COTTON, PASTORE, and BYRD of Virginia, and one Member of the House of Representatives who at the time joined with me in voting, as a member of the Commission, to expend $2 billion in the manner suggested would not be a prudent, or lasting way, in which we can pay tribute to our past, to our present, and to our future.

So I am very grateful to the distinguished majority whip for joining in and giving us the benefit of his thinking on this very serious problem, because the Commission is waiting for direction, and I think what we say on the floor of the Senate will have an impact upon the Commission. I want to spell out that this is no criticism of the Commission, of its dedicated staff, certainly of its very able Chairman, or of the great majority of the Commission's report and recommendations. If there is a need to change direction, to change course, we ought to do it now, before we expend great sums

of money, and find out later that we are not moving in the direction in which we should be traveling, and then have to reverse.

We have, of course, experienced that in the past. Every time I fly over New York City or enter LaGuardia Airport and see those pavilions from the 1964 World's Fair, and think of the tremendous amount of money that went into it, it is really depressing to me, and I am certainly hopeful that we will not make the same mistake in 1976, the 200th anniversary of our Nation's birth.

Mr. KENNEDY. Mr. President, I want to associate myself with the comments of my colleague, because I think he has expressed my own opinion as well. His statements here today, sufficiently before the hour of final action by the Senate and the Congress, constitute an extraordinarily important and useful service. I appreciate and commend him for bringing this to our attention.

Mr. BROOKE. Mr. President, I thank my distinguished colleage for his very rich contribution.

Mr. President, an article published in the Philadelphia Magazine issue of December 1970, entitled Which Way to the Fair, demonstrates great insight into the Philadelphia National Exposition. It is written by Nancy Love, a most able and informed writer. I feel that this article would add much to the remarks and the colloquy which has taken place on the floor this morning pertaining thereto. I ask unanimous consent to have the article printed at this point in the RECORD.

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

WHICH WAY TO THE FAIR

(By Nancy Love)

It was billed as a board meeting of the staid Bicentennial Corporation, but it was like no meeting this town's Establishment had ever run. It was more like guerilla theater with a little of the Treater of the Absurd thrown in. It started with a nasty furor over attempts to bar the press and community representatives from the meeting and ended with a walkout by black board members, a takeover by extremists and a panicky adjournment. In between, the chairman was accused of making an incendiary slip of the tongue, and the mayor delivered a scolding, plantation-boss style.

This was the second installment of the October board meeting that was supposed to usher in Philadelphia's proudest moment since 1776—the unveiling of the plans and site selections of the 1976 Bicentennial. But something had gone sour behind the show front of the Corporation. It began to surface at the October 14th meeting and finally erupted at this October 23rd one. The performance was so sensational that it blew the whole drama all over the front pages of the newspapers, all over the news telecasts so the whole city could see the swelling dissatisfaction from within and without with the planning of the celebration, the lack of confidence in the planners, could see that this $1.35 billion exposition was out of control, a galloping headless horse.

Naturally, though, most people forget the whole inglorious confrontation after this one rousing performance and settled down to football and other less threatening autumnal entertainments. It was all so confusing and unsettling. But there are some disillusioned civic leaders, nervous businessmen and aroused black community leaders who aren't going to forget it for a long time. They are working in groups and individually to divert, subvert or convert this international exposition into more productive channels, because the way it's beginning to share up, it seems to have the makings of a raging river that could ravage the city's economy and divide and polarize the haves and have-nots. What if Philadelphia gave a fair and it fell flat on its face?

For the most part, the people who are concerned, whether they are board members or not, want a Bicentennial in Philadelphia. Very few are set on scuttling it, but they have these fears about the direction it's taking. Depending on who they are, they worry about the financing or the quality of the leadership or the repercussions in their communities. They worry about whether the present Corporation can really bring off a Bicentennial the city will be proud of.

How did the situation deteriorate this way? Suddenly it's hard to remember a time when public attention was riveted on a gung-ho Bicentennial that would bolster the sagging economy of the region, create jobs and train minorities, help solve some of the more pressing urban problems of health, housing and education, restore civic pride, present a new and progressive image of Philadelphia to the world, impose a time frame for getting things done. Eureka! A Bicentennial could be a lot of things to a lot of people . . . but it couldn't be everything to everyone, although that was the implicit promise.

It seems like such a long time ago that it all started as a gleam in the eye of then-Mayor Richardson Dilworth in 1957. It took years before the first plans began to appear and the idea of a modest 200th birthday party ballooned into a fullblown international exposition. Then no sooner had President Nixon finally designated Philadelphia as the host for the international celebration at the end of September, than suddenly everyone started to throw darts at it.

In the early years, of course, no one paid much attention to what was happening—or not happening. No one believed it would ever come about. Dilworth asked the Junior Chamber of Commerce to develop a plan. The first one they did with the City Planning Commission centered in mid-city (a good opportunity to make sure of funding for chief of City Planning E. Bacon's pet project, Market Street East). Later plans culminated in main exhibition buildings in Fairmount Park. (Apparently Bacon never gave up the idea of Fairmount Park because he threw it back into the running this year.)

In 1965 Mayor James Tate and City Council President Paul D'Ortona appointed a committee of 200 with oarsman and Councilman John B. Kelly Jr. at its head.

As Henderson Supplee, chairman of the board of the Bicentennial, remembers it, "This was unfortunately at the time of the New York World's Fair and its economic difficulties. The ideas of Kelly's committee went over like a 'true lead balloon.'" The mayor, shocked by the negative community response, set up a separate committee of 19 with Supplee, a retired Atlantic Richfield executive, at the head. Each committee was to report directly to the mayor. Very sticky wicket. But being gentlemen, Kelly and Supplee lived harmoniously with the awkward arrangement until the two committees were disbanded and replaced by the non-profit Bicentennial Corporation, with Kelly as president and Supplee as chairman of the board. The first board of 50 named by the mayor and the president of City Council was made up of many carryovers from the old committees.

Since then there have been many ideas and plans for a Bicentennial—just about all of them generated from outside the Corporation.

The Young Professionals seem to have had more influence on the course of the Bicentennial than any other group. One ex-Young Professional (they have disbanded) recalls how a dozen young lawyers, architects, bankers and businessmen who were to form the nucleus of the group first got together when they were asked to meet Bicen's $48,000-a-year consultant, Ewen Dingwall. Dingwall had been brought in on the basis of the job he did for the Seattle Fair. "But," says one of the Young Professionals, "he was in a managerial position there. He's not an idea man. He wasn't what was needed at that stage."

Anyhow, after Dingwall left that afternoon—he always leaves early to get back to Washington where he lives (he commutes at the Corporation's expense)—the group of men sat around and came to the conclusion that the Bicentennial was in bad trouble and that they had to do something to get it off dead center. Chairman of the Board Henderson Supplee wasn't committed to the idea of an international exposition at that point and president Jack Kelly seemed to have his eye on the Olympics more than a fair.

The Young Professionals were prolific and enthusiastic. They looked on a Bicentennial as a needed catalyst for the city, a way of bringing it to life. They were full of good intentions, and anxious to work with other interested groups like the Chamber of Commerce and the integrated Coalition for a Meaningful Bicentennial. After pressure from Tate, the Bicentennial Corporation eventually adopted many of the ideas of the Young Professionals, and also absorbed many of the young pros themselves. But once they were swallowed up by the structure, they seemed to merge with the landscape.

One of the original group now on the Bicentennial board, lawyer Stanhope Browne, a professional white hat whom everyone seems to trust, says the two touchstones the Young Professionals believed should motivate the celebration were: (1) to keep urban problems uppermost and (2) to do something to raise the economic level of the region. They are still Stanhope Browne's touchstones and those of many others. Somehow, though, no one is sure that they are practical. What happened?

Robert Sugarman, an attorney and former Young Professional: "I saw the Bicentennial as a chance to have a meaningful dialogue among people contingent on its having a large degree of control in the hands of non-Establishment elements, both young whites and blacks, but particularly blacks. What's happened is that the Bicentennial accepted the shell of the ideas of the Young Professionals and took the heart out of it."

Getting to sit on the board of the Corporation is apparently only part of the problem. It is now self-perpetuating and seems to respond frequently to outside pressures by adding more members. If the Chamber of Commerce squawks that it isn't being consulted on financial matters, as it did recently, you put three more Chamber men on. If the black community agitates for more assurances that you mean to consider it in your planning, as it did in the summer of 1968, you add blacks to your lily white board. The board first expanded to 76, of which ten were non-white (one is Puerto Rican) and now it stands at an unwieldy 112, of which 20 are non-white.

But critics feel this is still tokenism, not only in numbers, but in the nature of the choices. Many of the black board members are known as "showcase niggers" either because they come from city agencies and are therefore assumed to be in the mayor's pocket (like Goldie Watson from Model Cities, Samuel Evans from the Philadelphia Anti-Poverty Program) or because they have been wooed and won with grants (Andrew Jenkins of Mantua Planners) or, in the

jargon of the peers, they've been "coopted" by being put on the payroll as consultants (Harold Haskins of Temple's Community Health Sciences Center and Augustus Baxter of the Architects Workshop). It is interesting to note that at the October Bicentennial board meeting, when the vote split along black-white lines, Goldie Watson was the only non-white who voted with the whites. At the same meeting Sam Evans was publicly bawled out by the mayor and Andy Jenkins, Harold Haskins and Gus Baxter later got letters from Chairman Henderson Supplee expressing his displeasure at their lack of loyalty. If any of these particular members who rebelled ever were under anyone's thumb, they seemed to be trying to get out from under.[1]

But just being on the board isn't enough if you are not going to be allowed to participate in decision-making. Power doesn't give up power that easily. The machinery is still set up to keep the Old Boys right where they are. But that's what makes them the Old Boys, isn't it?

It all hung out at the October board meeting of October 14th that recessed and resumed on October 23rd. The tone of the meeting that had been called to confirm the Bicentennial site selection plan was, "Let's see what kind of a hunk of change we can get from Uncle Sam and then we'll figure out what to do with it. If they'll buy it, we'll build it, so don't worry about the details now." The Corporation's fulltime staff unveiled to the board for the first time the details of the plan they had been drawing up for the past few years. Okay it, they requested.

But some of the board members dug in their heels, and refused to be railroaded into voting for a pig in a poke just because the staff had to "start a dialogue" with the Budget Bureau in Washington to get the Bicentennial bid into the 1971–1972 fiscal budget. Most of the board had never seen any of the exquisitely complex tables, charts and studies that supported the stripped-down presentation that afternoon. They just weren't about to take it on faith.

Wilson Goode, the black executive director of the Philadelphia Council for Community Advancement, spoke for many other board members, black and white, when he said in a newspaper interview later that he couldn't make a decision that would affect the lives of millions of people over the next five or six years after a 20-minute explanation. Besides, there was the growing concern about the refusal to involve directors in the *real* work of the Corporation.

"It was simply the fact that those who were controlling it were more concerned about getting to Washington than they were about really involving a board of directors in the process of what's going to happen in the Bicentennial Corporation," contended Goode, "and I think it was wrong."

Another cause of disaffection was the announcement of ten ex officio additions to the board. Psychologically it was a bad time to introduce still more representatives of government and business to a board already heavily weighted with them, and particularly since only one was black. City Councilman Thomas McIntosh, chairman of the Council appropriations committee, and he already was a director of the Corporation.

The board voted to recess for ten days to give them time to study the material they'd never seen and to attend briefing sessions. This didn't seem to spread much oil on the waters either. Board members complained that they didn't receive any information until the eighth day and that it still wasn't very complete. Those who attended briefing sessions came away in some cases with unresolved doubts and questions, in other cases wiser but sadder.

Even those who had attended executive committee meetings and voted to approve the site plan as it stood had not all gotten the *real* picture, the implications of endorsing the physical and financial package they had been handed. At last at the briefings it had become real. Andy Jenkins, president of the Mantua Community Planners, for instance, knew what the score was after he came out of the Agenda for Action briefing. "We debated it at executive committee meetings, but this is the first time we had enough blacks and questions of businessmen to clarify the issues." Thoughtfully, bespectacled Jenkins chewed over what he had learned in the last few hours. "I think this state of chaos is the best thing that ever happened."

By the time the recessed board meeting resumed, the questioning mood was spreading and intensifying. Even the newspapers had picked it up. An editorial in the *Inquirer* right after the first abortive board meeting praised the "daring exposition plan" with its focus at 30th Street and the banks of the Schuylkill and urged speed in passing it. "There is no time left for dawdling or arguing; this is decision time," it admonished.

But by the time the board was about to reconvene, the *Inquirer* had taken a different tack altogether. An October 22nd editorial pointed out that the directors of the Corporation weren't the only ones who wanted a closer look at the plans, that Washington wasn't happy with the goals or the price tag of the fair. They didn't like the idea of using it as a "whipsaw for every project in the city." They didn't like the idea of being asked to pick up the tab for $656.7 million in grants and another $156.7 million in loans, considering that their share of the New York World's Fair of $17 million was the most the federal government had ever given an exposition. The editorial ended with new instructions to the board members: to "sort out exactly what it is they're trying to do—and come up with a focus which will generate confidence and enthusiasm both here and in Washington."

That isn't what the forces in control had in mind at all, though. But it was comforting to know that occasionally the papers could stop playing their usual defender-of-the-vested-civic-interest role with the Bicentennial. The first critical reportage of the Bicentennial operation to appear in anything other than underground newspapers turned up in October in a student magazine at the University of Pennsylvania. The author, Penn junior Paul Schwartzman, unearthed a lot of information that made the Penn Central and the Corporation staff look pretty bad. Some he used and the rest he fed to the newspapers. Peter Binzen—who capitalized on at least one lead, a story about a Transportation Center that was going to be a windfall for the Penn Central (the staff denies that the railroad is going to get anything it doesn't have to pay for)—refers to Schwartzman as the Bicentennial's Seymour Hersh (the reporter who set off the My Lai investigation). Even if they chose to ignore it, at least reporters had been put on notice that something didn't smell right about some of the deals that were going on.

Actually, the press and public were often victims of the quirky way the Bicentennial people chose to parcel out information, reports and studies. The Regional Science Research Institute's report on the impact of the exposition on the economy of the region is celebrated only because, instead of being released, it was withdrawn "for updating," even though parts of it that presented a favorable picture were given out. It actually doesn't contain the dire predictions that were rumored in the wake of the blackout. A September 15th site study by the Bicentennial's chief architectural and economic consultants was also suppressed. This one has some loaded material in it, though, including a larger estimated deficit ($88 million) than has ever appeared in official releases.

The Corporation's top public relations man, Jim Milligan, seems to understand that unwillingness to communicate information makes people very nervous, but he obviously doesn't know how to open up the right channels. When someone like Cushing Dolbeare of the Housing Association requests studies and is turned down, she begins to wonder why. There is a great deal of fear of being open, particularly with the press, and it seems to flow from the top down, from Henderson Supplee himself.

This reporter was at first refused an interview with Henderson Supplee because he doesn't like *Philadelphia Magazine*, and it was at his instruction that a witness was required to sit in on interviews a reporter conducted with the staff. This is because he suspects the staff has been leaking information and critical comments to the press. Henderson Supplee's anxiety is probably a self-fulfilling kind of thing. The more you try to keep from reporters, the more anxious they are to discover what you're hiding.

Anyhow, it was on Supplee's order that certain members of the press and community groups were asked to leave the room in the Fidelity Mutual Building where the board of directors of the Bicentennial Corporation had begun to assemble on October 23rd. The press has always been barred from the board meetings, but not representatives of community groups. He picked the wrong person to tangle with when he picked Edna Thoms of the Philadelphia Women for Community Action. A former teacher of sociology, she is normally a soft-spoken, reasonable woman. When rubbed the wrong way she can turn into a screaming fury. No one was going to discriminate against Edna Thomas. She refused to leave until an announcement was made by the chairman that *all* press and community representatives were banned. And when she did leave she carried her anger with her and vented it outside where arriving directors, press and other representatives could hear her. The board of directors overruled the wishes of their chairman and voted to invite the press and community representatives back in to attend the meeting. The first veil of secrecy was lifted.

But that was about as far as it was going to go. Those who were running the show had no intention of allowing more examination, of trying to get to the heart of the problem.

Taking up where the last board meeting had recessed, lawyer Morris Duane clarified the resolution on the floor by restating that it was to endorse the site plan in *principle* in order to get government financial support and the final approval of the Bureau of International Expositions, which had to be done immediately.

George Dukes of the Ritterhouse Community Council came right out and said he still lacked enough information to vote and recommended they table the resolution.

Henderson Supplee, although chairing the meeting, allowed as how tabling the resolution would sink the Washington talks and "ruin our chances." Duke's recommendation was defeated.

But the discontent had risen too high to recede without being given a voice: all of the basic doubts were paraded one at a time—concern about financing, labor, board make-up, about the scale and scope of the plan and what it would do to neighborhoods around the sites, about the commitment to black communities and whether it would be kept.

It was obviously all going the wrong way. After all the sweat and work of getting the

[1] Of course, white conflict-of-interest comes up from time to time also. Richard Bond's appointment by the court as a trustee of the Penn Central left him open to such charges (he did offer to resign). Every bank in the city has someone on the board, but it's a moot point as to who's going to do a favor for whom when there's financing to do.

designation, after all the negotiations, it looked like they'd never get an okay to the U.S. Budget Bureau in time. That meant the whole delicate time schedule would be off. Site preparation couldn't start at once, a Schuylkill Expressway bypass couldn't begin. *Real chaos.* The whole critical 30th Street countdown would never work.

At one point Supplee got infuriated enough to snap pettishly, "Look, if you don't want this Bicentennial, I wish you'd tell me now so that I wouldn't have to waste any more time on it."

Senator Joseph Clark tried to put the train back on the track with a show of diplomacy: "Unless something is approved, we can kiss good-bye to the notion of funds in the '71–'72 budget. We must fish or cut bait. . . . There are many things in this plan that I don't like and many I don't understand. . . . But a vote against this is a vote to kill the '50 and early '60s we pulled together. I'd like to see this again."

But the spirit of divisiveness in the room was too active to be put to sleep by eloquence. Even though they all wanted a Bicentennial too, the blacks in the room had been driven into a position of having to oppose the plan the way it stood. It promised something for their people that they knew wouldn't be delivered—and *they* would be held accountable. Like the white businessmen, they felt the sense of their responsibility.

For some whites in the room there were other core assumptions that were just as impossible to believe in. Maverick lawyer Philip Kalodner summed up some of these objections and then added the clincher, "I see no leadership in this Corporation capable of developing this or any other plan we can come up with." That was what everyone was saying privately, but not in public.

Then management consultant, Arthur Kaufmann, further demolished any lingering solidarity. "I think it's wrong to think a vote against this is a vote against a Bicenntial. It's not true. We can still go with a good plan and one with community support."

In the meantime, a lot of the board members sitting near the front of the room were beginning to seethe with impatience. Why was everyone trying to sabotage this thing now? It was unrealistic. What was needed was an inspirational message to restore everyone's perspective.

At precisely the right moment, Norman Denny, the boyish-looking chairman of the board of the Lincoln National Bank, who a few weeks earlier had become a folk hero with a public blast at the intransigence of the Penn Central in its negotiations with the Bicentennial, jumped to his feet and with blue eyes flashing said the magic words: "We've always wanted to have a Bicentennial. We shouldn't come in at the last moment and undercut all the work that's gone into this. It will give us an opportunity to work together for progress. . . . We can work out the details later."

He moved the question and Henderson Supplee made (or didn't make, as some insist) his now-legendary slip of the tongue: "Will all those in favor raise their *white* hands."

The vote was 37 for and 15 against. Eleven of the 12 blacks present voted against the resolution.

It was a bad time for anyone as out of phase with black people as Henderson Supplee to have such a faux pas hung on him.

Sam Evans rose to speak—Sam Evans, chairman of the Philadelphia Anti-Poverty Program, who is looked upon by other blacks as a "Negro." But Sam Evans wasn't speaking for the white Establishment this time. Even Sam Evans had voted as a black and he was now speaking as a black too. He complained that there wasn't enough black representation on the board and therefore not enough black votes to swing an issue like this one.

It was too much for his boss, Mayor Tate, who was probably saying to himself, "I put this guy on this board to help me get the Bicentennial and then he turns around and stabs me in the back." Goldie Watson, director of the Model Cities Program, was the only black who had voted the "white" way. The mayor was livid when he stood up and gave Sam Evans a shrill dressing-down, the kind even a father would give a recalcitrant son only behind closed doors. "You cut this out, Sam," he started, "I'm not going to let you polarize this community."

The blacks walked out. The community representatives in the back were milling and conferring angrily. In the midst of the electric tension some of the militant neighborhood people captured the microphone and began to address the board. Henderson Supplee hastily called for a motion of adjournment and retreated.

In a brilliant flanking play, the militant blacks (not the black board members, as some accounts suggested) then moved in on the Bicentennial office where still and TV cameramen were poised for a press conference. There, they got all the attention they wanted—more, in fact, than they could have dreamed of in the self-contained board room. For a short time it was Edna Thomas's show as she sat at the Bicentennial receptionist's desk with the fervor of her cause raising her voice to its hell-and-brimestone level: "I want the schools upgraded. I want people to have food and a place to live. I want all of that before we have a birthday party!"

Inquirer, October 26, 1970: "Mayor James H. J. Tate said Sunday that it was time to 'stop all this criticism of the Bicentennial on grounds that the money for the giant gala could be better used for more important priorities . . . Almost everyone in Philadelphia wants this Bicentennial . . . We have extensive programs for housing and schools and public welfare. We spend money on these other problems and there should be money for the Bicentennial in the interest of patriotism.'"

But the criticism didn't stop. The first formal presentation of plans and figures at the original October board meeting had set off a chain reaction of ever-widening ripples that weren't going to subside that quickly.

It is hard to know how to get to the bottom of the problem, to sort out what is fact and what is intuition, to fasten on what is reality and what is premonition. When there is a loss of confidence in leadership, nothing they say is taken on faith and no detail is too small to be blown into a cause célèbre. When the whole administrative structure is full of holes caused by dissent and vindictiveness, it is hard to put it together.

The two main areas of controversy seem to cluster around the physical—what is going to be built and how much it's going to cost—and the program—what is going to go on in what is built. And little wonder that there is consternation. What the Corporation gave birth to at that board meeting on October 14th was a bold innovative concept of an exposition like no other exposition the world had ever seen. Even if the staff and consultants had done all their homework and had gone through all of the process of involvement they were accused of ignoring, it would have been difficult to understand.

As it was, the staff had a good excuse for being unprepared since they had been thrown off schedule by the Bacon-Tate coup in late summer when the two had attempted to move the site to Fairmont Park and put themselves in the position to capture the open jobs of executive director and director of development. Also they had been set back by the president's long delay in announcing a decision. Anyhow, according to physical development coordinator John Gallery, these situations put the staff into the position of having to rush to complete their daring version of a multi-site exposition with a staggering price tag of $1.35 billion (which is now up from $1.17 billion). And this isn't the sort of baby that should be rushed.

Both Senators Hugh Scott and Richard Schweiker lost no time in shooting it down.

Inquirer, October 25, 1970: "The White House believes the 1976 Bicentennial Corporation's $1.17 billion master plan is quite unrealistic, according to Senator Hugh Scott (R. Pa.). 'Without binding me in the future, I would expect it [the federal share of the funds] would be somewhere in the area of half that amount.'"

What the Corporation had hoped would make the pill easier to swallow was that buildings would be permanent, part of the money was to go for on-going civic improvements like roads and housing, and since a major part of the construction had to be done on platforms over tracks it would be an architectural tour de force—a model of how to build megastructures on air rights over railroad tracks.

To grasp the nuances of the scheduling, financing and construction of the 30th Street site alone was a mind-boggling task, even for those who had access to sometimes contradictory and confusing studies and recommendations and could question staff and consultants who also sometimes contradicted and fought with each other and were often vague.

Imagine for openers a deadline so tight that construction of the platform has to start before the plans of what to put on it are decided, surely the costliest way conceivable because that means the platform has to be prepared to support the heaviest load that might go on it.

The briefing session on sites and physical planning came off quite well, according to John Gallery. It seemed to others who were there to confirm their worst fears that the planners hadn't had their feet on the ground in the first place when they were dreaming up split sites on stilts.

The bankers, retailers, lawyers, real estate and building men who attended the briefing that day started by questioning some of the basic assumptions. Like: what if the estimated percentages of attendance were off, if, say, everyone wanted to go to the Camden site one day and not to 30th Street, what kind of a mess was that going to make of the parking lots, access roads and exhibition space? Answer: A *terrible* mess. Or, it's been assumed that the schedule could be met if you could get a no-stoppage work agreement with the unions, but has anyone talked to the unions, and did you figure the extra cost of that kind of agreement in the labor projections? No one has talked to the unions.

Why is everything figured in 1970 dollars? The assumption is that revenues will increase at the same rate as costs. From an architect: "But that's not so, construction costs are going up faster than anything else."

It was enough to make a businessman tear his hair. The statistics and tables weren't prepared in ways familiar to them and they kept bogging down in the unfamiliar morass. Finally one prominent real estate entrepreneur just threw up his hands and moaned, "We're really punching cotton with these figures." They were seriously disturbed. It was as if the specter of the disastrous Philadelphia Sesquicentennial were watching over their shoulders saying, "*You,* the businessmen of Philadelphia, *should* know. You are the ones who have to know how much it will cost and where the money will come from."

And through the whole briefing session 33-year-old John Gallery, the Bicentennial staff man in charge of physical planning, sat there parting his longish hair down the middle of his head with both hands, fielding the questions with no pauses, with no sweat. The calm Bostonian voice never rose, never betrayed an emotion, except maybe impatience. Maybe an edge of impatience when he'd say, "But we *have* done studies on that. I'd be glad to sit down with you and explain it." There was the implication that he wished

they'd stop criticizing until they'd look at the *studies*. "The Federal Reserve is doing a study for us now." That in response to a question about a study the Federal Reserve Bank was rumored to have done that showed costs would be twice as high as those estimated. All these rumors and half-truths. . . .

But you couldn't blame the hard-headed businessmen for their insecurity and incredulity. No one had ever shown them the goddamn *studies* and even if they had, they knew goddamn well that consultants can make reports come out any way *they* want to. They were trying to fight their way out of the classic trap the Corporation had fallen into: abandonment to outside experts. But they were tangled up in all that cotton, and they couldn't punch their way out. The architects and planners and young do-gooders who had never built a building in their lives, who had no practical experience, had captured the Bicentennial. Maybe they *were* right. Nobody knew.

The serious doubts of the business community seemed to grow with time rather than diminish. The Worriers, a group of Chamber of Commerce types, prepared a whole list of ulcer-provoking questions. Architect Vincent Kling, who has done plans for the Penn Central for developing the air rights at 30th Street and is intimately conversant with the site, said it is one of the most difficult places on the East Coast to build and he doesn't see how the project can be brought in by 1976 even under the most favorable of conditions, even with imported labor.

Real estate men want to know whether the conversion of Bicentennial buildings to office space projected for 30th Street in 1977 would be needed in light of all the office buildings on the drawing board for center city.

Housing experts want to know how you are going to get rent subsidies for the high-rise, high-cost housing for visitors at 30th Street that is supposed to be converted to low-cost housing after the fair.

And everyone wants to know who's going to pick up the tab for a deficit estimated variously at $10 million and $88 million. And why weren't increased city services like extra sanitation and police costs added in? And surely the early statements that there would be no increase in taxes to pay the city's share *had* to be unrealistic. (John Gallery later admitted taxes *would* have to be increased.)

Then there was the whole unpleasant business with the Penn Central. Banker Norman Denny, who was on the task force to select a site, opened the whole Pandora's box early in October by declaring the Bicentennial was being shafted by the railroad in negotiations for land and air rights. Penn Central was holding out prime land—30th Street Station itself and the area around it—and making it necessary for the exposition to divide (a split site within a split site) north and south of it. Furthermore, if the Corporation had that land they could start building immediately without waiting for track relocation and platform preparation.

It was more than Denny could stomach, being not only a banker but a real estate developer himself. "When you get down to *one* location," he says, "it should be compact and efficient. We met with Bob Moses who did the two New York Fairs and said to him, 'If you had it to do over again, what would you do differently?' Moses said, 'I'd have it *compact*. Regardless of the price tag, don't stretch it out. Make it comfortable enough for people to want to stay for four days and not leave after two days. That's the difference between success and failure.' So what do we do? The exact opposite.

"Not only that, there will be an acute shortage of labor. To commit ourselves to the major site involved with track relocation and platform building is illogical. We'll have enough trouble having it built by '76, let alone the hard way."

But Norman Denny still thought the situation was correctable—and not only the deal with the Penn Central, but also a solution to the access road headache better than the costly Schuylkill bypass no one wants to pay for. He began working quietly behind the scenes to rethink both projects—at least one man who refused to surrender to "experts" without a struggle.

The land hassle with Penn Central is only one small piece in the gigantic puzzle, but it is typical of what has happened many times over in the operation of the Corporation. The important negotiations have been left in the hands of seconds, of men with artistic and/or technical skill but no business acumen.

John Gallery didn't want the responsibility of negotiating with the Penn Central, but no one else wanted it either. A brilliant young city planner who came to Philadelphia after he graduated from Harvard, he worked for four years for the City Planning Commission before joining the Bicentennial staff. He is the first to admit that he wasn't the man for *that* job. "I never did any negotiating like that in my life, but no one else wanted the responsibility—not Supplee or any of the board people." Gallery believes that it all turned out all right, that "no one could have made a better deal, but they should have given it to someone they trusted. That's the problem. All decisions have to be based on my word or Gladstone's [Gladstone Associates, the Corporation's economic consultant] or Crane's [David A. Crane Associates, the planning consultant]. They have no confidence in us."

Perhaps one of the most loaded unanswered questions on the physical side of the books was what was going to be the impact on the economy and the lives of the people in this region. The rumor mill buzzed with it. Builders and architects were willing to tell anyone who would listen to them that building the Bicentennial would drive construction cost up so high and make the labor and equipment market so tight that it would discourage other building, not only in Philadelphia but on the entire Eastern seaboard. Economists were worrying that the inflation started by the Bicentennial spending would never come down again.

Withdrawing the one document that dealt with the question of economic impact, the Regional Science Research Institute report, didn't go very far toward building a sense of security.

The RSRI figures that *were* released were glowing, to say the least, but cryptic;

	Million
Tax Revenues thru 1976	$513
Tax Revenues 1976–1986	133
Total	646
Value of Public Facilities 5 years early	60.3
Direct & Indirect Wages & Salaries	735
Balance of Tourist Payments	459
Minority Groups Wage Potential	60

There was no way of understanding what the estimates were based on, what assumptions were fed into the computer to get those results. For instance, was the minority wage potential contingent on training programs? Were the jobs going to help to build an entrepreneurial class? About the tax revenues, where is the figure to show how much additional revenue is going to be needed each of those years to meet the City's increased costs?

Norman Glickman has some ideas about all of this. He's a scrappy young economist who's the director of the Urban Studies program in the Department of City Planning at Penn. He's also a research associate at the independent, non-profit RSRI. He did some work on their study and that got him thinking about this whole sticky business. With the city in the shape that it's in, he believes it is highly likely that it will continue to run a deficit that will have to be paid for out of increased taxes.

"Using the most optimistic figures you can," Glickman says, "the Bicentennial will have a slightly positive impact on the city and suburbs. But the impact on city government is highly negative, although there is some positive transfer from government to private wages and profits to corporations."

The thing that disturbs the social consciousness of a student of the urban scene like Glickman is that most people are not considering the effects of the Bicentennial on certain groups. Take the poor black in Mantua. He might get employment—probably unskilled work, but what will happen to his house? The owners of real estate in that area will want to convert it for housing for construction workers and for visitors to the fair. Even middle class housing will be affected. Glickman says this market is low-priced now compared to cities like Boston, Washington and New York. It will go up, especially in rentals, and he doesn't think it will come down significantly. Food costs will go up too.

Or the impact on the character of neighborhoods. Glickman says, "As a planner as well as a resident of Powelton Village, I'm afraid of what this is going to do to my neighborhood. People will be displaced, the character destroyed."

He is the first to admit that there will be benefits to certain segments of society. The hotel industry should do well, for instance. But the employment opportunities in hotels are bad since jobs are skewed toward low-paid unskilled workers.

All of this confirms the worst fears of people in black communities. Their losses will be heavier than their gains: dislocation, skyrocketing costs, some increased employment, but in dead-end jobs. This is why the community development program started—to help still these fears. But like everything else in the involved and tangled web of the Bicentennial, it seems to have no beginning and no end. Is the community development in the Bicentennial's Agenda for Action part of the program of the exposition or is it something that is growing up independently alongside it? No one seems to know what the whole program is anyhow, what is going to go on in all that space everyone is fighting about, what kind of marvelous things are going to attract all those visitors.

According to Henderson Supplee, the program came first. He refers to the three-part program that appears in Bicentennial literature from time to time in different guises. Each of the three parts, it seems, is supposed to appear at each major and minor site throughout the city. 1) The past: Historic and commemorative to be centered mainly around Penn's Landing and Independence National Historical Park. 2) The present: Continuing urban problems and solutions to be focused at North Philadelphia Station and in dispersed sites throughout the city. 3) The future: The international participation part mainly at 30th Street Station and also at dispersed sites.

Supplee insists that the program was established early because it was needed to determine the physical shape the exposition was to take. Actually, if one digs, one finds there is indeed more in the program than generally passes through the information screen at the Corporation, but a lot of disturbed staff and board members are afraid that part of the trouble the exposition is in now is because plans for the content have not been developed at the same pace as the physical plans. They know where the buildings will go, but not necessarily what will happen in them.

The historic part seems to be spinning along nicely on its own with federal money already committed to extensive restorations and visitor facilities, regardless of whether

or not there is a Bicentennial celebration in Philadelphia.

The international part seemed to pick up a little steam and exposure when some staff and consultants went abroad in November to talk to nations interested in participating. Stanhope Browne, a member of the task force that developed some of the ideas for the international exposition, says it is the "greatest untold story" of the Bicentennial. Part of why it is untold is undoubtedly because it's so difficult to grasp.

When Henry Putsch, the recently named head of program development, tries to explain it, he gets a dreamy look in his big blue eyes. A rugged young man with a background in education and communications, he nonetheless seems to have trouble making concrete some of the marvelous new concepts foreign countries are so excited about. The central one seems to be that the Bicentennial is going to involve other nations in developing a theme, involve them in this *rare process* of involvement and suddenly the *process* becomes an end rather than a means.

Of course, there will be more to it than that: a set of principles, anyhow, if not specifics, requests that nations consider thematic emphasis rather than trotting out new products; that they consider permanent building and demonstration projects like housing or health centers in neighborhoods; that they participate in people-to-people contacts like conferences, cultural exchanges, living together in special expo housing.

But developing programs has never been a top priority, especially not on the Agenda for Action—the community development and urban problem-solving part. One Corporation director says that although almost 25% of the money for the show is going into the Agenda, only about 2% of the time has so far. John Gallery agrees that the physical planning has dominated. "David Crane and I have said for a year-and-a-half that we *had* to have a program."

The facts seem to be that so far when it comes to matters involving blacks, the Corporation only responds to outside pressure, and then only if it gets unpleasant enough. They put black representatives on the board only when they were forced against the wall. They made a deal with Mantua's Herman Wrice and the Young Great Society only after he threatened to slap an injunction against them just before they were to go to Washington to make a presentation at the end of last summer. As usual it was John Gallery who did the negotiating. The Corporation agreed to give the YGS and the Mantua Planners $40,000 for planning, and Herman Wrice agreed to climb on board and go to Washington for the presentation.

Next the Tioga-Nicetown community clamored for funds and a contract was negotiated for $30,000. Then everyone and his brother had his hand out. Last February partly in response to this crisis, the 50/50 idea evolved and the Board passed a resolution that 50% of the pie, whatever that means, was to go for Agenda for Action programs. At least, those who were there say that was the intention. Catherine Sue Leslie, who was hired as the communty development coordinator last January, says it was to be 50% of *all* money received. The resolution stands. Leslie has been relieved of her post and the current literature reads that half of all *development* funds will go to Agenda programs.

The goals for Agenda for Action are commendable—permanent improvements for the city, solutions to urban problems, a share in the economic gains of the celebration for all citizens. But like all the other glittering generalities and lofty aims of the Bicentennial brain trust, they end up being about as substantial as air.

For instance, Point 5 of the five-point Agenda program presented to the Budget Bureau states: "A seven-year experience in democratic government where public programs will be tested, tempered and modified on an annual basis in the laboratory of limited implementation."

Sue Leslie, who worked for the Philadelphia Council for Community Advancement before coming to the Bicentennial Corporation, says she had started designing ways to implement Agenda before she got the ax. All of a sudden, though, she says, the word went out that Agenda was to be integrated into the rest of the program and the six dispersed sites she wanted approved by the Board at the October site meeting were suddenly expunged from consideration. Maybe that was just as well, though, since activities at those sites were such uplifting projects as remodeling the canal in Manayunk for canoe races and facilities for recreation and arts and crafts at the Ridgway Library.

The briefing for board members on the Agenda for Action was a complete fiasco. Even John Gallery said afterward that he didn't think it had come off too well. Sue Leslie's replacement, Jim Roberts, tried to make a presentation and answer questions with help from Gallery, administrative vice president Robert McLean and a consultant.

There was the usual on how money had been used so far to fund planning in Mantua and Tioga-Nicetown and the idea was really to work with 76 communities to get "delivery of goods and services." The quaint notion of 76 communities didn't go over too well, neither did the fluff about goods and services and all that opaque nonsense. Soon though, it all began to become clear—shockingly clear—when they got to the examination of tables that showed how monies were going to be allocated and where they were going to come from. This was the first time that most of the board members there learned:

The half for Agenda was $277 million, not half of the total of $1.17 billion (now up to $363 million).

There was no real program behind the financial tables. The specifics listed—housing, parks, experimental school programs—were just a "shopping list," a "ploy," John Gallery called it, to get money from Uncle Sam.

The government money being requested did not necessarily represent new money. It was hard to determine how much of it was and how much wasn't (naturally). It seemed as if $14 million of the city's share of $20 million would come from on-going programs; virtually all of the Commonwealth's $20 million was already in existing programs. Only the federal grants of $201 million might be considered "new," but you never could prove that one way or the other.

Probably the most stunning discovery of all was that the funds for community development would flow through existing agencies—the Board of Education, Model Cities, etc. The Bicentennial wouldn't have control. It was the same old game where the money never gets to the people.

The cat was out of the bag. The response was acid.

Andrew Jenkins (Mantua Community Planners): It's just a long-term Model Cities program. You should tell the black communities they're not going to get much more money.

Gus Baxter (Architects Workshop): City agencies haven't done anything anyway. Why put money into them?

Phil Kalodner (attorney and former city development coordinator): Let's not be involved in a program that says it's going to cure the problems of Philadelphia and is meaningless in terms of results, that promises something you can't deliver.

John Bunting, an aggressive terrier of a man, is president of the First Pennsylvania Company and co-chairman of the Agenda for Action task force. "I've worked too hard to get where I am at the age of 45 to use my name on some fraud," he says about Agenda. But he frankly doesn't know how effective he as a white can be at his job.

"Blacks don't believe us. Even if they do, they're under tremendous pressure not to cooperate with whites. As a white all I can do is to demonstrate interest and relay back messages. I think I have been effective at convincing McLean and Supplee that we must do this, that we're not doing it for show.

"We absolutely cannot have a Bicentennial without a meaningful Agenda."

As far as he was concerned, Sue Leslie had rapport with the black community and tried to do an honest job. He is hoping she will come back. It seems that the problem was with her superiors McLean and Supplee, who doubted her competence.

Bunting's new co-chairman is Harold Haskins, who has been on the task force with him. Haskins, director of community development at Temple University Health Sciences Center, was one of the blacks who voted against the site selection resolution at the fateful board meeting. A loose and articulate guy, sophisticated in the ways of agencies and government, he agrees that up to this point there hasn't been much commitment to the Agenda idea.

The task force has been busy broadening its approach, though, since the catastrophic board meeting, and Haskins is hopeful that Agenda for Action might have a better chance now. Up to now, it's come over to the white Establishment as a trade-off for the black community. Instead of just focusing on neighborhood projects and health and welfare, the task force is trying to put more emphasis on economic development and international participation. It is looking for new ways to finance projects through cooperation with industry (the way Friends Select School got a new building by cooperating with Pennwalt), of attracting foreign industry to put up plants and offer jobs in high unemployment areas.

"This has a much to do with Agenda as the other community plans," Haskins says, and he might have added that it would have much more appeal to hard-nosed businessmen than vague promises about doing public works. However, whether the Agenda can be translated from inaction into action remains to be seen. Lots of good action remains to be seen. Lots of good ideas have died on their way to implementation in this environment.

Part of the despair about community development comes from the fact that no one really thinks Agenda for Action will come off. The federal government was less than enthusiastic about the price tag on the party, especially the part for public works. If money gets lopped off, blacks fear that community development will be the first casualty. The North Philadelphia Station site, which was to be the Agenda focus, is rumored to be even more difficult than 30th Street to build on, yet no one ever talks about it. John Gallery says there is an understanding with Penn Central about the sale price for the air rights, but no *fixed* price has been agreed upon yet. The Corporation hasn't pushed it in any way. There is something ominous about the silence.

Gallery says there would be hope if the black board members could pull themselves together and negotiate for a broader deal between the Corporation and community groups, so it wouldn't have to bargain with each one piecemeal. "Of course it would help if there were larger and broader representation on the board," Gallery continues. "There is a legitimate demand for community representation, as legitimate as having a representative from each bank.

"People say they would be obstructive. I say they would learn to make deals. If you always feel you are in the minority, you must be destructive because you can't do anything. If blacks feel they *can* influence

things, they would do something constructive."

"We walked out of the board meeting because we felt we have insignificant and didn't mean anything to the group. The attitude of the chairman was, 'Let's get on with it and go to Washington. Don't ask questions.' It was the 'white hand' bit, knowing that you have no voice."—Wilson Goode, Philadelphia Council for Community Advancement, and a director of the Bicentennial Corporation

Wilson Goode was addressing a meeting of the Crisis Committee, made up of heads of church and welfare agencies, who get together when they get worried about some catastrophe or other. At their request, Goode came to tell them how things stood on a Bicentennial. His approach was pragmatic, not inflammatory. He believes the course of the exposition can still be redirected, but his concern is that the celebration be as meaningful for black people as for white people. But the rest of the Committee reacted with indignation and a motion to act to stop the machinery at once.

When you ask Willie Goode how things got this way with the Bicentennial, he mentions that the staff has not involved the board in decision making. He talks also about the guarding of information, as if they were afraid of letting the public know what is going on. He believes the Corporation will have to open up and level with the public because there will be a public referendum during the spring primary. He thinks that because this point was discussed at the last board meeting and met with a favorable response.

What Wilson Goode and most people don't know is that Henderson Supplee has serious reservations about a referendum. "It's very late indeed," he says. "We've already been designated by the President. The timing is bad. It would not be well regarded as a proper step."

Jim Milligan, the Bicen's PR man, adds: "There's the legal angle, too. Since there's seed money from New Jersey, Delaware, and Pennsylvania for planning, how valid would it be to have the City of Philadelphia vote on it?" Milligan goes on. "Besides, there was a Bucci poll on it six months ago and 80% were in favor of the Bicentennial."

To his credit, Supplee is aware of the backlash from neighborhoods on the Agenda program. "We are late in getting the community involved, but it's hard to identify representatives." He also mentioned the difficulties in training communities to refine their planning, and disappointments with his own staff and professional consultants that have caused delays.

Supplee is a gentleman to his fingertips. He did not mention names of people who disappointed him or allude to the dissension within his organization. He is a person with intense loyalties. He doesn't read *Philadelphia Magazine*, but the reason he doesn't like it is because of something critical that was written, not about him, but about Jack Kelly when he was president of the Corporation. In his book, criticism is in exceeding bad taste. Kelly is gone now and his position is unfilled.

A retired executive of the family Supplee-Wills-Jones milk company and more recently of Atlantic Richfield, Supplee occupies the top unpaid post. Although he has a bad heart and has to pace himself, no one will deny that Supplee has worked hard. Senator Hugh Scott is taking the credit for getting President Nixon's approval for Philadelphia as the international exposition site (*Newsweek* quoted the President as saying he did it for Scott), but it was Supplee who laid all the groundwork.

He is so well-liked that no one seems to be able to tell him that he has over-stayed his time, that he is out of tune with his staff and out of touch with the people of the city. He is so true-blue Old Philadelphia that no one would think of hurting his feelings. And he keeps saying that he is going to leave anyhow. Last June he said he'd leave at the end of the summer or when Nixon made the designation. Last month he was saying that he wasn't interested in a management role, but that he was concerned with "policy and objectives and interested in trying to help work those out." Supplee still isn't leaving.

So the Corporation seems to go on spinning along with a vacuum at the top and with incredible ineptitude all the way down. The administrative vice-president, Robert McLean, is a nifty front man who looks good in red/white/and blue ties at meetings. Otherwise, those who have worked with him think he's a zero. Ewen Dingwall, the executive consultant, not only doesn't generate ideas himself, but as one Young Professional said, "He's downright detrimental to the development of ideas." His good friend Gordon Hilker from San Diego, who was on the payroll as a $1000 a month consultant two years ago, came up with two performing arts reports that were laughed out of task force meetings. And yet guess who went to Europe last month with Dingwall and starry-eyed Hank Putsch and the rest of the delegation to talk over plans with foreign countries—Gordon Hilker.

John Gallery might be the only person in a position of authority who has proved his ability, but he is, by his own admission, clearly over his head. So who's running the Bicentennial? Who else? John Gallery with some back-up from consultant David Crane. The technicians have taken over the executive function and a very scary situation it is indeed that a billion-dollar business is being run like a corner vegetable store.

There is still an opening at the apex of the pyramid for a top-paid executive. Henderson Supplee is looking around now. Or maybe that's too active a way of expressing it. He says, "I have been acting as blotter. I have some good names, but I am not authorized to get a commitment yet." He seems to be waiting for full acceptance of sites and program from Washington, waiting to know "what's going to be expected of us."

There are people who want the Bicentennial for the city who hope he doesn't wait too long and that when the choice is drafted (no one would take it willingly) he is a man with clout and stature, that he is a man with a mandate from the people.

It would be extremely embarrassing to have to hold America's 200th birthday party under armed guard, as one activist has suggested might happen if the Corporation doesn't get the approval of the people in the city. It is not likely that it will ever come to that, though.

"I must concur with Scott that Philadelphia is going to have definite problems getting the half-billion dollars they requested . . . Congress won't approve anything where blacks and white are head-to-head about an issue."—Sen. Richard Schweiker (R. Pa.), *Bulletin*, Oct. 27, 1970.

It's hard to know who will shoot it down first, the black community or the business community, but the Bicentennial is in real trouble. If those two factions ever got together, who knows, they might be able to wrest control from the dead hand of the past. In the meantime, as one of the more idealistic board members, Stanhope Browne, puts it, "Everyone's to blame for the impasse. The blacks are the most justified, though. Their attitude is not unpatriotic [a reference to Tate's knuckle-rapping of dissenters]. Those who don't allow them a place in the sun are not patriotic." There are questions that have to be answered, and the Corporation is learning the hard way that you can't keep the lid on them forever.

Mr. COTTON. Mr. President, as a member of the American Revolution Bicentennial Commission, I commend the distinguished Senator from Massachusetts for his statement, and desire to associate myself with him.

I, too, voted in the Commission against the proposed international exposition, and I share Senator BROOKE's apprehension that the cost will be enormous while the purpose of the observance of this national birthday will not be attained.

This must be a national celebration for our Nation and not an expensive international exposition for any one city.

ORDER OF BUSINESS

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

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

The legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for not to exceed 30 minutes.

Mr. JAVITS. Mr. President, I should like to advise the majority leader that I shall not take more than 15 minutes, if he desires to make any other plans.

S. 4577—INTRODUCTION OF THE COMPREHENSIVE COMMUNITY CHILD DEVELOPMENT ACT OF 1971

Mr. JAVITS. Mr. President, the White House Conference on Children will convene in Washington this Sunday, December 13 through December 18, bringing together individuals and organizations of all disciplines interested in child welfare to consider the means of advancing the development of all children regardless of environmental conditions or circumstances of birth.

The purpose of my speaking this morning is to introduce a measure which I believe urgently deserves consideration not only by the Congress but also by the White House Conference. It is the Comprehensive Community Child Development Act of 1971. I send the bill to the desk, for appropriate reference, together with a section-by-section analysis, which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore (Mr. EAGLETON). The bill will be received and appropriately referred; and, without objection, the section-by-section analysis will be printed in the RECORD.

(See exhibit 1.)

The bill (S. 4577), to provide for a comprehensive program of community-based and coordinated child development programs, introduced by Mr. JAVITS, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

Mr. JAVITS. Mr. President, the conference is charged under the call by its chairman with the responsibility of

establishing priorities and issues relating to child development and formulating effective procedures for implementation and administration of child development programs:

By which all available or committed resources can be identified, coordinated and harmonized into a National effort, having as its goal the enhanced development of the American child through the remaining years of the Twentieth Century.

Mr. President, I share the commitment to that goal and to its implementation, and accordingly I introduce this measure at this time.

The proposed act is designed to provide a framework and substantial funding for the coordinated evolution of child development programs with the objective of eventually making such programs universally available throughout the Nation. The basic principles on which I have drafted this bill are the following:

First, there should be provided a full range of activities designed to promote the intellectual, emotional, social and physical growth of children through age 13, with a strong priority for the needs of preschool children, particularly children of low-income families.

Second, the essential decisions with respect to child development programs should be made at the community level where comprehensive services can be provided, parents and other members of the family can participate fully in determining the direction as well as the conduct of programs, and where existing programs can be consolidated, integrated and coordinated.

Third, those on the community level, who are operating programs according to the way I envisage them, should have the benefit of technical assistance from State agencies in identifying goals and needs, effecting coordination between programs within the State, strengthening health, educational, child welfare, and other essential components of community programs and providing supportive research, development, and evaluation.

Fourth, the proper role of the Federal Government is in maintaining a strong oversight to insure that continue to focus on children of low-income families, and that programmatic quality is advanced throughout the Nation through research, demonstration, and evaluative activities.

As I shall outline later, the Federal Government can serve another special function—by becoming a model employer insofar as child development programs are concerned, in dealing with the children of its own employees.

Fifth, relating to the programs which are on-going now, we should not only maintain, but expand the role of community action, single-purpose Headstart agencies, and other community-based and parent-formed organizations, as well as educational and child welfare agencies, which have brought child development to the threshold of universal expansion.

Finally, business, industry, labor, employee, and labor-management organizations should be encouraged to contribute funds to community programs and provide facilities at or near a place of business in the context of total community plans.

To carry out these principles the proposed act consists of three titles: Under title I, the Secretary of Health, Education, and Welfare is directed to fund child programs pursuant to community child care plans developed by broadly representative councils at the community level, with technical assistance provided from a State Child Care Council pursuant to a State child care assistance plan. The following amounts are authorized for such purposes: $900,000,000 for fiscal year 1973; $1,800,000,000 for fiscal year 1974; and $2,800,000,000 for fiscal year 1975. In round figures, this represents an aggregate of about $5 billion. Title II authorizes additional amounts for Federal activities such as research, demonstration, and evaluation, and for special programs for children of Federal employees. Under this title, the following amounts are authorized: $125,000,000 for fiscal year 1973, $175,000,000 for fiscal year 1974, and $175,000,000 for fiscal year 1975, making a total of $475 million. Title III contains general authorities with respect to the operation of the provisions of the act, but titles I and II are the main components.

With this general background, I shall now indicate the manner in which each of the objectives and principles is met in terms of specific provisions of the proposal which I submit today.

A FULL RANGE OF PROGRAMS TO ASSIST ALL CHILDREN TO REACH THEIR FULL POTENTIAL

Mr. President, I share and endorse the dual objective of the women's liberation movement for universal child care and the insistence, very importantly, that it be quality care—having in mind that the needs of the child as well as the needs of the parent should be held before us.

There are more than 26,129,000 preschool children in the Nation, including 3,997,737 preschool children of low-income families. Yet Headstart and other preschool programs are reaching less than a tenth of the latter number—approximately 400,000 in this current fiscal year.

While there are 4 million children under 6 whose mothers work, there are less than 700,000 licensed day care center slots in the Nation.

We need additional Federal funding to support the provision of a wide range of child care services and facilities—ranging from full-time, part-time, family, day, night, intermittent and other services, but all on the basis of quality and all available as a right of the family, not merely as a singular educational right of the child or merely as an economic right or need of the parents. Accordingly, child development activities must go beyond the limited custodial concept to provide families with comprehensive services.

Mr. President, the amounts authorized under the proposed act, to provide both preschool and afterschool opportunities, are by no means out of line. For the purpose of indicating that they are not, I wish to point out that even taking the most conservative estimate of cost for a preschool opportunity—$1,700—the proposed act would provide only 527,400 slots in fiscal year 1973, 1,058,800 in fiscal year 1974, and 1,647,060 in fiscal year 1975. Thus, even in the third year, we would reach a level of coverage representing only approximately a third of the 3,997,737 preschool children of low-income families and less than one-tenth of the total number of preschool children in the Nation.

DECISIONMAKING AT THE COMMUNITY LEVEL

Mr. President, the right of the family to child care can be effectively exercised only by direction at the community level where comprehensive services can be provided, parents can be totally involved, and programs can be consolidated, integrated, and coordinated.

Under title I of the act, 90 percent of the funds apportioned to the States would be available to the Secretary of Health, Education, and Welfare for the designation of community child care councils and for the conduct of programs pursuant to a community child care plan prepared by the council.

The act provides that the Secretary may designate community child care councils to be responsible for the planning, coordination, and monitoring of child development programs for each area of a State which he determines to be a suitable area for the conduct of such programs and which comprises either, a city, county, or other unit of general local government determined to have general governmental powers substantially similar to those of a city; a combination of such units; a neighborhood or other portion of a city; or an Indian reservation.

I have prescribed specific factors to be taken into account in determining whether an area is "suitable." The Secretary is directed to take into account such factors as he shall prescribe, including the number of children of low-income families in the area, as well as the relationship of such area to those previously established for the administration of child development programs and those established for the administration of education, manpower, training, and health programs.

The council would be designated upon consideration of an application for designation submitted by any public agency or nonprofit organization within the suitable area.

Mr. President, flexibility of the kind authorized in the proposed act is necessary if we are to provide a structure tailored to individual needs. We must recognize that a neighborhood or other portion of a city—such as that which may exist in my own city of New York, may be the most suitable unit for decisionmaking in respect to child care programs. Indeed, at the present time, New York City has taken the initiative in proposing that planning of programs be accomplished essentially on a neighborhood basis.

The application must provide for the establishment of a community child care council which is broadly representative of community action agencies, single-purpose Headstart agencies, community corporations, parent cooperatives, public and private educational agencies and institutions in the area to

be served, parents and other concerned individuals, agencies, and organizations interested in child development.

The council is to be responsible for the planning, coordination, and monitoring of child development programs and for the submission of child care plans governing programs to be conducted in the area.

The child care plan would be prepared by the council after considering project applications from the various agencies and organizations in the community, subject to certain procedures and conditions.

Within this general community context, various provisions of title I of the act emphasize comprehensive services, parental involvement and the integration, coordination and consolidation of programs.

The comprehensiveness of services is insured by:

Requirements that all programs to be funded under the community child care plan provide educational, nutritional, health, and related services necessary to provide each child with an opportunity to meet his full potential; and

Special provisions for the establishment of diagnostic and assessment services to deal with the special needs of children who have particular psychological, educational, or other barriers.

The proposed act emphasizes parental involvement and linkage between the home and the programmatic environment in the following ways:

Not less than one-half of the membership of the community councils responsible for planning program and activities must consist of parents of children enrolled in programs under the act;

Parent cooperatives are among the organizations which must be represented on the council and which are eligible for financial and technical assistance as project applicants. Special provisions insure that the child care councils give due consideration to applications from such sources;

To the fullest extent possible, each program to be conducted under a community child care plan must be subject to the direction of a governing board of parents and the program must itself include extensive parental participation;

Provision is made for programs to train parents and older members of the family as well as youths, in child development;

Programs must be conducted in such a manner as to provide "meaningful" environmental linkage between the home and the environment in which programs are to be conducted;

Funds are authorized for child development information centers in the community, to increase parental awareness and support.

Mr. President, Federal expenditures for child care have increased from less than $1 million in fiscal year 1962 to approximately $600 million in fiscal year 1971. With that increase we have proliferated a variety of child care programs, each having its own objective—and in many cases its own disciplinary bias: Programs established with the objective of getting parents off of relief rolls run the risk of ignoring the needs of the child and merely perpetuating the cycle of poverty; educational programs are run with little relationship to preschool efforts; and "industrial" child care efforts often starve for lack of supportive services to complement the need for facilities.

The proposed act would repeal only the basic authorities under the Economic Opportunity Act—Headstart, title IV–B day care, and other references under that act. It would not repeal what is done under the Social Security Act.

However, building on the Headstart base, the bill would attempt to channel new funds into a community-operated plan on terms that would encourage the coordination and integration with other existing programs and bridge the disciplinary gap at the local level.

In addition to the composition of the Child Care Council, the act seeks to effect a concentration of effort at the local level by requirements that the community child care plans set forth:

Arrangements in the area served for the integration into the plan of child development facilities and services for which financial assistance is provided by the Secretary of Health, Education, and Welfare. This would include child care programs under the proposed Family Assistance Act, and under title IV–A of the Social Security Act. The section is not intended to include programs conducted by educational or health agencies under other authorities;

Arrangements between project sponsors and administrators of local school systems, both public and nonpublic, to effect coordination between programs conducted under this and other acts;

Arrangements in the area served for the integration of programs conducted with the support of business, industry, labor, employee, and labor-management organizations;

Arrangements for program coordination between approved project sponsors through joint program services, purchasing arrangements, common business services, and other arrangements.

Moreover, the act makes available to the Secretary 2 percent of all funds under title I to be used as an incentive for a linkage between preschool and educational programs, and an additional 2 percent would be available for programs to provide linkage to manpower training programs.

ROLE OF STATE GOVERNMENTS

While the major focus of the proposed act is on decisionmaking on the community level, the proposed act charts out a substantial role for State government.

As I noted, the proposed act retains the existing authorities for programs financed through the States under title IV–A and other sections of the Social Security Act, requiring only that there be coordination and integration at the community level.

The proposed act also authorizes the Secretary to designate State comprehensive child care councils for each State upon approval of an application for designation submitted by the chief executive of the State.

The key requirement for the State council is that it be broadly representative of educational, welfare, health, manpower training, and other State agencies interested in child development in the State, as well as other individuals and public and private organizations interested in child development. As in the case of the Community Child Care Council, not less than one-half of the membership of the State council must consist of parents of children enrolled in child development programs under the act, chosen by democratic selection procedures with the initial designation made on the basis of those children enrolled in Project Headstart programs. The chief executive of the State is to serve as the chairman of the council.

The State child care council is responsible for the submission of "State child care assistance plans" and the review of applications for designation of child care councils as well as for the review of community child care plans.

In reviewing the applications for designation and in reviewing the child care plans, the council is authorized to comment thereon and recommend to the Secretary any proposed changes deemed to be in the interest of maintaining the quality of programs and assuring an equitable distribution of programs within the State, insuring cooperation and coordination, and encouraging the maximum utilization of available services and facilities within the State.

The act reserves 10 percent of the funds allocated to each State under title I for any of the following activities under "State Child Care Assistance Plans:"

Identifying child development goals and needs within the State;

Providing technical assistance through State agencies and other organizations to assist in the establishment of community child care councils, encourage the effective coordination between programs within the State, strengthen the educational, health, child welfare and related components of programs to be conducted in the State, and assist in the acquisition or improvement of facilities for child development programs;

Conducting child development personnel training and exchange programs;

Assessing the effect of research programs and State and local licensing codes;

Making recommendations in respect to the conduct of programs generally.

Mr. President, in this way we should encourage the full utilization of State expertise in the child development area which has been exemplified in New York and other States.

FEDERAL ROLE

Mr. President, with a shift of decisionmaking to the community and State levels, it is essential that the Federal Government retain sufficient authority and funding to insure a continued focus on children of low-income families, maintain programmatic quality and advance new approaches and knowledge.

While the impetus will come from the communities and the States, the Federal Government must maintain a strong oversight. A number of provisions have been included for this purpose:

Although plans are formulated at the community level, and commented upon at the State level, the final decision with respect to funding lies with the Secretary of Health, Education, and Welfare;

The Secretary retains power to withdraw assistance in whole or in part in the event that the requirements for plans are not being met;

Direct funding provisions authorize the Secretary to provide direct financial assistance to agencies and organizations, irrespective of whether a State or community child care plan has been designated, if he determines that children of low-income families will not otherwise be served effectively or that the provision of such assistance is otherwise necessary to effect the purposes of the act.

The proposed act contains also a reservation of 6 percent of the total funds under the act to insure equitable coverage of children of migrants and Indians and children whose functional language is other than English.

Title II of the act provides for a strong Federal supportive role. Among its provisions are:

Expanded authority for research, demonstration, information, and evaluation;

Special resources for training and for studies to determine the need for additional personnel;

Federal standards for child development services and a procedure to encourage the development of a model code for uniform State and local standards relating to child development facilities;

A requirement that the Secretary conduct studies on the extent to which Federal, State or local facilities might be used as child development facilities; and

Establishment of a special "National Child Development Advisory Committee" to guarantee an interdisciplinary oversight of child care programs at the Federal level.

ROLE OF AGENCIES AND ORGANIZATIONS CURRENTLY CONDUCTING PROGRAMS

Mr. President, as I indicated, we do not approach the field of child development without previous commitment. It is often said that we must "build on" past efforts. I agree. But we must not enact legislation that would merely pile a superstructure for the advantaged over the House that community action, educational and welfare agencies have built. The proposed act has been designed to insure not only that previous involvement is maintained but that such organizations participate in future growth.

Among the proposed act's requirements that provide this assurance are the following:

Community and State councils must consist of not less than 50 percent of parents of children enrolled in programs with initial designation made from parents of children in the Headstart programs;

Agencies administering Headstart programs have the first opportunity to initiate formation of the community council, and are given special consideration on the community level to be appointed as the administering agency;

Plans cannot be approved without the comments of the Headstart agency as well as of educational agencies in the community;

A plan must include arrangements to insure that funds are allocated among project applicants in such a way as to insure special consideration to the needs of children of low-income families.

A plan must include arrangements for the utilization of services and facilities which are available from Federal, State, and local agencies, including community action agencies, child welfare agencies and educational agencies;

The Secretary is directed to adjust allocations to States in order to maintain funding for community action and other Headstart agencies;

The Director of the Office of Economic Opportunity must concur as to all rules, regulations and the approval of plans as they may affect community action agencies and single-purpose Headstart agencies;

The Commissioner of Education must concur with respect to programs and program components to be conducted by educational agencies and institutions.

INVOLVEMENT OF THE PRIVATE SECTOR

Mr. President, despite the rhetoric about the involvement of the private sector in child care efforts and legislation to that end—including title VB of the Economic Opportunity Act, which I authored and 1969 legislation authorizing the establishment of joint labor-management trust funds—there are less than 200 industry or union related child care centers in the country today attributed to this movement.

We should be aware of the intrinsic limitations of the private sector which arise from the mobility of employees and the need for more than custodial care—but we should not hesitate to involve the private sector in the context of total community-wide efforts.

I have therefore included various provisions in the bill to enable the private sector to cooperate infinitely better than it has so far in respect of these child care programs. To that end, the bill contains the following provisions:

Business, industry, employee, and labor-management representatives are to be included on the child care councils at the community, State, and Federal levels;

A requirement of each community child care plan is that it include arrangements for the participation of business, industry, labor, employee, and labor-management resources and assistance within the community, including programs to encourage the provision of child development facilities and services at or in association with a place of employment;

The requirements for matching authorize the Secretary to provide special incentives for private contributions;

The demonstration authority includes projects to test out programs providing child development services by business, industry, labor, employee, and labor-management organizations;

Information and technical assistance provisions at the community, State, and Federal levels emphasize availability of services to the private sector; and

Among the specific assignments of the National Advisory Committee on Child Development is the assessment of the private role.

THE FEDERAL GOVERNMENT AS MODEL EMPLOYER

Mr. President, as President Johnson instituted efforts to make the Federal Government a "model employer" for equal employment policies, so I suggest to President Nixon that he make the Federal Government a "model employer" insofar as child development is concerned. Such an action would evidence the commitment of the administration to the concept of the universality of child care and provide an example for private employee child care programs as to the proper blending of services that can put equal priority on the parent and the child's needs. To that end, part B of title II would authorize special sums for programs for Federal employees which meet the same substantive requirements as are set forth under title I and certain other requirements. For fiscal year 1973, the sum of $50 million would be provided, with an authorization of $75 million for fiscal year 1974, and $100 million for fiscal year 1975.

At present the effort for Federal employees is limited. In 1968, the Department of Labor opened a child care center for 30 preschool children of its employees, with half of the children selected from new employees who could not accept employment unless low-cost child care were available, and half selected from other Department employees in all grade levels. There have been similar activities in the Department of Agriculture, and other agencies of the Federal Government are considering such programs.

Mr. President, the Federal Government, as we know, has great potentials with regard to this matter. It has millions of employees, most of whom have children and many of those children could be subject to this act.

Mr. President, I hope that the introduction of this bill will encourage further consideration of how we can have a melding of the interests of those currently involved in child development so as to avoid a proliferation of programs which would diminish the expected returns for those who participate.

Mr. President, I hope to learn a lot about the situation, even more than we know now, from the reaction to the introduction of this bill. I will reintroduce it when Congress reconvenes in January, taking account of what may be done in the family assistance and welfare plan in the remainder of this session as well as in the new knowledge we will acquire from the White House conference and in many other ways.

I hope that we will have comprehensive action on this critical matter which has had the attention of other Senators. The Senator from Minnesota (Mr. MONDALE) spoke on this matter this very week. I am honored to join with him and with the Senator from Vermont (Mr. PROUTY) in a collaborative effort to produce the best results possible.

We are dealing with a problem which has had some attention, but not nearly enough and not really in a coordinated way in the local communities with the State and Federal Government assistance which is required.

To do our job on child development will take a full commitment by the administration, comprehensive action by

the Congress and a willingness on the part of those who represent particular client groups in the current splintered structure to accept a place in an interrelated community system.

EXHIBIT 1

SECTION-BY SECTION DESCRIPTION OF THE COMPREHENSIVE COMMUNITY CHILD DEVELOPMENT ACT OF 1971

Section 2: *Statement of Findings and Purpose.* This section expresses the principle purpose of the Act—to provide a framework and authorize additional funds for the meaningful and coordinated evolution of child development programs at the community level so as eventually to make such programs, universally available to every family in the Nation.

TITLE I. COMPREHENSIVE COMMUNITY CHILD DEVELOPMENT PROGRAMS

Section 101: *Direction to Establish Program.* This section directs and authorizes the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") to establish comprehensive community child development programs through the support of activities in accordance with the provisions of title I.

Section 102: *Authorization of Appropriations.* This section authorizes the following amounts for programs under title I: $900,000,000 for the fiscal year ending June 30, 1973; $1,800,000,000 for the fiscal year ending June 30, 1974; and $2,800,000,000 for the fiscal year ending June 30, 1975.

Section 103: *Application for Designation of Community Child Councils.* This section authorizes the Secretary to designate Community Child Care Councils to be responsible for the planning, coordination, and monitoring of child development programs in each area in a State which he determines to be suitable area for the conduct of such programs and which is the area of (i) a city, (ii) a county or other unit of general local government determined to have general governmental powers substantially similar to those of a city, (iii) a combination of such units, (iv) a neighborhood or other portion of a city or (v) an Indian reservation.

In determining whether an area is "suitable" for the conduct of child development programs, the Secretary is directed to take into account such factors as he shall prescribe, including the number of children of low income families in the area and the extent to which such children and other children will be served effectively, as well as the relationship of such areas to those previously established under Child Development programs and areas established for education, manpower training and health programs. (subsection a)

An application for designation may be submitted on behalf of such council by any public agency or non-profit organization or combination of such agencies or organizations within the area.

The application must provide for the establishment of a Community Child Care Council which is broadly representative of community action agencies, single-purpose Head Start agencies, community corporations, parent cooperatives, representatives of public and private educational agencies and institutions in the area to be served and certain other agencies, institutions and organizations interested in child development programs, as well as public officials for the area to be served. Not less than one-half of the membership of the Council must consist of parents of children enrolled in child development programs under the title (or for the purpose of initial designation, parents of children representative of those previously enrolled in project Head Start programs), chosen by democratic selection procedures established by the Secretary with prior concurrence of the Director of the Office of Economic Opportunity. The Chairman of the Council shall be elected by its members.

In addition, the application must describe the geographical area to be served, evidence capability of the Council for effective planning, coordination, and monitoring of programs in the area to be served and designate an agency to be responsible for disbursing funds and effecting coordination. The agency may be an existing agency or one newly created. Wherever feasible, any community action or other agency previously conducting project Head Start programs shall be designated.

In the case of two or more applications covering a common or overlapping geographical area, the Secretary shall determine the one which will most effectively carry out the purposes of the title, with special consideration for initial designation given to applications submitted by community action and other agencies previously conducting Project Head Start programs. (subsection c)

The application must be submitted in accordance with certain procedures, with an opportunity to comment accorded to any state Child Care Council (or chief executive of the State if no State Council has been approved), and by other applicants to serve a common or overlapping area. (subsection d)

Provisions govern the disapproval or withdrawal of an application (subsection e).

Section 104: *Responsibilities of Community Child Care Councils.* This section outlines the principal responsibilities of the Child Community Child Council to the Secretary—the planning, coordination and monitoring of child development programs and the submission of Community Child Care Plans for such programs in the area to be served—as well as its responsibilities to project applicants. The latter include the provision of a hearing before the Council in case of adverse determination, and the provision of technical assistance to individuals, agencies, and organizations interested in the establishment of programs in the area to be served. (Subsection a.) In order to carry out these responsibilities, the Council is authorized to obtain the services of staff, consult with other federal and state authorities, and utilize the services and facilities of other agencies. (subsection b). The Secretary is directed to reserve not less than 2% of Title I funds for the purposes of the section. (subsection c).

Section 105: *Community Child Care Plans:* This section sets forth the requirements for Community Child Care Plans submitted by the Councils. Each plan must include (i) a description of the purposes for which financial assistance will be used; (ii) programs to ensure assistance on an equitable basis for children of migrants and other low-income families; (iii) appropriate arrangements to ensure that Community action and other Head Start agencies receive an allocation not less than that received the previous year and such additional allocations as may be necessary to insure special consideration to the needs of children of low-income families; (iv) arrangements for the integration and coordination of other programs funded by the Secretary of Health, Education, and Welfare, such as child development activities under the Family Assistance Act; (v) arrangements for the utilization of federal, state, and local agencies; (vi) arrangements for program coordination between approved project applicants; (vii) arrangements for linkage between pre-school and public school programs; and (viii) arrangements for the integration of programs conducted under the auspices or with the support of business, industry, labor, employee and labor-management organizations.

No plan may be approved by the Secretary unless any State Child Care Council (or if no such Council has been designated, then the Chief Executive of the State) has had an opportunity to submit comments to the Community Child Care Council and to the Secretary, and a similar opportunity has been extended to community action and other Head Start agencies, and educational agencies responsible for the Follow-Through program, as well as to any Community Child Care Council designated to serve a city, where the plan is for only a part of a City. (subsection b).

Other general provisions govern the procedures regarding approval and disapproval of plans. (subsection c).

Section 106: *Project Applications.* This section provide that any public or private agency or organization, including community action agencies, single-purpose Head Start agencies, community corporations, parent cooperatives, public and private educational agencies and institutions, and public agencies shall be eligible to apply to the Community Child Care Council for financial assistance to be provided pursuant to a Community Child Care Plan. (subsection a).

Subsection (b) sets forth a broad range of services and activities for which funds may be made available including: (i) planning, developing, establishing, monitoring, and operating child development programs; (ii) the design, acquisition, construction, alteration, renovation, or remodeling of facilities for such programs; (iii) the development and conduct of a wide range of training programs; (iv) programs to teach the fundamentals of child development to parents, and other members of the family, as well as to youth and parents; (v) the establishment of child development information centers in the community; (vi) the provisions of necessary diagnostic and assessment services, as well as remedial programs to deal with medical, psychological, educational or other barriers; (vii) programs to strengthen the planning capability of agencies and organizations in the community including programs to assist in the establishment of organizations providing technical assistance including architectural design to help agencies and others interested in starting child development programs; (viii) transportation arrangements or expenses where necessary to make it possible for children of low-income families to participate in programs; (ix) monitoring and evaluation activities and such other activities as the Secretary deems appropriate. The Secretary is directed to promulgate regulations to ensure that full and impartial consideration is given to all project applications.

Section 107: *Applications for Designation of State Child Care Councils.* This section authorizes the Secretary to designate a State Comprehensive Child Care Council for each State, upon approval of an application for designation submitted by the Chief Executive of the state.

The key requirement for the State Council is that it be broadly representative of educational, welfare, health, manpower training and other State agencies interested in child development in the state, as well as other individuals, public and private organizations interested in child development. As in the case of the Community Child Care Council, not less than one-half of the membership of the Council must consist of parents of children enrolled in child development programs under the Act, chosen by democratic selection procedures, with the initial designation made on the basis of those children enrolled in Project Head Start programs. The Chief Executive of the State shall serve as the Chairman of the Council.

In addition, the application must evidence capacity of the Council to carry out responsibilities and designate an agency (which may be an existing agency or newly created) to implement State Child Care Assistance Plans under Section 109 and reviewing applications for designation and Child Care Plans on behalf of such council and making recommendations to the Council in respect thereto.

Section 108: *Responsibilities of State Councils.* This section outlines the principal responsibilities of the State Council: the preparation and submission of "State Child Care Assistance Plans" under section 109, the review of applications for designation of Child Care Councils and the review of Community Child Care Plans. Upon such reviews, the State Child Care Council is authorized to recommend to the Secretary any proposed changes deemed to be in the interest of maintaining the quality of programs and an equitable distribution of programs within the state, insuring cooperation and coordination, and encouraging the maximum utilization of available services and facilities within the State. (subsection a).

In order to carry out these responsibilities, the Council is authorized to obtain the services of staff, consult with other federal and state agencies, and utilize the facilities and services of such agencies. (subsection b). The Secretary is directed to reserve not less than 1 percent of the amount available for title I for the purposes of the section.

Section 109: *State Child Care Assistance Plans.* This section authorizes the Secretary to provide financial assistance under a "State Comprehensive Child Care Assistance Plan." The plan must set forth a description of purposes for which financial assistance will be used, and assures that assistance will be provided equitably within the State. (subsection a).

Under subsection (b) the services and activities for which financial assistance may be available shall include: (i) identifying child development goals and needs within the State; (ii) providing technical assistance (through State agencies and other organizations) to assist in the establishment of Community Child Care Councils, encourage the effective coordination between programs within the State, strengthen the educational, health, welfare and related components of programs to be conducted in the State; and assist in the acquisition or improvement of facilities for child development programs; (iii) conducting programs to train child development personnel; (iv) conducting programs providing for exchange of personnel between Community Child Care Councils and other agencies and organizations conducting programs in the state; (v) assessing the effect of research on programs; (vi) assessing the effect of state and local licensing codes on programs; (vii) conducting experimental, developmental, demonstration and pilot projects; and (viii) making recommendations to the Secretary, Community Child Care Councils and other agencies with respect to programs conducted under Title I.

Under Section 116(b), not less than ten percent of all funds allocated to the States for title I programs are reserved for services and activities under State Child Care Assistance Plan.

Section 111: *Direct Federal Funding.* This section authorizes the Secretary to provide financial assistance directly to any public or private agency or organization for the purposes set forth in Section 106, irrespective of whether a State or Community Child Care Council is serving such area, if he determines (in consultation with the Director of the Office of Economic Opportunity) that children of low-income families will not otherwise be equitable served or that the provision of such direct financial assistance is otherwise necessary to effect the purposes of the Act. (subsection a). Subsection (b) directs the Secretary to establish procedures to govern his receipt of information which may be the basis for a determination under subsection (a).

Section 112: *Special Conditions.* This section provides that no assistance is to be provided under the title unless the Secretary determines that (i) children participating in the programs will receive such educational, food, nutritional, health and related services as are necessary to provide each child with the opportunity to reach his full potential; (ii) to the fullest extent possible programs shall be subject to the direction of a governing board of parents and that provision has been made for extensive parental participation; (iii) priority has been given to the provision of services to children of low-income families from birth through the age of five; (iv) programs will be conducted with linkage between the home and the environment in which conducted; (v) in the case of programs carried out by a local educational agency, children will not be denied the benefits because of their attendance in private preschool programs; (vi) programs will provide for the participation of families who are not low-income families, wherever possible; (vii) programs shall meet federal standards promulgated under Section 208; (viii) special requirements shall apply as to construction; and (ix) special requirements as to training programs are met.

Section 113: *Non-Compliance or Absence of an Approved Plan.* This section defines the circumstances in which the Secretary may determine that a State or Community Child Care Council, or project sponsor is no longer complying with the requirements of the Act. (subsection a). No determination of non-compliance can be made without the concurrence of the Commissioner of Education or the Director of the Office of Economic Opportunity with respect to matters as to which concurrence was required under Section 201.

Section 114: *Federal Control Prohibited.* This section prohibits federal control over the personnel curriculum, method of instruction or administration of any educational agency or institution.

Section 115: *Matching Requirements.* This section provides for 80 percent sharing in the programs for any State or Community Child Care Council or agency, but permits greater sharing in the case of Community Councils where needed to insure equitable coverage of children of low-income families and authorizes varying sharing families to encourage contributions from private organizations. The non-federal share may be provided through public or private funds. Provision is made for application of non-federal contributions exceeding requirements to other programs.

Section 116: *Allocations.* This section allocates the funds appropriated under Title I as follows:

(a) 75 percent of funds are allocated among the states as follows: 30 percent (of the 75%) based upon the number of families having an annual income below the poverty level; 30 percent on the number of children under fourteen years of age of working mothers; and 40 percent on the number of children who have not attained six years of age. (Sec. 116(a)(2)).

(b) 6 percent of funds are to be available for financial assistance under the direct funding provisions of Section 111 to supplement programs conducted under other provisions of Title I for children of migrants, Indians, or children whose functional language is other than English. (Section 116(a)(1)(A) and (c)).

(c) 2 percent of funds are to be available for providing financial assistance as an incentive for the establishment by Community Child Care Councils of appropriate procedures for coordination and cooperation at the community level between agencies conducting child care programs and those conducting manpower employment and training programs assisted under other Federal laws. (Sec. 116(a)(1)(B) and (d)).

(d) 2 percent of funds are to be available for providing financial assistance as an incentive for the establishment by Community Child Care Councils of appropriate procedures for coordination and cooperation and continuity between preschool programs and educational and related programs conducted by Administrators of school systems at the community level. (Sec. 115(a)(1)(c) and (e)).

(e) 15 percent of funds are to be available to the Secretary for assistance under Title I without regard to apportionment.

The Section also provides for reallocations to ensure that funds available to Community action and other Head Start agencies are maintained (subsection f) and for other purposes (subsection d). Provisions for the publication of apporpionment criteria (subsection h) and for maintenance of effort by States and units of general local government are included. (subsection i).

TITLE II—SPECIAL FEDERAL RESPONSIBILITIES

Part A Research, evaluation, training, and special provisions

Section 201: *Administration of Programs.* This section directs the Secretary to establish in the Department of Health, Education and Welfare, an Office of Child Development as the principal agency for programs and activities relating to child development and for the carrying out of the provisions of the Act. (subsection a). The concurrence of the Commissioner of Education and of the Director of the Office of Economic Opportunity must be obtained with respect to programs or program components to be conducted by educational agencies and institutions and by community action and other Head Start agencies respectively.

Section 202: *Research.* This section directs the Secretary to establish a comprehensive program of research in the field of child development and to establish a program for the continuing dissemination of results of such research to State and Community Child Care Councils and other organizations to insure effective programmatic use of knowledge.

Section 203: *Demonstration.* This section directs the Secretary to establish a program of experimental, developmental and similar projects to evaluate the effectiveness of specialized methods in meeting the Nation's needs for child development programs, including the testing of programs involving of tuition assistance, purchase, voucher or similar plans and to encourage the development of child development services and facilities at a near places of business.

Section 204: *Information and Personnel Exchanges.* This section directs the Secretary to develop jointly with State and Community Child Care Councils a comprehensive program for the exchange of personnel and of information regarding programs in various communities.

Section 205: *Evaluation.* This section directs the Secretary to develop new and improved methods of evaluation of programs under the Act and to insure that evaluations are conducted by agencies and organizations independent of agencies participating in such programs at the community level.

Section 206: *Training of Child Development Personnel.* This section amends section 531(b) and 532 of the Higher Education Act of 1962 to provide greater funds for personnel for child development programs and Section 205(b)(3) of the National Defense Education Act, to make scholarships available for that purpose. The section is designed to supplement training activities pursuant to Child Care Assistance Plans and Community Child Care Plans under Title I.

Section 207: *Special Studies.* This section directs the Secretary (in consultation with the Secretary of Labor and Director of the Office of Economic Opportunity) to make continuing studies to determine the need for and availability of child development personnel, to make recommendations to the President and the Congress in respect thereto, and to promulgate guidelines for task and skill requirements for specific jobs and recommended job descriptions in the child development field.

Section 208: *Federal Standards for Child Development Programs.* This section establishes the authority for the promulgation of federal standards for child development programs.

Section 209: *Development of Uniform Code for Facilities.* This section directs the appointment of a special committee to develop a uniform code for facilities dealing with the health, safety and physical comfort of children, to be used in licensing facilities, and directs the Secretary to encourage their adoption by State and local governments. The Committee is to be comprised of parents of children enrolled in child development programs, representatives of state and local licensing agencies, public health officials, and others; not less than one-half of the Committee must consist of parents of children enrolled in Head Start programs and programs conducted under Title IV B of the Social Security Act.

Section 210: *Use of Federal, State and Local Governmental Facilities for Child Development Programs.* This section directs the Secretary after consultation with other officials of the Federal Government to report to the Congress the extent to which facilities owned or leased by Federal departments, agencies and independent authorities could be used for child development programs, during times and periods when not utilized fully for usual purposes, and authorizes the Secretary to require a similar review and report on the part of any State or local unit of general local government as a condition to the receipt of assistance under the Act.

Section 211: *Advisory Committee Established.* This section requires the establishment of a broadly representative National Child Development Advisory Committee, given a broad mandate to assess the Nation's needs, review the administration of programs, and make recommendations in respect thereto.

Section 212: *Authorizations.* This section authorizes for Part A the sum of $75,000,000 for fiscal year ending June 30, 1973; $100,000,000 for the fiscal year ending June 30, 1974; $100,000,000 for the fiscal year ending June 30, 1975.

Part B—Special child development programs for Federal employees

Section 221: *Program Authorized.* This section authorizes the Secretary to enter into agreements and provide technical assistance to Federal Departments, agencies and independent authorities and public and private agencies and organizations for programs for the children of employees of the federal government. (subsection a). In order to qualify, programs must meet the substantive requirements set forth for programs under Title I and provide a means of determining priority of eligibility, a scale of fees, and incorporation with Child Care Plan Programs under Title I. (subsection b).

Under the section, 800/0 matching is available. (subsection d). Programs cannot be conducted without approval of the plan from the head of the agency involved and the heads of agencies are authorized to make available space to such programs. (subsections (c)(e)).

Section 222: *Advisory Committee on Child Development Programs for Federal Employees.* This section directs the Secretary to appoint a special Advisory Committee on Child Care programs for Federal Employees, composed of one official and one parent from each of the Cabinet Departments and an official and a parent from each of three other agencies or authorities of the Federal Government. The Committee is responsible for identifying the child development needs of children, reviewing plans submitted pursuant to Section 222, assessing and evaluating the extent to which child development programs are sufficient to meet the needs and making recommendations for the further development programs for federal employees.

Section 223: *Authorization of Appropriations.* This section authorizes for Part B $50,000,000 for fiscal year ending June 30, 1973 and $75,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

TITLE III. GENERAL PROVISIONS

Section 301: *Advance Funding.* This section authorizes advance funding under the Act and transitions to such funding.

Section 302: *Definitions.* This section defines "child," "child development program," "children of low income families," "parent," "poverty level," "Secretary," and "state."

Section 303: *Nutritious Commodities.* This section directs the Secretary of Agriculture, in consultation with the Secretary of Health, Education and Welfare, to make commodities available for child development programs under existing laws.

Section 304: *Legal Authority.* This section authorizes the Secretary to prescribe rules, regulations, guidelines.

Section 305: *Labor Standards.* This section requires the application of the provisions of the Davis-Bacon Act.

Section 306: *Interstate Agreements.* This section provides for interstate agreements for programs under the Act.

Section 307: *Effective Date.* This section makes the Act effective July 1, 1972.

Section 308: *Repeal, Consolidation and Coordination.* This section repeals section 222(a)(1), Part B of title V and Sections 16(2)(b), 123(a) and 312 of the Economic Opportunity Act of 1964.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1430, 1431, 1432, and 1434.

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

RELIEF TO CERTAIN FORMER OFFICERS OF THE SUPPLY CORPS AND THE CIVIL ENGINEER CORPS

The bill (H.R. 8663) to amend the act of September 20, 1968 (Public Law 90–502), to provide relief to certain former officers of the Supply Corps and Civil Engineer Corps of the Navy was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1417), explaining the purposes of the measure.

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

PURPOSE

This bill is designed to correct an inequity in the payment of severance pay to certain former officers of the Supply Corps and Civil Engineer Corps of the Navy.

BACKGROUND

This legislation is intended to eliminate inequities in the payment of severance pay in the cases of former line officers of the Navy who had transferred to the Supply and Civil Engineer Corps and were discharged because of having twice failed of selection for either lieutenant or lieutenant commander. Such former officers, unlike their line contemporaries, were entitled to severance pay based only on the service in one of the aforementioned staff corps. Their prior service in the line was not authorized to be credited for the purpose of computing severance pay entitlement.

The act of September 20, 1968, Public Law 90–502 corrected this problem prospectively. However, it did not correct the problem for those officers who were discharged prior to the enactment of Public Law 90–502. As a consequence, a number of individuals adversely affected have succeeded in being the beneficiaries of private relief legislation. However, since there are other individuals similarly situated who, as yet, have not obtained private relief legislation, equity requires that we enact general corrective legislation on this problem.

Therefore, H.R. 8663, if enacted, would provide relief for such officers by changing the effective date of the major amendment of 10 U.S.C. 6388 to August 7, 1947, the date of the enactment of the Officer Personnel Act of 1947, Public Law 80–381, which is the statute from which 10 U.S.C. 6388 is derived.

DEPARTMENTAL POSITION

The Department of Defense, by letter dated November 19, 1969 supports the provisions of H.R. 8663 and advises that the Bureau of the Budget concurs in the Department's position on this matter. The letter from the Department of Defense is set forth below and hereby made a part of this report.

CONVEYANCE OF CERTAIN PROPERTY TO JOHN AND RUTH RACHETTO

The bill (H.R. 14421) to provide for the conveyance of certain property of the United States located in Lawrence County, S. Dak., to John and Ruth Rachetto was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1418), explaining the purposes of the measure.

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

PURPOSE

This bill, H.R. 14421, directs the Secretary of the Interior to convey to John and Ruth Rachetto of Deadwood, S. Dak., all the interest of the United States in certain lands in Lawrence County, S. Dak. The Rachettos would be required to pay the fair market value of the land plus any additional costs of making the conveyance.

BACKGROUND

The Rachetto family has used and occupied this land since 1917 when they purchased it as an unpatented mining claim. Apparently, for some years they felt they had full title to the land but subsequently learned they did not. In 1963 Frank and John Rachetto filed a color of title application. This application was rejected because it was based upon an unpatented mining claim and because the Rachettos had stated in the application they had known since 1938 that they did not have a clear title. In 1965, Frank and John Rachetto filed under the Mining Claims Occupancy Act (30 U.S.C. 701–709), to acquire title to the land embracing their improvements. In order to get title to this 4.9 acres, for which patent was issued on March 4, 1966, they relinquished to the United States their interest in the mining claims.

The remaining land, which consists of 79.79 acres, has been cleared and improved by the Rachettos, and today the majority of it is used to raise alfalfa and for grazing of livestock.

Recently this land, together with some additional acreage, was leased for grazing pur-

poses to Mr. Delbert Prickett. Subsequently, Ruth and John Rachetto also filed for a grazing lease on the same land and protested the issuance of the lease to Mr. Prickett. On May 5, 1969, the Prickett lease was canceled so the land, at this time, is not under lease for any purpose.

The area is rural, but is within a short driving distance of Deadwood, Lead and Sturgis. The land has been used for grazing purposes but may have some potential for homesites. The Bureau of Land Management has estimated that the land, if sold, might bring $700 an acre. The U.S. Geological Survey reports that the land is in a mineralized area and that minerals have been found and extracted from this general area. However, during the period of occupancy by the Rachettos, there has been no production of minerals from these lands. The lands are not valuable for oil and gas.

In order to avoid the cost of a survey, the House Committee on Interior and Insular Affairs adopted an amendment that was suggested by the Department to include all of lot 8 in the bill. This increased the land area from 68.34 to 79.79 acres. An additional amendment proposed by the Department was also adopted by the House committee requiring the Rachettos to make application for the land and to pay its appraised value within 1 year after modification.

COMMITTEE RECOMMENDATION

The Senate Interior and Insular Affairs Committee recommends that the bill be enacted.

COST

Enactment of the bill will not involve expenditures of Federal funds.

AMENDMENT OF THE CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT

The bill (S. 4571) to amend the Central Intelligence Agency Retirement Act of 1964 for certain employees, as amended, and for other purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 4571

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

SECTION 1. Section 204(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by striking subsection (3) and inserting the following in lieu thereof:

"(3) 'Child', for the purposes of sections 221 and 232 of this Act, means an unmarried child, including (i) an adopted child, and (ii) a stepchild or recognized natural child who lived with the participant in a regular parent-child relationship, under the age of eighteen years, or such unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support, or such unmarried child between eighteen and twenty-two years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. A child whose twenty-second birthday occurs prior to July 1 or after August 31 of any calendar year, and while he is regularly pursuing such a course of study or training, shall be deemed for the purposes of this paragraph and section 221(e) of this Act to have attained the age of twenty-two on the first day of July following such birthday. A child who is a student shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed five months and if he shows to the satisfaction of the Director that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately following the interim. The term 'child', for purposes of section 241, shall include an adopted child and a natural child, but shall not include a stepchild.".

SEC. 2. Section 221(e) of the Central Intelligence Agency Retirement Act (50 U.S.C. 403 note) is amended to read as follows:

"(e) The commencing date of an annuity payable to a child under paragraph (c) or (d) of this section, or (c) or (d) of section 232, shall be deemed to be the day after the annuitant or participant dies, with payment beginning on that day or beginning or resuming on the first day of the month in which the child later becomes or again becomes a student as described in section 204 (b)(3), provided the lump-sum credit, if paid, is returned to the fund. Such annuity shall terminate on the last day of the month before (1) the child's attaining age eighteen unless he is then a student as described or incapable of self-support, (2) his becoming capable of self-support after attaining age eighteen unless he is then such a student, (3) his attaining age twenty-two if he is then such a student and not incapable of self-support, (4) his ceasing to be such a student after attaining age eighteen unless he is then incapable of self-support, (5) his marriage, or (6) his death, whichever first occurs.".

SEC. 3. Section 221 of the Central Intelligence Agency Retirement Act (50 U.S.C. 403 note) is amended by deleting the last two sentences of paragraph (f), and adding the following new paragraphs (i), (j), and (k):

"(i) Except as otherwise provided, the annuity of a participant shall commence on the day after separation from the service, or on the day after salary ceases and the participant meets the service and the age or disability requirements for title thereto. The annuity of a participant under section 234 shall commence on the day after the occurrence of the event on which payment thereof is based. An annuity otherwise payable from the fund allowed on or after date of enactment of this provision shall commence on the day after the occurrence of the event on which payment thereof is based.

"(j) An annuity payable from the fund on or after date of enactment of this provision shall terminate (1) in the case of a retired participant, on the day death or any other terminating event occurs, or (2) in the case of a survivor, on the last day of the month before death or any other terminating event occurs.

"(k) The annuity computed under this section is reduced by 10 per centum of a special contribution described by section 252(b) remaining unpaid for civilian service for which retirement deductions have not been made, unless the participant elects to eliminate the service involved for the purpose of annuity computation.".

SEC. 4. Section 236 of the Central Intelligence Agency Retirement Act (50 U.S.C. 403 note) is amended by deleting the words "nor a total of four hundred" and substituting the words "nor a total of eight hundred".

SEC. 5. Section 252 of the Central Intelligence Agency Retirement Act (50 U.S.C. 403 note) is amended by deleting paragraph (c)(1); renumbering paragraphs (c)(2) and (c)(3) to read (c)(3) and (c)(4); and inserting the following new paragraphs (c)(1) and (c)(2):

"(c)(1) If an officer or employee under some other Government retirement system becomes a participant in the system by direct transfer, the Government's contributions (including interest accrued thereon computed at the rate of 3 per centum a year compounded annually) under such retirement system on behalf of the officer or employee shall be transferred to the fund and such officer or employee's total contributions and deposits (including interest accrued thereon), except voluntary contributions, shall be transferred to his credit in the fund effective as of the date such officer or employee becomes a participant in the system. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered prior to becoming a participant in the system.

"(c)(2) If a participant in the system becomes an employee under another Government retirement system by direct transfer to employment covered by such system, the Government's contributions (including interest accrued thereon computed at the rate of 3 per centum a year compounded annually) to the fund on his behalf shall be transferred to the fund of the other system and his total contributions and deposits, including interest accrued thereon, except voluntary contributions, shall be transferred to his credit in the fund of such other retirement system effective as of the date he becomes eligible to participate in such other retirement system. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the fund on account of service rendered prior to his becoming eligible for participation in such other system.".

SEC. 6. Section 252 of the Central Intelligence Agency Retirement Act (50 U.S.C. 403 note) is amended by adding the following new paragraph (g):

"(g) For the purpose of survivor annuity, special contributions authorized by paragraph (b) of this section may also be made by the survivor of a participant.".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1419), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The bill makes certain changes in the CIA Retirement Act of 1964 which will conform to provisions enacted into law with respect to the Civil Service Retirement Act. The bill also makes two other changes.

The conforming amendments deal with definitions relating to child survivors, commencement date for annuities and a formula for crediting prior Federal service not covered by contribution. The remaining two changes provide for transfer of employer contributions into and out of the CIA retirement fund and increase the ceiling on retirements.

BACKGROUND

The CIA Retirement Act was enacted to provide a comprehensive retirement and disability program for a limited number of employees whose duties either were in support of Agency activities abroad, hazardous to life or health, or so specialized as to be clearly distinguishable from normal Government employment.

The Central Intelligence Agency operates under two retirement systems—the regular civil service retirement system for the majority of its employees and the one established under the CIA Retirement Act for a smaller number. The primary purpose of the latter system is to sustain a shorter career base for service where the conditions of employment are substantially different from

those associated with normal Government employment. Key provisions of the CIA Retirement Act include a straight 2-percent factor in the computation formula and retirement eligibility at age 50 after 20 years of service, both modeled after civil service provision for certain personnel involved in law enforcement activities (5 U.S.C. 8336(c)). Other provisions of the CIA Retirement Act are, for the most part, also patterned after those of the civil service requirement system.

As the principal features of the CIA and the civil service systems are the same, failure to keep pace with civil service improvements tends to dilute the effectiveness of the CIA retirement system, especially where comparability once existed.

Public Law 90–539 (bringing the cost-of-living provision of the CIA Retirement Act back into consonance with the civil service retirement system) and Public Law 91–185 (incorporating the benefits of the McGee-Daniels bill) serve as precedent for the approval of conforming amendments for the CIA Retirement Act as proposed in this report.

AMENDMENT OF THE FOREIGN SERVICE BUILDING ACT TO AUTHORIZE ADDITIONAL APPROPRIATIONS

The bill (H.R. 18012) to amend the Foreign Service Building Act, 1929, to authorize additional appropriations was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1420), explaining the purposes of the measure.

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

PURPOSE

This bill authorizes the appropriation of $15 million and $15,900,000 for fiscal years 1972 and 1973, respectively, for the operation and maintenance of Foreign Service buildings. The comparable figures for fiscal years 1970 and 1971 were $13,500,000 and $14,300,000, respectively.

BACKGROUND

The Foreign Service buildings program was launched in 1926 and over the years properties, including long-term leases, have been accumulated at a cost of approximately $280 million but estimated to be worth twice that amount at the present.

The Foreign Service Buildings fund is divided into two accounts: (1) the capital account which finances construction, acquisition, and long-term leases of buildings; and (2) the operations account which provides funds for improvements to existing properties, recurring lease-hold payments, the maintenance, repair, and operation of buildings, furniture and furnishings and equipment for buildings, supervision of construction and administration.

The capital account does not require replenishment at this time, there being an unutilized balance of $31,380,000 authorized for this purpose by Public Laws 88–94 and 89–636. In addition, proceeds from sales of Foreign Service Buildings surplus properties and foreign currencies (subject to appropriation) are available.

For the information of the Senate, however, the Department of State submitted its justifications for those new capital projects with which it plans to proceed under current authority. A summary of these proposals follows:

DEPARTMENT OF STATE, FOREIGN BUILDINGS OPERATIONS

General statement

The accompanying summary and project justifications will identify new capital projects that are now urgently required. These requirements have not previously been presented for the committee's review. Favorable consideration of these projects will not require additional legislative authority for the appropriation of funds. Their costs will be covered by the existing balance of funds to be appropriated within the authority granted under Public Law 88–94 and Public Law 89–636.

The operations account, on the other hand, is authorized only through the current fiscal year. On May 15, 1970, the Senate received the following letter from the Assistant Secretary of State for Congressional Relations:

ADDITIONAL PROJECTS TO BE INCLUDED WITHIN PRESENT AUTHORIZATION—ACQUISITION, DEVELOPMENT, AND CONSTRUCTION PROGRAM

[In thousands of dollars]

Country and post	Project [1]	Total program	Unimproved land	Improved property	Development	Construction
Area AF:						
Central African Republic, Bangui	OB	100	80		20	
Kenya, Nairobi	OB	2,000				2,000
Morocco, Casablanca	OB	45			45	
Tunisia, Tunis	ER	30			30	
Subtotal, AF		2,175	80		95	2,000
Area ARA:						
Argentina, Buenos Aires	OB	3,800				3,800
Brazil, Brasilia	DCMR	180				180
Do	SOR–6	360		360		
Do	SA–20	500		500		
Do	SH–3	105		105		
Subtotal, Brazil		1,145		965		180
Venezuela, Caracas	OBX	738		738		
Subtotal, ARA		5,683		1,703		3,980
Area EA: Korea, Seoul	OB	150			150	
Area EUR:						
Canada, Montreal	OB	60			60	
Germany, Bonn	OB	265			265	
Hungary, Budapest	ER	295			20	275
Portugal, Lisbon	OB	115			115	
Subtotal, EUR		735			460	275
Area NEA: Saudi Arabia, Jidda	OBX	275			25	250
Grand total		9,018	80	1,703	730	6,505

[1] Explanation of project symbols: OB—Office building; ER—Embassy residence; DCMR—Deputy chief of mission residence; SOR—Senior officer residence; SA—Staff apartments; SH—Staff housing; OBX—Office building extension.

MAY 13, 1970.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Department of State encloses, and recommends for your consideration, proposed legislation to amend the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 292–301) to provide continuing authorization for the operation expenses of the buildings program after fiscal year 1971.

The Foreign Service Buildings Act was last amended by Public Law 90–442, enacted July 30, 1968. That act authorized appropriations not to exceed $13,500,000 in fiscal year 1970 and $14,300,000 in fiscal year 1971 for the regular operating expenses of the buildings program.

Under the Foreign Service Buildings Act, the Department of State has acquired office buildings, support facilities, residences and staff housing having an estimated value of about twice their total cost of $279,500,000. This legislative request seeks continuing authority, after fiscal year 1971, to seek appropriations in the amounts necessary to operate, maintain and administer these properties. These costs include minor improvements to existing properties, recurring payments on long-term leases of buildings, the maintenance, operation and repair of buildings, initial and replacement furnishings for new acquisitions and existing properties the costs of supervision of construction projects, and the administration of the program.

During the hearings, the Department also will present for committee review some new capital projects, in addition to projects approved by the committees in hearings on Public Law 88–94 of August 12, 1963, and 89–636 of October 10, 1966. Ample appropriation authority remains under these bills, but new projects of higher priority have arisen since 1966 and the Department desires to advise the interested committees about these projects. Legislation is not required for this aspect of the hearings.

The Department of State has been informed by the Bureau of the Budget that there is no objection to this proposal from the standpoint of the administration's program.

A letter similar in content is being sent to the Speaker of the House.

Sincerely,

DAVID B. ABSHIRE,
Assistant Secretary for Congressional Relations.

It is to be noted that the administration requested an open-ended authorization for the operations of the Foreign Service buildings program which would have been a return to the pre-fiscal year 1964 situation.

COMMITTEE ACTION AND RECOMMENDATION

In lieu of the open-ended authorization, H.R. 18012, as introduced in the House and passed by it, contains a 2-year authorization for fiscal years 1972 and 1973 for $15 million and $15,900,000 respectively. At an executive hearing on October 7, 1970, the principal State Department witnesses, Earnest J. Warlow and O. C. Ralston, Director and Deputy Director of the Office of Foreign Buildings, testified in support of H.R. 18012 as it had the House. The amounts recommended are based on the Department's own estimate of needs as shown in the following table:

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD—SUMMARY OF OPERATING ACCOUNT

[In thousands of dollars]

Activity	Fiscal year				
	Actual		Estimate		
	1969	1970	1971	1972	1973
Operating account:					
Minor improvements	587	814	823	862	929
Leasehold payments	626	644	597	585	585
Operation of buildings	5,400	5,613	5,950	6,300	6,680
Maintenance of repair of buildings	3,061	3,208	3,500	3,660	3,840
Furniture, furnishings and equipment:					
New projects	392	98	330	350	500
Additional, replacement and repair	1,006	1,107	1,200	1,272	1,350
Project supervision	371	476	530	540	565
Administration	1,237	1,343	1,370	1,431	1,451
Total operations	12,680	13,303	14,300	15,000	15,900

The larger sums are necessitated because of a worldwide increase in wages and prices.

At the same meeting, the Committee on Foreign Relations voted to report the bill favorably to the Senate once it was received from the House of Representatives.

The committee is unaware of any opposition to the request for these funds. It goes without saying that it is imperative that our buildings abroad continue to be maintained and operated effectively. The committee recommends that the Senate pass H.R. 18012 promptly so that these amounts can be included in the President's forthcoming budget.

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the amendments of the House to the bill (S. 3785) to amend title 38, United States Code, to authorize educational assistance to wives and children, and home-loan benefits to wives, of members of the Armed Forces who are missing in action, captured by a hostile force, or interned by a foreign government or power.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 19436) to provide for the establishment of a national urban growth policy, to encourage and support the proper growth and development of our States, metropolitan areas, cities, counties, and towns with emphasis upon new community and inner city development, to extend and amend laws relating to housing and urban development, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. BARRETT, Mrs. SULLIVAN, Mr. ASHLEY, Mr. WIDNALL, Mrs. DWYER, and Mr. STANTON were appointed managers on the part of the House at the conference.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF MIGRATORY BIRD CONSERVATION COMMISSION

A letter from the Acting Secretary of the Interior, Chairman, Migratory Bird Conservation Commission, transmitting, pursuant to law, a report of the Commission for the fiscal year ended June 30, 1970 (with an accompanying report); to the Committee on Commerce.

WATER POLLUTION

A letter from the Administrator, Environmental Protection Agency, Washington, D.C., reporting the intention of that Agency to submit results of an alternative financing study after December 31, 1970, but in any event, no later than June 30, 1971; 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. EAGLETON):

A resolution adopted by the National Coal Association, Washington, D.C., praying for the restoration of the ability of the railroads to transport coal to consumers; to the Committee on Commerce.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. YARBOROUGH, from the Committee on Labor and Public Welfare, without amendment:

S. Res. 480. Resolution to extend the date for the making of a final report by the Select Committee on Equal Educational Opportunity (Rept. No. 91–1427).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

H.R. 15805. An act for the relief of Warren Bearcloud, Perry Pretty Paint, Agatha Horse Chief House, Marie Pretty Paint Wallace, Nancy Paint Littlelight, and Pera Pretty Paint Not Afraid (Rept. No. 91–1428).

By Mr. BYRD of West Virginia, from the Committee on the Judiciary, without amendment:

S. 4262. A bill to authorize the U.S. District Court for the Northern District of West Virginia to hold court at Morgantown (Rept. No. 91–1429).

(The remarks of Mr. BYRD of West Virginia when the bill was passed appear later in the RECORD under the appropriate heading.)

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. TYDINGS, from the Committee on the District of Columbia:

Jeremiah Colwell Waterman, of the District of Columbia, to be a member of the Public Service Commission of the District of Columbia.

By Mr. ERVIN, from the Committee on the Judiciary:

Robert C. Mardian, of California, to an Assistant Attorney General;

Hubert I. Teitelbaum, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania;

Harry W. Wellford, of Tennessee, to be a U.S. district judge for the western district of Tennessee;

Donald R. Ross, of Nebraska, to be a U.S. circuit judge for the eighth circuit; and

Franklin T. Dupree, Jr., of North Carolina, to be a U.S. district judge for the eastern district of North Carolina.

PRINTING OF REPORT ON UNIVERSITY WASH AND SPRING BROOK, RIVERSIDE, CALIF. (S. DOC. NO. 91–116)

Mr. BYRD of West Virginia. Mr. President, on behalf of my colleague (Mr. RANDOLPH), I present a letter from the Secretary of the Army, transmitting a favorable report dated June 10, 1970, from the Chief of Engineers, Department of the Army, together with accompanying papers and an illustration, on University Wash and Spring Brook, Riverside, Calif., requested by a resolution of the Committee on Public Works, U.S. Senate, adopted May 22, 1959. I ask unanimous consent that the report be printed as a Senate document and referred to the Committee on Public Works.

The PRESIDING OFFICER (Mr. BYRD of Virginia). Without objection, it is so ordered.

BILLS INTRODUCED

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

By Mr. MANSFIELD:

S. 4576. A bill to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes; to the Committee on the Judiciary.

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

By Mr. JAVITS:

S. 4577. A bill to provide for a comprehensive program of community-based and coordinated child development programs; to the Committee on Labor and Public Welfare.

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

By Mr. EAGLETON:

S. 4578. A bill for the relief of Emil and Edith Anna Giesti; to the Committee on the Judiciary.

By Mr. DODD:

S. 4579. A bill for the relief of Silvestre Fernandes; to the Committee on the Judiciary.

By Mr. METCALF:

S. 4580. A bill to establish the Missouri Breaks Scenic Recreation River in the State of Montana; to the Committee on Interior and Insular Affairs.

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

S. 4580—INTRODUCTION OF A BILL TO ESTABLISH THE MISSOURI BREAKS SCENIC RECREATION RIVER IN MONTANA

Mr. METCALF. Mr. President, I introduce, for appropriate reference, a bill for establishment of a scenic recreation river along the Missouri from Robinson Bridge to Fort Benton in Montana. This reach of the river is historic, it still has traces of Lewis and Clark; it has tremendous recreational potentialities and it has game and wildlife that are attractive to the hunter and fisherman.

The preservation of this reach of the river and at the same time the recognition of its other values will contribute to the best and highest use of this resource.

There are provisions in the bill for wild river areas, for scenic river areas and for recreational areas readily accessible by road.

This development of the Missouri will protect the historic sites, provide for recreation and hunting and fishing and preserve the area.

The bill is introduced at this late stage in the session to have comments, opinions and points of view in order that definite legislation may be considered next session.

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

The PRESIDING OFFICER (Mr. CRANSTON). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 4580) to establish the Missouri Breaks Scenic Recreation River in the State of Montana, introduced by Mr. METCALF, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 4580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established the Missouri Breaks Scenic Recreation River (hereinafter called the "River"). The River shall consist of the waters of the Missouri River and not to exceed 180,000 acres of land and interests therein along the Missouri River approximately 175 miles from Robinson Bridge to Fort Benton. The boundaries of the River as of the date of approval of this Act are shown on the map entitled "Missouri Breaks Scenic Recreation River" on file in the Office of the Director, Bureau of Land Management, Department of the Interior where it shall be available for public inspection. The Secretary of the Interior (hereinafter referred to as the "Secretary") may revise the boundaries of the River by publication in the *Federal Register* of a revised drawing or other boundary description.

SEC. 2. (a) The Secretary shall administer the River in accordance with the Taylor Grazing Act, as amended (43 U.S.C. 315–315r) and any other authority available to him for the management and conservation of natural resources and the protection and enhancement of the environment, and under principles of the multiple use and sustained yield of the several resources thereon consistent with the maintenance of the scenic and recreation qualities of the River.

(b) The Secretary shall designate portions of the River as "Recreation River," "Scenic River" and "Wild River" in accordance with the following guidelines:

(1) Wild river areas—Those sections of the River that are free of impoundments and generally inaccessible except by trail, with wateresheds or shorelines essentially primitive and waters unpolluted.

(2) Scenic river areas—Those sections of the River that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(3) Recreational river areas—Those sections of the River that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

(c) After consultation with States and local governments and the interested public the Secretary shall establish a plan of management, and, where suitable, of development, for each of the designated areas. He is authorized to enter into cooperative agreements with other Federal agencies and with State and local governments for administration of the River.

(d) The Secretary may issue easements, licenses, or permits for rights-of-way through, over or under the lands in Federal ownership within the River, or for the use of such lands on such terms and conditions as he deems necessary.

(e) The Secretary shall permit hunting and fishing in the areas of the River in accordance with applicable Federal and State laws, except that he may designate zones where, and periods when, no hunting or fishing shall be permitted for reasons of public safety or administration.

SEC. 3. (a) The Secretary may acquire not more than 30,000 acres of lands, waters, and interests therein, including, but not limited to, scenic easements, within the boundaries of the River, by donation, purchase with donated or appropriated funds, exchange, or otherwise. In exercising his exchange authority, the Secretary may accept title to any non-Federal property within the boundaries of the River and in exchange therefor he may convey to the grantor any federally owned property under his jurisdiction which is located in the State of Montana which he classifies as suitable for exchange. The values of the properties so exchanged shall be approximately equal, or if they are not, the values shall be equalized by the payment of cash to the grantor or the Secretary as the circumstances require.

(b) Federal property located within the River may, with the concurrence of the department or agency having administrative jurisdiction thereof, be transferred, without transfer of funds, to the administrative jurisdiction of the Secretary for administration under this Act.

(c) When a tract of land is only partially within the boundaries of the River, the Secretary may acquire the entire tract in order to avoid the payment of severance costs. Lands so acquired outside the boundaries of the River may be exchanged by the Secretary for non-Federal land within such boundaries, and any portion of said land not utilized for such exchange may be sold competitively by the Secretary for not less than fair market value.

SEC. 4. Nothing in this Act shall affect the applicability of the United States mining and mineral leasing laws on lands within the River except that:

(a) No prospecting or mining operations shall be commenced or conducted or mining claims located after the effective date of this Act until the Secretary has promulgated such regulations controlling prospecting and mining as he deems necessary to achieve the purposes of this Act.

(b) Subject to valid existing rights, any patent issued on any mining claim within the River shall convey title only to the mineral deposits and shall convey only such rights to the use of the surface and the surface resources as are reasonably required to carry on prospecting or mining operations and are consistent with such regulations as may be prescribed by the Secretary.

SEC. 5. (a) The Secretary shall encourage the State, regional, county and municipal authorities to adopt and enforce adequate master plans and zoning ordinances which will require the use and development of private property within and adjacent to the River in a manner consistent with the purposes of this Act. The Secretary may provide to such State, regional, county and municipal authorities technical assistance in the development and adoption of such plans and ordinances.

(b) The Secretary may refrain or agree to refrain from exercising his authority to acquire private property within the boundaries of the River as long as he finds the applicable plan or ordinance continues to promote the use and development of such property in a manner compatible with the purposes of this Act.

SEC. 6. No water impoundments or diversions shall be constructed on any portions of the River designated as "Wild River" or "Scenic River."

SEC. 7. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. To the extent feasible acquisition and development of camp sites and historical sites shall be given priority in expenditure of funds.

SENATE RESOLUTION 493—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution (S. Res. 493); which was referred to the Committee on Rules and Administration:

S. RES. 493

Resolved, That the Committee on the Judiciary is authorized to expend from the contingent fund of the Senate $7,000, in addition to the amount, and for the same purposes and during the same period, specified in Senate Resolution 335, Ninety-first Congress, agreed to February 16, 1970, authorizing a complete study of any and all matters pertaining to constitutional amendments.

NOTICE OF HEARING ON NOMINATIONS

Mr. ERVIN. Mr. President, on behalf of the Committee on the Judiciary I desire to give notice that a public hearing has been scheduled for Thursday, December 17, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Robert E. Varner of Alabama, to be a U.S. district judge for the middle district

of Alabama, vice a new position created by Public Law 91-272, approved June 2, 1970.

William H. Webster of Missouri, to be a U.S. district judge for the eastern district of Missouri, vice a new position created by Public Law 91-272, approved June 2, 1970.

H. Kenneth Wangelin of Missouri, to be a U.S. district judge for the eastern and western districts of Missouri, vice a new position created by Public Law 91-272, approved June 2, 1970.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND), chairman; the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Nebraska (Mr. HRUSKA).

NOTICE ON NOMINATIONS PENDING BEFORE JUDICIARY COMMITTEE

Mr. ERVIN. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Clarence A. Butler, of Maryland, to be U.S. marshal for the district of Maryland, for the term of 4 years, vice Frank Udoff.

Donald W. Wyatt, of Rhode Island, to be U.S. marshal for the district of Rhode Island for the term of 4 years, vice Peter J. Foley.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, December 17, 1970, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS OF SENATORS

SOCIAL SECURITY, WELFARE REFORM, AND TRADE BILLS SHOULD BE CONSIDERED SEPARATELY

Mr. SA-BE. Mr. President, on Wednesday the Committee on Finance completed action on the controversial social security-welfare bill (H.R. 17550). The bill, which is scheduled for Senate consideration next week, is shaping up as an abomination, having more pitfalls than advantages. I submit that the Americans most in need of help would be the ones damaged if we do not change this bill.

My opinion is that the several legislative proposals are at cross-purposes with each other and should be separated for individual consideration. We must not neglect them by strained debate and limited discussion in the waning days of the 91st Congress.

Before extensive rhetoric begins on this carefully but unwisely wrapped Christmas package. I should like to submit for the consideration of Senators a short note from Mrs. R. N. Wilson of Chagrin Falls, Ohio. I completely agree with its content, which is distinguished by its clarity of thought and its brevity. Mrs. Wilson's letter is as follows:

DEAR SENATOR SAXBE: The irresponsible coupling of the Social Security, Welfare Reform, and Trade Restriction bills is an affront to the American people.

The Welfare Reform Bill must be passed on its own merits and the Trade Restriction bill must be defeated.

Please, as a representative of sane, responsible people, can you work toward that end?

Yours truly,

MARY K. WILSON.

COLLEGE IS TOGETHERNESS

Mr. MANSFIELD. Mr. President, both the desire and needs for the attainment of advanced education have become an inherent part of the American way of life. We most often attribute these accomplishments to the youth of the Nation. I recently received a letter from a group of fine students at Northern Montana College, at Havre, Mont., drawing my attention to the educational accomplishments of the Lyle Heydon family. I consider the esteem and affection with which fellow students regard Pat Heydon to be a matter worthy of appropriate recognition. Therefore, I ask unanimous consent that an article from the Great Falls Tribune, under the byline of Pat Petty, be printed in the RECORD.

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

WHEN IT'S ALL IN THE FAMILY: COLLEGE IS TOGETHERNESS

(By Pat Petty)

Going to college is a family affair for the Lyle Heydon family of Havre.

It all started two years ago when the oldest Heydon daughter, Lyla, was so enthused with her first year at Northern Montana College that she talked her mother, Pat, into registering for classes.

Mrs. Heydon, who had never gone to college before, was hesitant, but Lyla persisted.

"She just kept after me to go," said Mrs. Heydon, "She had to drag me into register and she helped me fill out my registration forms and select my classes."

The Heydon women, both majoring in history and social science, made the honor roll after their first quarter as students together and have stayed on the honor roll ever since.

This fall two more members of the family, Tom, 23, and David, 18, registered for classes at NMC, making four students in the six-member family.

Lyle Heydon, an employee of Valley Furniture at Havre, has pitched in to help his wife and children by typing term papers for them. Sixth grader, Ann, helps with housework so her mother has more time to study.

Mrs. Heydon said she thinks going to college with her children has many advantages—cooperation at home—a college degree. But best of all, said Mrs. Heydon, is the opportunity for her to close the generation gap.

"At first I was afraid I would feel out of place in a classroom with all those youngsters," said Mrs. Heydon. "But from the first I was accepted completely by both students and faculty in my classes. It makes me think that if there is such a thing as a generation gap it hasn't been my generation that has caused it."

She said students often discuss their problems with her. "I think they feel that since I am in the classroom with them they can communicate with me although I am their parents' age."

Communication seems to be the key to any "generation gap," Mrs. Heydon continued.

"I think there really is a communication gap between parents and youth. Perhaps parents should take a good look at the things that bother their children—the grading system, pressure from home, pressure from school, financial pressures."

Pat Heydon said she got a new insight into youth when she started going to college with her own children.

"I sometimes get the impression that school is the only place where these youngsters feel they can be honest. They can't talk to their parents but people with problems need to talk to someone and some young people have no other place to go.

"Some of the things these kids tell me really hit home, especially what they say about modern values and life styles. But I like their honesty. They have a lot going for them and we parents are going to have to learn to listen to them and cooperate with our own youngsters at least as well as we do with our neighbors."

Mrs. Heydon said she is "closer to my daughter than I ever hoped would be possible. We can really sit down and talk over our problems."

She pointed out that many parents conceal too much from their children. "Parents want to protect their youngsters from the problems of life. For example, they will try to conceal a financial problem. However, young people usually know about these problems anyway; their parents just don't think they do."

Her own children understand the problems of having "Mother" in school, Mrs. Heydon said.

"We talked it over when I first started school and the whole family has really joined in a cooperative effort to keep the house straight and leave everyone time for study. We have a set routine each day and I haven't left for school a single morning without the dishes done and the beds made.

"The kids help out financially, too. My oldest son, who is married, works part-time at Valley Furniture to supplement his GI bill. David works part-time there, too. Lyla and I are both on advanced honor scholarships that pay most of our registration costs and Lyda does part-time secretarial work for the Salvation Army."

Mrs. Heydon, who at first worried she might embarrass her daughter by attending the same classes, doesn't worry about it anymore.

"The first quarter I avoided having the same classes as Lyda. But by the end of the quarter we were getting so much out of discussing similar courses we were taking that we deliberately got classes together the next quarter."

BRYCE HARLOW

Mr. SCOTT. Mr. President, one of the most able men to serve as an adviser to Presidents is again leaving public service. He will be missed.

Bryce Harlow, who has been counselor to President Nixon, will resume his business career. While we will miss him, we are pleased he is staying in Washington where the action is.

Bryce leaves the White House nearly 18 years after his first appointment by the late President Eisenhower. In 1953, he was a Special Assistant for Congressional Relations, and just 9 months later he was appointed Administrative Assistant to the President. During this period I worked with him and observed him closely as he prepared documents for the

President, speeches, messages to the Congress, and other policy matters.

Five years later Bryce was named Special Assistant to the late President Eisenhower and later Deputy Assistant to the President. Those of us who were in Congress then worked closely with him, as he was responsible for the direction of all congressional affairs of the President.

His exceptional ability and his record of accomplishments in dealing with Members of Congress undoubtedly were brought to mind when President Nixon made Bryce his first appointment to the White House staff as Assistant to the President for Congressional Relations.

In November 1969, the President appointed Bryce to be Counselor to the President, with Cabinet rank. He continued policy guidance of congressional relations, but not with the day-to-day operational detail, in order to be more available to the President for counsel. The function of a counselor is to anticipate events, to think through the consequences of current trends, to question conventional wisdom, to address fundamentals, and to stimulate long-range innovation. This he did—and this he did well.

Bryce Harlow will be missed.

REPORT OF THE NEW HAMPSHIRE COUNCIL ON AGING

Mr. McINTYRE. Mr. President, as we get closer to action on social security, I wanted all Senators to be aware of the excellent work that is being done by the New Hampshire Council on Aging, under the able leadership of Mrs. Elizabeth Lincoln. I have been tremendously impressed by the concerted effort of this group to involve themselves—in a close and personal way—with the elderly in my State.

I think the fruits of their labor are already becoming apparent. Recently, the council sponsored a forum in which 2,000 New Hampshire senior citizens participated. The purpose was to seek out answers, directly from our senior citizens, to the most pressing problems they face in their everyday life. The frank and open discussion which ensued was very productive in my view. And the information that was gained from the 1,233 questionnaires is proof of the correctness of their direct approach to solving the problems of the elderly. I know that it will be invaluable to me in my own personal efforts to try to determine how best we can meet their critical needs.

Accordingly, I ask unanimous consent to have printed in the RECORD the council's report on their findings and the resolution which the council recently passed expressing their support for the proposed social security legislation which will soon come before the Senate for consideration.

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

OLDER AMERICANS COMMUNITY FORUMS A SUCCESS!

Nearly 2,000 of New Hampshire's older citizens participated in sixteen older Americans White House Conference Community Forums held in the state between September 24 and November 18. As a part of the Prolog Year of the 1971 White House Conference on Aging, the forums were designed to give older Americans the fullest opportunity to speak out about their needs and concerns. Mrs. Elizabeth K. Lincoln, Director, Services for Aging of the New Hampshire State Council on Aging said, "I consider the Community Forums to have been successful beyond our expectations, but the credit should go to the people in each community who worked on the Forums."

Each Forum from Berlin to Nashua and Claremont to Portsmouth was organized and run by local committees representing concerned agencies, local government and organized groups of older people. These committees performed all of the necessary tasks that made the Forums a success: they set agendas, arranged for the prepared publicity, provided transportation, and acted as leaders for the Forum activities. Both the American Association of Retired Persons and the National Council of Senior Citizens made major contributions through their members and chapters in the State. Other organizations and agencies who gave unstintingly of their support included local senior citizens clubs, the Office of Economic Opportunity, through its Community Action Program, and many churches and civic organizations throughout the state.

Attending each Forum were groups of Listeners composed of representatives from local and county government as well as state officials, ministers, representatives of state and local Social Security Offices, Child & Family Service Workers, the Visiting Nurse Association, and many others. Mr. James R. MacKay, Chairman of the New Hampshire State Council on Aging noted that, "the Community Forums are the first step in the process designed to develop a comprehensive national policy on aging, but much valuable work was done at the Forums. The Listeners were able to hear first hand, of the day to day problems and concerns of older people, from those very people." He continued, "by speaking out on the issues affecting them, the older people communicated to the community at large and the officials and professionals who can help them, what their priorities were. In Rochester, this has already lead to an increase in the number of planned housing units being constructed in that city for older citizens."

Among the priorities set at the Forums, income, health, housing, and transportation were most frequently mentioned as major concerns. At ten of the Forums, income was considered the most important need area and approximately 60% of the older people filling out questionnaires reported an income below $200 per month. At three of the Forums, housing was voted the most important need area and of the remaining three; health. transportation, and ending the Viet Nam War were voted as the top need areas. Nearly one-fourth of the respondents to the questionnaire felt that they had a health problem which needed attention and was not getting it. Over 30% said that they had trouble getting from their homes to places such as shopping, church or visiting friends.

The information gained at the Forums through questionnaires and discussions, is being employed in the planning of the national, state and local Conferences which will occur next year. Task Forces on the state and national level are examining each of nine needs areas and five needs meeting areas, in order to support the concerns of policy formulation at each Conference level. The needs area Task Forces are on (1) income, (2) health, (3) nutrition, (4) housing, (5) transportation, (6) employment and retirement, (7) education, (8) retirement roles and activities, (9) spiritual well-being. The needs meeting Task Forces cover (1) planning; (2) facilities, programs and services; (3) research and demonstration; (4) training; (5) government and non-government organization.

In February and March of 1971, approximately fifteen Community Conferences on Aging will be held throughout the state. Following the Community Conferences will be a State Conference on May 5 in Concord. At each of the Community Conferences participants, including older people themselves, service providers, professionals and scientists, administrators and executives in local government, and youth, will join together in small working groups to formulate policy in each of the needs areas and needs meeting areas. The same process will be followed at both the state and national Conferences, leading to a comprehensive national policy on aging by the end of the Conference Year. Following the Conference Year, policy will be implemented through programs at the national, state and local levels.

In order to facilitate the planning and running of the community and state conferences on aging, the State Advisory Committee for the White House Conference on Aging has been established.

This committee will be chaired by Harland Logan, former Majority Leader of the New Hampshire House of Representatives, other members of the Committee are: Dr. Arthur Adams, Consultant to the New England Center for Continuing Education at the University of New Hampshire; The Honorable Marshall W. Cobleigh, Speaker of the House; Mr. Remi Gendron, Director, Senior Citizens Center in Claremont and member of the National Council of Senior Citizens; Bishop Charles F. Hall of the Episcopal Diocese of New Hampshire; The Rev. David G. Hamilton, Rector of St. Paul's Church of Concord; Mr. Ray E. Kipp, American Association of Retired Persons, State Director, New Hampshire; The Rev. Msgr. John E. Molan, Director, New Hampshire Catholic Charities, Inc.; Mrs. Mary Mongan, Manchester Housing Auhority; Mrs. Carol Pierce; Member of Laconia Council on Aging; Representative George B. Roberts, Chairman of the Legislative Study Committee; Dr. James H. Schultz, Professor of Economics on leave from the University of New Hampshire to the Heller School of Social Work, Brandeis University; Senator Harry V. Spanos, Newport, New Hampshire; Dr. J. Duane Squires, former President of Colby Junior College; and Dr. Hugh L. C. Wilkerson, Deputy Director, New Hampshire Division of Public Health, Senator Laurjer Lamontagne of Berlin will serve as a special representative of the New Hampshire State Council on Aging to the Committee.

RESOLUTION OF A GROUP OF NEW HAMPSHIRE CITIZENS RESPONSIBLE FOR THE ORGANIZATION OF WHITE HOUSE COMMUNITY CONFERENCES IN NEW HAMPSHIRE, NOVEMBER 23, 1970

"Whereas, the Congress of the United States is currently in session; and

"Whereas, an issue before the Congress is the expansion and modification of the Social Security Laws, including the increase of Social Security payments to compensate for inflation, among other specific provisions, the basic bill (H.B. 17550) having already been passed by the House;

"Therefore, be it resolved that this group petition the New Hampshire Congressional Delegation, requesting speedy passage of this legislation, with the stipulation that the Delegation recognize that this proposed legislation is the minimum acceptable, and should not be considered to be the only legislation necessary to meet the real and pressing needs of the older Americans of New Hampshire."

Passed without dissenting vote in Concord, New Hampshire, November 23, 1970.

Forwarded to the Congressional Delegation by the New Hampshire State Council on Aging at the request of the group.

This was a statewide meeting of persons, mostly senior citizens, gathered for preliminary planning for Community White House Conferences on Aging to be held in New Hampshire during February and March. About 45 persons attended.

CONGRESS ON STRIKE

Mr. DOLE. Mr. President, the Nation is well aware of the railroad strike which began this morning, but how many Americans realize that Congress has been on strike for 11 months this year?

Today many are attempting to fix the blame for the railroad strike. The unions involved are blaming the railroad companies; the companies in turn are blaming the unions; commentators and news analysts have placed the onus in various quarters. Here on Capitol Hill some have decided that President Nixon should shoulder the major responsibility for the paralysis now gripping the Nation, while others are indicting both unions and management.

Well, Mr. President, I would certainly not wish to chill the exercise of free speech in America. Nor do I feel that either labor or management should be restricted in employing the full range of tools available to them in the collective-bargaining process.

But it is questionable for anyone on Capitol Hill to criticize the unions or companies involved in this strike or to fault the President for attempting to alleviate it.

How can Congress blame the parties or the President when the Senate and the House have been on strike all year?

It is probably too late now, as adjournment and the holidays quickly approach, to salvage much from this session of Congress. The point is, however, that the congressional work stoppage has had its effect, and the Nation's business has gone unfinished.

Mr. President, there is no excuse for Congress to allow major presidential initiatives to suffocate without even receiving the courtesy of votes on their merits. The President's revenue-sharing plan, the major administration proposal to accelerate estate and gift tax payments, significant innovations in consumer protection, emergency school aid, and the tax on leaded gasoline will all die without receiving congressional action.

So, Mr. President, I would suggest that when Members of Congress feel the temptation to blame parties to strikes and those who are working to avoid them and alleviate their effects, they stop and consider the strike record of Congress and be a bit slower to cast the first stone.

HUMAN RIGHTS DAY

Mr. KENNEDY. Mr. President, 12 years ago today, the United Nations adopted what many have since called the Magna Carta of Human Rights. For on December 10, 1948, the United Nations unanimously proclaimed the Universal Declaration of Human Rights.

Although this proud, affirmative declaration has not ended the struggle for human rights, and although we, ourselves, too frequently fail in our duties under the declaration, still, we cannot fail to recognize the enduring significance and continuing challenge the declaration embodies.

We must use this occasion, Mr. President, to reaffirm our Nation's long-standing commitment to the protection of human rights by reaffirming our support of humanitarian programs around the world. It is a commitment that even this past year we have failed to fulfill more than we should. We need only to think of the tragic plight of the Lithuanian seaman who tried 2 weeks ago to secure his rights under the declaration, or our tardy response last month in meeting the massive human needs of 2 million East Pakistanis ravaged by tidal waves.

So that we will understand how we must redouble our efforts to secure human rights, and in order to commemorate this important day, I ask unanimous consent that an essay on "Human Rights Day," written by William R. Frye, be printed in the RECORD.

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

[From the Baltimore Sun, Dec. 6, 1970]

ALL OF US VIOLATE HUMAN RIGHTS

(By William R. Frye)

UNITED NATIONS, N.Y.—Once again, this week, the United Nations observes a little-known event which, in the long view of history, may be the most important single act of the world organization: the adoption December 10, 1948, of the Universal Declaration of Human Rights.

"Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world . . ." it begins.

And then, in 30 ringing articles, this global Magna Carta spells out the kind of life "all members of the human family" should be allowed to live. It would be hard to find a single article that is not being flagrantly violated today. But so is every other major code of conduct ever proclaimed, from the Ten Commandments down.

THE SADDER LITHUANIAN

Article 14(1): "Everyone has the right to seek and to enjoy in other countries asylum from persecution."

A Lithuanian seaman who tried to avail himself of this right off Martha's Vineyard November 23 is a sadder man today, though his experience may smooth the way for others who follow.

Article 13 (2): "Everyone has the right to leave any country, including his own. . . ."

Hundreds of thousands, if not millions, of Jews, and indeed non-Jews, in the Soviet Union would give everything they possess to use this right. Perhaps the Lithunian seaman was one.

Article 2: "Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, color, sex, language, religion. . . ."

There is scarcely a single one of the 30 articles that is not cruelly violated, every day, on grounds of race and color in South Africa.

Article 12: "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence. . . ."

In this modern, electronic society, with wiretaps, no-knock laws and computerized banks of often-inaccurate information, real privacy is getting to be a scarce commodity.

"Law and order" does not always seem compatible with it.

Article 13 (1): "Everyone has the right to freedom of movement and residence within the borders of each state."

West Berliners would love to enjoy that right. They cannot even go freely into other sections of their own city.

Article 18: "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief. . . ."

Even when governments do not stack the cards, some major religions themselves put cruel obstacles in the way of anyone who wishes to leave the faith.

Article 19: "Everyone has the right to freedom of opinion and expression; this right includes freedom . . . to seek, receive and impart information through any media. . . ."

But for reading the works of Alexander I. Solzhenitsyn, a 1970 Nobel Prize winner, Russians have been fired from their jobs or expelled from school. Mr. Solzhenitsyn himself did not dare go to Stockholm to get his prize.

Article 23 (2): "Everyone, without any discrimination, has the right to equal pay for equal work."

Plenty of women's lib advocates, and men who otherwise might not sympathize with them, could point to a gap between this ideal and the general practice.

No one was so naive, back in 1948, as to think adoption of a ringing declaration would suddenly transform the laws and practices of centuries or wipe all fear, selfishness and prejudice out of the human consciousness.

COMMON STANDARD

The declaration was a goal, "a common standard of achievement for all peoples and all nations." Peoples and organs of society were exhorted to "strive by teaching and education to promote respect for these rights and freedoms" and "by progressive measures" to "secure their universal and effective recognition and observance."

Thus the direction of movement was considered more important than the degree of observance. The difficulty has been that not all movement has been in the direction of the goal.

If every Lithuanian-seaman incident produced, as that one did last week, a burst of outrage at the tragedy and a firmer resolve for the future, there would be faster progress. Perhaps a real wave of world indignation could even extract from Hanoi humane treatment for American prisoners of war.

Obstacles that are truly formidable can sometimes be overcome.

In Italy, last week, a wife whose husband had deserted her could now, for the first time in modern recorded history, expect to get a divorce. "Divorce Italian style" no longer had to mean murder.

In Russia, Mr. Solzhenitsyn's anguish has produced no visible result except to embarrass the Kremlin. But who knows how far-reaching that embarrassment may be?

The struggle for human rights is never ending. On Human Rights Day, 1970, there is at least increased awareness of its urgency.

THE UNFINISHED BUSINESS OF THE YEAR

Mr. MURPHY. Mr. President, as this year and this session of Congress draw to a close we find there is one large piece of unfinished business—the finding of a solution to the problem of American prisoners of war and missing in action.

The Communist leadership of North Vietnam has refused steadfastly to give an accounting to this Government or to the world of the men they are known to hold. They have also refused flatly to

give an accounting of what has happened to Americans missing in action and believed to have been captured by the North Vietnamese or the Vietcong.

Although efforts to force the issue have so far failed, we must not allow our interest and our concern to flag. We must maintain as much pressure as possible on the North until we can bring Hanoi to some kind of realistic and rational approach to the problem.

That is the unfinished business of the day; it must be a priority piece of business for next month and the months that immediately follow until a solution is reached.

CHARITY WITHOUT HONESTY CAN BE FUTILE

Mr. YOUNG of Ohio. Mr. President, L. Edward Shuck, Jr., a prominent member of the academic community of Bowling Green State University in the office of international programs of this fine university, is the author of a statement entitled "Charity Without Honesty Can Be Futile."

The statement has impressed me so very much that I ask unanimous consent that it be printed in the RECORD.

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

CHARITY WITHOUT HONESTY CAN BE FUTILE

(By L. Edward Shuck, Jr.)

It is fashionable to join the current cacophony of sound pleading with and denouncing the Hanoi Government for its alleged treatment of American prisoners of war. If one pointedly demurs from participating in this commendable and harmless fad, he risks denunciation as a "commie," disloyal, or at least a very anemic patriot.

The country-wide concern for better treatment for American prisoners does indeed reflect a concern for life which is commendable; *American* life that is. It also reveals a sickness in our society which we must find the courage to face. Our presumption of innocence in any international involvement probably permits, even condones unusual carelessness on the part of the United States Government. It is more certain that the unspoken premise of American life that we form an island of moral rectitude in an evil sea of amoral foreigners is more than a mere naive form of patriotism: it pushes into the boundaries of the psychotic.

Obviously any human being sympathizes with the imprisoned, be he convicted felon, innocent object of a miscarriage of justice—or a soldier caught in the act of killing and destroying under orders from his government. I suggest, however, that the studied effort of the Nixon Administration to make a major international issue out of the conditions of life experienced, or allegedly experienced, by American prisoners of war is another powder-in-the-eyes ploy which has been the hallmark of the American role in Vietnam for at least 21 years. Of course, it might be very effective politically among those Americans whose ideas of what a prisoner of war camp should be like derive from *Hogan's Heroes*.

Certain facts are blithely ignored in all of our sentimentalizing about the prisoners. These few at least might be reflected upon:

1. Literally without exception, to one who has tried conscientiously to remain aware of the record, Americans taken as prisoners and then either set free or escaped, have attested to the fact that the treatment received by them was unexpectedly generous, that the food provided was likely as good as the captors had available to themselves, and any acts resembling personal mistreatment were quite rare.

2. Evidence has been overwhelming attesting to the torturing of anti-Saigon troops and guerrillas who have fallen into American and Saigon hands (and those who surrendered to Americans were obviously the responsibility of the United States, according to the Geneva Convention which we so delight in quoting). The torturing to the point of death of such victims has been by no means unusual. This obviously contravenes the Geneva Convention Relative to the Treatment of Prisoners of War. This routine torture apparently commenced long before the so-called Prisoner of War issue (of *American* prisoners, that is) came to public attention, and very likely before there were any American prisoners in the hands of the anti-Saigon forces.

3. In spite of false implications emanating from U.S. Government officials and several of their well-paid consultants from Academia, there has never been found a shred of evidence of Vietnamese planning either to attack or threaten the United States.

4. We have, with our truly staggering superiority of sophisticated weaponry, bombed the Vietnamese almost incessantly for years, destroying people, towns, cities, forests; polluting land and water, defoliating and napalming houses, crops, and forests.

One can't help wondering what would happen to shot-down crews of aircraft of some distant and mighty foreign power which incessantly, with neither declaration of war or honest excuse, bombed the towns and fields of Indiana or Illinois. One can surely guess that the unfortunate crewman would likely be handled by buckshot from irate farmers, or lynched by Indianapolis or Springfield mobs.

It is a fact that American aircrews willingly took up the sword to kill Vietnamese and destroy their property. No American serviceman is forced into an aircrew. Unfortunately a tiny handful of these volunteers were unlucky enough to fall into the hands of the people they were attacking. A quite honest appraisal of the situation, given the circumstances and facts, is that the men were lucky they were not killed by the people whom they were tormenting and whose lives they were ruining.

I quickly add that these unfortunate men—obeying the orders of a misguided President, actually—can certainly not be the condemned outcasts bearing a guilt shared by all Americans. Writing as one who has worked against this war since 1964 (when I left the State Department) and not merely since the election of 1968, as has been usual with the present "doves," our guilt as a nation is full and ugly. We certainly do have every obligation and responsibility to do the best we can for these men who suffer for our nationally-shared guilt. The best thing we can do for them is to withdraw our truly obscene, not to say foolish and counter-productive military intervention in Vietnam. When we stop making war against the Vietnamese we can then, with cleaner hands, suggest and expect a prisoner exchange.

Until we do stop this carnage, and that includes stopping the hiring of Asian mercenaries to do what the American voter doesn't like to have done by Americans, we must somehow summon the decency, of course, to remember the plight of the American prisoners and their families. But we must also have the decency and the character to remember the photographic evidence of American and Saigon troops torturing and killing captives, to remember the My Lais (and they *are plural*) to remember the tiger cages, to remember the people we have destroyed and the land we have made useless.

If our Administration is too inept to face the facts of life and admit American guilt which is as real as God's sunshine, perhaps we "ordinary" and less arrogant folk have to expect more of ourselves. One must ask even the bereaved wives, parents, and children of the captured Americans to think of the destroyed homes, the shattered families, the orphans, the cripples, the prostitutes, the thieves, the half-breed children, the very remnants of this once charming society which men like their own loved ones have made a reality in Vietnam. Admittedly, to repeat myself, they did this in the name of all of us and under orders from a pedestrian leadership for which Washington has become famous during the past two decades.

The crux of our problem is the childish and unworthy patriotism which decrees that this favored nation of ours is an island of Divinity in a world of Satan. This is a mockery of patriotism; even as it is a mockery of man's own divine destiny do state that he has no moral choice except to obey the man who writes his efficiency report. This last, of course, is the chief philosophical contribution of militarism, and of bureaucracy.

This brave people of Vietnam, the majority of whom never willingly accepted French domination during the 60-odd years of French occupation, fought well for their independence. They won that independence only to be cheated by American interference, interference designed to protect the minority interests of a handful of Vietnamese who *had* sold out to the French. Virtually all the ranking officers of the Saigon Regime armed forces—trained, armed, paid, repaired, and pensioned by American money—are former non-commissioned and junior officers in the French Union forces which fought against their own people during the war of independence, 1946–1954. By no means incidentally, almost all the power holders and power dispensers within the Saigon Government are from the northern part of the country. This is especially amusing in view of the United States Government effort to identify a separate nationality, called "North" Vietnamese (black hats) from "South" Vietnamese (freedom-loving white hats). The civilian elements of the Saigon Regime are composed almost entirely of former French colonial *functionaries* and their geneological and/or ideological offspring.

Instead of the futile military intervention which we mounted and which has compounded death and destruction in Southeast Asia, we could have long ago been friendly to, and the chief diplomatic and technological support of, an independent Vietnam which could have been far closer to us, and for many reasons, than to either China or Russia.

It is still not beyond redemption, however, if we can prove the depth and superiority of our cultural traditions by admitting our errors and seeking now to help the land and people which we have torn apart. And in doing this we can free and at the same time bring greater honor to the American prisoners who suffer today for both their own acts and the stupid orders given to them by their Government, a government for which too-long disinterested and uncaring public is completely responsible.

May this combat veteran writing these lines presume to suggest to the sorrowing families of our prisoners that the men whose fate they mourn are very likely in not too much disagreement with what has been written above. Any fighting man and any veteran of combat—in contradistinction to the usually loud-mouthed "professional" veterans—knows that in combat one takes his chances; and if he is a man he knows what he is in for. If the captured soldier is given his life by his captor, he understands that he's gotten a break. In the case of our men

in northern Vietnam, bear in mind that they might have been treated as the Saigon troops and some Americans frequently treat those whom they call Charley.

SENATOR WILLIAM B. SPONG, JR., DISCUSSES THE ENVIRONMENT AND PUBLIC HEALTH AT THE ANNUAL MEETING OF THE ROANOKE ACADEMY OF MEDICINE

Mr. BOGGS. Mr. President, the distinguished Senator from Virginia (Mr. SPONG), a fellow member of the Subcommittee on Air and Water Pollution, discussed the relationship between the environment and public health earlier this week at the annual dinner meeting of the Roanoke Academy of Medicine.

Senator SPONG pointed out in his remarks that the rockbottom of public policy must be the protection of public health. The medical profession, he said, has a special obligation to help fulfill that commitment, and observed that the scientific objectivity of the profession will contribute to the development of effective, rational, and constructive solutions to environmental problems.

In his remarks, the Senator also discussed the subcommittee's intent in the development of the proposed National Air Quality Standards Act of 1970.

Mr. President, Senator SPONG is to be commended for his thoughtful analysis. As I know that his remarks will be of interest to other Members of the Senate, I ask unanimous consent that the text of his speech be printed in the RECORD.

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

THE ENVIRONMENT AND PUBLIC HEALTH

Environmental quality is an "in" topic these days. It no longer requires perception to realize that we have serious environmental problems. All one needs are the senses of sight, smell and taste.

Each of us discards five pounds of trash per day. The automobiles we drive emit an average of five pounds of unburned hydrocarbons daily. Thirty million Americans—15 percent of our total population—still discharge raw sewage into our rivers, lakes and streams.

In its early days, the conservation movement for the most part was directed at stopping the reckless exploitation of the country's natural resources, and preserving wildlife and natural scenic areas. Since the enactment of the first air and water pollution control laws in the 1950s, the movement has gradually evolved into national concern over the total environment.

We have stopped looking at the world as if it were some sort of haphazard conglomeration of independent things. We have come to realize that all forms of life and growth are inter-related. We live in a pluralistic world, and must learn to live in harmony with our surroundings. We are intimately linked with our environment, and can ignore it only at great risk.

To put it bluntly, the damage being done to our environment is much more than an aesthetic nuisance. Pollution is not simply a problem of dirtiness. It is a problem of public health and well being.

The complexity of the environment and the ways it can influence man's health have been greatly magnified as a result of growing population, increasing urbanization, advancing technology and the accelerating use of chemical substances. The rewards of a rapidly advancing technology are large, tangible and immediate. The penalties which must be paid for this progress are somewhat removed in time. They are less visible, but clearly unavoidable.

It seems clear that unless we come to grips with the health problems associated with our environment in this age of technological emphasis, we shall inevitably suffer from the advances we are making. Environmental hazards present relatively new types of health problems. Man is exposed to harmful agents in intermittent doses, and generally in low concentrations. It is the total and cumulative exposure of the individual that is now recognized to be important.

Many of the chemicals being discharged into our air are known to be toxic—even lethal—when inhaled in large amounts over a short period of time. Sulfur oxides and carbon monoxide are common examples. However, we don't know the effect of continued exposure of low concentrations of these substances over a long period of time. Developing such knowledge with scientific certainty will require long-term observations, and that task will be complicated by the fact that the toxic effects of some chemicals are affected by the simultaneous presence of other substances. The synergistic effect may produce significant adverse effects in day-to-day living that may well be missed in controlled laboratory tests with individual substances.

The medical profession no doubt can develop definitive answers when it has had the benefit of long-term observations and studies. But I fear that by the time the definite answers are available, many years will have passed and our problems will have been seriously compounded.

They will be compounded not only in terms of health, but in terms of national economy. No one can predict the inventions which will be developed in the next decade. No one can foresee the extent to which our technological advances will become an integral part of our national economy. Hundreds of millions of dollars, and huge numbers of jobs, are involved in our existing patterns of industry and systems of transportation. Serious disruptions of these would have significant economic repercussions throughout the country. The potential difficulty—both economically and environmentally—of additional uncontrolled technological gains can only be imagined.

So how much must we know about the heath effects of pollution before we act? Must we await the results of the necessary research before initiating action?

In my judgment, we cannot afford to wait until definite, detailed proof is in hand until we impose more stringent programs of abatement and prevention. We must move now, although at the same time we should expedite efforts to broaden our knowledge of the causes and effects of environmental deterioration.

In the area of air pollution, identification of causes should not be restricted to new agents. The substitution of one agent by another, or the addition of another agent, can create new complexity and new problems. Research objectives must be oriented toward determining the mechanism by which environmental agents produce deleterious effects in exposed persons, and the circumstances that influence the expression of these effects.

Most of the present body of knowledge about air pollution has been developed from studies relating to the health of groups of people. For example, outbreaks of asthma among individuals not subject to the disease in its usual form have been observed in several cities. The outbreaks are regularly associated with unusual episodes of pollution, but a specific pollutant cause has yet to be identified.

It is easy to call for action. Unfortunately, one of our greatest deficiencies is that there are an abundance of simple solutions offered for not-so-simple problems.

As you probably are well aware, the issue of environment quality often becomes polarized between the rhetoric of protectionists and those who won't give even a modicum of thought to environmental considerations. By their very complexity, environmental issues lend themselves to overstatement, and oversimplification by those having opposite views. In attempting to cope with both present and anticipated environmental problems, Congress has been subjected to highly emotional arguments which tend to distort issues and hinder the development of alternative solutions. It is difficult to exercise sound judgment in such a climate.

In this day and time—when there is so much divisiveness in the country over so many issues—it serves no useful purpose to inflame the public over pollution or our other national problems. One can demonstrate his concern without shouting from the rooftops. Answers developed in an atmosphere of hysteria seldom are effective.

The rock bottom of public policy must be the protection of public health. The medical profession has a special obligation to help fulfill that commitment. Your knowledge and expertise—as well as the exercise of your dedication to humanitarian concerns—are necessary components of environmental problem-solving.

Equally important, the scientific objectivity of your profession will contribute in a substantial way to the development of legislative solutions that are effective, but at the same time are rational and constructive. The solutions necessarily will be stringent because of the very nature of the problem. Being stringent does not mean being unreasonable, but it does mean modifications to some of our laissez faire traditions.

As we attempt to cope with these matters it is important to bear in mind that we cannot shut down our industry, lock the garage door and quietly return to an agrarian society. We cannot outlaw the internal combustion engine, as some have proposed, as a means of resolving our air pollution problem.

On the other hand, business and industry must find ways of producing without polluting. It also would be helpful if corporate executives would be less defensive about legislative and administrative efforts designed to improve environmental quality.

The proposed National Air Quality Standards Act of 1970 is a good example of what I mean. The differences in the Senate and House versions of the legislation currently are being reconciled by a Conference Committee. It is fair to say that if the Committee accedes to every change proposed by industry, the bill would emerge as little more than a statement of intent that public health ought to be protected from pollution.

Some valid criticisms and suggestions have been submitted, and they are being carefully considered. The Committee has tentatively adopted several modifications to sections of the legislation dealing with stationary sources of pollution.

I have been disappointed in the attitude of automobile manufacturers, who apparently believe we have punitive intentions, and want to dictate the terms by which emission control deadlines are determined. The Senate bill sets automobile emission standards legislatively, and requires that they be met in 1975. Under present law, standards are set administratively.

The automobile is the major moving source of pollution. Its emissions are responsible for an estimated 60 per cent of the nation's urban air pollution problem. In view of evidence that emissions of carbon monoxide, hydrocarbons and nitrogen oxides presently exceed safe health levels in many major metropolitan areas, there is strong justification for establishing at 1975 standards the emission goals previously proposed for 1980.

The industry has made it clear that there are serious lead time problems involved, and that technology is not presently available to meet the 1975 standards. I believe the industry should be required to make every effort to meet the standards set forth in the Senate bill. I understand the lead time problem, and realize that technology may not be available to meet the standards.

The Senate bill includes a mechanism which permits a one-year extension if technology has not been developed, and certain other conditions are met. Feelings similar to my own about the matter were expressed in an editorial published November 30 in the Roanoke Times.

The Times said: "Time is the Achilles' heel of the environmental movement. Public interest, concern and resolve over a cause like this tend to build a peak, then fade. If there is nothing in law that unmistakably tells the automakers—whose product is the chief polluter of our air—that they must rigidly restrict their pollution by a certain date, then they will surely play for time, and do as little as they can get by with . . ."

The intent of our legislative efforts to date has been to prevent further deterioration of the environment, and to instill in the minds of the American public the realization that the waste products being generated as a result of technology are creating a threat to the very resources on which we depend to live. We have over-extended the capacity of our land and air and water to cleanse themselves of man-made wastes.

One must constantly be on the alert to the risks as well as the benefits of technological change. Admittedly, it is difficult to think in those terms. Perhaps Thoreau foresaw our predicament when he wrote: "Most of the luxuries, and many of the so-called comforts of life are not only not indispensable, but positive hindrances to the elevation of mankind."

There is a message in that sentence for each of us.

TO MEN OF GOOD WILL

Mr. McINTYRE. Mr. President, this is the time of year when our minds turn to thoughts of peace and good will.

Whatever the prospects for peace abroad we are still faced with the challenge of restoring peace and good will at home.

We still have too many bombings, increasing crime, more and more drug addiction—so many other evidences that peace and good will does not exist at home.

Much of the solution rests in the hearts and minds of our people but we here in Congress can make our contribution to reaching our goal of peace at home. I should like to share with Senators thoughts of mine which I feel have some meaning of guiding us in the actions we take and the decisions we make.

Mr. President, I ask unanimous consent that the statement I have prepared on this subject be printed in the RECORD.

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

TO MEN OF GOOD WILL

One hundred and twenty years ago, Edmund Hamilton Sears wrote "The Angel's Song" to express the eternal hope of Christmas.

Today, hope burns more fervently than ever for "Peace on Earth—Good Will to Men."

Whatever the prospects for early and lasting peace abroad, we are still faced with the challenge of restoring peace and good will at home.

No American who loves his country can afford to ignore this challenge. The stakes are too great.

Rioting, looting, burning, bombing, a dramatic increase in crime and juvenile delinquency (in part linked to a rapidly expanding drug culture) give ample evidence of a divided and troubled society.

SYMPTOMS

We must attack the physical signs of this unrest, and this I have tried to do, supporting the Omnibus Crime Control and Safe Streets Act of 1968, the tough District of Columbia anti-crime bill, and the 1970 Organized Crime Control Act with its severe crackdown on terrorist bombings.

I was a major sponsor of the Act to speed up trials in our courts of justice, and I have jointly sponsored an amendment which would limit production and importation of the "speed drugs" to reduce their ready availability to those who would abuse them.

ONCE WE CARED

But attacking the physical signs of social unrest, necessary though it is if we're going to have order, won't solve the basic problem of restoring unity and purpose. The solution to this lies in men's hearts.

It has always struck me as ironic that there was less crime and violence in the heart of the Depression than there is in today's prosperous times.

In the Thirties people trusted each other . . . cared for each other. With good times, we became selfish and uncaring. Too many of us turned the exercise of conscience and compassion over to the young, sending them off to college and telling them to think big thoughts about values and public morality. They took us at our word. They took a good hard look at us and our world and they didn't like what they saw. They told us what they thought about people still going hungry in today's rich economy, about bigotry and discrimination, about a tax system that favors big oil and other corporations over the average family, about an unfair draft and the most unpopular war in our history.

They told us and told us. Perhaps we didn't listen soon enough.

Their voices grew higher. Their protestations more forceful. The division more pronounced.

Some extremists abandoned the traditional means of protest and petition and their excesses in expression finally triggered a widespread backlash among the older generations of Americans.

EXCESSES INTOLERABLE

There *have* been excesses—burnings, bombings, forcible take-overs of buildings, physical abuse of authority—intolerable excesses brought on for the most part by irresponsible leadership that corrupts idealism to its own selfish purpose, and takes advantage of frequently just complaints to excuse lawlessness, violence, disorder.

It is these excesses—not youth's idealism—that alienate older Americans.

But despite his misgivings, the average American does *not* disagree with the basic goals of young people.

He knows there are faults in the college system that must be corrected. He knows there is no reason why a helpless American should go hungry. He knows democracy cannot tolerate discrimination. And he, too, has grave doubts about the war and deep resentments over inequities in justice and taxation.

BRINGING US TOGETHER

Well, if our differences are more over attitudes and tactics than over ideals what will it take to bring us together again?

It will take seeing ourselves as others see us, hearing ourselves as others hear us. The Middle American who retreats to his comfortable home while students and blacks are fighting for social justice must see himself as the students see him. The student who shouts "Pig!" at a policeman, who profanes the air with obscenities, who abuses university property and officials must see himself as the Middle American sees him.

And a Senator must see himself as others see him . . . must understand why people feel as they do . . . must appreciate why the young may feel he is for "too little too late" and the older generation for "too much too soon."

Only in this way can *he* gain a fuller perspective. Only in this way can he serve to unite.

In sum, we cannot begin to resolve our differences until we resolve the intolerance in our own hearts . . . until we practice the love preached by the humble Nazarene whose birth we observe this month. For love, as He preached, is the gentle virtue which can bring us together again.

HUMAN RIGHTS DAY AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, today represents a significant milestone in the battle for human rights, as the President has designated it as Human Rights Day.

Today is an appropriate time to review the background of one of the great human rights documents of the United Nations, the Genocide Convention.

The Genocide Convention, which the United States has failed to ratify, was a direct result of Hitler's efforts to exterminate the Jews. The International Military Tribunal decided the mass murders of the Jews in Germany was not a war crime and thus beyond its jurisdiction. The United Nations then declared genocide an international crime. The U.S. Representative to the United Nations signed the Genocide Convention 2 days later. The Convention, according to article 13, was to take effect 90 days after the twentieth country ratified the Convention. This occurred on January 12, 1951.

No one is for genocide. The tradition of our country is in total agreement with the intent of this treaty. Twenty-two years have now passed without the United States becoming a party to such an important document. Seventy-five other nations have become parties to it.

The U.S. Senate now has a golden opportunity to become a party to this historic human rights document. I am hopeful we will not pass it up.

BRYCE N. HARLOW

Mr. DOLE. Mr. President, President Nixon, the administration and the Congress suffered a major loss yesterday when our friend, Bryce Harlow, resigned as Counselor to the President.

Mr. President, during more than 30 years in Washington, Bryce Harlow has earned the friendship and respect of hundreds upon hundreds of Members of Congress, newspapermen, Government officials, and politicians.

His unfailing charm and wit and good humor, his political perspicuity, and his wisdom will be sorely missed by all of us here as well as by those he has served so well at the White House.

I know I speak for all of us when I wish him continued health, happiness and success in the business world, and

when I urge that when he is needed he continue to make available to the President and the Nation his wisdom and his counsel.

Mr. President, I ask unanimous consent that the exchange of letters between Bryce Harlow and the President be printed in the RECORD.

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

[Exchange of letters between the President and Bryce N. Harlow, Counselor to the President]

THE WHITE HOUSE,
December 9, 1970.

DEAR BRYCE: Although I have known from our previous arrangements that it was due, I still am immensely sorry to receive your letter of resignation. I accept it reluctantly, with a very special sense of loss, and also with heartfelt good wishes to you and Betty for happy and rewarding years ahead. All the good that may befall you will have been richly deserved.

You have served our country selflessly, ably, and with a profound sense of devotion for more than three decades, and have been an active helper to at least four Presidents. Yours has been an exceptionally distinguished service in which you and your family should take great and lasting pride.

I commend especially your service during these past two years, in this Administration. Your keen insights, your leavening wit, your immense capacity for work, your rigorous conscience, all have been assets of great value to the White House and to me personally. You will forever have my warm friendship and my profound respect, both of which have grown steadily over the seventeen years in which we have worked so closely together.

Pat and I will miss having you here on a daily basis, but we both look forward to seeing you and Betty frequently. I appreciate your offer to be of continuing help in the future, and you can be sure that I will turn to you often for the wise advice and perceptive counsel that I have learned to value so highly.

With deep gratitude for all your many contributions, and with warm personal regards,

Sincerely,

RICHARD NIXON.

DECEMBER 7, 1970.

DEAR MR. PRESIDENT: Three times we have scheduled my departure from the White House, and now the last extension has expired. As planned, I will return to private employment on December 10.

I am immensely grateful to you for the opportunities for service you have afforded me and for the recognition you have given my efforts. It is extremely difficult to leave now, not so much because of challenges still to be met, for these are forever in the White House as I know from 10 years here—but difficult mainly because I so deeply regret moving from your side after having worked with you in so many ways for so many years in and out of government. I have valued these associations tremendously and will miss them sorely.

Back in private life, still in Washington, I stand ready at all times to be as helpful as you will allow me to be, for I believe totally in what you are striving to do for our country. I remain eager to assist in that cause, and I find inspiration in the intensity of your personal integrity and commitment.

You and Mrs. Nixon have our devoted support and our prayers for your success and fulfillment in making possible a better life for all our countrymen.

Sincerely,

BRYCE N. HARLOW,
Counselor to the President.

LETTER FROM SENATOR JACKSON TO SECRETARY ROGERS ON EXTENDED CHRISTMAS-TET VIETNAM CEASE-FIRE

Mr. JACKSON. Mr. President, in a letter to Secretary of State William Rogers today, I urged the administration to initiate the extension of the brief holiday cease-fires already announced by the other side, through the entire Christmas-Tet period. Rather than simply offering an extended cease-fire, I proposed that the United States and South Vietnam act, without prior agreement from the other side, announcing that for this period the forces on our side will not fire unless fired upon.

I ask unanimous consent that the text of my letter to Secretary Rogers be printed in the RECORD.

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

DECEMBER 10, 1970.

HON. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR BILL: This is a follow-up to my telephone conversation with you after my appearance on "Meet the Press" last Sunday, December 6. I was pleased to hear of the Administration's interest in pursuing the idea I suggested of an extended Christmas-Tet cease-fire in Vietnam and would like to define it in more detail than I had the opportunity to do on the program.

The Christmas-New Year and Tet truces already announced by the other side give us a unique opportunity to follow through, on the ground and with intensified diplomatic efforts, on the President's October 7 proposal for a standstill cease-fire in Indochina (a proposal which thirty Senators, as you know, joined in making in early September).

By accepting the cease-fires announced by Hanoi and the National Liberation Front (for December 24–27, December 31–January 3, and January 26–30), and announcing our intention to extend the truce to include the intervening days (from December 28–31 and from January 4–26), the U.S., the Government of South Vietnam, and our allies could initiate, without prior agreement by the other side, a cease-fire period that—if respected—could extend for nearly six weeks.

Our declaration to initiate a cease-fire should not be a proposal contingent on prior acceptance by the other side but rather should be an *act*—an announcement that the order has gone to our forces not to fire unless fired upon during this extended cease-fire period.

To make clear the seriousness of our intentions there are further actions we could take, within the limits of maintaining the security of our forces, to assure all parties that our troops and equipment are to be removed from offensive combat during the cease-fire period.

For example, prior to Christmas a portion of our aircraft normally in service could be grounded and overhauled, some of our carrier force could be redeployed outside striking range, and certain military personnel could be detailed to specific community action and construction projects in their areas.

From Hanoi's point of view, agreeing in advance to a cease-fire is quite a different matter than a decision to take the initiative and open fire on us when we have declared a cease-fire. Breaking the cease-fire once it is instituted would be far more difficult than simply turning down a proposal.

Once a cease-fire is instituted and the hopes of the people in the villages and hamlets are involved, pressures on all parties could be expected to mount to refrain from starting the fighting again, heartening and encouraging the broad range of religious and political groups who have long called for a standstill cease-fire and a political solution based on free, fair and open elections.

Everything possible should be done by the U.S. and South Vietnam to engage on behalf of this initiative the efforts of all nations concerned about bringing the conflict to an early conclusion, including the good offices of neutral and non-aligned nations.

The period of an extended cease-fire should be used for an intense diplomatic effort through every appropriate channel and in key capitals to develop support for the permanent standstill cease-fire urged by the President on October 7, and for a political solution based on free elections which both sides have in principle favored.

We should also seek the earliest opportunity to begin to institute, in eventual concert with the North Vietnamese and NLF, the necessary machinery for international monitoring necessary to a permanent standstill cease-fire.

I want to commend you and the Administration for your expressed interest in an extended truce over the Christmas-New Year period. In this connection, I hope these suggestions will be helpful to you and to the President.

Sincerely yours,

HENRY M. JACKSON,
U.S. Senate.

THE THOUGHTS OF THE REVEREND FREDERICK BROWN HARRIS

Mr. THURMOND. Mr. President, most Senators will remember the fine Christian spirit of the Reverend Frederick Brown Harris, who was Chaplain of this body for more than 25 years. He was an able and dedicated man and a fine Christian who had a way of bringing the Christian message into everyday life and applying it to contemporary problems. I count it a privilege to have known him and to receive daily inspiration from him.

Dr. Harris presented his thoughts every week in a column in the Washington Sunday Star. These columns have been collected in a new book entitled "Spires of the Spirit," published by Bethany Press, and edited by J. D. Phelan.

This is a most rewarding book to read. It is the sort of book that one can pick up and find just the message that is needed at a particular moment.

In the current issue of Roll Call, the newspaper of Capitol Hill, Dr. Harris' book received a very fine, touching review by Allan C. Brownfeld. It ably sums up the essence of Dr. Harris' thoughts and life, and I commend Mr. Brownfeld for his beautiful essay.

Mr. President, I ask unanimous consent that the review of Dr. Harris' "Spires of the Spirit," by Allan C. Brownfeld, published in Roll Call of December 10, be printed in the RECORD.

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

DR. HARRIS' SPIRES OF THE SPIRIT

(By Allan C. Brownfeld)

It must be a difficult task to speak about ultimate things in a body as devoted to the transitory and momentary as is the United States Congress. Yet, Frederick Brown Harris, in his capacity as Chaplain of the Sen-

ate for more than twenty five years, did precisely this. He attempted to glean from events their transcendental importance, to tell men that how they treated one another was, in the long run, far more meaningful than the material rewards they might manage to gather for themselves.

This month a collection of Dr. Harris' prayers, together with a number of his columns, "Spires Of The Spirit," which appeared each week in the Washington Sunday Star, have been published by the Bethany Press, edited by J. D. Phelan. Those who knew and admired Dr. Harris, who died at the age of eighty seven several months ago, will want to have a copy of this thoughtful and inspiring volume.

His writings really represent a panoramic look at the problems of our age. Today we witness untold thousands of young people leading aimless lives "dropping out" of the society, leaving their families behind. One thing so many young people have never received from their parents, their friends, or their teachers is what Dr. Harris calls "One good scoop of flattery."

In this connection, he tells the story of Jesus and Peter: "It can be said that Jesus gave Simon Peter a pat on the back when he called him 'rock,' at the very time Peter was counted, by men who had experienced his fickleness, as the most fluctuating one of the group. That attitude, assuring him that the Master was confident he would make it, that he was on the way to deserve the name Jesus had given him, was a powerful reinforcement in the battle for sainthood he was waging." The two kinds of people who exist in the world were reflected this way in a poem quoted by Dr. Harris: "There are two kinds of people./ You meet them/ As you journey along life's track,/ The people who take your strength from you,/ And the people who put it all back." The role of Christian, clearly, is the latter.

Discussing the effect which the modern world has had upon those who live in it, Dr. Harris notes that "The push of progress, the pressure of propaganda, and the drive of mass production have not enriched the quality of culture. They have robbed us of peace and poise, filled our hospitals with neurotics and the streets of our cities with hurrying people who have forgotten even the grace of courtesy and have lost the sublime secret that to 'give is to live.' As an observer of our Main Streets has put it, 'They jerk their way through hectic days with an acceleration beyond the capacity of the human spirit to endure.'"

Is Dr. Harris really relevant to the problems of 1970, to the criticisms of the young, to the quest for meaning being pursued by the legions who attend rock festivals and sensitivity groups? To those who seek to escape from the world and find their own personal answers through drugs or in some other form of escape, Dr. Harris replies: "Surely the call of this decisive day is away from know-how to know-why and know-where. It is a summons to halt—to be still—and enter into refreshing realization of the things we can get along without. . . . All real triumphs are won not out of the world, but in the world." One wishes the "gurus" followed by the young told them the truth about the human condition, and did not offer them the tranquilizers of narcotics or "Consciousness III." The truth remains what it is, and will have to be faced another day.

Each of us must face what Robert Louis Stevenson called "a banquet of consequences," and Dr. Harris reminds us that men cannot expect a harvest of grapes from thorns or figs from thistles. Thus, despite the repeated discussions of heredity and environment, of poverty and discrimination, men remain responsible for their own fates. The factors of destiny are not only heredity and environment, Dr. Harris points out, but include self and God as well: "The prophet Ezekiel, more than 500 years before Christ, gave to mankind the charter of liberty for which we are fighting today. He determined to stop the mouths of men who were pleading the sins of their fathers to explain their own wrongdoing. The prophet met the excuse of heredity and environment with a great and universal truth, as spoken to him by God. Here are the momentous words: 'Behold all souls are mine.' That is to say, every individual soul is related to God. We do draw from the past, but that which we derive from the past is not the whole of it. We derive also from God." How revolutionary, in this sophisticated age, to say that man is responsible for the consequence of his acts? And how true.

Dr. Harris also confronts the current thinking of so many that the state is the answer to all of our problems and that citizens somehow have a "right" to the fruits of the labor of others. In a column entitled "Putting In Or Taking Out," Dr. Harris reflects that "in the days when America's other name was Opportunity, the national emblem might have been a stairway—a stairway kept open from the bottom to the top—up which any individual could climb who was ready to pay the cost in effort. Of course, it was always inherent in the American conception that those who could not climb for reasons for which they were not responsible must be assisted and sometimes carried by the strong. . . . But . . . now many seem ready to put the stairway to be climbed by personal exertion in the museum . . . and to adopt in place of it, as a symbol of American society, a moving escalator which carries all people up automatically, whether they themselves move or not."

Is it truly "moral" and "ethical" as socialists have long claimed, to give someone "something for nothing?" Dr. Harris responds that "Life that is geared as an escalator, although conceivably it might get many material things for people might at the same time do terrible things to people by robbing them of self-respect and a sturdy independence which fosters personal initiative and develops character. Anyone who understands human nature knows that when any system takes away from a man the lure of accomplishment by his own prowess and powers, it is tampering with something very precious—his opinion of himself."

Christianity's central theme is personal responsibility. One of its fundamental principles is: If a man shall save his life, he shall lose it. That puts life abundant, as Jesus taught it, at the disposal of those whose ruling passion is not "How much can I take out?" but "How much can I put in?"" Dr. Harris writes that "The symbol of all that now, in this desperate day, has made our American democracy mighty enough to be the greatest factor in saving the world from the horror of regimented Communism, is not the automatic escalator on which people ride, but the stairway up which people climb."

Is unbelief really growing in the world? Dr. Harris doubts it, for the results of atheism are too grave: "It is that souls which have shone with the radiance of faith and hope and love, of honor and valor and self-sacrifice, can be explained by physical or psychological reaction. It is to believe that even a modern Francis of Assisi can be finished irrevocably and forever by a microbe, by a bullet, or by a drunken driver's unbalanced senses. The unbeliever has to assert that the grandeur and glory of life at its highest and best is just the product of blind chance."

It gives one pause to think of Dr. Harris ministering daily to elected legislators who too often are concerned with personal advancement rather than public service. This volume of Senate Prayers And Spires Of The Spirit will serve as a needed reminder.

INDIVIDUAL AUTHORIZATION FOR CORPS OF ENGINEERS PROJECTS

Mr. CHURCH. Mr. President, in enacting the Omnibus Rivers and Harbors Act yesterday, the Senate authorized a multitude of projects to be undertaken by the Army Corps of Engineers. These projects affect areas so geographically diverse that there is no way any one Senator can know what the effects of these multiple projects will be upon the ecological system of the Nation. No one Senator can be aware of the opposition expressed by citizens in particular areas of the Nation to particular projects. Even given the increased awareness of environmental problems over the past several years, it is a rare case when a given corps project attracts sufficient public attention to be noticed by Members of Congress. It is just a simple fact that no one can assess properly the projects that are lumped together in so large a package as the omnibus bill. The time has come for a change in this shotgun approach to authorizations for the Corps of Engineers.

Mr. President, I serve notice today that I plan to introduce proposed legislation early in the next session which would require all major Corps of Engineers projects to be approved by Congress on a project-by-project basis.

At present, corps projects—when they come to the Senate floor for authorization—are an all-or-nothing proposition. The present system leaves little room for considering projects on their individual merits.

At a time when all were agreed on the need to construct—as fast as possible—flood control projects to save life and property, or hydroelectric projects to light our farms, there was a good argument to be made for the omnibus approach. The omnibus bills expedited consideration by Congress.

But those days are largely past. All too often, today, projects of the Corps of Engineers are much more marginal in terms of cost-to-benefit ratio, and increasingly controversial.

A list of questionable public works projects could go on for pages, as every Senator knows. Not all of them are corps projects, but many of them are. That is why, as we move into the last three decades of this century, it is important that we reflect carefully on each new project we build. What will be its impact on the environment? What will it destroy? What will it add? Are economic benefits outweighed by other factors?

To answer these questions wisely, major projects, at least, should be considered individually, as reclamation projects are, so that Senators might vote on them one at a time, after all of the pertinent information is disclosed.

One conservation group in my State, the Idaho Environmental Council, has informed me of its support of legislation of this nature. The IEC is a first-rate conservation organization which has endeavored to call to public attention the tremendous problems which must be overcome if we are to preserve a livable environment. I would welcome comments from other interested groups with

regard to the framing of such legislation.

Mr. President, I ask unanimous consent that the resolution urging legislation to require project-by-project approval for Corps of Engineers projects, sent to me by the Idaho Environmental Council, be printed in the RECORD.

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

RESOLUTION TO REQUIRE U.S. CORPS OF ENGINEER PROJECT APPROVAL ON A PROJECT-BY-PROJECT BASIS

The Idaho Environmental Council requests that the Idaho Congressional delegation jointly sponsor a bill that would require all U.S. Corps of Engineer projects be approved on a project-by-project basis, as opposed to the present Public Works Omnibus Bill method. The present Omnibus Bill method allows the Corps of Engineers to place all of their projects into one large bill for funding and authorization purposes. The U.S. Bureau of Reclamation must ask for project approval in funding on a project-by-project basis. National Park proposals are acted upon separately. National Wilderness proposals are acted upon separately, except where there is no controversy involved. It seems only fair that the largest and most costly aspect of public works (U.S. Corps of Engineers projects) should be subject to the same type of regulations and authorization procedures as the U.S. Bureau of Reclamation, U.S. Park Service and the U.S. Forest Service . . .

MILITARY SURVEILLANCE OF CIVILIAN ACTIVITIES IN THE UNITED STATES

Mr. FULBRIGHT. Mr. President, the senior Senator from North Carolina (Mr. ERVIN) has spoken at length in this body about military surveillance of civilian activities in this country, and I understand that he intends to conduct hearings on this subject early next year in the Constitutional Rights Subcommittee.

Earlier this year, on March 12 and July 13, I spoke on this matter in the Senate, with particular reference to two magazine articles by Christopher Pyle which appeared in the Washington Monthly, and newspaper coverage by Morton Kondracke of the Chicago Sun Times.

Regrettably, however, the public seemed to demonstrate relatively little concern about military snooping, and apparently the Army has remained largely unimpeded in its infiltration of and reporting on political groups and compiling of dossiers on many of our citizens.

There are some encouraging signs that at last the public is becoming aware of what has been occuring. In large measure this is due to an excellent presentation on this subject on the NBC–TV program "First Tuesday" on December 1.

In introducing the program, Sander Vanocur of NBC said:

Up until now, one of America's most cherished traditions has been that the military should exercise no role in the civilian life of the country, but during our social chaos of the late 1960's, this tradition was modified by the United States Army. Under the law, the Army has a responsibility for suppressing civil insurrections, that is all. It cannot arrest civilians unless there's been a declaration of martial law.

But there is no law governing military investigations of civilians. The Army has its own investigators in every major city and in many small towns throughout the United States. Military intelligence has a web of command centers, regional headquarters, and field offices. Military intelligence operates 300 offices and has approximately 1,000 plainclothes agents within the continental United States.

There was one section of Mr. Vanocur's commentary which was of special interest to me:

One of the most important regional intelligence commands is located in an obscure section of southwest Washington, D.C., not far from the Capitol. The 116th Military Intelligence Group has more than 100 special agents. They use these unmarked government cars. Some are equipped with two-way radios. All are equipped with civilian license plates. The Army agents who use them never wear uniforms. They dress like plainclothes cops.

The 116th Headquarters War Room is on the second floor behind sealed windows. The War Room has been activated several times for use during civil disturbances in the District of Columbia. The 116th also has been used to gather information on Senator William Fulbright and more radical dissenters. These mug shots are from the files of the 116th.

Mr. President, I ask unanimous consent that the transcript of this most significant NBC program be printed in the RECORD.

I would also ask that columns on this same subject, written by Frank Getlein and Carl Rowan, and published in the Washington Star of December 9, and an editorial entitled "How the Army Keeps Tabs on the Citizenry," published in the Washington Post of December 10, be printed in the RECORD.

Finally, I would inform Senators that I have arranged for a showing of the video tape of this program at 3 p.m. on Friday. I would like to invite any interested Senators to join me in viewing the program at that time in the viewing room of the Senate Recording Studio here in the Capitol.

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

NBC NEWS PRESENTS "FIRST TUESDAY"
DECEMBER 1, 1970

SANDER VANOCUR. Tonight, First Tuesday examines the use of United States Army Intelligence agents to spy on American citizens. Up until now, one of America's most cherished traditions has been that the military should exercise no role in the civilian life of the country, but during our social chaos of the late 1960's, this tradition was modified by the United States Army. Under the law, the Army has a responsibility for suppressing civil insurrections, that is all. It cannot arrest civilians unless there's been a declaration of martial law.

But there is no law governing military investigations of civilians. The Army has its own investigators in every major city and in many small towns throughout the United States. Military intelligence has a web of command centers, regional headquarters, and field offices. Military intelligence operates 300 offices and has approximately 1,000 plainclothes agents within the continental United States.

Their normal assignment is to investigate military personnel and employees of defense contractors for security clearances, but at times these agents have been assigned to spy on civilians who are not connected with the Army in any way. Only a few of the men who've been military intelligence agents were willing to tell their experiences on television. For some who feared possible reprisal, we agreed to conceal their identities.

Here are some of the former agents who told their stories.

MAN. I covered demonstrations in and throughout the city of Atlanta, including black people's marches, sanitation strikes, demonstrations against the induction center and anything that might create a crowd of over ten people.

MAN. Up until June of 1970, I was a special agent in U.S. Army Intelligence, assigned to the 116th Military Intelligence Group located here in Washington, D.C.

MAN. I was issued a press card, press credentials, the name was Francis T. Houghton of the Richmond Times-Dispatch. I took the press card and attended a press conference which was given by the Southern Christian Leadership Conference in a basement of an office building in northwest Washington.

MAN. Well, I was a special agent with the 116th Military Intelligence Group in Washington, D.C., and one of my activities while with the 116th was to reinfiltrate antiwar groups, student movement groups in the Washington, D.C. area.

VANOCUR. The United States Army Intelligence Command is headquartered at Fort Hollabird in Baltimore, Maryland. Its symbol is the Sphinx, which Webster says means "a mysterious, inscrutable person given to enigmatic questions."

These men are training to be Army Intelligence agents. Some will go overseas and do highly secret assignments. Others will remain in the United States. The vaults at Fort Hollabird contain files on millions of people who have been routinely investigated for normal Army security checks. The Army's entire domestic intelligence network is directed from here.

One of the most important regional intelligence commands is located in an obscure section of southwest Washington, D.C., not far from the Capitol. The 116th Military Intelligence Group has more than 100 special agents. They use these unmarked government cars. Some are equipped with twoway radios. All are equipped with civilian license plates. The Army agents who use them never wear uniforms. They dress like plainclothes cops.

The 116th Headquarters War Room is on the second floor behind sealed windows. The War Room has been activated several times for use during civil disturbances in the District of Columbia. The 116th also has been used to gather information on Senator William Fulbright and more radical dissenters. These mug shots are from the files of the 116th.

These photographs were taken by agents of the 113th Military Intelligence Group at a demonstration on the University of Minnesota campus in Minneapolis.

These photographs were provided to Military Intelligence in Minneapolis by local law enforcement agencies. In this one, subject No. 2 was identified as Francis Robert Shore, a graduate student at the university.

Military Intelligence was interested in many people in the Minneapolis-St. Paul area. Among the subjects identified in the files were black militants Arnold Murray and Kelly Moore. This card index was prepared by Military Intelligence. Among the entries, "Benner, Bradford" identified as president of the St. Paul NAACP. "Irvin, Lewis" identified as director of the St. Paul Department on Human Rights. "Hangar, Jane" listed as an employee of the YMCA. "Maxwell, Grover" identified as professor of philosophy. He is a prominent University of Minnesota faculty member, as is David Noble, a long-time professor of history at the university. And "Stone, Lucian Scott"

identified as Minnesota Campus Coordinator for the Poor People's Campaign.

More than four years ago, the Army Intelligence Command sent out this directive by teletype to its regional offices around the United States. Military Intelligence agents were requested to be on the alert for anti-war literature, leaflets, pamphlets, and brochures. As of August 11, 1966, the Army was officially involved in developing information about various peace committees. But a year earlier, the Army was actively observing the anti-war movement in Oklahoma City. A U.S. Army Intelligence agent had been assigned to march with and report on this small group of anti-war demonstrators outside the Federal Building.

The peace movement was just getting organized in 1965, after President Johnson ordered the commitment of American combat troops in Vietnam.

President JOHNSON. I do not find it easy to send the flower of our youth, our finest young men, into battle but we will not surrender and we will not retreat.

SONG

How many times must the cannonballs fly
Before they're forever banned?
The answer, my friend, is blowin' in the wind.
The answer is blowin' in the wind.

ANNOUNCER. The Peace Movement coincided with America's urban riots and by 1967 when troops were called to end the Detroit riots, the Army was told to prepare for possible riot duty in 25 cities simultaneously. This caused the Army to intensify its domestic spying operations.

MAN. Well, as part of the responsibility assigned to the Army, at the request of the Department of Justice, I want to emphasize the Army did participate in the collection of some information that would be helpful to the Army, if necessary, in carrying out this system through civilian authorities.

MAN. If they were using Army personnel to investigate individuals who it might be thought would try to incite to riot, or something like that, then that is absolutely intollerable in a country that would be free. That cannot be permitted.

ANNOUNCER. Nonetheless, even further demands were made on Army intelligence by escalation of anti-War protests to the Pentagon itself and by the political assassinations of 1968.

ANNOUNCER. The murder of Martin Luther King produced riots in Washington and a greatly expanded role for military intelligence.

MAN. By 8:30, I think, on the evening that Martin Luther King was assassinated, the 116th had decided to go on alert and to call in all of their personnel.

MAN. There was kind of pandemonium at the time because they had no operations plan to follow.

MAN. I was dropped off at a precinct in Washington to act as police liaison.

MAN. I was assigned immediately with two other agents in a military vehicle, an unmarked military vehicle, and we proceeded into the Northwest Washington area. This vehicle was equipped with a radio, with a portable radio, and we reported in the activities that we saw in the riot-torn area that night.

MAN. My unit called and they wanted a list of all people who had been arrested, what they had been arrested for and so forth at this precinct. And so I copied down, I don't know, between 50 and 60 names, I would imagine, of people who had been arrested and booked at that precinct for anything connected with the civil disturbances going on at that time.

ANNOUNCER. 1968 was a traumatic year in the United States, but no single event attracted more attention from military intelligence than the death of Martin Luther King and the events which followed. This man, whose identity cannot be disclosed, was an Army Intelligence Agent based in Atlanta. Using a dictaphone, he recorded specific details of his assignment for N.B.C. News Reporter Tom Pettit.

TOM PETTIT. The funeral services for Martin Luther King were held in Atlanta on April 9, 1968. They began at Dr. King's home church, Ebenezer Baptist. Military Intelligence in Atlanta had all of its agents on duty that day. One of them said the military was very uptight about the funeral. They thought all hell would break loose that night in Atlanta.

ARMY INTELLIGENCE AGENT. All M.I. units were immediately put on alert and told to report to the Field Office where they remained for the entire time of the funeral, except when they were sent out in the field to cover the funeral itself.

AGENT. We . . . were given certain requirements from our Commander, that we had to cover every step of the funeral. We had to report on all dignitaries and personalities of any importance that were entering the area during the funeral, to include the Vice President of the United States. We were given no clear point for covering it, just that this was a black funeral and it was anticipated there might be disorders or perhaps a racial problem because of the funeral itself.

AGENT. There was a strong possibility in the eyes of the Army that this would create a racial problem, specifically some kind of demonstration or even a riot. . . . was fear for what might happen.

PETTIT. As the funeral cortege moved through the city of Atlanta, Army plainclothes agents moved with it, mingling with the crowd. Their job was to note the location of the procession and report back by radio or by telephone.

Even though the entire event was carried on national television, agents were encouraged to get as much information as possible. One agent radioed in from an unknown vantage point, "Here comes the parade." His terminology was quickly corrected by another agent, a black agent who cut in on the radio to say, "It's not a parade."

AGENT. Two agent teams were assigned to march with the funeral procession itself throughout the whole course of the procession. We were told by our superiors that this had to be covered—that every fifteen minutes a report had to be telephoned via a hot line expressly established for this funeral back to Fort Holabird reporting the activities of the march itself, with emphasis on being ahead of A.P. and U.P.I. wire service on all reporting information. They wanted to know exactly who was there, how many people were marching in the crowd, what the breakdown of the crowd was—did it look like a hostile crowd? Was it an economicaly made up crowd of poor people, rich people, middle class people? Were there a lot of students in the crowd? Were there many militants in the area—just a complete breakdown of anything we might be able to give.

PETTIT. As things turned out, there was no trouble in Atlanta that night, despite the Army's fears. But as a precaution, all available military intelligence agents were kept on stand-by duty.

ANNOUNCER. Exactly one month later, on the night of May 19, 1968, there was an enthusiastic meeting at the Atlanta Civic Center Exhibit Hall for members of the Poor Peoples' Campaign who had stopped here on their way to Washington, D.C. Among those who appeared that night were The Supremes, the Reverend Ralph Abernathy, and Mrs. Corretta King.

One of the spectators was a special agent for military intelligence. The agent was not seated in the audience.

AGENT. My assignment was to maintain complete watch over the rally at the Exhibit Hall. I was stationed in a projection booth over-looking the Exhibit Hall itself on top of the stage. I was to report on all the key speakers at the rally and to what their comments was.

ANNOUNCER. One of the speakers he heard from that listening post was Mrs. King.

Mrs. CORETTA KING. There is a need to rededicate ourselves and recommit ourselves to bring about the kind of society and the kind of world where men and women, boys and girls, can really build in dignity and freedom and justice and in peace.

AGENT. When Corretta King spoke, she told the audience about how her husband had had a dream and now this dream was going to come true. When I called this in to the Field Office, I spoke to a Captain at my headquarters. He wanted me to go back and find out what dream she was referring to.

MARTIN LUTHER KING. I have a dream. My poor little children will one day live in a nation where they will not be judged by the colors of their skin but by the content of their character. I have a dream.

AGENT. It seemed to me that M. I. was getting involved in a field that they didn't even know what it was all about.

ANNOUNCER. On May 10, 1968 before resuming the trip to Washington, many members of the Poor Peoples' Campaign made a pilgrimage to the grave of Martin Luther King at Southview Cemetery in Atlanta.

MAN. We thank Thee, Our Father, for this, our fallen leader beside whose grave we now stand with heads bloody but unbowed.

ANNOUNCER. Across the street from the cemetery an unmarked Army vehicle was parked at a shopping center. In it were two military intelligence agents. Their assignment was to observe and report the license plate numbers of cars which brought people to the cemetery.

One of the agents came over here to mix with the crowd and jot down notes of what people were saying.

AGENT. One agent was told to remain at the graveside at all times and to listen in on the crowd of mourners to see if there was any possibility of any racial overtones which might develop into a riot or a demonstration.

ANNOUNCER. Graveside surveillance was by no means the end of military intelligence interest in the Poor Peoples' Campaign. The Army maintained an extraordinary interest.

These people had been followed into Atlanta by Army agents in unmarked cars with civilian license plates. They were followed in Atlanta. They were followed out of Atlanta. They were observed and counted while boarding busses and getting into cars. Then they were followed all the way to Resurrection City in Washington. Where the poor people went, the Army went.

The Poor Peoples' Campaign also was sending mule teams to Washington from various parts of the South. They too were followed.

AGENT. That was probably one of the largest operations I have participated in in Army Intelligence. The Atlanta Field Office established contact with the mule team when they entered Georgia itself. Approximately twelve agents met this caravan coming into the state. The mules were surveyed from that point on all the way through their trip into Georgia. They were constantly surveyed to include the number of mule trains, the number of people on the trains and the number of mules, to differentiate between the number of horses since they couldn't supply enough mules. It was a very strong requirement of the Army to know the exact number of mules and the exact number of horses at all times. I took pictures for the military and I also had my private camera with which I took some of my own pictures of the mules and of the caravan itself. And when they left Georgia, another team of agents or another group of agents, I should say, would take over at that point and follow them on into D.C.

ANNOUNCER. In Washington, the Poor Peoples' encampment at Resurrection City became a full time assignment for agents of the 116th Military Intelligence group.

MAN. The 116th continued a constant surveillance, 24 hours a day, seven days a week. And Major Poole was a black Army officer in the Intelligence command and he was sent into Resurrection City to gather information.

MAN. I don't know if he ever had to use a cover story, but he entered it surreptitiously. In other words, he did not enter it as a member of Army Intelligence and say, "I am a member of Army Intelligence and I'd like to talk to you."

MAN. He would be dressed generally in a pair of blue jeans and a sweater or a sweatshirt.

MAN. He was there to obtain whatever information he could as to what the Poor Peoples' Campaign's plans were for the next day, for the next week, this sort of thing.

MAN. Most of it was visual information, like counting the numbers of the shanties that had been built, anything more that was built, checking out information like this. He was requested to get information on the sanitation facilities, the depth of the mud when it rained so heavily there and information of that nature.

MAN. His reaction as I remember it at that time was one of fear.

MAN. He was conspicuous in the sense that he was a tall man and he had a short haircut. He did not have a beard. He didn't really fit in with the average type of person that was in Resurrection City.

MAN. Well, he was probably afraid that if it was found out that he was a member of Army Intelligence and actively attempting to gain information for them, some of the residents of Resurrection City might have been a little irate.

ANNOUNCER. The Army's domestic spying operations were first disclosed last January by a former Intelligence officer, Christopher Pyle, in the magazine, Washington Monthly. Since then the Army claims it has suspended most of its dossier collecting. But it still has files on civilians, as do the Air Force and the Navy. The escalation of political protests and the new phenomenon of political bombings have raised complex questions about the Constitutional propriety of keeping files on people. There is a vast intelligence network in the United States, much of it legitimately concerned with the prevention of crime. What concerns civil libertarians is the inter-locking relationship between the military and civilian police agencies in keeping track of dissenters.

MAN. One of the most efficient civilian intelligence operations is run by the Philadelphia Police Department. Even an eminently peaceful Earth Day protest last Spring came under close scrutiny by the Philadelphia Civil Disobedience Unit.

MAN. Until this year Philadelphia police and military intelligence had a full-scale exchange of information about protestors.

MAN. Oklahoma City is 1500 miles away in a far more conservative part of the country.

MAN. Even mild protest is not generally considered to be very patriotic here. In 1968 youthful demonstrators who were protesting an appearance by Selective Service Director, Louis Hershey, found themselves quickly under arrest.

Three months later, Oklahoma Governor, Dewey Bartlett, created a super-secret intelligence agency to collect information about would-be trouble makers. Governor Bartlett believes the agency has had a deterrent effect.

GOV. DEWEY BARTLETT. We feel that our record of having a very small amount of trouble in the state, we think that this has resulted from good intelligence, good information that's been available to the campuses, to the law enforcement agencies, to this office, on what is going on, what might be going on, or what might be contemplated in our area that would be in violation of the law.

MAN. The Oklahoma C.I.A. is uniquely military. Its headquarters are also the headquarters of the Oklahoma National Guard. Nearly half its budget comes from the National Guard. It is headed by a retired Army Lieutenant Colonel, James Defrates.

JAMES DEFRATES. We have in excess of 6,000 names. We have approximately 10,000 instant reports on violence since we first started operating back in July of '68. It's only been recently, I suppose, that there's been widespread knowledge of the existence of our agency.

MAN. Colonel Defrates' agency shares intelligence with the state and local police departments in Oklahoma and elsewhere. For this purpose, it obtained a $29,000 subsidy from the United States Justice Department. Colonel Defrates is extremely dedicated to the pursuit of information.

DEFRATES. When the information comes in, then it would go to a central desk here in our office where it would be screened.

MAN. Most intelligence agencies collect articles from the underground press. One former agent said papers like the Berkeley Barb would go out of business if it weren't for police subscribers looking for information.

MAN. It can come to us from the regular press, from the weekly newspapers, names and so forth. It can also come to us through police sources. Now this would be then "sheeted", as we call it, putting it on a blank sheet of paper and then we put the incidents into packets of 50 each, and of course then file away.

The other processes that are involved here would be the extracting of names, possibly of the reports there as they come in, and filing them in a separate file.

Of course, before this is done, we have to have some way of being able to reobtain this information at the time that we want it so we do have a system for cross-indexing it and filing it in such a way that we can enter our files and obtain it in several different ways.

I would say that approximately a third of the names we have on file are from the sooner State, the majority, of course, from out of state.

Our effort is one not of trying to actually hold down dissent because we feel that everyone should have a right to dissent as long as it's legal dissent.

INTERVIEWER. Are there names of good Oklahomans in the file?

MAN. I'm sure there are.

INTERVIEWER. How do they get there?

MAN. Well, this would be in the same way as obtaining any other information, through the system we have for collecting information and for filing it.

INTERVIEWER. What I mean is, how would you happen to get the name of a perfectly law-abiding citizen, non-controversial person?

MAN. Well, it might well be that this individual was not known to someone and as a result his name was reported.

INTERVIEWER. And it could then find its way into the file?

MAN. This could be true of anyone who's not identified, certainly, as to what his actions may or may not be. But the mere fact that the name's in the file is no indication of what the individual is or does. In many instances it might well be a safeguard.

INTERVIEWER. If you check out a name and find that the person is, as a policeman would say, clean or law-abiding and has, in a sense been cleared, would you then remove that person's name from the file?

MAN. No, not necesarily so. In fact, I don't recall ever removing any names from the file.

INTERVIEWER. Do you get information from or give information to federal agencies, the F.B.I., military police, military intelligence, the Justice Department? Do you have a sharing arrangement with them?

MAN. We do share with various intelligence agencies so far as our contribution of the information that we pick up. We do pass it to various federal agencies.

INTERVIEWER. Which ones?

MAN. I'd hate to—I wouldn't want to specifically state at this time, I don't think that it would be appropriate for me to, if you don't mind.

ANNOUNCER. This man was a military intelligence agent with detailed knowledge of the Army's relationship with civilian agencies in Colorado Springs, Colorado.

MAN. Military intelligence Detachment out at Fort Carson had very good liaison with local city agencies and the local F.B.I. They were in touch with the Colorado Springs Police and worked closely with them. They had excellent liaison with the city government, the sheriff's office. El Paso County Sherriff's Office.

ANNOUNCER. Fort Carson is just one of many military installations in the Colorado Springs area. Last Fall Army agents were fully deployed when students at Colorado College took part in a mild anti-War Moratorium in conjunction with similar activities all over the country.

MAN. I was in on sort of the planning staff of the Moratorium in October, October 15th, and helped get publicity out and helped decide what would be done and that sort of thing. There was extensive coverage of this Moratorium activity by military intelligence.

MAN. They held a rally at Acacia National Park, which is close to downtown Colorado Springs. From the rally they marched up to Colorado College, which is about 10 blocks away. When they got up to Colorado College, they went to Shove (?) Chapel to hear a series of speakers. It was scheduled to be an all-night speak-in against the War.

Our office had at least a half a dozen agents covering the Moratorium. They had four or five agents inside the chapel while people were speaking and they had a radio car outside the chapel. The agents would go in and take notes on who was speaking, what they said, if any military personnel took part and they wanted to know everybody who took part. They wanted them all identified, including the clergymen and the people from the civilian community. And then they would come out to the radio car, or one of them would come out and feed this information out to Fort Carson by radio. I was at the other end of the radio recording the information as it came in. I would write down who spoke and a synopsis of what he said.

MAN. There is a general feeling, though, a very definite feeling, especially among those who are most active in the Peace Movement, that they are being constantly watched, that their phones are being bugged, that their actions are being taken down and written up in dossiers out at the Fort and other places.

MAN. I believe there is some danger if civilian official, citizens and also officials, lean upon the Army, look to the Army without first assuming responsibility themselves. The Army reluctantly undertook this task and ever since that time—that is since '69, certainly, there has been a very very sharp reduction in the Army's collection of information for civil disturbance.

ANNOUNCER. However, the Army still maintains files on civilians at this ordinary-appearing office building in Alexandria, Virginia. The microfilm files of the Army's counter-intelligence analysis division contain both foreign and domestic reports. The microfilm files are top secret.

In addition to the microfilm, raw information on civil dissenters is stored at Fort Holabird, Maryland. Senator Sam Ervin of North Carolina, a conservative Democrat, has been highly critical of the military for keeping files on civilians. Senator Irvin's subcommittee on Constitutional rights will hold hearings on the subject probably late in January. The Ervin subcommittee will be told of the

top secret role of Army Intelligence at the 1968 Presidential nominating conventions. That case study is next.

By mid-summer of 1968, military intelligence was deeply concerned with America's most fundamental political process, the Presidential nominating conventions. The Republicans met that year here in Miami Beach, Florida. It was the first week of August.

ANNOUNCER. The military intelligence contingent had its own command post inside the Convention Hall. The commanding officer of the 111th Military Intelligence group had come here from his headquarters in Atlanta. The Army agents wore plainclothes and had credentials for access to the Convention floor. And they had a specific job to do.

Here is Seymour Gelber, who was Security Coordinator at that time for the Miami Beach Police Department.

SEYMOUR GELBER. Early in this Convention, it was determined that protest was going to be acceptable. Army Intelligence basically contributed the knowledge that they had obtained through the years of their investigations concerning people who might be causing trouble in situations. . . .

Army Intelligence and Navy Intelligence resulted in taking still shots and then going downstairs and having another team examining each one of these still shots to determine any suspicious individuals whom they could recognize were present.

The Army Intelligence as well as Navy Intelligence had rather complete files on people who might be trouble-prone and they also had contact with Washington and other parts of the country where they could get immediate information on any of these individuals, should that be necessary.

RICHARD M. NIXON. Tonight I again proudly accept that nomination for President of the United States.

GELBER. It seemed to me that everyone had some form of a walkie-talkie. The Army had a rather sophisticated one which were concealed on individuals and they were able to maintain communications with agents who were serving among groups in effect in that their identity wasn't revealed. Again, the Army, even within our group, doesn't and didn't make available all the details of the sophisticated devices they had, but there were many and they were all put to use. In addition to that, housing was at a premium during the Convention and they wanted to have all federal forces located at one site and so they merely moved the ships here and housed—there were probably as many as a thousand federal forces here—and just housed them there, kept them quarantined on board. I understand morale wasn't too good, that they couldn't get around to see Miami Beach too well, but I think it helped in being organized for this short period.

ANNOUNCER. The United States Secret Service was in charge of security for individual Presidential candidates at the Republican Convention, but the job of security at Convention Hall involved many agencies. Among them was the United States Marine Corps which had helicopters circling overhead in the event it would be necessary to make a hasty and immediate evacuation of any one of the candidates.

GELBER. These helicopters had special equipment wherein they could come down into a crowd and the individual, one of the candidates, could be lofted away into the sky to safety.

I would say that half a dozen people were apprehended here who were suspicious and some of them had charges filed against them and some of them merely were removed from the premises.

During the last convention, after we made all our plans, we ended up with the thought that we would pray for rain. I don't know that praying for rain will satisfy the problems of the next convention.

ANNOUNCER. America's troubled summer of 1968 came to a climax in Chicago. The Democratic National Convention attracted most of the forces of protest about which the Army had been so diligently collecting information. When delegates arrived at the Chicago Stockyards International Amphitheatre, the Army had 7500 combat troops on stand-by and military intelligence agents deployed around the city. Some of them with top secret electronic devices.

The total military involvement in the Democratic Convention was complex. Long before the Convention opened, Army Intelligence was advising the Illinois National Guard in addition to making its own plans. Those plans included the use of the ultra-secret Army Security Agency.

MAN. About a month before the Chicago Convention, I handled the visuals on a briefing which was more or less laying out the plans for what the agency was going to do in support of the total Army effort in Chicago.

MAN. We used equipment which were either hand-held equipment or equipment in jeeps or equipment in vans which were camouflaged to suit the area, say television repair, something that's not specific, but something to that effect. But inside a van, something like a Ford Econoliner or a Volkswagon van, you'd find a lot of equipment, a large set that would be, say, two people in the back and one man driving and a radio direction finder in some of them which would be able to track where this individual pickup was coming from so that you could get closer to it and perhaps get a better recording to it.

MAN. Prior to the convention, I extensively briefed Brigader General Dunn of the Illinois National Guard on groups and individuals who might demonstrate there. And he wanted a great deal of intelligence support for his efforts. We also received right after the convention a great amount of videotape film taken by Intelligence personnel of the actual disruption that occurred in the area in Chicago. An officer in Army Intelligence was sent there to represent the Assistant Chief of Staff on Intelligence and actually wound up inside the Convention on the floor of the convention.

MAN. In the case of the briefing after the Chicago incidents, there was a great emphasis put upon a telephone conversation which had been monitored. How it was monitored I'm not going to say, but with monitors from McCarthy headquarters, from the Hilton Hotel. Two, as they always put in briefings, a known left-wing organization which was offering medical help for people who had been injured in the rioting. They used this as an example of the quality of the overall effort they had in Chicago.

MAN. I don't recall there being a specific file on Eugene McCarthy, but, of course, the activities which McCarthy was involved in dealing with the New Left and having the support of the New Left were monitored closely.

ANNOUNCER. It should be noted that Ron Webber, the young man who told about the Army Security Agency, is a deserter and was interviewed in Toronto. But his veracity has been checked with a former associate who recieved an honorable discharge from the Army.

The inauguration of Richard Nixon took place against a backdrop of potential disorder. The same forces of protest involved at Chicago were planning a counter-inaugural demonstration. President Johnson had ordered unprecedented security, but the incoming Justice Department was demanding an open show of force by Army troops. However, Army Intelligence already had been assigned to infiltrate the protestors.

David Johnson, who is now a university student on the West Coast, was an undercover military intelligence agent posing as a student in Washington. He was given Army money to spend and told he could supply protestors with liquor or marijuana if needed to keep his cover.

DAVID JOHNSON. We were told even if we needed marijuana that we could have it, but not to get caught with it.

INTERVIEWER. Were you ever given marijuana.

JOHNSON. No I was never given marijuana by the Army.

INTERVIEWER. Do you know of any agent who was given marijuana by the Army to use in this kind of work?

JOHNSON. Not while I was there. No. They told us if we really needed it, if it was offered to us by the students, to take it and use it if we wanted to and that they had made arrangements with the Metropolitan Police in Washington, D.C. to clear us of any charges that might come up if we were caught with possession of this drug or anything of that kind. We were given funds by the Army to meet any and all expenses on our part as far as taking these people out to a bar for a drink, a tavern for a beer. It was considered preferable by the Army to have social contact. They thought we'd learn more that way. We went to several taverns with these people. As often as possible, the Army itself, if we went to these parties, they'd purchase the liquor that we drank at a party and gave it to us before we attended the party because they could buy it cheaper on the post.

INTERVIEWER. Do you remember any names from the 116th files?

JOHNSON. Well, we were given card files from the 116th files of people like David Dellinger and Rennie Davis, Susan Wilkerson and told to memorize the pictures that were on these files so that we would recognize them at the time. Of course Rennie was more easily recognizable than Dellinger. They were easy to spot and we simply reported back by pay phone from the streets of Washington, D.C. where and what they were doing, when they arrived at the place, what they were doing there and what they said to other members of the Student Mobilization, attempted to find out what their plans were for the counter-inauguration and attempted to infiltrate the Student Mobilization group which was running the counter-inauguration.

INTERVIEWER. How did you do that?

JOHNSON. We just walked into their office and said, "I'm Dave Johnson and I'd like to help you out." They said, "Sit down. We've got plenty of jobs for you." And we sat down and listened to what was going on, helped print leaflets, ran various errands which they asked us to run because we did have cars and knew the area.

One evening I myself went out with a female member of the Student Mobilization to Georgetown University in Washington, D.C., passed out leaflets and attempted to get the students in Georgetown to attend a film of the Chicago riots during the Chicago Convention.

INTERVIEWER. What did you do, then on Inauguration Day itself?

JOHNSON. Inauguration Day I decided that my assignment was over and I stayed home.

NIXON. And will to the best of my ability . . .

JUDGE. Preserve, protect and defend . . .

NIXON. Preserve, protect and defend . . .

JUDGE. The Constitution of the United States.

NIXON. The Constitution of the United States.

JUDGE. So help you God.

NIXON. So help me God.

JOHNSON. The files contained the names of various high officials within the United States government.

INTERVIEWER. High officials?

JOHNSON. Senators, Representatives, various other officials within the government, all

of whom had at one time or another spoken out against Vietnam.

ANNOUNCER. Most of the former agents I talked with felt that in 1968 and '69 military intelligence had become a national secret police. The Army now claims to have cut back its intervention in civilian political activities, but the military intelligence apparatus remains, secret agents, some of the files, a communications network and sophisticated electronic devices.

The potential for violence seems as great today as it was in 1968, if not greater. For that reason alone, as Assistant Defense Secretary Hankin himself said, the temptation to turn to the Army for an easy answer will remain. There may be a parallel in the widely-quoted comment of an American officer after a battle in South Vietnam, "We had to destroy the town to save it."

[From the Washington Star, Dec. 9, 1970]

CIVILIAN CONTROL OF THE MILITARY

(By Frank Getlein)

The big news so far in December certainly has been the revelations, on NBC's "First Tuesday" and elsewhere, that various branches of the complex military intelligence apparatus have been involved in investigating the activities of American citizens not in the least subject to legitimate military authority.

Subjects of such military scrutiny have included candidates for the presidency and the widow of Martin Luther King. In some cases, the scrutiny has been vaguely related to the mission of the Secret Service in providing for the physical security of the candidates, but in others no such connection has been claimed, let alone established.

In those latter cases, the snooping was done for the sake of the snooping itself as, presumably, a matter of interest to the Army. The interest—from electronic eavesdropping on Sen. Eugene McCarthy's Chicago headquarters to allegedly buying marijuana as a cover in infiltrating Washington peace demonstrations to taking the names of those in attendance at Mr. King's funeral—seems to have been concentrated on peace as a cause. Moreover, the Secretary of Defense while most of this was going on—although there is no real reason to believe it is not still going on—was Clark M. Clifford, and he never was informed, he says, of the activities.

The most astonishing thing about these revelations is the easy way the country, the Congress and the administration have taken it all in stride. The indefatigable Sen. Sam J. Ervin, D-N.C., has announced hearings three months from now, but no one else has said much of anything.

Defense Secretary Melvin R. Laird, who ought to be conducting an intensive and irate investigation, is busy modulating through the usual spectrum of reasons for other, more conventional actions of his commands. The President has said nothing at all, partly because he is slowly but steadily phasing out occasions for him to say anything about anything except what he chooses.

And yet an authentic outrage has occurred, an event which should make us all tremble. The Army has, in the most blatant fashion yet, reversed its traditional and constitutional role of subservience to the civilian government and the citizens. Instead, it has undertaken to survey the citizens, to eavesdrop upon them, and to establish records of such citizens as are in favor of peace.

In passing, the logical deduction would appear to be that peace as such is regarded as inimical to the Army, despite generations of propaganda about our "peace forces."

But that's only in passing. The substance is that the Army has committed an insupportable breach of its proper relationship to the country. It has done so, as far as can be judged by its public responses so far, with no particular thought that its actions of surveillance and record constituted any dereliction of duty—which they obviously do—but in the apparent belief that such activities were a normal part of the Army's mission. This means that, in the Army's view, peace not only is a menace to the Army—lower appropriations, less frequent promotions, fewer house and yard men for general officers—but also is a menace to the country.

The quality of that judgment is less at issue than the mere fact of the Army's making it. This is insubordination of the worst kind, the decision of the servant to keep an eye on the master. In well-run households in the old days of proper servant-master relationships, this sort of conduct was grounds for instant dismissal. Indeed, anything else would have been out of the question.

Somebody somewhere in the Pentagon ought to be getting fired and it ought to be the highest-ranking officer demonstrably connected with the gumshoe operations by the Army against American citizens.

Clifford's ignorance of what his subordinates were up to in spying on his potential superiors is not surprising. The machine is now so elaborate that it works by itself. This is why Secretary Laird keeps shifting from one reason to another for military actions. The real reason is simply that things can be done and therefore they are done.

The revelations prove once again that the major domestic political task faced by this country—and understood by only a handful of men in public life, including Sen. Ervin and Sen. McCarthy (now, alas, retiring)—is to get the military back under and responsive to civilian control.

It will be a difficult job, but it will only get more difficult the longer it is delayed.

MILITARY THREATENING U.S. FREEDOM

Sen. Sam J. Ervin Jr. is a North Carolina Democrat with a drawl as thick as molasses in a blizzard. The senator votes regularly enough with the Dixiecrats to stay tolerable to the worst of his constituents.

Maybe that is why people of Charlotte haven't paid much attention to Ervin's warnings about police state incursions into the once sacred arena of constitutional rights.

Rep. Cornelius Gallagher is a New Jersey Democrat. Many Americans apparently dismiss him as a bleeding-heart liberal when he sounds off against military spying on civilians and a huge military computer that catalogues the patriotism or dangerousness of those who oppose the Vietnam war or some other government policies.

Anyone who saw NBC's "First Tuesday" documentation of Army spying on civilians and of the military's unprecedented involvement in civilian policies, ought to be ready to take Ervin and Gallagher seriously. They have been gutsy patriots—unsung heroes manning the besieged ramparts of constitutional rights.

Because we have had effective civilian control of the military for two centuries, most Americans take it for granted that that is inviolable. But now we know that, using the flimsy excuse that it might be called upon to put down large-scale civil disturbances, the military has burrowed its way into areas and activities where it has no business whatever in a free society.

Exploiting the fears and animosities of a large segment of society, the military has built the trappings and the foundation for a woefully oppressive society, to be kept that way by a sprawling network of secret police.

Consider just some of the things that have happened:

Military agents with sophisticated electronic gear spied on both the Democratic and Republican political conventions with the national party chairmen, the delegates, and the U.S. attorney general unaware that they were there. Some agents roamed the convention floors and a unit of the top secret Army Security Agency reportedly eaves-dropped on the headquarters of Sen. Eugene McCarthy, D.-Minn., a critic of the war in Vietnam.

Military agents spied at the funeral of Dr. Martin Luther King, filing the names of all who attended, including Vice President Hubert H. Humphrey.

Military agents infiltrated the Poor People's Campaign in Washington and regularly infiltrate youth groups or other dissenters.

One agent testified that the military provided cut-price whisky, promised marijuana if needed, got assurances that agents would not be prosecuted if caught with marijuana—all to make it easy for the agents to infiltrate protest groups.

At Ft. Holabird, the Army was keeping a computerized master file of dissenters, protesters, and others suspected of being less than 100-percent loyal to what the military agents or some other police group regards as "the American way of life."

Ervin and Gallagher have tried to ride herd on the military, demanding that (1) it tell the truth about what it is doing in the fields of domestic civilian intelligence, and (2) it get its nose out of civilian politics and other civilian areas where it traditionally has been forbidden. But the military's response has been slow and evasive.

When the commanding general at Ft. Bragg, N.C., violated a clear Army guideline and forbade distribution of Congressional Record excerpts by Sens. McCarthy, George McGovern, D.-S.D., and Vance Hartke, D.-Ind., Ervin demanded an investigation. Seven months later (a year after the distribution was denied), Army general counsel Robert E. Jordan III wrote that the commanding general's action "was improper."

On another occasion Ervin asked Army Secretary Stanley Resor for a full report "because I thought the Army has no business meddling in civilian politics, or conducting surveillance of law-abiding American citizens, or maintaining data banks on civilians who had no business with the Department of Defense."

Ervin reports that "in March, 1970, I was informed that the Army had unplugged one of its computerized data banks on civilians (at Ft. Holabird) and that it would discontinue a blacklist of dissenters that it has distributed widely. However, many more questions which I and other members of Congress had asked the secretary of the Army remained unanswered."

On June 9, 1970, Ervin got a letter from Col. Robert E. Lynch, the Army's acting adjutant general, indicating what Ervin read as a disengagement from "what has appeared at times to be warfare on American citizens."

But Ervin remained disturbed by the letter because "in some cases, the last half of his sentences seems to cancel out the first half of his sentences."

Ervin's Senate subcommittee on constitutional rights will hold hearings on the whole ugly, frightening mess next month. The public ought not to stop screaming until Ervin calls in Resor, Defense Secretary Melvin Laird, the attorney general, the head of the Secret Service, and anyone else necessary and digs out the whole truth.

Only then will we be reasonably sure again that this country is not on the road to becoming an oppressive dictatorship, military or otherwise.

[From the Washington Post, Dec. 10, 1970]

HOW THE ARMY KEEPS TAB ON THE CITIZENRY

When Thomas Jefferson remarked that "eternal vigilance is the price of liberty," he had in mind a vigilance by free men against the encroachments of governmental authority. But the United States Army of late has got the admonition turned round. It has taken it upon itself to maintain a vigilant surveillance of citizen activities it deems dangerous, thus employing its au-

thority—whether it understands what it is doing or not—to limit liberty by making unorthodox associations and dissenting opinions seem costly and unsafe. The Army is exercising, in short, what Sen. Sam Ervin has called a "deterrent power over the individual rights of American citizens."

In a signal service to the public, Sander Vanocur devoted his First Tuesday program on the NBC network a week ago to an examination, as he put it, of "the use of United States Army Intelligence Agents to spy on American citizens." He presented before his cameras an astounding parade of real and indubitably alive former military intelligence agents who recounted activities which can only be described as chilling. One former agent told of masquerading as a newspaper reporter to glean information about the Southern Christian Leadership Conference; another told of infiltrating antiwar groups and student movement groups in the Washington area; still another told of surveillance at the gravesite of Dr. Martin Luther King "to listen in on the crowd of mourners to see if there were possibly any racial overtones that might develop into a riot or a demonstration."

Reports of these undercover operatives were stored and computerized by the Army in a vast "intelligence" operation designed, apparently, to make known to military authorities the identity of persons who might be "agitators" or "subversives" or "militants" so that, in an emergency, they could be rounded up and kept from making "trouble." Even the Republican and Democratic nominating conventions of 1968 were sedulously monitored by the Army, according to Mr. Vanocur. And constant surveillance was maintained over such events as the Poor People's march on Washington and the Moratorium demonstration here a year ago.

There is nothing new about military intelligence, or even about the fact that it is carried on at home as well as abroad. Mr. Vanocur's service lies in his dramatic reminder to the American people of the domestic peril it presents to them. In the Washington Monthly for January, 1970, Christopher H. Pyle, a former captain in Army Intelligence, told in detail of the military surveillance that is mounted within our borders, asserting that "nearly 1,000 plainsclothes investigators, working out of some 300 offices from coast to coast, keep track of political protests of all kinds—from Klan rallies in North Carolina to antiwar speeches at Harvard." Senator Ervin has thundered about the activity in the Senate and has demanded explanations of it from Army authorities. But one is left with a feeling, as happens so often in these situations, that the Army has redoubled its efforts as it has diminished its candor.

Senator Ervin's subcommittee on constitutional rights will probably hold hearings on military snooping some time after the first of the year, and it is high time. For this business of vigilance and liberty cuts two ways, and it is only by forewarning that a free citizenry is forearmed in defense of its essential liberties.

UNIVERSAL CHILD CARE AND CHILD DEVELOPMENT

Mr. BAYH. Mr. President, earlier today, I held a news conference for the purpose of announcing my intention to introduce at the opening of the 92d Congress a bill to provide for universal child care and development. I am most concerned that our Nation begin to make a definite commitment to serving the many needs of the children of our country, and I certainly hope that the White House Conference on Children that will convene in Washington this weekend will produce very definite and far-reaching results. While I do not intend to introduce my bill during this session in Congress, I felt it necessary, given the need for enlightened suggestions, to offer my proposal for consideration by the participants in the White House Conference.

Therefore, Mr. President, I ask unanimous consent that the text of my news conference remarks and a section-by-section analysis of the bill be printed in the RECORD for the consideration of Members of Congress and the American people as a whole.

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

STATEMENT BY SENATOR BIRCH BAYH ON CHILD CARE BILL, AT PRESS CONFERENCE ON DECEMBER 10, 1970

The French writer Victor Hugo once said, "Greater than the tread of mighty armies is an idea whose time has come."

The decade of the 1960's saw many ideas whose time had come.

We recognized the need for medical care for older Americans.

We recognized the need to break down barriers that prevented some of our citizens from enjoying the full rights and privileges enjoyed by the majority.

We recognized the fact that the Federal Government had a direct responsibility to assist in the education of the nation's children.

All ideas whose time had come; all ideas with sufficient force to bring men together, across party lines.

Now there is another idea whose time has come: provision of universal child care, utilizing voluntary and community organizations and other means, for all mothers who feel their children would benefit from this service.

Actually, it is strange that this idea has been so long in coming. We, who consider ourselves leaders of the free world, have long been surpassed in this area by national child care programs in such nations as Sweden, Israel, and even the Soviet Union.

In addition, we have ourselves had long ago, though partial, experience with the contribution that child care can make to both children and families.

The roots of child care in the United States can be traced back as far as 1863 when Philadelphia mothers engaged in making uniforms and bandages for the Union Army were assisted by a child care center. During the Great Depression poor families and unemployed teachers and nurses were assisted by WPA child care centers. Once again, during World War II, the need for such child care centers was obvious, and many thousands of mothers and children benefited from programs established in centers throughout the nation.

At least we are beginning to understand that child care centers are too significant to become the creature of emergencies. They should have a permanent place in the structure of American social services, because they fulfill a permanent need.

Those needs are both obvious and increasingly urgent. They are needs that are not centered in any one area of the country or in any economic group.

For example:

There are 14 million children in this nation who have working mothers (8 out of 10 of these children are cared for through make-shift arrangements);

There are 2,790,000 mothers who work because they are the sole support of their families;

Of those mothers who work, nine out of ten do so to satisfy an otherwise unmet economic need: basic support; medical bills; to provide for the future education of the children, etc.;

The need reflected by these figures is neither temporary nor declining. Indeed, as we become a more urbanized nation the extended family—with a grand mother or elderly aunt or unmarried sister available to take care of the children—has gradually disappeared. Thus . . . while the proportion of working mothers with preschool children was 10% in the 1940's and 40% in the 1960's, it is estimated that the percentage will increase to between 60 and 70% in the decade of the 1970's; and U.S. Department of Labor Women's Bureau figures reflect a similar trend, by showing that the 3.7 million working mothers with under-5 children will increase to 5.3 million by 1980.

The figures also clearly show that provision of such care would make a measureable and positive economic impact on both national productivity and on the status of the individuals involved, particularly since one-third of all poor families in the U.S. are headed by women. However, the need for child care is by no means confined to the lowest income group since, for example, 57% of all working mothers are from families that have incomes of $6,000 or more annually, and 48% from families with incomes from $6,000 to $10,000 annually. Further, it it estimated, based on 1967 population figures that 10.6 million mothers at *all* economic levels would like to work, including one-third of the mothers now on welfare rolls. The majority of these who would like to work, however, are modest- to middle-income mothers who find it increasingly necessary to supplement their husbands wages to make ends meet. Their earnings often mean the difference in providing full educational opportunity for their children.

Though this program would fill a significant and growing need among mothers who work or would like to work, the major point is that it would have a highly beneficial effect on the children of such mothers. Research on early child development, etc. is providing convincing evidence of the importance to intellectual and character development of the early years. We owe it to the millions of mothers who must work, we owe it to the children, to provide some nationwide, effective, professional network of child care centers.

The Bill I am proposing today—the Universal Child Care and Development Act of 1971—will take a major and much needed step toward providing this network.

Briefly, the bill establishes a new network of public institutions (called the Child Service Districts) for the provision of the variety of services necessary for adequate child care and development. Included among these services eligible for funding are: infant care; comprehensive pre-school programs; general child care services during evening and night time hours; day care programs before and after school; emergency care; day care and night care programs to aid working parents; and combinations of such programs. Health, nutritional, and social services will be an integral part of the programs funded. Planning, research, and construction funds are also provided for.

Each Child Service District will consist of a limited geographic area small enough to reflect the specific needs of parents and children residing in the District. Direct community participation is assured through the election of boards of directors composed of parents of the children to be served. State and local governments will be responsible for developing plans for the District boundaries.

The bill provides for Child Service Advisory Councils to be established in each District to assure the participation of representatives of public and private agencies with established interest and expertise in child care and development services.

My bill calls for an appropriation of 2 billion dollars for the fiscal year ending June 30, 1972, 4 billion for the fiscal year ending

June 30, 1973; and 6 billion for the fiscal year ending June 30, 1974. This level of funding has been recommended by every major organization concerned with providing universal care for American children.

Loans in the amount of 600 million dollars are authorized through fiscal 1974 for construction or remodeling of appropriate facilities—300 million dollars for the fiscal year ending June 30, 1972; 200 million dollars for the fiscal year ending June 30, 1973; and 100 million dollars for the fiscal year ending June 30, 1974. Loans and grants would be applied for and rewarded to the individual Child Care Service Districts through the Office of Child Development of the Department of Health, Education and Welfare.

During this and previous sessions of Congress we have witnessed with approval the introduction of many bills aimed at responding to this natural and proper desire for all Americans, whether poor, near-poor, or non-poor, to have their children receive the benefits of early childhood programs. Some of these proposals have a single purpose, reflecting the Member's concern with a particularly urgent problem that needs solving. Our legislation is designed to provide more comprehensive services, and aims at a reform of all programs now serving young children.

Our concern today in introducing this bill is not only to draw together the best features from all of these proposals, but to take an additional significant step. Not only is there a need for adequate nutritional services, for adequate health services, for educational and social services needed by the child and his family, but also we believe it important that these programs must involve the parents not only in the final stages, but in the earliest, planning phases.

We are aware, also, of the wasteful and unnecessary duplication which has resulted from the fragmentation of these programs among the various Federal agencies. For that reason, it is our hope that comprehensive programs can be designed and administered through this bill, and that one Federal agency can have the main responsibility for seeing that the programs work.

In this bill, also, we have taken that final step which we believe is necessary in fairness to all the American people. We are recommending that *all* children, regardless of income or status, receive those services in such degree and at such locations and during such hours as they require. Recognizing the need for parents to work and to study, but believing that the children of parents who need not be absent from the home also require these programs, we are recommending that child care services be recognized and provided as a matter of right to every child in America, no matter what the income of his family.

Certainly it is in the national interest as well as their own, that our children grow into whole, humane citizens who can function in a democracy. And in fulfilling the needs of these children, we simultaneously serve them, their parents and our society.

In this bill, we stress the developmental nature of these programs because we believe that the years of experience and the results of studies made of Head Start programs demonstrates that early involvement, properly planned, can best benefit all children, not just the few children of the poor and near-poor now served. For this reason, a variety of programs must be provided. Each must meet the needs of the child as an individual, and the individual development of that child must be paramount.

One of the greatest incentives to positive action in the Bill is the benefits our society and economy will realize by allowing parents to take training and employment, safe in the realization that their children are enrolled in quality child care programs. Through this program, then, the professionals and para-professionals needed by the millions in our social services and our industries can re-enter the labor market. Hence, not only will the welfare recipients benefit through finding an alternative to the degrading status of welfare but our economy will benefit from an influx of middle- and upper-income workers into the marketplace. In addition, this bill provides for situations such as visitation to those homes where a child may be too ill to attend his or her child care facility.

It should be noted that this bill defines young children broadly with services to be provided for children from birth through age 14. The legislation is designed to serve this age group because, in the course of each child's development, he requires programs at every stage. Past programs have failed to recognize the need for services for infants and have failed to provide sufficient funds to offer programs that will not produce more human tragedy in the form of psychologically-crippled children. In this bill, adequate personnel will be provided to avoid institutionalized crippling.

At the same time, this legislation will recognize the needs of school-age children for before-and-after school programs and for summer programs. Not only those children that require remedial programs will be enrolled; all children will be eligible for enrollment. Attention under the terms of the Bill will also be accorded to the urban, suburban and rural children who are too often left to their own devices, and who form the seedbed from which springs our growing numbers of juvenile delinquents and drug users.

Another area which this bill emphasizes is the practical need of parents who must take training or jobs, or who are ill, but have no place for their children. Too often, the working parent must work at night; classes in the evening are also common. This bill would provide night-time programs for the children of these parents.

We have still another interest in offering this bill, and that is a desire to restructure child assistance on a more rational basis. Now, it is common for several public agencies to have partial responsibility for children. No local, community-based agency has full responsibility. We wish to change this picture, so that agencies that see childcare as a secondary purpose will still be involved, but the children they are serving will be the responsibility of an agency that has child welfare as its primary job.

There is clearly a need to create a continuing structure which will assume the task of providing child services to the population on a truly universal basis. This permanent structure must be composed of both professionals and non-professionals committed to the task. In that way, citizens employed as para-professionals, can work together with their neighbors who have been trained as teachers and are increasingly unable to find a job. It will be the responsibility of these locally-controlled groups to design and determine where resources can be focused most effectively on the needs of the children involved. Citizen participation, both professional and non-professional, will insure that a broad range of perspective and training is brought to the task. It will also insure that race, economic factors, or even political philosophy will not delay services which are greatly needed by every community.

Parental and community participation is, we have come to realize, a requirement for successful child development programs, particularly those that reflect and build on the culture and language of children, families, and communities being served. At every age, children require services of such range and diversity that without complete parental and community participation, some children will not get what they need. And we must recognize that every child who fails costs society and the community not only in terms of his lost potential contributions but through the very real and considerable costs which he may cause to society as an adult.

To guarantee that parental involvement through this Bill will not be merely advisory, administration and control will be vested in boards of the parents of children who are being served. These boards, given full authority within each community to provide the services needed by that community's children, would operate within broad Federal and State guidelines. Federal standards would of course be required to ensure that Federal funds did not subsidize inadequate or harmful programs. And State participation will be required to guarantee that local planning does not destroy the delicate mechanisms for Federal-State-Local cooperation built up over the past few years. But, at the operational level, community control will be read in the context of parental control.

There is an additional desire accommodated here, the desire that people everywhere have for a greater voice in their own destiny and in that of their children. Perhaps, with the goal of making it possible for all children to grow into healthy, humane citizens we can build a common understanding within our neighborhoods that children are important enough to spur the resolution of our disagreements. This process of resolution involves grappling with the issues of community control as well as other matters of contention that have made public education so controversial of late, particularly in our large cities. Hopefully, the size of the service area proposed in this bill will allow neighbors to work out these tensions, and to build upon, rather than magnify, the diversities which are unique in the American society.

In summary, the act will neither be easy to implement nor inexpensive to finance. To provide what our children need, when they need it, to the extent they need it will require a real, but I am convinced, long overdue and highly creative commitment to reordering national priorities in favor of an investment in human resources. Our children are the Nation's tomorrow and deserve the kind of opportunity this Bill seeks to provide. I believe our society has evolved to a point of humaneness in which it can combine its economic ability to provide child-care with a willingness to do so. In short, this is the idea whose time has come and the Universal Child Care and Development Act of 1971 is a mechanism to translate idea into institution.

SECTION-BY-SECTION ANALYSIS OF UNIVERSAL CHILDCARE AND DEVELOPMENT ACT OF 1971

SEC. 2—STATEMENT OF FINDINGS AND PURPOSE

States (a) the findings of Congress that (1) The provision of adequate childcare, including developmental programs for infants, children of preschool age and children up to 14 years of age in need of such care is of the highest national priority;

(2) adequate family support for the care, protection and enhancement of the developmental potential of children does not now exist;

(3) the mobility of our society has tended to separate family units from traditional family support thereby affecting the quality of life, including the proper care and nurture of the young;

(4) appropriate childcare services and resources are not now available to provide needed family support;

(5) such services and resources are necessary in a modern society to ensure adequate care and development of the children of this Nation, the opportunity for parents to participate as productive members of society and the opportunity for parents to achieve their own potential as humans.

States (b) It is the purpose of this Act to provide financial assistance in order to fulfill the responsibility of the Federal Government to contribute to attaining an optimum level of adequate care, developmental and other services for young children, to help to assure the stability of the family

unit, and to offer an increased opportunity for parents to participate in society at the maximum level of ability.

SEC. 3—PROGRAM AUTHORIZED

Authorizes the Secretary of Health, Education, and Welfare to make grants to the public agencies created by the Act.

SEC. 4—ALLOTMENT OF FUNDS

Allots funds in proportion to the number of children in each state, infant to age 14.

SEC. 5—USES OF FEDERAL FUNDS

Authorizes the use of grants for planning and furnishing childcare services including (a) infant care; (b) comprehensive preschool programs including part day and day care programs; (c) general childcare services for children 14 and under during evening and night time hours; (d) day care programs before and after school for school age children 14 and under in need of such care; (e) emergency care for young children 14 and under; (f) day care and night care programs to aid working parents and (g) combinations of such programs. Health, nutritional and social services will be an integral part of programs funded. Planning, research, and construction funds are provided.

SEC. 6—APPLICATIONS FOR GRANTS AND CONDITIONS FOR APPROVAL

Sets conditions for the application for and approval of funds granted to the Child Service Districts including criteria for fiscal accountability, periodic evaluation, and other requirements as may be necessary to assure proper disbursement of funds. Programs funded must be consistent with criteria and standards of quality prescribed by the Secretary and consistent with the purposes of the Act.

SEC. 7—CHILD SERVICE DISTRICTS

Authorizes establishment of public agencies named Child Service Districts. Such Districts will not be larger than the attendance of five public schools. The geographic boundaries of each District shall be determined by appropriate local officials in each Standard Metropolitan Statistical Area over 100,000 persons. State officials will determine District boundaries in all other areas in given states. Governors of each state shall conduct elections in each district to choose a Board of Directors for each District. Eligible voters are parents having one or more children who have not attained 15 years of age who reside with their children within the geographic area of the District established pursuant to the Act. The Board of Directors will consist of 9 to 15 members. It will plan for, contract for, and operate programs authorized by the Act. In all municipalities having populations greater than 100,000 persons, one or more Child Service Advisory Councils shall be appointed by the chief executive of such municipality. Advisory Councils shall consist of representatives of public and private agencies with established interest and expertise in the area of childcare and development services, and function as a consultative body to the Districts. For those areas of each State not included in municipalities over 100,000 population, a State Child Service Advisory Council will provide consultation.

SEC. 8—LOANS AUTHORIZED

The Secretary of Health, Education and Welfare is authorized to make loans to any Child Service District for construction or remodeling of facilities appropriate for use as Child Service Centers and other facilities deemed necessary to provide services assisted under the Act. Applicants must be unable to secure a loan from other equally favorable sources and must assure that construction and remodeling will be both economical and consistent with delivery of quality service. Loans shall be repaid within twenty-five years. A total of $600 million is authorized to carry out this section; $300 million for the fiscal year ending June 30, 1972; $200 million for the fiscal year ending June 30, 1973; $100 million for the fiscal year ending June 30, 1974.

SEC. 9—RESEARCH, DEMONSTRATION AND TRAINING—PROJECTS AND TECHNICAL ASSISTANCE

The Secretary is authorized to provide for (1) research to improve childcare and developmental programs (2) experimental, developmental, and pilot projects to test effectiveness of research findings; (3) demonstration, evaluation, and dissemination projects; (4) training programs for inservice personnel; (5) projects for development of new careers, especially for low income persons.

SEC. 10—PAYMENTS

Each approved applicant will receive a grant amount equal to the total sums to be expended under the terms of the application or such lesser amount as the Secretary determines on the basis of objective criteria, relating to fees charged to the parents of children to be served, if any, and other similar factors prescribed that the applicant can afford.

SEC. 11—WITHHOLDING OF GRANTS

Grants may be withheld after reasonable notice for failure to comply substantially with any requirement or applicable provision set forth in the Act.

SEC. 12—RECOVERY OF PAYMENTS

Provides that, if a facility which was constructed with the aid of federal funds under this Act ceases to be used as a public childcare facility within 20 years, the government can recover from the facility's owner the portion of its value which is equal to the federal share of the original cost of the building.

SEC. 13—REVIEW AND AUDIT

Provides for access for audit and examination of records by the Comptroller General.

SEC. 14—LABOR STANDARDS

Provides that prevailing wage rates shall be paid to laborers and mechanics employed on construction projects assisted under the Act.

SEC. 15—EMPLOYMENT AND BUSINESS OPPORTUNITIES FOR LOWER INCOME PERSONS

Provides opportunities for training, employment, and business development for lower income persons in the planning and implementation of projects authorized by the Act.

SEC. 16—ADMINISTRATION

Establishes the Office of Child Development within the Department of Health, Education and Welfare to administer the provisions of the Act. The Director of the Office shall report directly to the Secretary.

SEC. 17—EVALUATION AND REPORTS

Provides for complete review of programs assisted under the Act. Requires the Secretary to directly consult with as many of the members of the Child Service District Boards of Directors as possible. Requires the Secretary to submit annually to the Congress a report on the administration of the Act.

SEC. 18—REPEAL, CONSOLIDATION, AND TRANSFERS

Consolidates major early childhood, day care, child service, and preschool programs authorized by existing laws to form a single coordinated comprehensive childcare and development program in the Department of Health, Education and Welfare.

SEC. 19—DEFINITIONS

Defines the terms used in the Act to insure accurate interpretation of its intent.

SEC. 20—AUTHORIZATION OF APPROPRIATIONS

FY 72 $2 billion.
FY 73 $4 billion.
FY 74 $6 billion.

GAO REPORT ON REFUGEES IN VIETNAM

Mr. KENNEDY. Mr. President, as chairman of the Judiciary Subcommittee on Refugees, I should like to share with Members of Congress and others the complete findings of the General Accounting Office study of "Continuing Difficulties in Assisting War Victims in Vietnam." This GAO report, released a few days ago, is the second from a series of reports on war-related civilian problems in Vietnam and Laos which I requested last April.

The findings reported by the GAO fully support the conclusions of a subcommittee staff report issued just 2 months ago. In fact, the GAO findings go even further in exposing the warped sense of reality and progress which pervades so much of our country's activities throughout Indochina.

It has long been recognized that a majority key to successful pacification has been the humane treatment and rehabilitation of millions of war victims. But what do we find after years of war and a continuing rhetoric of progress from official quarters?

THE SITUATION CONTINUES TO DETERIORATE

There is still no formal system of priorities for any nonmilitary U.S. assistance—let alone the important programs for rehabilitating war victims. Field reporting to Saigon and Washington for planning and budgeting purposes is grossly inaccurate and often of no use at all.

Sloppy management, nonutilization and diversion of goods, and illegal distribution continues to mark the extensive U.S. commodity import program for war victims.

In a highly advertised campaign last year, hundreds of thousands of refugees were removed from relief rolls in an apparently deliberate effort to create a facade of progress in the pacification program. But the bulk of these people remain refugees—nearly all of them in need. Thousands of people forcibly moved by the military are given no relief at all. The sluggish attitudes in Saigon have caused numerous refugees to return to Vietcong controlled areas.

Perhaps the most discouraging point in the GAO report is that it documents the simple fact that the United States remains saddled with the same dilemma and the same problems of involvement which it has had to face for several years.

It is clear that the process of "Vietnamization" only prolongs those dilemmas, as it also prolongs the war and the suffering of the Vietnamese people. Surely the time is long overdue to truly shift our focus to the Paris negotiations which can end the war, rather than continue policies which prolong it by proxy.

I ask unanimous consent that the complete text of the GAO report be printed in the RECORD.

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

CONTINUING DIFFICULTIES IN ASSISTING WAR VICTIMS IN VIETNAM

(Report to the Subcommittee to Investigate Problems Connected With Refugees And

Escapees, Committee on the Judiciary, U.S. Senate.)

DIGEST

Why the review was made

Since 1965 the General Accounting Office (GAO) has issued several reports to the Subcommittee on the status of refugees resulting from the conflict in South Vietnam. On April 21, 1970, the Subcommittee's Chairman requested that GAO update the reports.

This report deals with the refugee and social welfare program in Vietnam. Others will be issued on the civilian health and war-related casualty program in Vietnam and similar programs in Laos. To meet the requested reporting date, our observations are based on a less detailed review than we normally would perform.

GAO has not followed its usual practice of submitting a draft report to the responsibile agencies for formal written comment. However, GAO discussed parts of this report with responsible agency officials in Saigon and Washington and their comments were considered.

Civil Operations for Rural Development Support officials, who are under the Commander, U.S. Miliary Assistance Command, Vietnam, and who make up the responsible U.S. advisory organization in Saigon, were especially concerned at what they considered a general omission in this report of positive achievements in the program since GAO's last review. They further emphasized the disruptive effects of the 1968 Tet offensive which necessitated diversion of available manpower and other resources to large-scale recovery operations.

The objective of this review was to answer specific inquiries from the Subcommittee; therefore, no attempt was made to evaluate the positive achievements. Also, GAO's review basically covered fiscal years 1969 and 1970 and therefore GAO was unable to measure the disruptions the 1968 Tet offensive had on the program.

Findings and conclusions

Program management

Although some changes have taken place in the roles of the Government of Vietnam and the United States, overall program management remains in the hands of the Government of Vietnam; advice is provided by American personnel.

Priority accorded to refugee relief

Neither the United States nor the Government of Vietnam has established priorities for U.S. assistance programs. The primary emphasis during 1965–69 was on providing emergency relief in the form of resettlement allowances and temporary homes to the estimated 3.5 million refugees while the needs of other war victims such as widows, orphans, and the handicapped received less attention. Likewise, development of the sites in which refugees and former refugees are located has not received much attention.

Refugee reporting

Since February 1968 the refugee reporting system has undergone three major revisions but the information being reported is still conflicting, confusing, and inconsistent—in part, because it is compiled by untrained personnel. Reliability of the reported data should be improved.

Number of war victims

During 1969 the number of refugees declined from a high of over 1.4 million in February to a low of 268,000 in December. This decrease is misleading because of—

A reluctance by the Government of Vietnam to report new refugees,

A policy of claiming refugees as resettled on the basis of payment of allowances even though many of these people need more help,

An apparent misinterpretation by Vietnamese officials which resulted in refugees being classified as returned to their original village or resettled when the Government of Vietnam only promised to pay allowances,

A policy of classifying refugees as returned to their original village and presumably self-sufficient when, in fact, many of them still cannot earn a living, and

A policy of removing from the rolls refugees living outside of camps who have received their temporary allowances, which terminate benefits until such time as they are able to return to their original villages.

Other persons have suffered because of the war and are in need of assistance—war widows, orphans, and the physically disabled. The actual number in these categories is not known. There are, however, an estimated 258,000 orphans, 131,000 war widows, and 183,000 disabled persons. Some assistance had been provided these people by the Government of Vietnam.

Refugees from Cambodia

About 159,000 persons had left Cambodia as of July 1970 to seek refuge in South Vietnam—10,000 Cambodian refugees and 149,000 Vietnamese repatriates. They are not recognized as Vietnam refugees but are reported separately as refugees from Cambodia.

War Victims in Urban Areas

The number of persons seeking refuge in urban areas (primarily Saigon) is unknown but is estimated at one million. Because of high employment most people find jobs; however, these jobs are usually dependent on the presence of U.S. troops. The unemployed in the urban areas receive no assistance from the Government of Vietnam or the Agency for International Development and are dependent on relatives and voluntary agencies. An estimated 600,000 people are dependent upon the presence of U.S. troops but no plans have been formulated to deal with these people when the troops withdraw. The United States and the Government of Vietnam anticipate that most of these people will want to return to their original homes.

Status of Site Facilities

There is still a considerable shortage of facilities—needed by war victims—such as housing, classrooms, wells, medical and sanitation facilities, and many of those that exist are inadequate.

Level of Financial Assistance

The United States has assisted refugee and social welfare programs in the form of direct dollar funding, local currency funding, and donated U.S. agricultural commodities. This amounted to $49 million in fiscal year 1968 and $53 million in 1969; $60 million was programmed for 1970—a total of $162 million. The 1970 increase is attributed, in part, to feeding Vietnamese repatriates and Cambodian refugees.

Correlation Between Refugees Resettled and Amount of Resettlement Funds Expended

GAO was not able to correlate spending with the number of refugees reported as resettled or returned home because (1) the number of refugees reported to be resettled was not accurate and (2) refugees living in temporary camps, and scheduled for transfer into resettlement sites, did not receive monetary housing allowances if housing was provided.

Government of Vietnam support

The budget for the Ministry of Social Welfare—used primarily for salaries and operating expenses—has been $4 million annually for calendar years 1968–70. In 1970 this was about 6 percent of the Government of Vietnam's total civil budget.

Voluntary agency and free-world assistance

Direct support to the refugee and social welfare programs by these organizations amounted to $3.8 million in 1968 and $4.3 million in 1969. Programmed support for fiscal year 1970 was estimated at $3.8 million.

Piaster fund releases by Ministery of Social Welfare

Slow spending continues to be a problem in the refugee and social welfare program. As a result many refugees vacated controlled areas and returned to Viet Cong areas.

During the first 5 months of 1970, only 12 percent of the resettlement fund and 1 percent of the social welfare fund had been spent. During 1969—the first-year funds were provided for comprehensive social welfare—only 6 percent was used. Of the remaining funds, 28 percent were never spent and 66 percent were authorized for 1970 spending or transferred to other projects.

U.S. commodity support

The United States contributed food during fiscal years 1968, 1969, and 1970 worth $10 million, $14 million, and $20 million, respectively. About half of the commodities are distributed by the Government of Vietnam and the other half by voluntary agencies. The commodities are not distributed on the basis of need and therefore some inequities have resulted.

Numerous nonfood commodities which are designed for refugees appear to have been in storage for a considerable length of time. The commodities belong to the Ministry of Social Welfare, and the United States has been unsuccessful in obtaining action to redistribute the property so it might be better used by other Ministries.

Matters for consideration by the subcommittee

The Subcommittee may wish to bring this report to the attention of the Agency for International Development for possible use in improving its management of the program.

CHAPTER 1. INTRODUCTION

At the request of the Chairman, Subcommittee To Investigate Problems Connected With Refugees and Escapees, Senate Committee on the Judiciary, in a letter dated April 21, 1970, the General Accounting Office (GAO) has examined into the refugee and social welfare programs in Vietnam.

Specifically, the Subcommittee requested that we update the information contained in our earlier reports on the refugee program. In addition, the Subcommittee was interested in (1) the effect of Vietnamization and what it means in terms of refugees, (2) the relocation of refugees from refugee status to "relocated" or "resettled" status, and (3) the social welfare program in Vietnam.

The scope of our review is shown on page 45. Because of the limited time available for presentation of the report to the Subcommittee, our review was less detailed than we normally would perform.

In addition, the subject matter and report conclusions were not submitted to the agencies for formal written comment. We did discuss, however, parts of the report with the agency officials who had responsibilities for the matters covered in this report and their comments were considered.

CHAPTER 2. PROGRAM MANAGEMENT

During our current review we found that, although some organizational changes had taken place in the roles of the Government of Vietnam (GVN) and U.S. organizations, overall program management responsibilities remained relatively the same as we previously reported in February 1968.

U.S. organization for refugee relief and social welfare

In May 1968 the responsibility for social welfare activities was transferred from the U.S. Agency for International Development, Vietnam (USAID/VN) to the Civil Operations and Revolutionary Development Support (CORDS) Refugee Directorate,[1] who come under the Commander, U.S. Military

[1] Effective July 1, 1970, the Refugee Directorate was renamed the War Victims Directorate.

Assistance Command, Vietnam, and in January 1970 this directorate was also given the responsibility for supporting the GVN program for war veterans. In May 1970, the organizational title "Civil Operations and Revolutionary Development Support" was changed to "Civil Operations for Rural Development Support."

The CORDS organization at the staff level includes civilian personnel whose salaries are paid by USAID/VN. Its responsibilities for management of the refugee relief and social welfare programs in the field are performed, as are all CORDS functions, through the individual region, province, and district CORDS organization. As of January 1, 1970, all four regional headquarters had individual staff positions authorized to provide relief assistance, and three had authorized positions to provide social welfare assistance. At the province level refugee advisors may be performing various functions including refugee relief and possibly social welfare functions. CORDS district personnel were responsible, in general, for all CORDS functions, including social welfare and refugee matters. In effect, the regional headquarters has both command and technical jurisdiction over social welfare matters in the field.

It should be noted, however, that the GVN administers the programs, and that program improvements are dependent on GVN actions and the emphasis they give to U.S. advisers' suggestions.

GVN organization for refugee relief and social welfare

Refugee relief was included in the Ministry of Social Welfare until a Special Commissariat for Refugees was established in February 1966. In November 1967 the Commissariat was merged again with the Ministry of Social Welfare, and in 1968 the health program was added to form the Ministry of Health, Social Welfare, and Relief. Separate Ministries were established in 1969 and, as of August 1970, refugee relief and social welfare activities were the responsibility of the Ministry of Social Welfare.

Social welfare is a relatively new responsibility for the GVN. Traditionally such services were provided to needy individuals by large, tightly-knit groupings of several generations of relatives. The war, however, caused burdens which exceeded the capability of the family groups and required the GVN's assistance.

Social welfare includes preventive and rehabilitation programs designed to benefit the Vietnamese population, in general, including community centers, day care centers, vocational rehabilitation, orphanages, homes for the aged, juvenile delinquency assistance, and disaster relief. Because of the war, most Ministry of Social Welfare programs have been directed toward relief and emergency assistance to war victims who include refugees, widows, orphans, the physically disabled, and the economically handicapped. Among the war victims the refugees have received the most attention from the GVN and the United States.

According to CORDS, the progress made during 1969 is dealing with the refugee problem will enable the GVN to direct more attention to the other categories of war victims and long-range social development programs.

Priority accorded to refugee relief and social welfare

Our February 1968 report stated that, although CORDS headquarters in Saigon had taken steps to accord a higher priority to the refugee program, these measures were not translated into effective actions at the operating level.

During our current review, we could find no evidence that a formal list of priorities had been established for U.S. assistance activities in Vietnam which would indicate the relative importance placed on the various programs. For example, the stated goals of the Agency for International Development (AID) for 1970 were not assigned any order of priority and were so broad as to encompass the entire range of AID programs: economic stabilization, pacification, public services, economic development, and easing the suffering of civilians displaced or injured by the war. In addition, U.S. officials at AID/Washington and Vietnam were not aware of any U.S. or GVN formal priority list for the management of assistance programs in Vietnam. We were informed, however, that refugee relief falls within the pacification program which is accorded a high priority by CORDS and the GVN. On the other hand, it does not appear that social welfare has an assigned priority.

On the basis of the data available, it appears that, within the CORDS and GVN program for refugees and social welfare, the primary emphasis from 1965 through 1969 was on providing emergency relief in the form of resettlement allowances and temporary homes to the estimated 3.5 million refugees displaced by the war, whereas the needs of other war victims such as widows, orphans, and the handicapped, received less attention. Likewise, the development of the sites in which refugees and former refugees are located appeared to have received a low priority.

During 1969 much progress was made, during the pacification program, in paying refugees their long overdue allowances, especially those refugees returning to their villages (thus reducing the number of refugees on the rolls). AID officials believed that this progress during 1969 would allow the GVN to devote an increasing amount of resources to (1) restoring destroyed or damaged hamlets for returning refugees, (2) upgrading refugee sites with better housing and other essential facilities, and (3) attending to the needs of war widows, orphans, the physically handicapped, etc.

However, CORDS assessments of the 1970 refugee relief and social welfare programs have not indicated encouraging results with respect to war victims and community developments. Most of the reported activity in these areas consisted of discussions and meetings designed to reach policy agreements and to draw up program plans, and progress was described by CORDS as not rapid. As a result, although one of the key goals during 1970 was supposed to be improvement of the living conditions at resettlement sites and hamlets of returning refugees, this program continued to present many difficulties.

Reporting

We found that the reporting system described in our February 1968 report to the Subcommittee had undergone three major revisions designed primarily to more efficiently measure the effectiveness of the refugee program, to provide all levels of management with a basis for making decisions, and to provide for more reliable and accurate data. We found that the data derived from the system in effect through February 1970 had remained deficient and the data from the new system was of questionable accuracy.

The first revision took place in March 1969 after CORDS determined that a manually prepared report was inadequate as a management planning tool. As a result, an automatic data processing system was implemented. Under this system, the CORDS refugee advisors were responsible for preparing the report. However, the Ministry of Social Welfare provincial officials were also preparing a report for submission to the Ministry. We were informed by a CORDS Refugee Directorate official that the refugee advisors primarily used the records of Ministry officials as their source of information for the statistical data included in the report. Along with the accumulation of this data, the refugee advisors were also responsible for preparing the narrative section of the report, in which they were supposed to comment on important factors needing emphasis, and any problem areas requiring corrective action by CORDS.

General instructions were issued by CORDS which set forth the criteria for the refugee advisors to follow in the preparation of the report, both from the statistical and narrative aspects. These instructions stressed the importance of the refugee advisors' and the Ministry officials' reaching precise agreement on the categories of refugees, types of sites, and number of refugees in each site.

We were informed by a CORDS Refugee Directorate official that, in numerous instances, the statistics reported by the Ministry officials in their reports were not comparable to the data being reported by the CORDS refugee advisors. This official stated that the primary reason for these wide variances in the statistical data was due mainly to a difference in interpretation of the Ministry of Social Welfare's regulations by the refugee advisors and the Ministry's officials.

The second revision took place in May 1969 when the Ministry of Social Welfare amended its refugee reporting system to include essentially the same data items provided under the CORDS reporting system. The Ministry's report was prepared by Ministry personnel in collaboration with a CORDS advisor whose signature was required on the report to indicate his concurrence.

In April 1970 a new reporting system was initiated by CORDS. Our review and evaluation of this new reporting system were limited by time considerations. Certain weaknesses, however, are apparent on the basis of our discussions and limited review described below.

A CORDS Refugee Directorate official informed us that the new automated reporting system was developed and implemented in order to have only one joint report submitted. This official stated that the primary reason for devising this new system was the lack of comparable statistics reported by the refugee advisors and the Ministry's officials under the previous reporting system. We were also told that other reasons for the new reporting system were—

The inclusion of "in return-to-village process" and "war victim" statistics and information in the reporting process,

The elimination of the term "resettled" from the reporting process, and

The addition of other data requested by the Ministry of Social Welfare in the reporting process.

As under the previous reporting system, the new reporting format is intended to provide CORDS and Ministry of Social Welfare management officials with reliable information for effective and efficient planning, programming, and budgeting for the refugee program. However, under the new reporting system, the statistical section of the report is prepared by Ministry provincial officials in Vietnamese.

A CORDS Refugee Directorate official has informed us that, according to verbal reporting instructions, refugee advisors are supposed to review this data for accuracy and validity. Any disagreements are to be pointed out in the narrative section of the report, and any matters needing emphasis or any problem areas requiring corrective action by CORDS should be included.

The revised reporting system has eliminated the old dual reporting system and will represent a needed improvement, if it is properly implemented and policed to ensure real compliance. We feel, however, that the new system has not eliminated the problem of unreliable data, since most of the information will continue to be supplied by the Ministry's provincial officials in Vietnamese. We believe that there will be a need for full cooperation by these officials and a need for improvement in the reliability of the input data, a requirement which conditions any discussion or evaluation of the adequacy of program op-

erations. Our observations regarding this very important subject are discussed below.

Unreliability of the Refugee Data Being Reported

Although much essential refugee data was available to enable CORDS and/or AID/Washington to evaluate the program, we found that the basic information being reported in the automatic data processing report in Vietnam was generally conflicting, confusing, and inconsistent.

Data collected for inclusion in the monthly refugee reports generally comes from the Ministry of Social Welfare provincial officials who, according to AID/Washington and CORDS officials, have not had formal training on data collection and reporting. Also, we found that much of the basic data being reported is based on subjective assessments made by Ministry of Social Welfare personnel using GVN criteria.

On the basis of discussions with CORDS officials in the six provinces visited and GVN Ministry provincial officials in some of these provinces, we believe that the basic data being reported has and will continue to be highly questionable.

For example, in Quang Ngai Province in I Corps, the CORDS refugee advisor and the Ministry official stated that most of the data reported under the old reporting system was purely estimated, because there was not enough time every month to complete the reports accurately. The refugee advisor stated that the site characteristic data was very inaccurate. He stated that neither he nor the Ministry official could visit each site on a regular basis because of the limited time and lack of security. Regarding the new reporting system, the refugee advisor explained that he was unable to review the monthly reports because the data is printed in Vietnamese and that he did not have sufficient time to have it translated. Therefore, he just signs off on it and hopes that it is accurate. The Ministry official told us that the GVN placed little emphasis on these reports and that he never had received any feedback from the Ministry of Social Welfare about it.

In Vinh Long Province in IV Corps, the Assistant New Life Development Officer (no refugee advisor in this Province), who is also responsible for the refugee program, stated that the refugee information reported is unreliable and of little value because all the deficiencies have yet to be eliminated from the system. He pointed out that the philosophy behind the new reporting system was that it was going to be a joint report to be utilized by the United States and the GVN, but in practice the report is utilized only by the United States and it will probably remain that way.

Our analysis of the statistical data that was reported under the old system as of February 20, 1970 showed obvious questionable site characteristic data for 44 percent of the sites in I, II, and III Corps as follows:

Corps [1]	Number of sites: Sites reported	Reporting questionable data	Percent reporting questionable data
I	160	76	48
II	119	63	53
III	101	29	29
Total and average percent	380	168	44

[1] IV Corps is not included because its geographical and social conditions preclude reporting comparable data. In addition, Quang Tri Province in I Corps is not included because it did not report any data.

Following are examples of obviously questionable data that we found during our analysis of the reports:

1. Sites where latrine facilities, water supply, medical facilities, and medical services were rated as inadequate; however, the overall physical conditions of the sites were rated as adequate.

2. Sites where there were no children reported in school but classrooms were reported in use.

3. Sites where children were reported in school but no classrooms were reported in use.

4. Sites where there were reported to be no classrooms available, yet classrooms were reportedly being used.

5. Sites where there were more children in school than the total school age population.

We have been informed by a Refugee Directorate official that CORDS is aware of these types of deficiencies in the reporting system and that this is taken into consideration by CORDS when using these reports for planning, programming, and budgeting for the refugee program. This official stated that these deficiencies resulted because

CORDS field personnel were preparing this report without having adequate time to verify the accuracy and validity of the data,

CORDS field personnel were preparing this report without having adequate knowledge and background necessary to ensure adequate reporting,

Reporting instructions were being misinterpreted or were not being followed, and

Clerical errors were being made.

In June 1970 AID/Washington officials told us that they were aware of inconsistencies and conflicting information appearing in the monthly reports received from Vietnam and that they felt the reports were unreliable. They also stated that both AID/Washington and CORDS were continuously seeking ways to improve the quality of the reports.

CHAPTER 3. NUMBER OF WAR VICTIMS

Refugees

Although the total number of civilians suffering as a result of the war, the extent of the assistance provided by the GVN, and the conditions under which these people were living are unknown, we were able to obtain data from the GVN relating to some of these victims, i.e., refugees. The following table shows the changes that have taken place since 1967 in the refugee population as recognized by the GVN.

Period	*Number*
Dec. 1967	794,000
Dec. 1968	1,329,000
Dec. 1969	268,000
June 1970	*570,000

*The increase between December 1969 and June 1970 is primarily due to a change in the reporting classifications. Effective in April 1970, the category of "refugees in return-to-village process" was added to the statistics. As of June 1970 the number reported in this category was about 280,000.

We believe that the above figures representing the number of refugees at various times are misleading and significantly understated as to the true number of people in need of assistance because of

—a reluctance by the GVN to report some newly generated refugees,

—a GVN policy of claiming refugees in sites as resettled on the basis of the payment of GVN refugee allowances, despite the fact that many of these people are in need of assistance,

—an apparent misinterpretation of GVN policy resulting in refugees being classified as returned to their original villages or resettled on the basis of the GVN promise to pay the refugee allowances,

—a GVN policy of classifying refugees as returned to their original village despite the fact that many of these people are not economically viable and lack basic facilities, and

—a GVN policy of removing from the rolls certain refugee groups living outside refugee camps who have received their 1 month's temporary allowances, which terminate benefits until such time as they are able to return to their original village.

It is the GVN's stated policy to help restore victims of war and communities affected by military operations to self-sufficiency by providing individuals with allowances and by furnishing adequate facilities for education, health, and sanitation so that these communities may be included in the hamlet administrative structure of the GVN.

In commenting on this section of the report, CORDS officials in Saigon stated that most of the people returning to villages did so by choice rather than by force by the government. They felt that the GVN had done much for the refugees and that considerable progress toward program objectives had been achieved. Evaluation of CORDS comments would have necessitated additional fieldwork; however, because of the limited time available, we were unable to perform the additional work. Therefore, we are unable to evaluate their comments.

Following are the results of our limited review regarding certain aspects of the progress made by the GVN in meeting its stated responsibilities and the reliance that can be placed on the GVN refugee figures.

Newly Generated Refugees

We found that many people are being relocated but are not being recognized as refugees. As a result, it appears that relatively little assistance has been provided to these people by the GVN.

Current GVN policy clearly requires that security be brought to the people, not people to security. The generating of refugees must be avoided to the greatest extent possible; any unavoidable relocation of a group of people is to take place only with the prior approval of the GVN Central Pacification and Development Council; and, if this Council approves the relocation, the military unit conducting the operation must notify the appropriate GVN province officials so that preparations and planning for the reception and care of the refugees can be completed prior to the movement.

We found that this policy, however, appears to be only occasionally observed in practice. In I Corps [1] where the problem appears to be focused owing to the level and nature of military activity, the record indicates that very few instances of prior approval by the Central Pacification and Development Council were obtained for such relocations in calendar year 1969. A CORDS official cited 17 instances during calendar year 1969 in which about 25,000 people were relocated without prior approval. In accordance with the above policy, some GVN Province Chiefs refuse to classify these people as refugees.

A CORDS official stated in December 1969 that, when these people were not handled as refugees but as unofficial war victims, any relief accorded them became a scrounging operation. He stated that, if the assistance was insufficient, as it usually was, the misery of these people and their hostility toward the GVN were correspondingly greater.

Although the exact number of such unrecognized refugees and the amount of GVN assistance being provided them are not known, it appears that the number of such unrecognized refugees is considerable and that some relief assistance is being provided. For example, in I Corps alone, a CORDS official estimated that about 50,000 people have been relocated without prior GVN approval. He believes however, that about 20,000 of these people have now been recognized as refugees and are receiving some assistance from the GVN.

[1] Vietnam is divided into four military regions, labeled as I, II, III, IV combat tactical zones (abbreviated Corps by the U.S. military).

Reduction in Number of Refugees

We found that a significant reduction in the number of refugees carried on the rolls has occurred between February 1969 through December 1969. It appears that this reduction has come about mainly because of the GVN's policy of claiming refugees in sites as resettled on the basis of the payment of GVN refugee allowances. These refugees were removed from the rolls despite the facts that many were not economically self-sufficient, some are living in sites where there is no future economic potential, some are living in substandard and crowded shelters, and/or do not have access to adequate facilities such as wells, latrines, classrooms, and dispensaries. (See p. 32 for our observations of some of these sites.)

The record shows that, at the end of 1967, about 794,000 persons were carried on the rolls by the GVN as refugees. These numbers increased to over 1.3 million at the end of 1968 and over 1.4 million in February 1969. However, by the end of 1969 there were only about 268,000 persons counted by the GVN as refugees.

On the basis of information available in Washington, 14 percent of the 1969 reduction was due to the removal of war victims who did not meet the GVN criteria for refugee status of having fled Viet Cong-controlled areas and of living in groups of 20 or more families.

In May 1970, CORDS reported that, among the 586,000 refugees who were reported as having been completely resettled in 1969, a good number had received only a month's rice; others had received nothing except a promise of assistance whenever they return to their original village; and thousands lived in substandard sites after receiving their full resettlement allowances. Moreover, the refugees reported in the category of completely resettled were dropped from the rolls, even though a good number of them were still refugees.

In April 1970 a refugee official from I Corps estimated that there were over 390,000 refugees and former refugees in I Corps who were still living in substandard sites. However, I Corps reported only about 137,000 refugees. It seems that consideration should be given to reinstating these 253,000 resettled refugees on the active case load, to ensure that their living conditions are improved. This might prove to be an incentive to the GVN to step up the improvement of the living conditions at the substandard sites, which appears to have been largely neglected to date. A CORDS Refugee Directorate official informed us that they attempted to convince the GVN to retain these people on the active case load until the living standards of the sites have been upgraded. However, they have not been successful to date.

As pointed out, the understatement of the number of refugees was partially remedied in April 1970 by adding back to the refugee roll those persons who had returned home but had not received all their allowances. As of June 1970, about 280,000 refugees were reported in this category.

Refugees in Resettlement Sites

As stated above, we found that many of the refugees paid allowances by the GVN and classified as resettled were, in our opinion, only slightly better off than prior to receipt of the payment.

To be eligible to receive resettlement allowances from the GVN, refugees in temporary camps must be moved to a resettlement site, or temporary refugee camps must be recognized by the GVN as a site to be converted into a resettlement location. This would involve the general upgrading of the camp including construction of wells, schools, dispensaries, etc. The GVN objective regarding resettlement sites is to provide adequate facilities for inclusion in the regular hamlet administrative structure of the GVN.

During 1969 the Ministry of Social Welfare planned to upgrade the temporary camps which AID claimed housed thousands of refugees in substandard conditions. Primarily because the GVN gave top priority to paying resettlement and return-to-village allowances to the refugees, these plans were not too successful.

AID reported that, despite the GVN's failure to upgrade most temporary camps to an acceptable level, it was a common occurrence for the GVN to designate temporary camps as resettlement sites on the basis of resettlement allowances paid without regard to adequacy of site facilities or economic condition of the occupants.

According to USAID/VN and CORDS officials, as soon as allowance payments are made by the GVN, most distribution of food to these people by the GVN ceased.

Statistics available showed that, between February 1969 and April 1970, over 600,000 refugees were paid resettlement allowances and dropped from the GVN roll as refugees. AID estimated, however, that 400,000 of these remained in their original camps which were mostly substandard. The USAID/VN Mission Director in April 1970 reported that, considering the magnitude of the refugee problem and the nature of the conflict, most people in the resettlement sites were only about one third as well off as before being displaced.

Returned-to-Village Refugees

Thousands of refugees were taken off the GVN refugee rolls and were declared to be returned to their original villages even though the GVN had not helped these people return to a self-supporting status but had only promised to pay the benefits as soon as they returned to their villages. In addition, apparently the GVN had not furnished many of these people with adequate facilities for education, health, and sanitation and had ceased distribution of foodstuffs.

Once returned-to-village refugees are paid their allowances, their villages are considered normalized and are no longer considered the responsibility of the Ministry of Social Welfare but come under the Central Pacification and Development Councils, located in each province, which coordinate pacification efforts of all GVN ministries including the development of hamlets reoccupied by refugees returning to their former homes.

The GVN gave these councils the responsibility for these villages in August 1969 when concern was expressed for the large numbers of refugees reportedly returning to their hamlets which had been ravaged by the war. We found, however, that little had been done to develop the hamlets reoccupied in 1969 mainly because the GVN ministries had not budgeted funds for that purpose.

During 1969 allowance payments and promises to pay allowances to a total of about 488,000 refugees resulted in their being dropped from the GVU refugee roll and transferred to a category signifying that they had returned to their original communities. As stated previously, however, some of these people were erroneously removed from the roll because they had not received all their benefits and have now been reclassified as refugees in return-to-village process.

In February 1970 the Ministry of Social Welfare reported that many of the return-to-village sites established during 1969 are short on health, sanitation, education, and market facilities. The Ministry stated that this shortcoming occurred because many provinces did not preplan for these facilities.

The USAID/VN Mission Director in April 1970 stated that, due to many variables, a qualitative measure of the return-to-village refugees' status was difficult to assess, however, they were probably only half as well off as before they were displaced.

Out-of-camp Refugees

We found that large numbers of people living outside GVN refugee camps were removed from the rolls after they had received their temporary benefits, in accordance with GVN policy which terminates benefits until such time as they are able to return to their original villages. At that time, they will be entitled to receive return-to-village benefits.

Beginning in November 1969, the GVN initiated a program to find and register all refugees throughout Vietnam. According to AID, initial results of the survey were that approximately 500,000 persons were added to the refugee population, mostly people living outside recognized GVN refugee camps.

In a subsequent policy decision by the GVN, three criteria for refugee status were set forth. To be considered a refugee a person must (1) have moved from an insecure area, (2) have done so on or after January 1, 1964, and (3) presently live in a group of 20 or more families. The GVN later established that those people living outside camp and meeting at least the first two criteria would be given a month's assistance allowance and would be removed from the refugee rolls. As a result, hundreds of thousands of out-of-camp war victims who had been added to the refugee rolls were removed from refugee status for having not met the criteria or for having received all assistance for which they were then eligible. Such persons were not eligible for any further assistance from the GVN until they returned to their home villages, at which time they would qualify for return-to-village benefits.

Currently, the out-of-camp refugees, living in groups of 20 or more families are recognized as refugees in CORDS and GVN reports but qualify for only limited assistance until they return home. As of June 1970, there were about 92,600 persons (or 16 percent of the total recorded refugees) in this category. Persons who live in groups of less than 20 families are not recognized as refugees and are not counted in the refugee reports.

Although the number of these people living in groups of less than 20 families is unknown, it seems to be quite large. For example, in IV Corps, AID reported that a large percentage of the refugees did not live in refugee camps but were scattered throughout the population, due partly to limited availability of land, economic factors, and preference.

It seems from the foregoing statement that the GVN in some cases has not been providing assistance to refugees on the basis of need, but rather on location. Refugees living in groups of 20 families or more received a month's temporary allowance, whereas refugees living in groups of less than 20 families received no such benefits; however, we were unable to find any evidence indicating that either group of refugees was in need of assistance more than the other group.

Other war victims

War Widows, Orphans, and Disabled Persons

In addition to refugees, there are other victims of the war who do not leave their communities for extended residence in refugee camps although they too are in need of assistance. Included in this category are war widows, orphans, and the physically disabled. Unlike the refugee situation, however, we found that statistics were not available at AID/Washington and in Vietnam to show the total numbers, their condition and needs, and the number assisted by the GVN. We found that, although some assistance in the form of death benefits, housing allowances, and food had been provided by the GVN, the people included in this category generally were not considered top priority by the GVN.

It seems that the past emphasis placed by the GVN on providing emergency relief and resettlement payments to displaced persons has retarded the development of programs designed to provide services to other war victims. The following statistics as to the total number are the best available, although

they are based on estimates by the GVN which, according to AID, are of questionable validity.

Disabled persons	183,000
Orphans	258,000
War widows	131,000
Total	572,000

Refugees from Cambodia

In addition to refugees and other war victims generated from within Vietnam, recent events in Cambodia have resulted in some 159,000 people crossing the border to seek refuge and sanctuary in Vietnam as of July 25, 1970. Included in the above total are about 10,000 Cambodian and Cambodian Montagnard refugees. The remaining 149,000 are Vietnamese repatriates.

The GVN has drawn up a standard relief program for these repatriates and refugees, in which they are provided reception and temporary allowances. A CORDS Refugee Directorate official informed us that the funds for paying these allowances are obtained from the Ministry of Social Welfare budget. However, he stated that, when 75 percent of the total budget has been expended, an additional 600 million piasters will be made available from the U.S. Special Fund. We found that these repatriates and refugees are not included in the refugee statistics but are reported separately. A CORDS official informed us in July 1970 that there are approximately 70,000 additional ethnic Vietnamese in Phnom Penh, Cambodia, who are awaiting repatriation into Vietnam.

According to an official in the CORDS Refugee Directorate, the GVN has handled this emergency situation arising out of Cambodia efficiently, effectively, and timely; however, this official stated that this is being done, to a certain degree, at the expense of the regular refugees as it relates to funds and manpower.

War victims in urban areas

Although the actual number of persons seeking refuge in urban areas, rather than at recognized refugee camps, is unknown. AID/Washington officials have estimated the number at one million. These people chose to move to urban areas (primarily Saigon) and either live with relatives or seek employment. According to an AID/Washington official, these people were not considered as refugees because the GVN wanted to reduce further urbanization.

Presently there is high employment in the urban areas and most refugees have found means of support either directly because of the U.S. troops or indirectly by providing the troops with needed services, such as laundries and housekeeping. However, the unemployed refugee in the urban areas is eligible for no assistance from either the GVN or AID. Therefore, these refugees can only turn to their relatives and the voluntary agencies for assistance.

An AID official estimated that 600,000 of the persons seeking refuge in the urban areas are dependent upon the presence of U.S. troops for subsistence. It is anticipated by the GVN and AID that, as the U.S. troops withdraw, most of these people will want to return home. By certifying themselves as meeting the refugee criteria, i.e., originally evacuated from insecure villages, they will be eligible for return-to-village benefits.

Although the problems associated with the "urban drift" have been recognized, no formal plans have been made to cope with them.

CHAPTER 4. STATUS OF SITE FACILITIES

During our current review, we found considerable shortfalls in construction and adequacy of needed facilities, such as housing, classrooms, wells, medical facilities, medical services, and sanitation facilities, for many war victims. In addition, we found that many of these individuals were living in sites that offered little opportunity for self-support and/or economic potential.

In July 1970 our staff inspected 18 sites in three provinces in I Corps that accommodated about 94,000 persons. Following are examples of conditions we noted at some of these sites.

Quang Tri Province

1. *Ha-Thanh*—At the time of our visit this site housed about 19,000 people. Ha-Thanh was originally established in December 1967 as a temporary refugee camp. Subsequently, it was converted into a resettlement site. All the people have received their resettlement allowances and have been dropped from the refugee rolls.

The site was located in what appeared to be a barren area. We saw very few crops, three medical aid stations, 20 wells (76 needed), no latrines (760 needed), and 30 classrooms. We believe these facilities are inadequate for 19,000 people. We were unable to count all the houses; however, it was very apparent that these people were living in crowded conditions.

A CORDS official informed us that the substandard conditions of this site existed because the GVN Province Chief believed that these people were no longer the responsibility of the GVN, as far as providing food and upgrading the living conditions are concerned. He stated that the Province Chief only provided food when the situation became critical, such as when some starvation was reported or when several hundred families were in critical condition.

2. *Trung-Gio*—This site housed about 14,000 people and was established as a temporary refugee camp in 1967 when these people came from the demilitarized zone. Subsequently, it was converted into a resettlement site. These people have received their resettlement allowances and have been dropped from the refugee rolls.

We found that wells, latrines, medical facilities, medical services, and classrooms were inadequate for these 14,000 people. There was little land available to grow crops, and in our opinion, very few people could subsist on the land. It appeared that the people did not have much opportunity for self-support, and the site had little economic potential.

QUANG NAM PROVINCE

1. *An My*—This resettlement site was previously visited by GAO in 1967. At that time it was a temporary refugee camp and had two wells, no medical dispensary, and no sanitation facilities.

During our current review, we found that no significant improvements had been made. Currently, there are about 660 people in this site, which was established in 1965 as a temporary refugee camp. Only 73 people have received their resettlement allowances. We noted one school in the camp which appears to be inadequate. The site did not have latrines and medical facilities. We saw three wells which appeared to be enough.

2. *Phu Lac (6)*—At this location, there were about 2,070 people. We were informed that only 883 were recognized as refugees and that they would receive temporary benefits. We were advised that these people were all Viet Cong families and that they were relocated by force in February or March 1970. These people are under heavy guard by the Vietnamese military.

During our inspection, we observed that there were no latrines, no usable wells, no classrooms, and no medical facilities. The shelters were crudely constructed from a variety of waste material, such as empty ammunition boxes and cardboard. We observed that the number of shelters would not adequately house these people. The CORDS refugee advisor stated that there were no plans to improve the living conditions at this site.

3. *Thanh Tay*—This temporary refugee camp had about 6,000 refugees and they have been here since 1967. We found that the shelters were crudely constructed and that these people were living in very crowded conditions. The camp was surrounded by a fence and barbed wire and was guarded by the GVN military. We were informed that these people were all Viet Cong sympathizers. We observed some wells, one classroom, no latrines, and no medical facilities. The people and their clothes were very dirty.

The CORDS refugee advisor stated that these people had received their 30-day food allowance and that no other assistance had been provided them by the GVN. We noted that these people had no place to grow food.

Quang Ngai Province

1. *Phu Nhom A*—This site was visited by us during our last review in 1967. At that time, a Red Cross representative told us that this was one of the worst camps in his jurisdiction. During our last review, we found that it was overcrowded and that it had inadequate drainage, no dispensary, and no usable wells.

During our current review, we found that the above conditions had not improved. There were 1,124 former refugees in this site, and 397 families were living in 233 houses. At the time of our last review, this site was a temporary refugee camp. It has now been converted into a resettlement site. This site was originally established in 1964. We noted that the people were just starting to construct drainage ditches under a food-for-work program.

During our inspection of the site, we observed that there were no schools for the children. The conditions of the houses or shacks were very poor. The people were very dirty and their clothes were dirty and shabby. There still were no usable wells and no medical facilities. The CORDS refugee advisor informed us that there were no plans to improve the living conditions of this site. On the basis of our inspection of this site, we believe that these people have little opportunity to be self-supporting, and there is little economic potential for this site.

2. *My Trang*—Approximately 800 unrecognized refugees are located in this hamlet. These people were relocated by military activity from a GVN-pacified area. The CORDS refugee advisor stated that these people could not be recognized as refugees because GVN policy specifies that refugees cannot originate from pacified areas. Because of the lack of time, we did not attempt to inspect all facilities at the site. It was apparent, however, that these people were living in substandard conditions. The refugee advisor stated that the GVN's assistance to these people consisted of some rolled oats in January 1970 and nothing since then.

We also visited 10 refugee sites in three provinces in IV Corps. The refugees were living in markedly different conditions than those in the other regions where they generally lived in normal refugee camps and resettlement sites. In the delta the refugees are scattered along canals and roads. These people are (1) integrated with the local inhabitants, (2) living in shelters they constructed, or (3) living with friends and relatives. Accordingly, we were unable to determine the exact number of refugees residing in the sites visited.

The geographical and social conditions existing in the delta preclude our comparing the refugees' living conditions in IV Corps with the conditions in the other three regions.

During our inspections of the sites, we observed that most of the refugees (1) appeared to be economically self-sufficient, (2) were living in sites where there appeared to be economic potential, and (3) were living in homes that, in most instances, were comparable to or better than the homes of some nonrefugees. Our observations at two of the

sites visited in Kien Giang Province are described as follows:

Dong Thai and Dong Hoa—We found it difficult to identify all refugees in Dong Thai because some were merged with the nonrefugees. All the homes were located along the banks of the canal and were not clustered together. We observed that some of the refugee homes appeared to be bigger and better than some of the nonrefugee homes. Behind some of the refugee homes, plenty of land was available for farming. We were informed by a CORDS official that the land was being farmed by refugees. Food appeared to be plentiful, and no evidence of starvation or malnutrition existed among the inhabitants.

Further down the canal, in Dong Hoa where some unrecognized refugees were living, the homes were smaller and closer together but the people were not living in crowded conditions. We were informed that these people had received no benefits and would not receive any; because the Ministry of Social Welfare stated that, instead of moving to GVN-controlled areas, these people initially had moved to Viet Cong-controlled areas. Subsequently they returned to their former homes but they are not considered by the GVN as refugees returning to their villages.

We observed no shortage of water and there appeared to be adequate sanitation facilities. However, there was no dispensary in Dong Hoa. There were classrooms available but no teachers.

As of March 20, 1970, the monthly refugee report for 402 occupied sites in Vietnam showed that 176 sites (42 percent) were overcrowded and 87 sites (21 percent) were deficient in medical support. In addition, 833 classrooms were needed and an undetermined number of sites had inadequate water supplies. Of the 382 sites for which ratings were assigned by Ministry of Social Welfare personnel, 91 of the sites (24 percent) were rated substandard.

Furthermore, the Minister of Social Welfare in March 1970 stated that many refugee sites, although secure and in existence for a long time, lacked necessary facilities for education, public health, sanitation, and water and that many refugees were poor and not self-supporting.

In June 1970 it was reported that, in 133 camp sites in I Corps, 224,963 people could not support themselves and that 213,718 of these 224,963 people were living in sites where there is no economic potential. No similar data was available for the other regions.

Although no detailed statistics were available in Vietnam pertaining to the conditions and deficiencies prevailing in hamlets or villages which are being reoccupied by returning refugees, it has been recognized by AID and the GVN that the overall living conditions are not adequate. In February 1970 the Minister of Social Welfare stated that return-to-village sites were in need of facilities for health, education, sanitation, water, and marketing.

CHAPTER 5. RESOURCES APPLIED IN SUPPORT OF THE PROGRAM

U.S. staffing

Our analysis of CORDS staffing to administer programs for war victims showed that, as of July 1970, there have been increases in the percentage of total personnel on board (and field personnel) since our February 1968 report. Nevertheless, personnel shortages still are being experienced in the field.

In January 1969 authorized positions totaled 116 and 15 percent of these were unfilled. In response to a Presidential directive designed to bring about overall reduction in the U.S. effort in Vietnam, the ceiling in fiscal year 1970 was reduced to 97 positions. AID reported no serious difficulties with this reduction because vacant positions were the ones eliminated.

The following schedule compares the CORDS refugee and social welfare staffing and personnel shortages both inside and outside Saigon for various time periods.

CORDS STAFFING RESPONSIBLE FOR REFUGEES AND SOCIAL WELFARE

	U.S. position authorizations and staffing		
	November 1967	December 1969	July 1970
Total:			
Authorized	96	116	97
On board	72	100	[1] 87
Percent short (—)	—25	—14	—10
Saigon:			
Authorized	27	27	26
On board	28	25	27
Percent short (—) or over	+4	—7	—4
Field:			
Authorized	69	89	71
On board	44	75	60
Percent short (—)	—36	—16	—15

[1] This number includes 78 persons actually working in Vietnam, 4 enroute to Vietnam, and 5 in training for specific positions.

The July 1970 staffing includes seven authorized positions for the social welfare program, of which six were filled.

The number of on-board personnel, however, isn't necessarily indicative of the number working on the programs. It appeared that some CORDS field personnel responsible for refugee and social welfare activities were assigned other responsibilities at the discretion of the CORDS province senior advisor. For example, we found that a refugee advisor had been assigned, in addition to his refugee responsibilities, the duties of supply and logistics officer. Also, other CORDS personnel do refugee and social welfare work in cases where no advisor is specifically assigned to the programs.

Level of Financial Assistance

According to information available at AID, United States, voluntary agencies, and the GVN during fiscal years 1968 and 1969 contributed about $57 million and $61 million, respectively, in support of the refugee and social welfare program. Estimates of the fiscal year 1970 level of assistance are about $68 million, 89 percent of which is expected to come from the United States, 6 percent from voluntary agencies and free-world assistance, and 5 percent from the GVN.

U.S. Support

Financial assistance for the refugee and social welfare programs is largely provided by the United States either directly with dollars or indirectly with local currency (piasters) derived from the sales of U.S. agricultural commodities under the Agricultural Trade and Development Act of 1954 (commonly referred to as Public Law 480) or from the sales of commodities furnished under the AID Commodity Import Program for use within Vietnam.

In fiscal years 1968 and 1969, U.S. direct assistance (exclusive of piasters) amounted to about $14 million and $10 million, respectively, and about $6 million was programmed for fiscal year 1970. In addition to this direct assistance, the United States also contributed Public Law 480 agricultural commodities valued at about $10 million in fiscal year 1968 and $14 million in fiscal year 1969. About $13 million initially was programmed for fiscal year 1970 but this was increased to $20 million to enable the feeding of Vietnamese repatriates and Cambodian refugees.

The piaster support of the refugee and social welfare program in fiscal years 1968 and 1969 amounted to the equivalent of $25 million and $29 million, respectively. For fiscal year 1970 the equivalent of about $34 million was programmed. According to AID/Washington officials, the increase in piaster funds during 1970 (despite a decrease in the number of refugees on the GVN rolls) was needed to pay the backlog of refugees who hadn't received their allowances; to improve living conditions in the refugee camps; and to provide allowances to an unknown number of eligible war victims who were expected to return to their villages but who were not previously counted as refugees or who had never been registered.

Correlation between refugees resettled and amount of resettlement funds expended

We were not able to correlate increases or decreases in the number of resettled refugees with increases or decreases in the amount of allowances paid, primarily because the number of refugees reported to be resettled was not accurate. In an October 1969 CORDS report to AID/Washington on the development and status of the refugee reporting system, it was pointed out that several problems existed concerning the number of refugees reported as returning to their original communities, including (1) the possible duplicate reporting of resettled refugees who subsequently return to their original community, in both the resettled category and the return-to-village category, and (2) the possible inclusion of other individuals in the return-to-village category who were not entitled to resettlement benefits.

Another problem in correlating the number of resettled refugees and the amount of resettlement payments was that refugees living in temporary camps, scheduled for conversion into resettlement sites, were not entitled to receive monetary housing allowances if housing was already provided by the GVN. However, the number of this group of refugees may be included in the reported number of refugees resettled.

The Ministry of Social Welfare estimated that about 750,000 refugees would be reestablished during 1970. Of this number 200,000 would be resettled and 550,000 would return to their original communities. The Ministery also estimated that an additional 130,000 new refugees would be generated during 1970.

GVN Support

In addition to the piaster funds provided by the United States, during calendar years 1968 and 1969 the GVN provided the equivalent of $4.3 million and $3.6 million primarily for salaries and expenses of Ministry personnel in support of the refugee and social welfare program. For calendar year 1970 the GVN programmed $4.3 million.

The following table shows the relationship between budgeted GVN expenditures for the refugee and social welfare program and for all civil (as distinguished from defense) programs and the amounts of U.S.-provided piaster funds, which are included in the GVN budget, for calendar years 1967 and 1970.

[In millions of U.S. dollar equivalents]

	Piaster support of GVN refugee relief and social welfare programs			
	1967		1970	
	Total budget	U.S.-provided portion	Total budget	U.S.-provided portion
Total civil budget	279.7	67.8	571.2	105.1
Refugee and social welfare budget	12.3	10.6	34.1	29.8
Percentage	4.4	15.6	6.0	28.4

Voluntary agency and free-world assistance

Another resource available to the refugee and social welfare program is the support provided by some 37 U.S. and third-country voluntary agencies listed with CORDS in Vietnam, and assistance provided by other free-world countries. Data available, which is based on estimates furnished by the voluntary agencies and other countries, indicated that, for fiscal years 1968 and 1969, the amounts provided in support of these programs by voluntary agencies were about $3.8

million and $4.3 million, respectively, in direct support exclusive of personnel costs. Programmed support for fiscal year 1970 is estimated to be about $3.8 million. The assistance is concentrated on health programs, educational and institutional feeding projects, and the providing of personnel and services in support of the refugee relief and social welfare program.

The activities of the voluntary agencies are coordinated with the GVN through the Ministry of Social Welfare. Refugee activities and social welfare activities of eight U.S. voluntary agencies are currently being financially supported by the United States under AID contracts. About $1 million has been expended for fiscal year 1970, under contracts with these eight voluntary agencies. In addition, USAID/VN is providing storage facilities and transportation support for the voluntary agencies in the field.

Low rate of expenditure in support of social welfare program

Our review showed that, notwithstanding an acknowledged need for a social welfare program, very small amounts of funds have been provided for the program, and the funds made available were expended at an extremely low rate for various reasons including (1) the relatively low priority assigned to the social welfare program, (2) limited organizational and manpower capabilities within the GVN Ministry of Social Welfare, and (3) an apparent reluctance on the part of the GVN to assume funding responsibilities.

Prior to calendar year 1969, counterpart funds were not provided for a comprehensive social welfare program because the major U.S. concern was for refugee relief. During 1969 a social welfare assistance program was developed and it is expected that in 1970 the major U.S. effort will shift from emergency relief to the rehabilitation of war victims, i.e., social development.

Only about 4 percent of the counterpart funds programmed in 1969 to the Ministry of Social Welfare were provided for social welfare activities. In addition, the Ministry of Social Welfare did not expend a significant amount of these programmed funds. For example, in calendar year 1969, a total of 133 million piasters (about $1.1 million) was programmed for the social welfare program. Of this amount, only about 7.7 million piasters (approximately $65,000) or only 6 percent was expended during 1969; 28 percent was unexpended, and thus no longer available for this program; and the major part of the remaining 66 percent of the funds was authorized for Ministry of Social Welfare expenditure in 1970 or transferred to the Ministry of Public Works for future Ministry of Social Welfare construction projects.

Apparently the 1970 funds will not be expended much faster. For example, of 112.4 million piasters (about $953,000) programmed for social welfare in calendar year 1970, only 1.6 million piasters (approximately $14,000) or about 1 percent had been expended as of June 1970.

A CORDS Refugee Directorate official informed us in June 1970 that only small amounts of counterpart funds had been programmed for social welfare activities, primarily because the Ministry of Social Welfare did not have the organizational and manpower capabilities to handle social welfare activities at the present time.

According to AID officials, the primary reasons for the low expenditures were that (1) since the social welfare program had no priority, it was difficult to get construction permission for social welfare projects and (2) after the first year the costs of operating the social welfare program would be paid from the GVN's own funds, rather than the U.S. counterpart funds. The GVN is reluctant to obligate itself to a long-range program.

Piaster Fund Releases by Ministry of Social Welfare

We found that the overall release of funds for refugee relief expenditures by the Ministry of Social Welfare appears to have improved somewhat over what we reported in February 1968. However, indications are that the rate of payment of resettlement benefits is still below the piaster expenditure rate contemplated by the Ministry's budget. For example, through May 30, 1970, 64 per cent of the resettlement budget had been allocated to the provinces; however, only 12 percent had been expended by the Province Chiefs.

Although detailed information was unavailable for calendar year 1968 concerning the rate of release and expenditure of funds, we did find that during the year only 70 percent of the resettlement budget had been expended.

During the first half of 1969, the release of funds was extremely slow with only 13 percent of the budgeted resettlement funds being expended through July. AID blamed the slow releases on a complicated GVN allotment process, badly prepared program plans, insufficient Ministry province personnel, and lack of decentralized province payment procedures. However, AID reported that administrative improvements were made by the Ministry during the end of 1969 which resulted in improvement in the number of refugees paid their authorized allowances. By the close of 1969, improvements increased the rate of expenditures to 94 percent of the budgeted amount.

We were informed by a CORDS refugee official in IV Corps that for the first 4 months of 1970, the refugees in IV Corps, for the most part, had been neglected because of the Ministry of Social Welfare's failure to release the temporary and resettlement funds on a time basis. He stated that, as a result, numerous refugees vacated GVN-controlled areas and returned to Viet Cong-controlled areas.

U.S. Commodity Support

The United States, under title II of Public Law 480 (food-for-peace program) donates agricultural commodities to support war victims and other Vietnamese who, because of war, disease, and other factors, are unable to provide basic food needs for themselves. The dollar amount of commodities programmed for the refugee and social welfare programs for fiscal years 1968 and 1969 was estimated to be $9.8 million and $13.9 million respectively. The programmed amount for 1970 was estimated at $13 million. Subsequently, the amount was increased to $20 million; the increase being attributed to feeding Vietnamese repatriates and Cambodian refugees from Cambodia.

The Ministry of Social Welfare has overall responsibility for administration and supervision of the food program. About 55 percent of the title II, Public Law 480 food is distributed by the GVN through its pacification program and the remaining 45 percent is distributed by the voluntary agencies.

In October 1969 a team of CORDS and USAID/VN officials made an evaluation report of the title II, Public Law 480 food program in Vietnam and included the criteria used to determine needy recipients and the distribution and utilization of the commodities. They reported that foodstuffs provided by the United States under title II of Public Law 480 primarily in support of the refugee and social welfare programs were in some cases (1) not being utilized properly, (2) not being distributed in an expeditious manner, and (3) not always being issued on the basis of need.

Information available indicates that USAID/VN has taken some corrective actions in response to recommendations made by the evaluation team, such as reducing the amount of the commodities not readily acceptable to the Vietnamese; establishing committees to help correlate the activities of the United States, GVN, and voluntary agencies; and stopping illegal distributions of commodities.

Although we were unable to fully evaluate the corrective actions taken because of the limited time available for this review, it appears that their actions should help correct the first two problem areas. However, the third area relating to the commodities not being issued according to need appears to remain uncorrected.

The evaluation team reported that throughout Vietnam title II, Public Law 480 commodities were not being distributed on the basis of need as provided by the program objectives. It was reported that no criteria had been developed to determine persons in need and those who were self-supporting. Cases were reported where needy Vietnamese failed to receive food and less needy employed persons continued to receive food.

In addition to agricultural commodities furnished under title II of Public Law 480, the United States has provided other commodities under project assistance. During our visits to the project commodity warehouses located in Saigon, we noted that numerous items designed for refugees, such as tarpaulins, tents, sewing kits, sewing machines, saws, shovels, and picks, appeared to have been in storage for a considerable length of time. We were advised by a USAID/VN official that no issues had been made for some of these commodities for over a year. He stated that the sewing machines were rusting and that the tarpaulins and tents were deteriorating from dry rot.

In our review of the GVN property records, we found further evidence of nonutilization of some project commodities. For example, there were 1,690 sheets of 20- by 20-foot tarpaulins valued at about $80,000 on hand at June 30, 1970. This merchandise was part of a shipment of 1,900 sheets of tarpaulin received during November 1968. We noted that, in approximately 19 months, only 210 sheets of this tarpaulin has been issued, and that 200 of these sheets were issued in April and May 1970 for use in support of the Vietnamese repatriates and Cambodian refugees.

We were advised by a CORDS Refugee Directorate official that these project commodities are the property of the GVN Ministry of Social Welfare. He stated that this Ministry, like other GVN Ministries, would not under normal circumstances transfer excess or unneeded property to other Ministries who might be better able to utilize them for their own programs. Although CORDS is aware of this problem, we were informed that they have been unsuccessful, as yet, in convincing the Ministry to either utilize these commodities or transfer them so that they may be properly utilized.

CHAPTER 6. SCOPE OF REVIEW

This review was conducted at the request of the Chairman, Subcommittee To Investigate Problems Connected With Refugees and Escapees, Committee on the Judiciary, U.S. Senate. It was directed primarily toward updating our prior inquiries into the problems associated with the refugee program in Vietnam and performing initial research into the social welfare program in Vietnam.

The review was conducted at AID headquarters in Washington, D.C., at CORDS headquarters in Saigon, Vietnam, and at various refugee camps throughout I and IV Corps in Vietnam. Our work included examination of available records, discussions with responsible agency officials, and observations in the field.

To try to meet the reporting date requested by the General Counsel of the Subcommittee, fieldwork on this assignment was less detailed than we normally would perform.

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 following bills, in which it requested the concurrence of the Senate:

H.R. 11547. An act to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to increase the loan limitation on certain loans;

H.R. 15041. An act to provide for a coordinated national boating safety program; and

H.R. 19911. An act to amend the Foreign Assistance Act of 1961, and for other purposes.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 11547. An act to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to increase the loan limitation on certain loans; to the Committee on Agriculture and Forestry.

H.R. 15041. An act to provide for a coordinated national boating safety program; to the Committee on Commerce.

H.R. 19911. An act to amend the Foreign Assistance Act of 1961, and for other purposes; to the Committee on Foreign Relations.

THE EMPLOYMENT AND MANPOWER ACT—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate the conference report on the Employment and Manpower Act.

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3867) to assure opportunities for employment and training to unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes.

The Senate proceeded to consider the conference report.

(For conference report on S. 3862, see CONGRESSIONAL RECORD of December 9, 1970, pp. 40630 to 40648, inclusive.)

Mr. STENNIS. Mr. President, I thank the Senator from Wisconsin (Mr. NELSON) for permitting me to speak at this time, so that I might make a few remarks on this conference report. I am engaged in a conference on an appropriation bill now, and am compelled to return shortly to the consideration of that matter.

Mr. President, I was not recorded as having voted when this bill was before the Senate, because it was one of the times that I had to be away; but since then, I have checked into its cost, especially the rising cost of personnel and the huge backlog of obligations that we are building up, in the billions of dollars, for the next few years. I feel compelled to call that fact to the special attention of the Senate in connection with this bill as well as others.

Mr. President, the enormous prospective cost of the legislation in this conference report underscores a fact which applies not only to this bill but many of the other costly measures which we are either now considering or will be confronted with next year.

The fact is that we are committing the Federal Government to spend money which can only be obtained from two sources—by either deficit financing by the Federal Government, or higher taxes.

The anticipated deficit for fiscal year 1971 will be about $17 billion based on anticipated recipts of $198 billion with outlays of $214 billion. For fiscal year 1972 no one knows for certain what the deficit will be since the budget has not yet been completed. We know, however, that it is likely to be a minimum of $12 billion and could be as high as $23 billion.

I am advised that the estimated receipts will be about $212 billion. The deficit will then depend on the size of the budget. While these figures are purely speculative, the talk now ranges from $225 to $235 billion for the entire Federal Government.

Mr. President, the bill we have before us, even in its reduced form, proposes to add $9.5 billion, unprovided for in these budgets, if it is appropriated, within the next 3 years.

Mr. President, I would like to enumerate some of these large items, mainly in the personnel field, which will make our financial problem much more severe.

First, there is already in the supplemental bill now being considered an item of $1.6 billion for pay increases that have already been granted to Federal employees, both military and civilian.

That is just 2 days after we have passed the regular appropriation bill to take care of personnel costs for the Department of Defense. Within less than 2 days, it is followed by another bill to provide an additional $1.6 billion for pay increases that have already been granted, both military and civilian.

I am talking primarily about the mounting costs that we are letting come in, every few days or every few months and every year, year after year, which are contributing to these enormous deficits which are, of course, one of the main reasons we are having this severe inflation.

The conferees, on the new civilian pay proposals authorizing an automatic system of increases, have agreed to a principle which will add another $2.2 billion in annual costs for pay beginning next month, January 1; $1.3 billion of this will be military pay, and $900 million will be civilian pay.

I am referring now to the accumulated impact. I know that there have to be some salary increases. I am not arguing against them now on the merits. I am pointing out the accumulated impact of these billions of dollars, with no provision made to finance them, just running loose, and now we have the anticipated budget deficits I have already mentioned.

The Federal civilian increase to which I have just referred will be 6 percent, and, under another permanent provision of law, the military will receive a comparable increase. On top of the $1.3 billion increase which will be automatic on January 1 next, the Department of Defense is planning to submit another military pay package, also amounting to $1.3 billion, as a part of the volunteer effort. That is an additional $1.3 billion that apparently is going to be proposed for next year.

Should we ever seriously get into this effort, which I am as yet unconvinced is sound, to actually rely solely on volunteers for all the services, $1.3 billion would not begin to approach the additional cost. In my opinion, it would be $4 billion or $5 billion additional per year, or even more. But my information is that the request for next year is going to be for $1.3 billion. That would just be the beginning. We already have calculations that indicate the possibility of a much larger sum, as I have said.

Mr. President, the cost of our Federal budget is being increasingly used up by fixed charges. Pay in some form is becoming an increasingly significant element of these charges. Military retired pay in the defense bill just passed for fiscal year 1971 amounts to almost $3.2 billion. For the active forces, the entire personnel cost is taking an increasingly large percentage of the defense dollar

That is what concerns me. As a whole, the personnel costs of the services, plus what we call the operation and maintenance, which is the gas and the oil and the maintenance of property, and so forth, take up 60 percent of the defense dollar.

For fiscal year 1964, personnel costs in defense were approximately $14 billion, or 28 percent of the then $50.8 billion budget. For fiscal year 1972, with the anticipated increases, personnel costs will be approximately $29 billion. That is more than a 100-percent increase. Of course, we have more personnel in the services. It will be about $29 billion; and if the budget is about $70 billion, the personnel cost will be about 40 percent of the entire defense budget.

These mounting costs are occurring in personnel and in other items, in many other departments of this Government, with no real provision being made to take care of these increased costs. We had an illustration of that here this year. We summarily passed a bill calling for $3.2 billion over a period of 3 years for mass transportation costs. This year, we put in the appropriation bill—in the Senate bill—the full amount that was authorized, approximately $800 million, for that one item alone. That is in contract authority. It will not count in this year's figures of appropriations, but it will have to be paid next year, if that should become the final appropriation.

I indicate all these actions, Mr. President, to emphasize that I consider that we have an alarming trend of committing the Federal Government in advance to spend funds beyond its means, funds that it does not have and cannot possibly have, without an increase in taxes or some kind of imaginary, huge increase in the gross national product. We all hope that the gross national product will increase. But my point is that we are not laying the plans. We are authorizing, we

are appropriating, and we are not laying any constructive, definite, commonsense plans that will create the wealth that we are spending in advance. It means that we are adding one permanent commitment after another which, when added up, amount to billions and billions of dollars for future years, without any planning and with nothing in sight in a tangible way that is going to take care of those billions.

I regret to say it, but we just do not hear these things discussed. We do not hear the matter of balancing the budget mentioned, as we did in the old days.

We hear no alarm expressed about the continuing sizable deficits year after year. We complain about the inflation that is eating away the value of the savings of people, those on fixed income and, are attacking, year after year, the sound, basic foundations of values, of the people's property, their savings, and the stability of our economy. We hear complaints about that side of the picture, but we do not have enough hard votes taken on the floor of the Senate which will tend to eliminate those causes, to come near at least to balancing the budget, and to stop what I think is the reckless authorization of program after program, piling up these billions of dollars for someone to pay farther down the line.

Mr. President, I think it is a great honor to work for the Federal Government. I believe we have some of the finest citizens, with great talent and dedication, who work hard and put in long hours and render fine service throughout the Nation, in the Federal Government, State governments, municipal governments, cities, towns, and elsewhere. But it is a well-known fact in our Appropriations Committee and other committees, and by others who have been around here long enough, that many of these departments are overstaffed and they do not make solid requirements. I am not happy about saying that, but I have to say it in connection with this bill.

This bill proposes to add $9.5 billion for personnel training for the coming years, on the idea that it is needed. I am willing to give anyone training. I ask this question: What real training is there in this bill for adults? We have some good training programs, and I think we already have enough.

I do not see any real substance in the bill to justify a commitment or a semipromise, at least, to appropriate $9.5 billion for this program within 3 years. It is well known by most Senators that many of our Federal agencies are well staffed. Generally throughout the country, I do not believe there is any great deficiency if there were more active hours of work that are required. I do not say that to discredit anyone, of course, but it is definitely a part of the picture.

I do not refer to myself as an example of anything, but based on the atmosphere and the availability of work that applied in the times in which I was reared to my young adulthood, comparing then and now, I know that we have a surplus of employees today in many of the agencies. I will not say in all of them, by any means.

So, with great deference to the Senator from Wisconsin, and there is not a more diligent or finer Member of this body in my book than he in the way he applies himself with great ability, but from the fiscal affairs standpoint, as to the actual need for anything like a program extending the approach of this one and the commitments it would make, I think we are getting off on the wrong foot.

I believe that we should stop for a while and consolidate and see how the expenditures are going to be balanced off, and what is going to be done about the future, rather than piling on more, one on top of the other.

The Senate is in the dying days of this session and I am not going to delay this matter further. If times were more suitable for a full debate I believe that the bill, along with many others, should be more fully debated and placed in a clearer perspective and given much more consideration as to where we are going.

Mr. President, I yield the floor.

Mr. NELSON. Mr. President, I have just one comment to make, so that it will be understood by everyone. The basic authorization—and this is an authorization bill—for fiscal years 1972, 1973, and 1974 is $7.5 billion—$2 billion for 1972; $2.5 billion for 1973; and $3 billion for 1974.

The point I want to emphasize is that the basic authorization in the bill is identical with the authorization amounts suggested by the administration. For fiscal year 1972 they requested $2 billion. We put $2 billion basic authorization in the bill, just as they asked. The House also put $2 billion basic authorization in the bill for fiscal year 1972. The basic authorization for fiscal 1973 and 1974 likewise were identical in the administration's proposal, the Senate-passed bill, and the House-passed bill—$2.5 billion for fiscal 1973 and $3 billion for fiscal 1974.

The distinction in total dollar authorizations between the House-passed measure and the Senate's bill lies in the fact that in the Senate we should put in some add-ons, so-called authorized for public service employment.

The add-ons for public service employment in the authorization bill passed by the Senate were $4½ billion. That passed this body by a roll call vote of 68 to 6. When we went to conference, the House bill which had the same basic authorizations as in our bill and as the administration proposed, did not have any add-ons for public service employment. We had $4½ billion in such add-ons. We reduced these authorization add-ons from $4½ billion to $2 billion. So we removed $2½ billion from the add-on authorizations that passed the Senate.

One further word about the add-ons. The basic authorization, as I said, was the same in the House, the same as the administration's request in total dollars, and the same as our own in the Senate. We put the add-ons in the bill on our side after careful consideration because of our concern that if, down the road—6 months, a year, or a year and a half from now—the employment situation should deteriorate, then at least we would have passed the authorization bill so that the Appropriations Committee would have the authority to consider and recommend appropriations to meet the increased unemployment problem partially through public service employment, and the Senate itself could act in light of the Appropriations Committee's consideration and recommendation thereon. The authorization for additional appropriations for public service employment is there as a safety measure.

My own personal view is that the add-ons should be funded, but I am realistic enough to know it is not likely it will get funded immediately. In any event, the authorization should certainly be there.

I should like to point out one more thing. Let me read a list of the national organizations and the people in this country that support public service employment. Let me read a list of the groups that support the bill. Some gave general endorsement to public service employment; others were involved to the extent of following and suggesting specific aspects incorporated in the legislation. Many organizations and individuals gave their views during the course of our hearings which started November 4 of last year—a total of four volumes of hearings—we considered all these views during 2 months of markup sessions from June through August. The Senate passed the bill on September 17.

Organizations supporting public service employment included: The National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the AFL–CIO, the National Governors Conference, the National Council of Senior Citizens, the National Farmers Union, the Urban Coalition, the National Civil Service League, and every distinguished expert that I know of on manpower programs and needs.

This bill, if funded at the basic level, could produce 150,000 to 180,000 jobs in fiscal 1972—100,000 to 180,000.

That modest level contrasts, incidentally, with the careful analysis of the problem made by the Kerner Commission which recommended not—as does this conference report—100,000 jobs to as high as 180,000 jobs, but the Kerner Commission recommended 250,000 jobs the first year to 1 million jobs at the end of 3 years. I repeat, 1 million public service jobs was their recommendation.

This conference agreement authorizes a very modest public service employment program—very modest, much more modest than I think it should be, by far.

A very significant point is that what we are talking about, with regard to this conference agreement is the concept of public service employment as a real job rather than as a training slot they run someone into and provide him with some training for 12 weeks, 24 weeks, or 30 weeks, and then say to him, "Now we have given you some training, so you are competent to handle a job. Go out and find one." They then throw them out of training programs to look for nonexistent jobs. That is what we have been doing with the manpower programs to a great extent in this country.

When people criticize the concept of public service employment, let me point out something very interesting. Thirty-one years ago, up through the depression and as late as 1939, there were 4 million people in this country on public

service employment, paid for by the Federal Government—WPA and those programs. There were 3,900,000 people thus employed. That was in a country with a gross national product of $90 billion against a gross national product in this country as of this time that is approaching $1,000 billion.

Ninety billion dollars of 1939 dollars adjusted is $200 billion in today's dollars. So, in a country with a much smaller population and with a gross national product less than one-fourth of what we have today, this country faced up to a crucial problem. We had 12 million unemployed, and the Nation had 4 million people—just short of 4 million people—in public service employment.

That had to be a rushed-up type of program. People had to be given jobs. Contrary to the impression some people like to give, by no means was all of the work make work. Those who lived through that period of the depression know something about it. We still see evidences of the great work accomplished in the period of the thirties, in the conservation work that was done, and the fine buildings that were built. Still many of these were hurry-up projects. It is a big undertaking without the benefit of any training and upgrading and comprehensive manpower programs such as we have provided for in this bill.

All we are saying in this bill is that we ought to have a public service employment program which fills a critical need in this country. That is why every mayor in the Nation, so far as I know—all we have heard from—says that we need this program.

That is why we read in the newspapers this morning about the mayor's conference in Atlanta—the stories in the Washington Post and New York Times about their being upset because they had heard it was possible there might be a veto of this bill. The mayors are meeting in Atlanta today. They are sending their executive secretary, John Gunther, back to Washington to check with the Labor Department to see if there is any truth in those reports that the bill might be vetoed.

We are authorizing a modest program to fill critically important jobs that are needed at the present time at the local level. This bill is not creating an enlarged Federal bureaucracy. The Federal Government will not run the employment projects. The prime sponsor, under this major reorganization of manpower legislation, decides whether it wants a public service jobs program. The prime sponsor is the State government, or the city government if it serves a population of 75,000, or a county if it serves a population of 100,000 and has general governmental powers.

We have been talking for years about turning the responsibility for federally supported programs back to the local level. I agree with that philosophy. The local community is where the problem is. That is where the expertise is. That is who ought to be handling the job. We have been trying to run too much out of Washington. Everyone agrees with that. I agree with the President that these programs ought to be decentralized. Congress agrees with the President on that.

We have created prime sponsors in the bill for the first time. The State government can be a prime sponsor. The State government will handle all manpower programs at that level, exclusive of the areas covered by other prime sponsors within the State.

Any city with a population of 75,000 or more is eligible to be a prime sponsor.

Any county with a population of 100,000 or more having the functions of general government can be a prime sponsor. Any combination of cities or counties serving a total population of 100,000 can be a prime sponsor. (In order to be a prime sponsor, any combination of cities or counties must serve a functional labor market.)

A county or a combination of counties in rural areas having outmigration of population and high unemployment can be a prime sponsor, without regard to any required population level.

These can all be prime sponsors.

We then create local manpower services councils to advise and consult with the prime sponsors and to evaluate programs and needs.

That is how the manpower system designed by this legislation decentralizes responsibility to the local level.

Let me mention the composition of this council. The manpower services council would be appointed by the mayor or the Governor, as the case may be, consisting of members representing vocational education, the public employment service, community action agencies, various education and training organizations, business and labor organizations, and so forth, to work out a manpower program.

When they complete the job of working up a proposal for a manpower program at the local level—proposing what should be done in terms of work in public service fields—they then submit their proposals for a manpower program and a public service employment program to the Secretary of Labor. Local applications are submitted at the same time to the Governor of the State for the Governor's comments.

The Governor has a chance to review the manpower arrangements at the local level and give his views on whether local prime sponsor's plans have appropriate provisions for utilizing the services available from various State agencies.

The Governor might say to the Secretary of Labor, "I have reviewed the program of this prime sponsor. I think it is a good one."

Or he might say, "I have reviewed the program of the prime sponsor. I think it is a poor one."

He might say, "I think this change ought to be made and this coordination ought to be included."

The Secretary of Labor then checks the prime sponsor's program and approves it or rejects it. If he thinks it is not a good one, he rejects it.

What is the worry about the public service employment program working through the mayors? There are enormous unmet needs in the cities. Public service employment can involve work in public safety, public transportation, public health—areas which have personnel shortages and are not getting the work done because they do not have the manpower to do it at the local level. Needed work is being neglected.

The public service employment provides not only a job, but also a service that is needed in the community.

The program will not be carried out in Washington, a long distance from the problems and the work to be done. This program will not create a larger Federal bureaucracy. The programs will be carried out by the prime sponsor at the local level.

One thing we have learned from the manpower program is that those programs that have been run at the local level have been run very well. We did not create a new bureaucracy when Mainstream was created, a highly successful program involving many older and middle-aged citizens. Many of them have been doing remarkable jobs in that part of the Mainstream program called Green Thumb. There is strong support in every community where the Mainstream program exists. There is no criticism at all. Mainstream has been a kind of pilot public service employment program.

These public service employment programs will not be managed out of Washington. They will be part of the overall manpower program at the local level. To be sure that we are doing something not only for the people who are being served by the public services, but also for the self-development of the people who are employed in the program, we require that the public service employment itself be complemented by a training program to upgrade them, to increase their skills, and to give them an opportunity to go on up the ladder in civil service, in the field of public employment, whatever is best for the particular person.

The field of public employment is the biggest field of employment in the country and it will continue to be the largest single area, because there as so many employees at the local, State, and Federal levels. Should not unemployed persons and poor people have the opportunity to get into those programs and work like anyone else? They cannot pass all the civil service restrictions we have nowadays that are set up for someone who has had the best breaks in the world and for people who are qualified to pass the examinations. The people with the advantages are the ones who take the good jobs. The poor people are entitled to that opportunity for good jobs too.

This legislation provides for training programs to upgrade their skills. They can transfer from a public service job assisted under this bill—and we encourage that—into private employment, or go up the ladder in the field of public service. What is wrong with that? I think it is a good idea.

Now, I shall conclude by making another point. This does not allocate additional money for training, but provides the same amount we have been allocating for training. I emphasize that the basic authorization is exactly the same in this bill which is now before us as it was in the administration proposal and in the House-passed bill. We added to the administration's proposed authorization, as add-ons for public service employment a higher ceiling which is available as an appropriations authorization if the country, through the Congress, decides that

additional money should be spent in the public service field in appropriations acts. If it does not find that, there will be no funds spent under the add-on authorization.

I yield the floor.

Mr. ALLEN. Mr. President, I do not anticipate that anything that may be said on the floor of the Senate today will have any great influence on the vote on the adoption of the conference report. The bill was passed by an overwhelming majority in the Senate. I anticipate it will pass by a similar topheavy majority in just a few moments because there is no disposition on the part of the junior Senator from Alabama to prevent an early vote on the conference report.

The junior Senator from Alabama does feel, however, that a bill of this magnitude, a bill containing some 65 pages and authorizing the appropriation over the next 4 years of the tremendous sum of $9.5 billion should have at least some perfunctory study before a vote is taken.

It is said that this is not an appropriation bill and it is not. It is an authorization bill. But if an authorization bill is passed, can the appropriation bill be far behind? The junior Senator from Alabama submits it would not be far behind. He notes, too, that the authorization as to public service employment starts with the current fiscal year, whereas the authorization for the remainder of the program does not start until fiscal year 1972. That would cause the junior Senator from Alabama to wonder what is the crisis in public service employment, why the hurry, why the rush to provide additional public service jobs during the current fiscal year which will expire on July 1, 1971.

Much has been said about the fact that this is only the amount that was requested by the President, and all the Senate did before was to tack on a small amount of $4.5 billion as an add-on. Where did the figure come from? No one has said why they hit on that figure. They say:

> We went to conference and the conference knocked $2.5 billion off the $4.5 billion that we added on.

They knocked off $2.5 billion from a sum that has been just reached out and grabbed and put into the bill as some sort of an add-on.

When the junior Senator from Alabama on yesterday questioned the distinguished Senator from Wisconsin on the number of public service jobs that could be created and filled and paid for out of the proceeds of any money appropriated in accordance with this authorization he was advised that the figure in the final year could run up as high as 300,000 public service jobs.

The basic bill is designed to cover three areas, as has been referred to, and those areas are set forth in section 4 on page 3 of the conference report.

It is stated in subsections (1), (2), and (3) of section 4 that one-third of this basic sum—and the basic money is $7.5 billion—should go for comprehensive manpower services under title I of the act; one-third shall be for public service employment programs under title III of the act; and one-third shall be for occupational upgrading under title II and special manpower programs under title IV of the act.

The bill goes on to state that the Secretary can take an amount not to exceed 25 percent of any of these sums that may be appropriated in accordance with the authorization provided in this bill, that is, take up to 25 percent of the amount appropriated, for any of these three programs and use it for another program. That, then, would provide, if the arithmetic of the junior Senator from Alabama is correct, that $2.5 billion would go for public service employment, because that is a third of the $7.5 billion. That leaves $5 billion.

Well, the Secretary can take 25 percent of that. So that is $1.250 billion. And then that would get up to $3.750 billion to be spent under the public service employment aspect of the bill.

Then, with respect to the add-on which the conference committee, in an economy move, struck from $4.5 billion down to $2 billion, it is provided that that shall be spent for public service employment.

I am sure that if I am incorrect in the conclusions I have drawn from a reading of the bill, I shall be corrected.

That, then, added to $3.750 billion would be $5.750 billion which could conceivably be spent for public service employment.

Does the Federal Government need to provide the necessary money for adding, at a cost of up to more than $5 billion, some 300,000 additional employees at every level of Government?

The statement is made, and I am sure in good faith, that these positions are to be in public service at the State and local level; that the Federal Government would not be involved in those jobs. Yet we see in title III, section 303, the eligible applicants:

> Financial assistance under this title may be provided by the Secretary only pursuant to applications submitted by eligible applicants, who shall be—

And then are named the prime sponsors that were referred to, and other public agencies and institutions including public service agencies and institutions of the Federal Government.

So, the Federal Government, with its mushrooming bureaucracy, could come in for as many of these public service employees as the Secretary saw fit to give.

Just the other day, the Senate, in a rare burst of economy and for the protection of our environment, knocked out an item of $290 million for further work on the SST program. I am pleased that I was among the number that voted to eliminate the appropriation for the SST. I voted similarly last year when some $85 million was up for appropriation.

So we save there—if the conferees keep the saving—$290 million. And yet, in one fell swoop, we are going to authorize appropriations for the expenditure of up to $9.5 billion over the next 4 years.

Where are the opponents of the SST on this occasion? Why are they not here to help carry on this battle for economy we hear so much about? Why are they not here to try to help defeat this authorization of $9.5 billion?

Mr. President, I have some interesting figures in a table which I shall refer to. I ask unanimous consent to have printed in the RECORD, table No. 631 on page 428 of Statistical Abstract of the United States, 1970, prepared by the U.S. Department of Commerce, Bureau of the Census, entitled, "Governmental Employment and Payrolls: 1950 to 1969."

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

GOVERNMENTAL EMPLOYMENT AND PAYROLLS: 1950 TO 1969

[For October. Prior to 1960, excludes Alaska and Hawaii. See also Historical Statistics, Colonial Times to 1957, series Y 205–240]

Year and function	Employees (1,000)					Payroll (Millions of dollars)				
			State and local					State and local		
	Total	Federal (civilian) [1]	Total	State	Local	Total	Federal (civilian) [1]	Total	State	Local
1950	6,402	2,117	4,285	1,057	3,228	1,528	613	915	218	696
1960	8,808	2,421	6,387	1,527	4,860	3,333	1,118	2,215	524	1,691
1965	10,589	2,588	8,001	2,028	5,973	4,884	1,484	3,400	849	2,551
1966	11,479	2,861	8,618	2,211	6,407	5,473	1,665	3,808	975	2,833
1967	11,867	2,993	8,874	2,335	6,539	6,056	1,842	4,213	1,106	3,108
1968	12,342	2,984	9,358	2,495	6,864	6,889	2,137	4,752	1,257	3,495
Total, 1969	12,691	2,975	9,716	2,614	7,102	7,594	2,342	5,252	1,431	3,822
National defense and international relations	1,322	1,322				1,009	1,009			
Postal service	728	728				490	490			
Education	5,079	18	5,061	1,112	3,949	2,845	15	2,831	554	2,276
Teachers	2,865		2,865	342	2,523	2,106		2,106	287	1,819
Highways	602	6	596	296	301	324	6	318	179	138
Health and hospitals	1,168	195	973	488	484	626	157	468	252	216
Police protection	514	27	487	54	432	320	29	291	38	253
Fire protection	262		262		262	135		135		135
Sanitation and sewerage	188		188		188	95		95		95
Parks and recreation	156		156		156	61		61		61
Natural resources	393	216	177	143	34	278	185	93	80	13
Financial administration	326	91	235	92	143	205	86	118	55	64
All other	1,952	372	1,580	428	1,153	1,207	365	842	272	570

[1] Includes Federal civilian employees outside United States.

Source: Department of Commerce, Bureau of the Census; annual report, Public Employment in 1969.

Mr. ALLEN. This table shows that in 1950 the total number of employees, State, local, and Federal, in the United States was 6,402,000.

By 1960 it had added 2,400,000 employees. It had gone up to 8,808,000 employees.

In 1965 the total number of employees, State, local, and Federal, had jumped to 10,589,000.

In 1966 it was 11,479,000; in 1967 it was 11,867,000; in 1968 it was 12,342,000; in 1969 it was 12,691,000.

Mr. President, we hear a lot about featherbedding and work rules in a discussion of the railroad situation. We hear about featherbedding on the railroads. What about featherbedding in the public service sector?

Here we are authorizing an appropriation of some $9.5 billion, of which over $5 billion could be spent creating new jobs in the public sector, and for the Federal Government to pay for it. I do not believe we need that.

The figure of 12,691,000 Federal, State, and local employees does not include millions of people who work in defense plants owned by the private sector. It does not include employees of contractors in the private sector. It does not include more than 3 million men and women in the armed services. It does not include some 12 million people who are on the public welfare assistance programs.

It does not include the 10 million more Americans who would be added to the public assistance rolls if the President's family assistance plan should be adopted.

Is there any need for the Federal Government to subsidize the addition of 300,000 more employees? Nothing is said about where they are going to be assigned. That has to be developed later.

But, Mr. President, I can tell you, if there is a job designation and a salary accompanying it, we can rest assured that someone will be furnished to fill that assignment. All we have to do is make the money available, and the need for the jobs will appear.

Mr. President, again I say that I do not anticipate that there will be any more than five votes against this conference report; but the junior Senator from Alabama wants and intends to be one of those.

This is an opportunity to strike a blow against a mushrooming bureaucracy in the public sector, be it local, State, or Federal. This is an opportunity to call a halt, to some degree, to the escalation of employment in the public sector.

I do not believe we need this authorization at this time. The main body of the authorization would not go into effect until fiscal year 1972, and it would seem that it would be the better part of wisdom to wait until the 92d Congress to pass this authorizations legislation. But I know that will not take place.

This bill is a voluminous document. A great deal of study, time, and thought have gone into it, and I commend the distinguished Senator from Wisconsin for his hard work, and for his zeal, for his sincerity, and for his dedication. It just happens that we are not in agreement on this matter.

We were in agreement, I might say, on eliminating the SST program from the appropriation bill. But I am persuaded, after seeing this authorization bill, that the Senator from Wisconsin made his decision, not on the basis of reasons of economy or fiscal responsibility, but on matter of ecology and our environment; because he now comes forward with this $9.5 billion bill, and it would not be very good business to save $290 million one day and then authorize the appropriation of $9.5 billion almost the next day.

I hope that the Senate will reject this conference report. Theoretically, under the rules, I assume if the report is rejected it could be sent back to conference with instructions; but again, I do not anticipate that that will take place. But the junior Senator from Alabama has had an opportunity to register his protest on this further movement in the direction of bigger and bigger Federal Government and bigger and bigger government at all levels.

Mr. President, I yield the floor.

Mr. NELSON. Mr. President, I thank the Senator from Alabama. Although we differ on this bill, he has quite obviously dedicated considerable time and thought to evaluating what is in the bill, and has made a thoughtful contribution to its legislative history.

I say to the Senator from Alabama that I am pleased that we agreed on the supersonic transport. He is correct that my criticism was not fiscal, but ecological. I am not pleased that we disagree on this manpower bill; but I would suggest—and I am sure the Senator from Alabama would agree with me—that it would not be too healthy for either of us to be agreeing more than 50 percent of the time.

Mr. President, I yield the floor.

EMPLOYMENT AND MANPOWER ACT; NEW PROVISIONS FOR BILINGUAL MANPOWER TRAINING AND FOR EMPLOYMENT IN CASE OF NATURAL DISASTERS

Mr. YARBOROUGH. Mr. President, I want to commend the Senator from Wisconsin (Mr. NELSON) chairman of the Subcommittee on Employment, Manpower, and Poverty and all of the other members of my Committee on Labor and Public Welfare who have labored hard and long to bring to the floor of the Senate this comprehensive and historic Employment and Manpower Act.

This act, which makes sweeping reforms of our national manpower effort and introduces new concepts in manpower training and employment is in direct recognition of our Nation's strong commitment to the ethic of work and the ideal of individual self-reliance. As the training needs of our changing technology multiply, and as unemployment soars, we must respond with measures which are adequate and effective to help those which are least able to withstand it. At a time when there is rising concern over the increasing costs of welfare we must provide the only lasting remedy to welfare—a job with adequate income.

One of the novel approaches of manpower training and employment in this bill is the bilingual manpower program. This program will provide special bilingual training for persons who have limited English-speaking abilities to increase their opportunities for employment and promotion.

During field hearings by the Subcommittee on Employment, Manpower, and Poverty, compelling testimony was presented to the effect that many thousands of Americans have extreme difficulties in preparing for and acquiring employment consistent with their abilities and willingness to learn simply because they had difficulty with the English language.

This handicap is particularly evidenced among the Mexican Americans. Equal Employment Opportunity Commission figures show that 70 percent of all male Spanish-surnamed Americans work in the lowest occupational categories—as operatives, laborers, or service workers; 1966 figures from the Department of Labor show that 47 percent of the men in a Mexican-American barrio of San Antonio were either unemployed or living on incomes below $60 per week. Across the Nation, more than half of the Mexican-American families have incomes of less than $3,000 per year. This same handicap affects to an even greater extent the many thousands of Puerto Ricans, Cubans, and other Spanish-surnamed Americans whom we have welcomed to our country in their search of a better life.

There are other ethnic groups who will also benefit from this program. In San Francisco, the Chinese-speaking population has increased to 70,000. Most of them are underemployed or unemployed directly as a result of the language barrier. There are similar groups in major cities throughout the country who cannot compete equally on the job market because of the language barrier. Many of them possess skills which are in short supply. Most of them are willing and able workers who want to be self-reliant; all of them are workers whose contributions will be needed once we shelve the regressive economic policies of the present administration and get this country moving again.

Another section of the bill permits the Secretary of Labor to use unallocated funds to provide additional public service employment slots to eligible applicants for use in disaster relief operations.

The State of Texas has suffered much this year from tornadoes, floods, and hurricanes. One of the most effective disaster relief operations was in Lubbock where an additional 86 NYC slots were made available by the Secretary of Labor to assist in the aftermath of the terrible tornado that tore up much of the downtown area and the nearby Mexican-American barrio. The enrollees performed many essential tasks that would not have been otherwise carried out. I was very disappointed to learn that similar arrangements were not made in San Marcos and Corpus Christi after the disasters that struck these two cities because the slots that had been allocated to Texas had been used up. This amendment makes it possible to take other unallocated funds to assist local communities to recover from a disaster.

There are many other extremely important manpower innovations in this bill. It establishes special programs for Indians and for migrant workers, recognizing the two segments of our society who suffer the most from unemployment and lack of training. It continues the

manpower programs which have been found most successful, and gives the Secretary broad discretion to initiate new programs and try out new concepts of comprehensive manpower programs.

The bill adds a new public service employment section which will permit local and State governments and other eligible nonprofit entities, such as hospitals to employ persons for essential tasks that have not been performed due to high labor costs. These public service employment slots are meant to train and prepare low income persons for better jobs, but these trainees will not be terminated if such a job is not obtained or accepted by the enrollee.

This is an idealistic but very practical piece of legislation and I strongly recommend its adoption.

Mr. CRANSTON. Mr. President, I rise to strongly urge adoption by the Senate of the conference report on S. 3867, to be known as "The Employment and Manpower Act." This bill was the subject of a most intensive set of conference committee deliberations, and I was privileged to have the opportunity to serve as a Senate conferee on what is one of the most vital pieces of social legislation to come before the Senate in a long time.

I want particularly to draw the attention of my colleagues to the absolutely outstanding work in the conference by the conference chairman, who is chairman of the Subcommittee on Employment, Manpower, and Poverty, my good friend from Wisconsin (Mr. NELSON). The fact that so many of the crucial provisions of the Senate bill are included in this conference report is an enormous tribute to his dedication, effective advocacy, tenacity, political acumen and sensitivity to the real issues involved in distribution of responsibilities for employment and manpower programs. It was a great privilege to work under his leadership in this conference. I also wish to congratulate the ranking minority member of the conference, the Senator from New York (Mr. JAVITS), for his steadfast role in achieving the legislation before us. And I wish to express my admiration for the openmindedness, firmness and wisdom displayed by the chairman of the House conferees (Mr. PERKINS) and the principal sponsor of the House bill (Mr. O'HARA).

Mr. President, I would like very briefly to elaborate upon conference action on a number of provisions in the original Senate version adopted on September 17, which provisions I offered as amendments during subcommittee and committee consideration of this bill. I outlined the history and purposes of these provisions in my floor statement on September 17 (S. 15886), and I am particularly grateful to the House conferees for their acceptance of virtually all of these provisions, with some relatively minor modifications which I wish to explain.

FAMILY PLANNING

In the original Senate version, my amendment inserted "family planning" in all places in the act where the word "health" was found, in order to make clear that the provision of health services to employment and manpower recipients under the act was to include family planning services and that employment and training in the health field under the act was to include family planning paraprofessional work. The conferees on the part of the House felt that it was preferable to achieve this result by a single provision in the definitions section of the act, section (6)(4) making clear that family planning services is one of the essential components of "health care" under the act.

It was fully understood in the conference that the striking of the words "family planning" throughout the bill in no way altered the effect of the inclusion of those words throughout the Senate bill as indicated in my September 17 floor statement.

PUBLIC SERVICE EMPLOYMENT JOB REVIEW

The original Senate bill in section 204(b)(15) included my amendment providing for a job review for public service employment participants between the first and second year of their employment. In conference, it was agreed that more than one review was desirable and the review was, therefore, placed on an annual basis. I wish to make clear, however, that the conferees considered and clearly rejected the notion of a continuing review of each participant's status, as had been provided for in section 306(3) of the House version.

ACCOUNTABILITY OF PRIME SPONSORS IN DISPENSING FUNDS

I regret very much that the appeal to the Secretary procedure in section 106(b) of the bill, which in the original Senate language included recourse for both a unit of general local government as well as a community action agency, was amended to delete the reference to community action agencies. This amendment was absolutely insisted upon by the House conferees who would accept no compromise on this question. In addition, in response to objections by House conferees to the appeal procedures, even as they related only to units of general local government, I proposed and the conference adopted four clarifying modifications of the appeal procedure. These modifications are:

First, to require that the Secretary's decision on all challenges by local governmental units—regardless of whether or not there are applications pending for financial assistance—be made in no less than 30 days from the date he receives the challenge;

Second, to make totally clear that withholding of approval of prime sponsors' pending applications for financial assistance is limited to so much of the application as relates directly to the matter under challenge;

Third, regarding allegations not involving pending applications, to explicitly state that nothing in the subsection requires the Secretary to withhold financial assistance; and

Fourth, to permit the Secretary to discuss clearly frivolous challenges summarily by merely sending a written decision to that effect to the interested parties.

I wish to make clear that these modifications do not in any way dilute the appeal process for units of general local government, and it also should be pointed out that community action agencies would have the opportunity to prevail upon the general local government in its area to champion its cause through an appeal to the Secretary under section 106(b).

This same position was taken by the conferees with respect to the specific inclusion of community action agencies as eligible applicants for public service employment programs, as had been provided in section 203(2) of the original Senate bill. The best that we were able to achieve for community action agencies in that regard was included in section 303(3) of the conference bill. This provision would permit a community action agency to be a recipient of financial assistance for public service employment programs if approved by the prime sponsor or if the community action agency were associated with any of the other approved categories of eligible applicants.

NONDELEGATABILITY OF CERTAIN DECISIONS BY THE SECRETARY

The original Senate provision prohibited delegation outside of the Office of the Secretary of the Secretary's authority to disapprove prime sponsorship plans of local governmental units and decide on challenges under section 106(b). We agreed that such authority could be delegated to the Assistant Secretary for Manpower, a Presidential appointee subject to Senate confirmation and so revised section 7(b) of the conference bill.

OPERATION S.E.R.

I just want to note briefly how pleased I am with the conference action to retain in section 416 the exact Senate language regarding this very important Mexican-American manpower program, based largely in California and four other Southwestern States, which was contained in section 316 of the Senate version as the result of an amendment offered by Senator DOMINICK and myself.

COVERAGE OF PUERTO RICO IN BILINGUAL MANPOWER SERVICES PROGRAM

There was considerable discussion in the conference regarding the eligibility of Puerto Rico for participation in the bilingual manpower program now included in part B of title V of the conference bill. I merely wish to reiterate what I stated on the floor September 17 (S15890) that it was our intention that the language of the provision be interpreted in the same manner as appropriate similar language had been interpreted in title VII of the Elementary and Secondary Education Act. The intended effect is that Puerto Rico should be eligible for participation under this part, but would not receive a disproportionate share of funds.

VETERANS' EMPLOYMENT

I am particularly gratified that the House conferees saw fit to accept all of the veterans' employment provisions of the Senate bill, which I highlighted in my September 17 floor statement. Recent hearings conducted by the Veterans Affairs Subcommittee, which I am privileged to chair, of the Labor and Public Welfare Committee, highlighted dramatically the seriously increasing problem of

veterans' unemployment, particularly among recently returned veterans. Indeed, at our hearing on December 3, 1970, the Assistant Secretary of Labor for Manpower, Mr. Lovell, in response to my question, indicated that recently returned veterans would be given a preference for participation in the new public service employment programs to be established under this act.

Mr. Lovell's testimony also revealed that in the third quarter of calendar 1970 there were 218,000 Vietnam era veterans under age 30 out of work as compared with only 116,000 a year before and that the unemployment rate for 20- to 24-year-old war veterans in this past quarter was 9.1 percent as compared with 8.3 percent for nonveterans of the same age. The unemployment problems of nonwhite recent veterans were shown to be particularly acute now—with 40,000 nonwhite war veterans aged 20 to 29 unemployed in the third quarter of 1970 and an unemployment rate of 18.1 percent for those who were 20 to 24 years old whereas nonveterans for the same group experienced a 12.5-percent unemployment rate. Mr. Lovell's testimony also points up the fact that local employment services are not adequately meeting this growing need for veterans' employment assistance; whereas in the first quarter of fiscal year 1971 veteran applications for public service employment assistance constituted 39.9 percent of all applications, veterans constituted only 32.5 percent of all males counseled and only 33.7 percent of those placed.

PUBLIC SERVICE EMPLOYMENT

With respect to the public service employment program, which I consider the most innovative and socially significant portion of the act, I wish to note that the add-on authorizations for public service employment were lowered only at the last-minute insistence of the House conferees that this was absolutely essential for a reasonable chance of acceptance of the conference report by the other body. This conference bill, nevertheless, authorizes an add-on over 4 years of $2 billion which should still provide an additional approximately 50,000 jobs over that time period.

The crucial thing is, however, that the Senate allocation formula of one-third of the appropriations under the act for public service employment as well as the total annual authorization of appropriations, was retained in the conference bill.

This should provide for at least 100,000 public service jobs in the first full fiscal year—fiscal year 1972.

I also wish to point out the inclusion in the conference bill of language which I suggested in the congressional statement of purposes and findings that, among those with urgent needs for public service employment opportunities, were "those who have become unemployed as a result of shifts in the pattern of Federal expenditures as in the defense, aerospace, and construction industries."

In closing, Mr. President, I wish to stress how vitally important enactment of this legislation is to the economy of this country, beset by a 5.8 percent unemployment rate and an inflationary price situation. I again urge unanimous Senate passage of this bill and call upon the other body to provide similar overwhelming support and the President to act promptly to sign this measure into law.

The PRESIDING OFFICER (Mr. GRAVEL). The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. MCCARTHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN) and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that if present and voting, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Virginia (Mr. SPONG), would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Nebraska (Mr. HRUSKA), the Senator from Vermont (Mr. PROUTY) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oregon (Mr. HATFIELD) is absent on official business.

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

The Senator from Kentucky (Mr. COOPER) and the Senator from Michigan (Mr. GRIFFIN) are detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT), and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

If present and voting, the Senator from Colorado (Mr. DOMINICK) and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 68, nays 13, as follows:

[No. 424 Leg.]

YEAS—68

Aiken	Gravel	Muskie
Allott	Harris	Nelson
Anderson	Hart	Packwood
Baker	Hartke	Pastore
Bayh	Hollings	Pearson
Bible	Hughes	Pell
Boggs	Inouye	Percy
Brooke	Jackson	Proxmire
Burdick	Javits	Randolph
Byrd, Va.	Jordan, N.C.	Saxbe
Byrd, W. Va.	Jordan, Idaho	Schweiker
Cannon	Kennedy	Scott
Case	Long	Smith
Church	Magnuson	Stevens
Cook	Mansfield	Stevenson
Cranston	Mathias	Symington
Dole	McGee	Tydings
Eagleton	McIntyre	Williams, N.J.
Ervin	Metcalf	Williams, Del.
Fannin	Miller	Yarborough
Fong	Montoya	Young, N. Dak.
Goodell	Moss	Young, Ohio
Gore	Murphy	

NAYS—13

Allen	Eastland	Stennis
Bellmon	Ellender	Talmadge
Bennett	Gurney	Thurmond
Cotton	Holland	
Curtis	McClellan	

NOT VOTING—19

Cooper	Hatfield	Ribicoff
Dodd	Hruska	Russell
Dominick	McCarthy	Sparkman
Fulbright	McGovern	Spong
Goldwater	Mondale	Tower
Griffin	Mundt	
Hansen	Prouty	

So the report was agreed to.

Mr. NELSON. Mr. President, I move that the Senate reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

U.S. PARTICIPATION IN CERTAIN INTERNATIONAL FINANCIAL INSTITUTIONS

The PRESIDING OFFICER (Mr. GRAVEL). The Chair lays before the Senate the unfinished business, which will be stated.

The legislative clerk read as follows:

A bill (H.R. 18306) to authorize U.S. participation in increases in the resources of certain international financial institutions, to provide for an annual audit of the Exchange Stabilization Fund by the General Accounting Office, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as reported.

SECURITIES INVESTOR PROTECTION ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1236, S. 2348.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows: A bill (S. 2348) to establish a Federal Broker-Dealer Insurance Corporation.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the bill.

The Senate proceeded to the consideration of the bill which was reported from the Committee on Banking and Currency with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Securities Investor Protection Act of 1970".

SEC. 2. The Securities Exchange Act of 1934 is amended by adding at the end thereof the following new section:

"SECURITIES INVESTOR PROTECTION CORPORATION

"SEC. 35. (a) There is established a body corporate to be known as 'Securities Investor Protection Corporation' (hereinafter referred to as the 'corporation'). The corporation shall be a nonprofit corporation and shall have succession until dissolved by Act of Congress. The corporation shall not be an agency or establishment of the United States Government. It shall be a membership corporation whose members shall consist of all brokers or dealers registered under subsection (b) of section 15 of this title and all members of national securities exchanges, unless excepted or exempted from membership under the provisions of subsection (h) of this section. The corporation shall be subject, to the extent consistent with this section, to the provisions of the District of Columbia Nonprofit Corporation Act.

"(b)(1) The corporation shall have a board of directors consisting of not more than five persons as follows—

"(A) the Chairman of the Securities Exchange Commission, who shall serve ex officio;

"(B) the Secretary of the Treasury, who shall serve ex officio;

"(C) the Chairman of the Federal Reserve Board, who shall serve ex officio; and

"(D) two members, appointed by the President, by and with the advice and consent of the Senate, from among persons of demonstrated securities industry experience who are not employed by the Federal Government.

"(2) Except for those serving ex officio, the initial members of the board of directors shall each serve for a term of two years from the effective date of this section or as otherwise provided in the bylaws of the corporation. All matters relating to tenure in office (including the terms of office of directors and the periods for determining dollar volumes of trading) and the compensation of directors not otherwise employed by the Federal Government shall be as provided in the bylaws of the corporation.

"(3) The President shall designate a chairman from among those directors who are not otherwise employed by the Federal Government.

"(c) The board of directors shall meet at the call of its chairman, or as otherwise provided by the bylaws of the corporation. Subject to the provisions of this section, the board of directors shall determine the policies which shall govern the operations of the corporation. In addition to the powers granted to the corporation elsewhere in this section the corporation shall have the power—

"(1) to sue and be sued, complain, and defend, in its corporate name and through its own counsel, in any court, State or Federal;

"(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

"(3) subject to the provisions of this section, to adopt, amend, and repeal, by its board of directors, bylaws, rules, and regulations relating to the conduct of its business and the exercise of all other rights and powers granted to the corporation by this section;

"(4) to conduct its business (including the carrying on of operations and the maintenance of offices) and to exercise all other rights and powers granted to it by this section in any State or other jurisdiction without regard to any qualification, licensing, or other statutory requirement in such State or other jurisdiction;

"(5) to lease, purchase, accept gifts or donations of or otherwise acquire, to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property or any interest therein, wherever situated;

"(6) subject to the provisions of subsection (b) of this section, to elect or appoint such officers, attorneys, employees, or agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof;

"(7) to enter into contracts, to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the corporation by this section; and

"(8) to the extent not inconsistent with this section, to have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act.

"(d)(1) The Commission may make such examinations and inspections of the corporation and require the corporation to furnish it with such reports and records or copies thereof as the Commission may consider necessary or appropriate in the public interest or to effectuate the purposes of this section.

"(2) The corporation shall establish its fiscal year. As soon as practicable after the close of each fiscal year, the corporation shall submit to the Commission a written report relative to the conduct of its business and the exercise of the other rights and powers granted by this section during such fiscal year. Such report shall include financial statements setting forth the financial position of the corporation at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year. The financial statements so included shall be examined by an independent public accountant or firm of independent public accountants, selected by the corporation and satisfactory to the Commission, and shall be accompanied by the report thereon of such accountant or firm. The Commission shall transmit such report to the President and the Congress with such comment thereon as the Commission may deem appropriate.

"(e)(1) The corporation shall establish a fund, consisting of cash on hand or on deposit and amounts invested in United States Government and agency issues, to carry out its obligations under this section. Subject to payments made directly to any lender pursuant to any pledge securing a borrowing by the corporation, all moneys collected or received by the corporation shall be paid into the fund and all expenditures of the corporation shall be made from the fund. For the purpose of computing amounts of cash on hand in the fund at any time, there shall be included amounts which the corporation at such time has the right to borrow from banks and other financial institutions under confirmed lines of credit or other written agreements which provide that moneys so borrowed are to be repayable by the corporation not less than one year from the time of such borrowing, including all rights of extension, refunding, or renewal at the election of the corporation.

"(2) Within one hundred and twenty days from the effective date of this section, the fund shall aggregate not less than $75,000,000 less amounts expended within that period. Each broker or dealer who is a member of the corporation shall pay to the corporation, or the collection agent for the corporation hereinafter mentioned, on or before the one hundred and twentieth day following the effective date of this section, an assessment equal to one-eighth of 1 per centum of the gross revenue from the securities business of such broker or dealer during the calendar year 1969 or if the Commission shall determine that, for purposes of assessment pursuant to this paragraph, a lesser percentage of gross revenues from the securities business is appropriate for any class or classes of brokers or dealers (taking into account relevant factors, including but not limited to types of business done and nature of securities sold), such lesser percentages as the Commission, by rule or regulation, shall establish for such class or classes, but in no event less than one-sixteenth of 1 per centum for any such class. In no event shall any assessment upon a member pursuant to this paragraph be less than $125.

"(3)(A) The corporation shall impose upon its members, subject to Commission determination as provided in subsection (k) of this section, such assessments as, after consultation with self-regulatory organizations, the corporation may deem necessary and appropriate to establish and maintain the fund specified in paragraph (1) of this subsection and to repay any borrowings by the corporation. Assessments so made shall be in conformity with contractual obligations made, or assumed by the corporation. Any such assessment upon the members, or any one or more classes thereof, may, in whole or in part, be based upon or measured by all or any of the following factors: the amount or composition of their gross revenues from the securities business, the number or dollar volume of transactions effected by them, the number of customer accounts maintained by them or the amounts of cash and securities in such accounts, their net capital, the nature of their activities (whether in the securities business or otherwise) and the consequent risks, or other relevant factors.

"(B) Anything in this or any other section to the contrary notwithstanding—

"(i) no assessments shall be made upon a member otherwise than pursuant to paragraph (2) of this subsection or this paragraph; and

"(ii) no assessment shall be made pursuant to this paragraph upon a member which requires payments during any twelve-month period which exceed one-half of 1 per centum of such member's gross revenues from the securities business for such period.

"(4)(A) Until the fund aggregates not less than $150,000,000 (or such lesser amount as the Commission, with the approval of the Secretary of the Treasury, may determine) the rate of assessment shall be one-half of 1 per centum per annum of each member's gross revenues from the securities business. After 3 years, cash represented by amounts which may be borrowed under lines of credit or other agreements shall not constitute more than $50,000,000 of the total amount of the fund. When the fund aggregates $150,000,000 or such greater amount as the corporation may determine, the corporation shall phase out of the fund all cash represented by such confirmed lines of credit or written agreements and during such period the corporation shall endeavor to make assessments in such a manner that the aggregate assessments payable by its members during such period shall not be less than one-fourth of 1 per centum per annum of the aggregate gross revenues from the securities business for such members during such period. No such reduction shall be made during period when there is outstanding any borrowing by the corporation pursuant to paragraph (5) of subsection (f) or subsection (g) of this section.

"(B) Whenever the amount in the fund falls below $100,000,000 (or such lesser amount as the Commission with the approval of the Secretary of the Treasury, may determine) the rate of assessment shall be increased to one-half of 1 per centum until the fund is replenished to that amount.

"(5) To the extent that any payment by a member exceeds the maximum rate permitted by paragraph (2) of this subsection, the excess shall not be recoverable except against future payments by such member in accordance with a bylaw, rule, or regulation of the corporation.

"(f)(1) As used in this section, the term 'gross revenues from the securities business' means the sum of (but without duplication) (A) commissions earned in connection with transactions in securities effected for customers as agent, net of commissions paid to other brokers and dealers in connection with such transactions, and markups in respect of purchases or sales of securities as principal, (B) charges for executing or clearing transactions in securities for other brokers and dealers, (C) the net realized gain, if any, from principal transactions in securities in trading accounts, (D) the net profit, if any, from the management of or participation in the underwriting or distribution of securities, (E) interest earned on customers' securities accounts, (F) fees for investment advisory services or account supervision in respect of securities and management fees from investment companies, (G) fees for the solicitation of proxies with respect to, or tenders or exchanges of, securities, (H) in-

come from service charges or other surcharges in respect of securities, (I) except as otherwise provided by rule or regulation of the Commission, dividends and interest received on securities in investment accounts of the broker or dealer, (J) fees in connection with put, call, and other option transactions, and (K) fees and other income for all other investment banking services. Except as otherwise provided by the corporation gross revenues from the securities business of a broker or dealer shall be computed on a consolidated basis for such broker or dealer and all its subsidiaries, and the operations of a broker or dealer shall include those of any business to which such broker or dealer has succeeded. The corporation may define all terms used in this paragraph insofar as such definitions are not inconsistent with the provisions of this paragraph.

"(2) Each broker or dealer who is a member of the corporation shall file with the broker's or dealer's examining authority such information (including reports of, and information with respect to, the gross revenues from the securities business of such member, including the composition thereof, transactions in securities effected by such member, and other information with respect to such member's activities, whether in the securities business or otherwise, including customer accounts maintained, net capital employed, and activities conducted) as the corporation may determine to be necessary or appropriate for the purpose of making assessments under subsection (e) of this section. The examining authority shall file with the corporation all or such part of such information (and such compilations and analyses thereof) as the corporation shall prescribe. No application, report, or document filed pursuant to this section shall be deemed to be filed pursuant to this title for the purpose of section 18.

"(3) Each self-regulatory organization shall act as collection agent for the corporation to collect the assessments payable by all members of the corporation for whom such self-regulatory organization is the examining authority, and members of the corporation who are not members of any self-regulatory organization shall make payment directly to the corporation. An examining authority shall be obligated to remit to the corporation assessments made under subsection (e) of this section only to the extent that payments of such assessments are received by such examining authority.

"(4) There may be contributed and transferred at any time to the corporation any funds held by any trust established by a self-regulatory organization prior to January 1, 1970, and the amounts so contributed and transferred shall be applied, as may be determined by the corporation with approval of the Commission, as a reduction in the amounts payable pursuant to assessments made or to be made by the corporation upon members of such self-regulatory organization pursuant to paragraph (3) of subsection (e) of this section. No such reduction shall be made at any time when there is outstanding any borrowing by the corporation pursuant to subsection (g) of this section or any borrowing under confirmed lines of credit or other written agreements referred to in subsection (e) of this section.

"(5) The corporation shall have the power to borrow money and to evidence such borrowing by the issuance of bonds, notes, or other evidences of indebtedness, all upon such terms and conditions as the board of directors may determine in the case of a borrowing other than pursuant to subsection (g) of this section, or as may be prescribed by the Commission in the case of a borrowing pursuant to subsection (g). The interest payable on a borrowing pursuant to subsection (g) shall be equal to the interest payable on the related notes or other obligations issued by the Commission to the Secretary of the Treasury. To secure the payment of the principal of, and interest and premium (if any) on, all bonds, notes, or other evidences of indebtedness so issued, the corporation may make or assume agreements with respect to the amount of future assessments to be made upon members and may pledge all or any part of the assets of the corporation and of the assessments made or to be made upon members. Any such pledge shall be valid and binding from the time that it is made, and the assessments so pledged and thereafter received by the corporation, or any examining authority as collection agent for the corporation, shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind against the corporation or such collection agent whether pursuant to this section, in tort, contract, or otherwise, irrespective of whether such parties have notice thereof. During any period when a loan under subsection (g) of this section is outstanding, no pledge of any assessment upon a member (other than a pledge for the purposes of a loan under such subsection) shall be effective to the extent that such pledge exceeds one-fourth of 1 per centum of that member's gross revenues from the securities business during the preceeding twelve months. Neither the instrument by which a pledge is authorized or created, nor any statement or other document relative thereto, need be filed or recorded in any State or other jurisdiction. The Commission may provide by rule or regulation for the filing of a copy of any instrument by which a pledge or borrowing is authorized or created, but the failure to make such filing or any defect therein shall not affect the validity of such pledge or borrowing.

"(g) In the event that the fund of the corporation is or may reasonably appear to be insufficient for the purposes of this section, the Commission is authorized to make loans to the corporation. At the time of application for, and as a condition to, any such loan the corporation shall file with the Commission a statement with respect to the anticipated use of the proceeds of the loan. The Commission shall certify to the Secretary of the Treasury that such loan is necessary for the protection of customers of brokers or dealers and the maintenance of confidence in the United States securities markets, and that the corporation has submitted a plan for the imposition during the term of the loan of assessments pursuant to paragraph (3) of subsection (e) of this section which provides as reasonable an assurance of prompt repayment as is feasible under the circumstances. If the Commission determines that the amount or time for payment of the assessments pursuant to such plan would not satisfactorily provide for the repayment of such loan, it may, by rules or regulations, impose upon the purchasers of equity securities in transactions on national securities exchanges and in the over-the-counter markets a transaction fee in such amount as it determines to be appropriate but not exceeding one-fiftieth of 1 per centum of the purchase price of the securities, except that such fee shall not apply to transactions of dollar amount less than $5,000 exclusive of commissions and markups. For the purposes of the preceding sentence, (1) the fee shall be based upon the total dollar amount of each purchase, (2) the fee shall not apply to any purchase on a national securities exchange or in an over-the-counter market by or for the account of a broker or dealer registered under subsection (b) of section 15 of this title or a member of a national securities exchange unless such purchase is for an investment account of such broker, dealer, or member (and for this purpose any transfer from a trading account to an investment account shall be deemed a purchase at fair value), and (3) the Commission by rules and regulations may exempt any transaction in the over-the-counter markets in order to provide for the assessment of fees on purchasers in transactions in those markets on a basis comparable to the assessment of fees on purchasers in transactions on national securities exchanges. Such fee shall be collected by the broker or dealer effecting the transaction for or with the purchaser and shall be paid to the corporation in the same manner as is provided for assessments in paragraph (3) of subsection (f) of this section. To enable the Commission to make such loans, the Commission is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount of not to exceed $1,000,000,000, in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may reduce the interest rate on such notes or other obligations if he determines such reduction to be in the national interest. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(h) Every person who, on the effective date of this section, is or thereafter becomes a broker or dealer registered pursuant to subsection (b) of section 15 of this title or a member of a national securities exchange shall automatically become a member of the corporation except those registered brokers or dealers or members of a national securities exchange who (1) do not hold securities or free credit balances for customers, (2) do not hold free credit balances for customers and hold securities for customers only in nontransferable form, or (3) hold funds or securities for customers only to the extent required to complete a transaction. Any broker, dealer, or member of a national securities exchange who does not become a member of the corporation automatically may become a member of the corporation under such conditions and upon such terms as the corporation shall require. The Commission may by such rules, regulations, or orders as it deems necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions or for specified periods, exempt from membership in the corporation any registered brokers or dealers or members of national securities exchanges or classes thereof.

"(i) (1) As used in this section, the term 'self-regulatory organization' means a national securities exchange or a national securities association registered pursuant to subsection (b) of section 15A of this title; the term 'financial responsibility rules' means the rules and regulations pertaining to financial responsibility and related practices which are applicable to a broker or

dealer, as prescribed by the Commission under subsection (c)(3) of section 15 of this title or as prescribed by a national securities exchange; and the term 'examining authority' means, with respect to any broker or dealer, the self-regulatory organization which inspects or examines such broker or dealer or, if such broker or dealer is not a member of any self-regulatory organization, the Commission. The self-regulatory organization of which a member of the corporation is a member shall inspect or examine such member for compliance with applicable financial responsibility rules, except that if a member of the corporation is a member of more than one self-regulatory organization, the corporation shall designate one of such self-regulatory organizations to inspect or examine such member of the corporation for compliance with applicable financial responsibility rules. Such self-regulatory organization shall be selected by the corporation on the basis of regulatory procedures employed, availability of staff, convenience of location, and such other factors as the corporation may consider appropriate for the protection of customers of its members.

"(2) The corporation shall consult and cooperate with the self-regulatory organizations toward the end that (A) there may be developed and carried into effect procedures reasonably designed to detect approaching financial difficulty upon the part of any member of the corporation; (B) as nearly as may be practicable, examinations to ascertain whether members of the corporations are in compliance with applicable financial responsibility rules will be conducted by the self-regulatory organizations under appropriate standards (both as to method and scope) and reports of such examinations will, where appropriate, be standard in form; and (C) as frequently as may be practicable under the circumstances, each member of the corporation will file financial information with, and be examined by, the self-regulatory organization which is the examining authority for such member.

"(3) There shall be filed with the corporation by the self-regulatory organizations such reports of inspections or examinations of the members of the corporation (or copies thereof) as may be designated by the corporation.

"(j) Notwithstanding the limitations contained in sections 15A and 19 of this title and without limiting its powers under that or other sections of this title, the Commission, by such rules or regulations as it determines to be necessary or appropriate in the public interest and to effectuate the purposes of this section, may (1) require any self-regulatory organization to adopt any specified alteration of or supplement to its rules, practices, and procedures with respect to the financial condition of members of such self-regulatory organization, including the frequency and scope of examinations and the selection and qualification of examiners; (2) require any self-regulatory organization to furnish the corporation and the Commission with reports and records or copies thereof relating to the financial condition of members of such self-regulatory organization; and (3) require any self-regulatory organization to inspect or examine any members of such self-regulatory organization in relation to the financial condition of such members. In the case of a broker or dealer who is a member of more than one self-regulatory organization, the Commission to the extent practicable shall avoid requiring duplication of examinations, inspections, and reports.

"(k)(1) As soon as practicable but not later than forty-five days after the effective date of this section, the board of directors of the corporation shall adopt initial bylaws, rules, and regulations relating to the conduct of the business of the corporation and the exercise of the rights and powers granted to it by this section, and shall file a copy thereof with the Commission. Thereafter, the board of directors of the corporation may alter, supplement, or repeal any existing bylaw, rule, or regulation and may adopt additional bylaws, rules, and regulations, and, in each such case, shall file a copy thereof with the Commission.

"(2) Each such initial bylaw, rule, or regulation, alteration, supplement, or repeal, and additional bylaw, rule, or regulation shall take effect upon the thirtieth day (or such later date as the corporation may designate) after the filing of the copy thereof with the Commission, unless the Commission shall, by notice to the corporation setting forth the reasons therefor, disapprove the same, in whole or in part, as being contrary to the public interest or contrary to the purposes of this section.

"(3) The Commission may by such rules or regulations as it determines to be necessary or appropriate in the public interest or to effectuate the purposes of this section require—

"(A) the adoption of initial bylaws, rules, and regulations by the corporation; and

"(B) the adoption, amendment, or rescission of any bylaw, rule, or regulation by the corporation relating to assessments, whenever adopted.

"(4) In addition to and without limiting the powers of the Commission under this subsection, the Commission may request the corporation to adopt any specified alteration of or supplement to the bylaws, rules, or regulations of the corporation, or to repeal any such bylaw, rule, or regulation. If the corporation fails to adopt such alteration or supplement or to effect such repeal within thirty days after such request, the Commission is authorized by order to alter, supplement, or repeal the bylaws, rules, or regulations of the corporation in the manner requested, or with such modifications of such alteration or supplement as it determines, after appropriate notice and opportunity for hearing, to be necessary or appropriate in the public interest or to effectuate the purposes of this section.

"(l) If a member of the corporation fails to pay when due all or any part of an assessment made upon such member, the unpaid portion thereof shall bear interest at such rate as may be determined by the corporation. If a member of the corporation fails to file any report or information required pursuant to paragraph (2) of subsection (f), or fails to pay when due all or any part of an assessment made upon such member pursuant to subsection (e), and such failure shall not have been cured by the filing of such report or information or by the making of such payment (together with interest thereon) within five days after receipt by such member of written notice of such failure given by or on behalf of the corporation, it shall be unlawful for such member, unless specifically authorized by the Commission, to engage in business as a broker or dealer. If such member denies that he owes all or any part of the amount specified in such notice, he may after payment of the full amount specified commence an action against the corporation in the appropriate United States district court to recover the amount he denies owing.

"(m)(1) If the Commission or any self-regulatory organization is aware of facts which lead it to believe that any broker or dealer subject to its regulation is in or is approaching financial difficulty, it shall immediately notify the corporation, and, if such notification is by a self-regulatory organization, the Commission. Whenever it appears to the corporation that any member has failed or is in danger of failing to meet its obligations to customers and that there exists one or more of the conditions enumerated in clauses (A) to (E) below, the corporation may in its discretion, upon notice to such member, apply to any court of competent jurisdiction, as specified in sections 27 and 21(e) of this title, for a decree adjudicating that customers of such member are in need of protection under this section. The court shall grant such application and issue such decree if it finds that such member (A) is insolvent within the meaning of section 1(19) of the Bankruptcy Act, or is unable to meet its obligations as they mature, or (B) has committed an act of bankruptcy within the meaning of section 3 of the Bankruptcy Act, or (C) is the subject of a proceeding pending in any court or before any agency of the United States or any State in which a receiver, trustee, or liquidator has been appointed, or (D) is not in compliance with applicable requirements under this title or rules or regulations of the Commission or any self-regulatory organization with respect to financial responsibility or hypothecation of customers' securities, or (E) is unable to make such computations as may be necessary to establish compliance with such financial responsibility or hypothecation rules or regulations. In the discretion of the Commission, any action brought by the Commission (including an action by the Commission for a temporary receiver pending an appointment of a trustee under this subsection) may be combined with an application by the corporation under this subsection. An application may be filed pursuant to this subsection notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceedings; any proceeding to reorganize, conserve, or liquidate the member involved or its property; or any proceeding to enforce a lien against property of such member. A member with respect to which an application has been filed pursuant to this subsection is hereinafter in this section referred to as a 'debtor', and the date on which such an application with respect to any debtor is filed is hereinafter in this section referred to as the 'filing date'; except that in the case of a condition referred to in clause (C) above, the filing date shall mean such earlier date, if any, as a petition was filed by or against the debtor under the Bankruptcy Act.

"(2) Upon the filing of an application pursuant to this subsection, the court to which application is made shall have exclusive jurisdiction of the debtor involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of bankruptcy and of a court in a proceeding under chapter X of the Bankruptcy Act. Pending an adjudication such court shall stay, and upon appointment by it of a trustee as hereinafter provided such court shall continue the stay of, any pending bankruptcy, mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the debtor or its property and any other suit against any receiver, conservator, or trustee of the debtor or its property. Pending such adjudication and upon the appointment by it of such trustee, the court may stay any proceeding to enforce a lien against the property of the debtor or any other suit against the debtor. Pending such adjudication, such court may appoint a temporary receiver.

"(3) If within three business days after the filing of an application pursuant to this subsection, or such other period as the court may order, the debtor consents to or fails to contest such application or fails adequately to controvert any material allegation of such application, the court shall forthwith appoint as trustee for the liquidation of the business of the debtor (including the other purposes of a proceeding under this section), and as attorney for such trustee, such persons as the corporation shall specify. No person shall be appointed as such trustee or attorney if such person is not 'disinterested' within the meaning of section 158 of the Bankruptcy Act.

"(4) A trustee appointed pursuant to this subsection shall be vested with the same powers and title with respect to the debtor and the property of the debtor, and the same rights to avoid preferences, as a trustee in bankruptcy and a trustee under chapter X of the Bankruptcy Act have with respect to a bankrupt and a chapter X debtor. In addition the trustee shall have power with the approval of the corporation, (A) to hire and fix the compensation of all personnel (including officers and employees of the debtor and of its examining authority) and other persons (including but not limited to accountants) who are deemed necessary to liquidate the business of the debtor and for the other purposes of a proceeding under this subsection, and (B) to operate the business of the debtor in order to complete open contractual commitments as hereinafter provided, and no approval of the court shall be required therefor. The corporation is authorized to advance to the trustee such moneys as may be required to effectuate clause (A) of this paragraph, and shall advance to the trustee such moneys as (with those available pursuant to paragraph 10(D) of this subsection) may be required to effectuate clause (B) of this paragraph.

"(5) Except as may be inconsistent with the provisions of this section or as may otherwise be ordered by the court, a trustee appointed pursuant to this subsection shall be subject to the same duties as a trustee appointed under section 44 of the Bankruptcy Act. A trustee appointed pursuant to this subsection may, in his discretion, reduce to money any securities in the estate of the debtor.

"(6) Except as may be inconsistent with the provisions of this section proceedings under this subsection shall be conducted in accordance with, and as though they were being conducted under, the provisions of chapter X and such of the provisions of chapter I to VII, inclusive, of the Bankruptcy Act as section 102 of chapter X would make applicable if an order of the court had been entered directing that bankruptcy be proceeded with pursuant to the provisions of such chapters I to VII, inclusive, except that in no event shall a plan of reorganization be formulated. The court, for such period as may be appropriate, may stay enforcement of, but shall not abrogate, the rights provided in section 68 of the Bankruptcy Act and the right to enforce a valid, nonpreferential lien against property of the debtor. For all such purposes the filing date shall be deemed to be the date of commencement of proceedings under the Bankruptcy Act. The Commission may, on its own motion, file notice of its appearance in any proceeding under this section and may thereafter participate as a party.

"(7) The purposes of any proceeding under this subsection shall be as follows—

"(A) as promptly as practicable after the appointment of the trustee, in accordance with the provisions of this subsection—

"(i) to return specifically identifiable property to the customers of the debtor entitled thereto;

"(ii) to distribute the single and separate fund, and (in advance thereof or concurrently therewith) to pay to customers moneys advanced by the corporation as hereinafter provided;

"(B) to operate the business of the debtor to complete those contractual commitments of the debtor relating to transactions in securities which were made in the ordinary course of the debtor's business and which were outstanding on the filing date—

"(i) in which a customer had an interest, except those commitments the completion of which the Commission shall have determined by rule or regulation not to be in the public interest; and for the purposes of this clause, 'customer' means any person other than a broker or dealer and a customer shall be deemed to have had an interest in a transaction if a broker participating in the transaction was acting as agent for a customer, or if a dealer participating in the transaction held a customer's order which was to be executed as a part or result of the transaction; or

"(ii) in which a customer did not have an interest, to the extent that the Commission shall, by rule or regulation have determined the completion of such commitments to be in the public interest;

"(C) to enforce rights of subrogation as provided in paragraph 13(D) of this subsection; and

"(D) to liquidate the business of the debtor.

"(8) For the purpose of any proceeding under this subsection—

"(A) Except as otherwise provided in this section, terms used or defined in section 60e of the Bankruptcy Act shall have the same meanings as in that Act.

"(B) The term 'stockbroker', as used in section 60e of the Bankruptcy Act, means the debtor, and the term 'customer' includes also persons with whom the debtor deals as principal or agent and any person who has deposited cash with the debtor for the purpose of purchasing securities, but does not include any person to the extent that such person has a claim for property which by contract, agreement, or understanding, or by operation of law, is part of the capital of the debtor or is subordinated to the claims of creditors of the debtor.

"(C) Customers and their subrogees shall have all rights to reclaim specifically identifiable property, and all other rights and priorities, provided for in such section 60e, and shall have the additional rights provided by this section.

"(D) All property held, recoverable, or receivable by or for the account of the debtor (except for cash or securities specifically identifiable as the property of particular customers), and all property in the single and separate fund, shall be available to complete open contractual commitments pursuant to paragraph (7) of this subsection. Securities purchased or cash received by the trustee upon the completion of any such commitment shall constitute specifically identifiable property of a customer to the extent that such commitment was completed with property which constituted specifically identifiable property of such customer on the filing date, or was paid or delivered by such customer to the debtor or the trustee after the filing date.

"(E) In or for the purpose of distributing the single and separate fund—

"(i) all property other than cash shall be valued as of the close of business on the filing date;

"(ii) there shall be repaid to the corporation, in priority to all other claims payable from such single and separate fund, the amount of all advances made by the corporation to the trustee to permit the completion of open contractual commitment as provided in this subsection;

"(iii) there shall be paid from such single and separate fund all costs and expenses specified in clauses (1) and (2) of section 64a of the Bankruptcy Act, except as otherwise ordered by the court, and any money advanced by the corporation for such costs and expenses shall be recouped as such; and

"(iv) to the greatest extent considered practicable by the trustee, the trustee shall deliver, in payment of claims of customers for their net equities based upon securities held in their accounts on the filing date, securities of the same class and series of an issuer ratably up to the respective amounts which were held in such accounts.

"(F) In determining whether particular customers are able to identify specifically their property, whether property remained in its identical form in the debtor's possession or whether such property or any substitutes therefor have been allocated to or physically set aside for such customers, and remained so allocated or set aside, it shall be sufficient that on the filing date—

"(i) securities are segregated individually, or in bulk for customers collectively;

"(ii) in the case of securities held for the account of the debtor as part of any central certificate service of any clearing corporation or any similar depositary, the records of the debtor show or there is otherwise established to the satisfaction of the trustee that all or a specified part of the securities held by such clearing corporation or other similar depositary are held for specified customers, or for customers collectively if such records of the debtor also show or there is otherwise established to the satisfaction of the trustee the identities of the particular customers entitled to receive specified numbers or units of such securities so held for customers collectively; or

"(iii) such property is held for the account of customers of the debtor in such other manner as the Commission, by rule or regulation, for the protection of customers and other creditors on a fair and equitable basis, shall have determined to be sufficiently identifiable as the property of such customers; except that if there is any shortage in securities of the same class and series of an issuer so segregated in bulk or otherwise held for customers, as compared to the aggregate rights of particular customers to receive securities of such class and series, the respective interests of such customers in such securities of such class and series shall be prorated, without prejudice, however, to the satisfaction of any claim for deficiencies as otherwise provided in this section.

"(9) It shall be the duty of the trustee to discharge promptly, in accordance with the provisions of this section, all obligations of the debtor to each of its customers relating to or net equities based upon, securities or cash by the delivery of securities or the effecting of payments to such customer (subject to the provisions of paragraph (11) insofar as concerns moneys to be made available by the corporation), insofar as such obligations are ascertainable from the books and records of the debtor or are otherwise established to the satisfaction of the trustee, whether or not such customer shall have filed formal proof of such claim. For that purpose the court, among other things, shall—

"(i) in respect of claims relating to securities or cash, authorize the trustee to make payment out of moneys made available to the trustee by the corporation notwithstanding the fact that there shall not have been any showing or determination that there are sufficient funds of the debtor available to make such payment; and

"(ii) in respect of claims relating to, or net equities based upon, securities of a class and series of an issuer, which are ascertainable from the books and records of the debtor or are otherwise established to the satisfaction of the trustee, authorize the trustee to deliver securities of such class and series if and to the extent available to satisfy such claims in whole or pro rata in part.

Any payment or delivery of property pursuant to this paragraph may be conditioned upon the trustee requiring claimants to execute in a form to be determined by the trustee, appropriate receipts, and supporting affidavits and assignments, but compliance herewith shall be without prejudice to the right of any claimant to file, within the period hereinafter specified, formal proof of claim for any balance of securities or cash to which he may deem himself entitled.

"(10) The provisions of this section permitting discharge of obligations of the debtor to pay cash or to deliver securities without

formal proof of claim shall not apply to any person 'associated' with the debtor as defined in paragraph (18) of subsection (a) of section 3 of this title, to any beneficial owner of 5 per centum or more of the voting stock of the debtor, or to any member of the immediate family of any of the foregoing.

"(11) In order to provide for prompt payment and satisfaction of the net equities of customers of the debtor, the corporation shall advance to the trustee such moneys as may be required to pay or otherwise satisfy claims in full of each customer but not to exceed $50,000 for each customer; except that—

"(A) a customer who holds accounts with the debtor in separate capacities shall be deemed to be a different customer in each capacity;

"(B) no such advance shall be made by the corporation to the trustee to pay or otherwise satisfy, directly or indirectly, any claims of any customer who is a general partner, officer, or director of the debtor, the beneficial owner of 5 per centum or more of any class of equity security of the debtor (other than a nonconvertible stock having fixed preferential dividend and liquidation rights) or a limited partner with a participation of 5 per centum or more in the net assets or net profits of the debtor;

"(C) no such advance shall be made by the corporation to the trustee to pay or otherwise satisfy claims of any customer who is a broker or dealer or bank other than to the extent that it shall be established to the satisfaction of the trustee, from the books and records of the debtor or from the books and records of a broker or dealer or bank or otherwise, that claims of such broker or dealer or bank against the debtor arise out of transactions for customers of such broker or dealer or bank, in which event, each such customer of such broker or dealer or bank shall be deemed a separate customer of the debtor; and

"(D) to the extent that moneys are advanced by the corporation to the trustee to pay the claims of customers, the corporation shall be subrogated to the claims of such customers with the rights and priorities above provided in this subsection.

"(12) Except or otherwise provided in paragraph (13) of this subsection, nothing in this section shall limit the right of any person to establish by formal proof such claims as such person may have to payment, or to delivery of specific securities, without resort to moneys advanced by the corporation to the trustee.

"(13) Promptly after his appointment, the trustee shall cause notice of the commencement of proceedings under this subsection to be published in accordance with a designation of the court, made in accordance with the requirements of section 28 of the Bankruptcy Act and at the same time shall cause to be mailed a copy of such notice to each of the customers of the debtor, as their addresses appear from the debtor's books and records. Except as the trustee may otherwise permit, claims for specifically identifiable property (other than securities registered in the name of the claimant or segregated for him in his individual name) or claims payable from property in the single and separate fund or payable with moneys advanced by the corporation, shall not be paid other than from the general estate of the debtor unless filed within such period of time (not exceeding sixty days after such publication) as may be fixed by the court, and no claim shall be allowed after the time specified in section 57 of the Bankruptcy Act. Subject to the foregoing, and without limiting the powers and duties of the trustee to discharge promptly obligations as specified in this subsection, the court may make appropriate provision for proof and enforcement of all claims against the debtor including those of any subrogee.

"(14) All reports to the court by a trustee in any proceeding under this section (other than reports required to be filed pursuant to section 167(3) of the Bankruptcy Act) shall be in such form and detail as, having due regard to the requirements of section 17 of this title and the rules and regulations thereunder and the magnitude of items and transactions involved in connection with the operations of a broker or dealer, the Commission shall determine, by rules and regulations, so to present fairly the results of such proceeding as at the dates or for the periods covered by such reports.

"(n) It shall be unlawful for any broker or dealer for whom a trustee has been appointed pursuant to this section to engage thereafter in business as a broker or dealer, unless the Commission otherwise determines in the public interest. The Commission may by order bar or suspend for any period, any officer, director, general partner, owner of 10 per centum or more of the voting securities or controlling person, of any broker or dealer for whom a trustee has been appointed pursuant to this section from being or becoming associated with a broker or dealer, if after appropriate notice and opportunity for hearing the Commission determines such bar or suspension to be in the public interest.

"(o) Determinations of the Commission, for purposes of making rules or regulations pursuant to subsections (j) and (k), shall be made after appropriate notice and opportunity for a hearing, and for submission of views of interested persons, in accordance with the rulemaking procedures specified in section 533 of title 5, United States Code, except that the holding of a hearing shall not prevent adoption of any such rule or regulation upon expiration of the notice period specified in subsection (d) of such section and shall not be required to be made on a record.

"(p) In the event of the refusal of the corporation to commit its funds or otherwise to act for the protection of customers of any member of the corporation which is involved in a proceeding under subsection (m) of this section, the Commission may apply to the district court of the United States for the judicial district in which the principal office of the corporation is located for an order requiring the corporation to discharge its obligations under this section and for such other relief as the court may deem appropriate to carry out the purposes of this section.

"(q) The provisions of subsection (a) of section 20 of this title shall not apply to any liability under or in connection with this section.

"(r) Any notice, report, or other document filed with the corporation pursuant to this section shall not be available for public inspection unless the corporation or the Commission determines that disclosure thereof is in the public interest.

"(s) Except as otherwise provided by rule or regulation of the Commission, if the head office of a member is located, and the member's principal business is conducted, outside the United States, the provisions of this section shall apply to such member only in respect of offices or other places of business of such member in the United States.

"(t) The corporation, its property, its franchise, capital, reserves, surplus, and its income, shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of the corporation shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed. Assessments made upon a member of the corporation shall constitute ordinary and necessary expenses in carrying on the business of such member for the purpose of section 162(a) of the Internal Revenue Code of 1954, as amended. The contribution and transfer to the corporation of funds or securities held by any trust established by a national securities exchange prior to January 1, 1970, for the purpose of providing assistance to customers of members of such exchange, shall not result in any taxable gain to such trust or give rise to any taxable income to any member of the corporation under any provision of the Internal Revenue Code of 1954, as amended, nor shall such contribution or transfer, or any reduction in assessments made pursuant to subsection (f)(4) of this section, in any way affect the status, as ordinary and necessary expenses under section 162(a) of the Internal Revenue Code of 1954, as amended, of any contributions made to such trust by such exchange at any time prior to such transfer. Upon dissolution of the corporation, none of its net assets shall inure to the benefit of any of its members.

"(u) Whoever steals, unlawfully abstracts, unlawfully and willfully converts to his own use or to the use of another, or embezzles any of the moneys, securities, or other assets of the corporation shall be guilty of a felony, and upon conviction shall be fined not more than $50,000 or imprisoned not more than five years, or both.

"(v) Except for such assessments as may be made upon such members pursuant to the provisions of subsection (e) of this section, no member of the corporation shall have any liability under this section as a member of the corporation for, or in connection with, any act or omission of any other broker or dealer whether in connection with the conduct of the business or affairs of such broker or dealer or otherwise and, without limiting the generality of the foregoing, no member shall have any liability for or in respect of any indebtedness or other liability of the corporation.

"(w) The corporation and its directors shall not have any liability to any person for any action taken or omitted in good faith under or in connection with any matter contemplated by this section.

"(x) No self-regulatory organization shall have any liability to any person for any action taken or omitted in good faith pursuant to paragraph (1) of subsection (m) of this section.

"(y) No member of the corporation shall display any sign or signs, or include in any advertisement a statement, relating to the protection of customers and their accounts or any other protections afforded under this section, except to such extent as may be permitted by bylay, rule, or regulation of the corporation."

SEC. 3. Section 15(c)(3) of the Securities Exchange Act of 1934 is amended to read as follows:

"(3) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors to provide safeguards with respect to the financial responsibility and related practices of brokers and dealers including, but not limited to, the acceptance of custody and use of customers' securities, and the carrying and use of customers' deposits or credit balances."

SEC. 4. The amendments made by this Act shall take effect upon the date of enactment of this Act.

Mr. MUSKIE obtained the floor.

Mr. YARBOROUGH. Mr. President, will the Senator from Maine yield so that I may present a conference report?

Mr. MUSKIE. I yield for that purpose.

TRAINING OF FAMILY PHYSICIANS—CONFERENCE REPORT

Mr. YARBOROUGH. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3418) to amend the Public Health Service Act to provide for the making of grants to medical schools and hospitals to assist them in establishing special departments and programs in the field of family practice, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine, and to alleviate the effects of malnutrition, and to provide for the establishment of a National Information and Resource Center for the Handicapped. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. GRAVEL). 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 December 3, 1970, pages 39873–39874, CONGRESSIONAL RECORD.)

Mr. YARBOROUGH. I urge Senators to support this conference report on S. 3418, the Family Practice of Medicine Act of 1970. Stated simply, the purpose of this legislation is to encourage and promote the training of doctors in the field of family medicine, where there is a tremendous shortage of doctors.

For example, Wrangell Island, in the great State of the distinguished Senator from Alaska (Mr. GRAVEL) has 3,000 people who are without the services of a medical doctor. In areas in the eastern parts of Oregon and Washington, 3,000 people are without the assistance of a medical doctor.

In 1931, over 75 percent of the physicians in this country were engaged in general practice; by 1949 less than 50 percent were in general practice; and now there are only 20 percent in general practice. The figure promises to go even lower, since less than 15 percent of recent medical school graduates have indicated an intention of going into general practice. In other words, while there was one family doctor for every 1,000 persons in 1931, this figure is now one for every 3,000 persons.

This problem is compounded by the fact that we have a shortage of 50,000 doctors in this country and the inducements to go into specialized practice are great. By giving the family practice of medicine the status and stimulation it deserves through creating separate departments of family medicine in our medical schools we may be able to reverse this trend. Already 15 medical schools have such departments in the planning stage and 20 other schools have them under study.

If there is any hope of getting badly needed physicians into our rural and remote areas, it will be by giving emphasis and prestige to the family practice of medicine which this bill does.

For grants to medical schools and hospitals, the conferees agreed on authorizations of $225 million over the next 3 years. To assist in planning and development to get the programs underway, we agreed on $8 million.

I consider this program one of the major health bills of this session. It expresses the policy of Congress that we are not going to let the health of the people of the Nation be neglected from inaction in the area of health manpower. We must develop the necessary doctors to see that better health care is possible in both the rural and urban areas.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

ORDER OF BUSINESS

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

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

DISPOSITION OF GEOTHERMAL STEAM AND ASSOCIATED GEOTHERMAL RESOURCES

Mr. BIBLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 368.

The PRESIDING OFFICER (Mr. BIBLE) laid before the Senate the message from the House of Representatives, as follows:

Resolved, That the House concur in the amendments of the Senate to the amendments of the House numbered 4 and 5 to the bill (S. 368) entitled "An Act to authorize the Secretary of the Interior to make disposition of geothermal steam and associated geothermal resources, and for other purposes."

Resolved, That the House recede from its amendments numbered 1, 2, and 3 to the aforesaid bill.

Resolved, That the House recede from its amendment numbered 6 to the aforesaid bill and agree to a further amendment, as follows:

In section 5(a) of the Senate engrossed bill, strike out "5 per centum" and insert *"10 per centum"*.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the message.

Mr. BIBLE. Mr. President, I shall make a short explanation.

S. 368 is my bill to authorize the Secretary of the Interior to issue leases on the public lands for the development of the Nation's geothermal energy resources. The Senate passed this bill September 16. The House sent it back with certain amendments. Last Friday, the Senate accepted a number of the House amendments, concurred in others with amendments, insisted on certain Senate provisions, and sent the bill back to the House. The House acted again today, and has accepted all but one of the provisions agreed upon by the State. The only remaining difference between the Senate and House versions deals with the minimum rate of royalty to be charged under geothermal leases. The Senate approved 5 percent. The House insists that the rate be 10 percent. This change is acceptable to me, and has been cleared on both sides of the aisle.

I have just finished a long discussion on the question with the Senator from Colorado (Mr. ALLOTT), the ranking minority member of the Committee on Interior and Insular Affairs. The change meets with his approval, as does the entire bill.

The time has come to complete congressional action and send the bill to the White House for the President's approval, so that the potentially enormous geothermal power resources underlying our public lands can be developed and used in the public interest.

I move that the Senate concur in the amendment of the House of Representatives.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

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

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

SECURITIES INVESTOR PROTECTION ACT OF 1970

The Senate resumed the consideration of the bill (S. 2348) to establish a Federal Broker-Dealer Insurance Corporation.

Mr. MUSKIE. Mr. President, every American has a stake in guaranteeing the healthy and efficient functioning of the American securities markets.

Today, more than 30 million people participate directly as investors in securities of one class or another. Perhaps another 100 million participate indirectly, through mutual funds, pension funds, and the like. Moreover, every sector of our economy is heavily dependent on the strength and viability of our Nation's securities industries.

The Congress has long recognized the great impact of the securities markets on our national economy—and the critical role that public confidence plays in the strength of these markets. To enhance public confidence, the Securities Act of 1933 was enacted so that the investor would have the necessary information to exercise sound judgment in making securities purchases. And the Securities Exchange Act of 1934 provides safeguards to assure that the investor will not be victimized by fraudulent, manipulative or deceptive selling schemes.

These two statutes are largely successful in accomplishing their purposes. But, as recent experience has shown, there still exists a serious gap in our securities laws which neither of these statutes covers. An investor may exercise sound judgment in his choice of stock, and he

may place his order with a reputable broker. Nevertheless, he may still lose his entire investment if the broker subsequently fails because of operational or financial difficulty.

Mr. President, since 1934, the United States has insured bank deposits under the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. These insurance programs protect bank depositors from loss of their savings because of bank failures. And the assistance of this deposit insurance has become a source of confidence in the soundness of our savings institutions.

S. 2348, the Security Investor Protection Act of 1970, would accomplish a similar purpose for securities investors by protecting them from losses because of the failure of their brokers. This bill has been reported unanimously by the Committee on Banking and Currency following 4 days of hearings. That there is an urgent need for this legislation, I think, is clear.

The stockbroker is not a simple pass-through agent for the purchase and sale of securities. Customer accounts with brokerage firms in credit balances, cash, and securities are maintained on a continuing basis. These balances provide the investor with liquidity for future transactions. And, as is the case with banks, these balances are used by the broker to finance the operations of his business. Recent estimates indicate that the liabilities of brokers to their customers—in credit balances, cash, and securities exceed $50 billion.

The willingness of investors to entrust assets of this magnitude to brokerage firms attests to the great confidence of the American public has had in our securities industry in the past. But today that confidence is jeopardized.

Over the past year, insolvencies in the securities industry have been mounting sharply. Several major firms have suffered serious financial difficulties. Some have failed completely, or have been forced to merge with healthier firms. In the past 18 months, a large number of brokerage firms, including 12 major ones, have failed. And, since August alone, three members or former members of the New York Stock Exchange have been forced to go into bankruptcy or to commence liquidation proceedings.

The industry itself has attempted to stem the tide of failure and to provide some protection for the customers of failing firms. In 1964, the New York Stock Exchange, for example, established a trust fund to protect investors from losses due to insolvencies. But that trust fund already has commitments to troubled firms totaling $55 million. Beyond this, the Exchange recently made a commitment for an additional assessment to indemnify one large firm against losses it may incur because of its acquisition of another firm which was close to bankruptcy.

Mr. President, the customers of the firms which the stock exchanges have managed to protect are fortunate. But we have now reached the point where the ability of the industry to handle additional losses on a significant scale is uncertain at best.

There is uncertainty about what new emergencies, what new losses, may emerge in the near or distant future. There is uncertainty about how much relief the industry itself can provide against such emergencies if they should arise. And there is cause for concern about the customers of those broker-dealers who are not members of an exchange with trust fund protection. These customers are fully exposed and have no protection at all.

In my judgment, it is clear that the Congress must act now to protect the investor and to restore public confidence in the securities industry.

S. 2348 is a major step toward accomplishing these goals. It does so in three ways:

First, S. 2348 proposes the creation of the Securities Investor Protection Corporation (SIPC), a private nonprofit corporation which would administer an insurance fund composed of industry funds raised by annual assessment, backed-up by Treasury borrowing authority. This insurance fund would protect investors from the serious hardships that can follow the failure of a brokerage firm. Customers of covered broker-dealers would be insured against financial losses up to $50,000 caused by the insolvency of the broker-dealer, in a manner broadly parallel to the operation of the Federal Deposit Insurance Corporation.

The fund would be financed initially by the industry itself in the amount of $75 million. This fund would be composed of $10 million in cash assessments and $65 million in firm lines of credit negotiated with commercial banks. And to provide additional protection for investors, customers would have the assurance that $1 billion of Treasury borrowing authority would be available to cover losses in case the industry-financed fund is exhausted.

The bill also provides that the initial industry-financed assessment fund will be enlarged over a 5-year period to $150 million, thus reducing further the possibility of having to draw upon Treasury funds. Additionally, the bank line of credit, which would provide $65 million in initial funding, will be replaced over a period of 7 years by cash raised through annual assessments against the industry.

Initial assessment rates for members of the Corporation would be maximum of one-half of 1 percent of gross revenues for the preceding 12-month period. This rate of assessment may be lowered as the total fund reaches $150 million, or raised again to repay any Treasury borrowing that may become necessary.

Finally, to assist in the repayment of any Treasury funds borrowed under the authority established in the bill, S. 2348 also provides an additional financial safeguard in the form of a transactions charge. This charge would be imposed in addition to existing commission rates, but the aggregate may not exceed 20 cents per $1,000 of securities transactions. This charge may be levied by determination of the SEC, only in the event of a Treasury borrowing by SIPC.

Thus, Mr. President, S. 2348 calls initially for an industry-financed insurance fund. Public funds would become available only in the event industry-backed financing is exhausted. And transactions charges to investors would be imposed only to repay funds borrowed from the Treasury. I believe these mechanisms for establishing and maintaining an insurance fund to protect securities investors are both realistic and equitable.

Second, in order to minimize delay in meeting the legitimate claims of customers insured by the insolvency of a broker-dealer, S. 2348 introduces certain procedures for prompt liquidation of SIPC members when required, outside the time-consuming machinery of a bankruptcy proceeding. The bill also would establish procedures for making prompt distribution and payment of claims under certain conditions, without the need for formal proof of claim as is now required by the bankruptcy laws. These provisions, I believe, are a highly desirable adjunct to the present bankruptcy laws in minimizing the difficulties and delays that investors would otherwise experience in having their claims satisfied under existing law.

Third, the establishment of an insurance fund to protect the assets of investors is not sufficient without additional corrective measures to eliminate some of the problems which are causing broker failures. S. 2348 would give the Securities and Exchange Commission greater ability and authority to deal with these problems. It does so by further clarifying certain powers of the Securities and Exchange Commission to implement rules to safeguard customer assets. This is done by affirming the rulemaking authority of the Commission with regard to all practices of brokers that bear on financial responsibility, expressly including the custody and use of a customer's securities, cash deposits, or credit balances.

The bill also provides that the Commission's authority in these matters would extend to broker-dealers who do business only on an exchange, placing them on an identical footing with those firms which are not members of an exchange. Thus, the SEC would deal directly with member firms, without the intermediary of a self-regulatory body.

Mr. President, I believe S. 2348 would go a long way toward providing the kind of public confidence which is so necessary to a healthy securities industry. But I recognize there remain some very basic problems within certain parts of the securities industry. There are problems of obsolete management techniques, careless business practices, inadequate self-regulation, and occasional fraudulent activities. All of these account in some part for the industry's financial difficulties today.

I am by no means the first to cite these serious weaknesses. In 1963, the SEC published a monumental study of the securities industry, which has become something of a Bible to students of securities self-regulation. That study treated virtually every aspect of the industry, from capital requirements to eligibility for entry. And most of what it had to say seems equally important today. In fact, it is safe to say that if the recom-

mendations of that 1963 study had been implemented, we would not now need to be here considering this insurance legislation, because the industry abuses that give rise to the need for insurance probably would not have occurred.

I think it clear that the insurance plan established by S. 2348 is a necessity. And the other provisions of the bill will strengthen the powers of the Securities and Exchange Commission in the public interest.

But it is equally clear that this legislation should be only the beginning of a broad program of reform within the securities industry. And this, I think, imposes responsibilities upon the SEC and upon Congress, as well as upon the industry. I think that for its part, Congress—and the Senate specifically—should undertake broad and thorough hearings in depth into the operations of the securities industry, with a view to initiating the additional reforms that are clearly indicated and necessary in the long run.

What we are proposing here today is simply the first step, and it must not be allowed to become the last step, in dealing with the problem which it is intended to cover.

I am convinced that if we do that, Mr. President, Congress will be able to acquit its responsibility to the public as well as to the industry for the proper regulation of this critically important component of our economic system.

Mr. President, last week the House of Representatives passed H.R. 19333, which is similar to the bill before us. I urge early Senate approval of S. 2348, so that Congress can complete action on this important legislation this year.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. MUSKIE. I am happy to yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. I compliment the Senator from Maine on his presentation. I certainly agree with him that this is a most important piece of legislation, and I think that its approval in this session of Congress will go far toward restoring investor confidence in this country. I think it is most essential that we take this action before adjournment.

Mr. MUSKIE. I thank the distinguished Senator from Delaware. His approval of a measure in this field, I think it is a sound endorsement of its principles and purposes. I appreciate the Senator's remarks.

Mr. BENNETT. Mr. President, the primary purpose of the bill before us is to provide insurance protection for millions of individuals who are customers of brokers or dealers in securities throughout this country. Many customers leave their securities and cash with their broker-dealer for safekeeping or to facilitate trading. If a broker-dealer encounters financial difficulties for any of a variety of reasons, the customer may experience a delay in receiving his cash balance or his securities, or, even worse, he may never fully recover that to which he is entitled.

In order to protect investors against such a contingency, major stock exchanges set up trust funds to which their members contributed. Until recently, these trust funds have been adequate to take care of the needs of the industry and, as a result, there have been a few actual losses. However, due to a variety of reasons, some which could be foreseen and some which could not, the securities industry is now in a financial crisis. During the last 2 years, the New York Stock Exchange has been required to fully commit its trust fund of some $55 million in order to meet possible demands. In addition, New York Stock Exchange firms now face a potential assessment of up to an additional $30 million in connection with a recent takeover of Goodbody & Co. by Merrill Lynch.

This burden on securities firms comes at a time when their volume is much lower than that which they had to plan for only a relatively few months ago, and when profits have been squeezed in many firms and eliminated in many others. The failure of broker-dealer firms in recent months has shaken the confidence of customers who earlier were assured that the industry trust funds were adequate to meet any foreseeable contingency. It is important not only for the securities industry but for our entire economy that the previous confidence in our securities markets and the firms involved in those markets be restored. Since the industry is in no position at this time to restore that confidence without assistance, it has become necessary for us to enact legislation which will remove present uncertainties concerning possible losses of cash and securities belonging to customers.

This proposed legislation would provide for the establishment of a fund to be used to make it possible for customers, in the event of the financial insolvency of their broker, to recover that to which they are entitled, with a limitation of $50,000 for each customer on the amounts to be provided by the fund. In addition, this legislation requires a general upgrading of financial responsibility requirements of brokers and dealers, to eliminate to the maximum extent possible the risks which lead to customer losses such as have occurred.

I believe it is important to point out that this legislation does not provide protection to broker or dealer firms themselves, nor does it in any way protect individuals who purchase securities from incurring losses which may result from decreases in the market value of those securities. It only assures a customer that he will receive securities he has purchased or cash he has left with a firm in the event that firm faces financial insolvency. I would also like to add that this protection is provided by a private fund made up of assessments on the industry itself. Only if that fund should prove inadequate in a major crisis would Federal funds be loaned to the insurance corporation to pay customer losses. Machinery is provided under which funds to repay the Federal Government can be developed within the industry.

While no one can predict the future, it is not expected that this insurance will result in any permanent cost to the Federal Government or to taxpayers. In the event of a major crisis if the fund is exhausted, the insurance corporation may borrow on application through the Securities and Exchange Commission up to $1 billion from the U.S. Treasury. While some have argued that this Treasury backup is not appropriate, there is no doubt that it is necessary to assure the proper operation of the insurance fund. In addition, while $1 billion may seem like a tremendous contribution to be made by taxpayers, we must remember that any such borrowing must include a reasonable plan for repayment and must be approved by a Government agency before it is made. Furthermore, the seriousness of a collapse of our securities markets and the effect it would have on the financial system and economy of this country is such that it would warrant the expenditure of many billions of dollars of taxpayers' funds to save it if necessary, and such an expenditure would be far less than the loss would occur as the result of unemployment, lack of production, and wasted resources if the funds were needed and were not made available.

Mr. President, I do not intend to discuss the details of this bill, since Senator MUSKIE already has outlined them, and I feel it is unnecessary to repeat all he has said. I do feel that it is important for us to enact legislation without delay. I must admit that I do not approve nor support all of the provisions of this bill. This is no time, however, to quibble about items which are not absolutely necessary for the restoration of investor confidence. The important thing is to get on with the job; and if changes are discovered to be necessary, in the light of experience, certainly we can make them.

Mr. President, as I close, I want to pay my respects to the industry itself, which has already taxed itself very heavily to assume, as an industry, the burdens created by the failure of individual members. New York Stock Exchange members alone have already committed $55 million for that purpose and are prepared now to commit an additional $30 million. This is evidence of its acceptance of responsibility and of its good faith. I think this kind of evidence demonstrates that the industry is entitled to the additional protection that this bill would make available to it if necessary through the Treasury and after a process which will carefully safeguard the safety of this loan by the Treasury to the taxpayer.

Mr. President, I hope that the Senate will approve this bill today, so that we can get it to conference and get it passed in the remaining days of the session.

Mr. MUSKIE. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter from Chairman Hamer H. Budge, Chairman of the SEC, dated October 2, 1970, with respect to the adequacy of the funds that would be created under the pending measure, a letter from Charls E. Walker, Acting Secretary of the Treasury, urging the passage of the pending measure, and a letter from Robert W. Haack, president of the New York Stock Exchange, dated October 1, 1970.

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

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., October 2, 1970.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Your letter of September 25, 1970 asks whether the Commission is prepared to make a judgment as to the adequacy of the $75 million fund which will be available to SIPC within four months of its creation and the adequacy of the projected $150 million amount set as a goal of the legislation.

As stated in my September 17 letter to Chairman Sparkman, no one can be certain because of the impossibility of making an underwriting analysis of just what the potential risks are, even for the near term, that the initial $75 million fund or the eventual $150 million fund will be adequate. This is the reason for the possible involvement of the U.S. Treasury. Based upon past experience and the representations made to us in the enclosed October 1, 1970 letter from the New York Stock Exchange, unless events take a turn for the worse, it is believed that the initial $75 million to be raised from nonpublic sources by SIPC is likely to be adequate to meet the needs of investor protection. In any event, unless there are significant adverse developments, the commitment to investor protection of privately raised funds is likely to substantially outweigh any Treasury commitment in the early stages of the accumulation of the fund. Further we would hope that the rule making and oversight authority of the Commission provided for in the proposed legislation will help increase the likelihood that in the future the $150 million fund will be adequate.

As I have previously observed, the proposed SIPC legislation does not exculpate anyone in the securities industry from any liability they may have respecting financial difficulties of broker-dealers arising prior to or after the enactment of the legislation. Accordingly, in the Commission's view the legislative proposal is a measure designed to protect investors and not a measure to protect broker-dealers in financial difficulties or others in the securities industry who may have some legal responsibility to the customers of such broker-dealers. Moreover, under the legislation, any broker-dealers who cause the expenditure of any SIPC funds may not re-enter the securities business unless the Commission determines it is in the public interest.

Sincerely,

HAMER H. BUDGE,
Chairman.

THE SECRETARY OF THE TREASURY,
Washington, D.C., December 8, 1970.

Hon. JOHN SPARKMAN,
Chairman, Banking and Currency Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to reemphasize the Administration's support for S. 2348, legislation to provide protection for customers of registered brokers and dealers and members of national securities exchanges. As you know, the House of Representatives passed similar legislation on December 1, 1970 by a vote of 359 to 3. The Administration is hopeful that Senate consideration can be scheduled in the immediate future to enable final enactment before the adjournment of the 91st Congress.

The Committee bill reflects in substantial degree the proposals recommended jointly by the Administration and the Securities Industry Task Force. Several modifications were made by the Committee; however, on the whole, we support and urge prompt passage of the Committee bill, S. 2348, as amended.

The Committee bill does exempt certain classes of broker/dealers from required membership in SIPC, which exemptions are of great concern to the Administration. Subsection (h) would exempt from membership those broker/dealers who do not hold securities or free credit balances for customers, who hold customer securities only in nontransferrable form or who hold funds or securities only to the extent required to complete a transaction. If retained, these exemptions would reduce potential revenues by at least 20 percent. Such a reduction would seriously hinder the required accumulation of cash in the balance of the fund within the time anticipated, thus increasing the potential need for the Corporation to borrow from the U.S. Treasury.

Quite apart from the loss of revenues, we continue to feel that all registered brokers or dealers and members of national securities exchanges should be required to be members, with authority in SEC to exempt any such broker/dealers or members of national exchanges as it deems necessary or appropriate in the public interest or for the protection of investors. While certain portions of the Industry do not directly hold customer securities or free credit balances, their operations are so closely related to the overall securities business that they benefit from the preservation of investor confidence in the securities markets and the strengthening of those markets by the general protection of all present and potential customers in such markets.

We feel this legislation is a necessary first step to protect customers and improve public confidence in this essential sector of our economy. This legislation provides clear authority to the SEC to regulate those aspects of the operations of the securities industry that have contributed to the recent problems.

It cannot be emphasized too strongly that this legislation provides protection to the customers of member firms and provides no insurace coverage or protection for firms themselves. I want to clearly state that we join with the Committee in its desire that this important legislation be approved and enacted in this Congress.

Sincerely yours,

CHARLS E. WALKER,
Acting Secretary.

NEW YORK STOCK EXCHANGE,
New York, N.Y., October 1, 1970.

Hon. HAMER H. BUDGE,
Chairman, Securities and Exchange Commission, Washington, D.C.

DEAR MR. CHAIRMAN: We have been asked by the Commission staff to provide an appraisal of the current financial condition of NYSE member organizations and our opinions on the adequacy of the initial and subsequent funding of the SIPC, as contemplated by the bills presently pending in the United States Senate and the House of Representatives.

With respect to the current financial condition of member organizations, we are pleased to report that the thirty member organizations which were on the Exchange's "early warning" surveillance list last week has now been reduced to 17 through corrective action in the case of 13 firms. A detailed tabulation relating to these 17 firms is enclosed. Events in process make it now fairly certain that 11 of these firms will be removed from our list in the near future.

The general criteria for determining whether a firm is included on this list and, therefore, subjected to special surveillance is if a firm's capital ratio exceeds 1200% or its monthly operating losses exceed 15% of the organization's excess net capital. Basic capital and profitability data are required from every member organization monthly, with weekly or daily follow-ups on those on our special surveillance list. The criteria are set so that unfavorable trends can be spotted and corrective action taken well before a firm's capital ratio exceeds 2000% and violates our net capital rule.

The number of firms currently subject to special surveillance compares very favorably with the number of firms which have been on the list since the current guidelines were developed in March. For example, there were 87 firms on the special surveillance list on June 30 and 46 on August 28. As of September 30, a total of 139 member organizations had been on the list.

The situation with respect to the 17 firms which—are referred to in the enclosed table—can be summarized as folows: Four are large nationwide firms which have programs underway for solving their capital problems. The situation with respect to two of the firms is discussed in detail later in this letter. Seven are small regional firms and six are small New York-based firms. Among the 13 smaller firms, four carry no customer accounts but introduce accounts to other firms. Two others are in the process of merging or going out of business and ten of the 13 have reported events which will remove them from this list, if substantiated.

The two large firms which are of concern at the moment are taking steps which should lead to a solution to their potential problems. One firm exceeded our guidelines during the summer months but the firm has increased its capital and improved its profitability and is filing daily reports with the Exchange. An audit now in process, however, is expected either to confirm or correct a group of older security differences. It could also show unknown errors and differences left over from the firm's operations difficulties of 1969 or its recent merger. Adverse audit reports conceivably could cause a capital problem and the Exchange consequently maintains the firm and the audit under close daily surveillance. The firm, a partnership, has agreed to increase its capital condition by $5 million of new capital before the end of October.

This additional capital would give the firm some $14 million of excess net capital. This amount should be sufficient to absorb any audit adversity.

The second large firm is also a partnership. It did not exceed our guidelines until affected by large August losses; however, it estimates a $500,000 profit in September. However, several subordinated lenders have given notice of termination of their loans which could cause an increasing capital problem in October and November. A merger is being negotiated which the parties hope to consummate by the end of October. The firm is also liquidating proprietary positions to improve the firm's capital.

In sum, it presently appears to us that the current financial condition of member organizations has improved over the past several months, particularly in September. Thus, based on the current plans and programs, we do not anticipate any major financial exposure.

Our appraisal of the current financial condition of firms, therefore, is one of cautious optimism. However, there are a number of factors which are outside the control of the Exchange as a self-regulatory authority which can have a dramatic and deleterious effect on the capital position of member organizations.

The securities industry has been for many months now in an economically depressed state because of the steep decline in market volume and drop in securities prices. Unfortunately, this economic situation came upon the industry at a time of escalating costs.

The monitoring data which the Exchange and the Commission staff have been collecting since April, 1970 reveals the overall unprofitability in the securities industry.

PERCENTAGE OF FIRMS WITH LOSSES

[In percent]

Month ending	Overall losses	Security Commission business losses
April	69	66
May	65	47
June	27	52
July	33	73
August	45	75

The security commission business was absolutely dreadful in the month of August as 75% of all reporting firms had security commission income losses.

The results for retail firms primarily serving public customers were even worse. A shocking 92.5% of the retail firms lost money on their security commission business in August.

Profitability apparently improved in September. The record of present and recent losses, however, makes the raising of new capital very difficult for all firms and often impossible for a firm which has a special problem. In other words, the red ink in the securities business exacerbates capital problems for the problem firms.

If the economic situation in the securities industry does not continue to improve, there will obviously be substantial regulatory problems with respect to the financial condition of broker-dealers.

However, the number of firms on the special surveillances list, as explained previously is on the decline and the magnitude of problems presented by the firms, as a group, is less severe than has been the case during the past several months.

This leads to a response to the second question asking our opinion on the adequacy of the initial ($75 million) and subsequent ($150 million) contemplated funding of the proposed Securities Investor Protection Corporation. One way to measure the possible financial exposure to SIPC is to review what financial commitments might have been required of SIPC if the legislation had been in effect since mid-July, 1970 when the proposed legislation was first filed in the House and Senate.

If SIPC had been in effect since July 15, so far as we know, a liquidator would probably have been appointed in the case of only three firms. All three of these firms are relatively small, and even if SIPC funds had been required the total amount involved probably would have been limited to a few million dollars, at most.

This was one of the most financially adverse periods in the history of the securities industry. During this period from July 15 until, say, September 15, about 109 NYSE member organizations were on our special financial surveillance list. During this period, financial conditions in the securities industry were terrible as broker-dealer profits were down or non-existent. Hopefully, with a continuation of the recent increase in trading volume and the adoption of the proposed new commission rate schedule, the financial situation in the securities industry in coming months will improve.

If, therefore, one can assume that economic conditions in the securities industry in the coming months will improve, it would appear that the contemplated initial $75 million funding of SIPC would be more than adequate.

I should make it clear, however, that no one can, in our opinion, make a realistic or useful evaluation of the potential dollar exposure to SIPC because there is no known way to measure the liability which might be faced in the event of broker-dealer failures. The fraud of Allied Crude Vegetable Oil against Ira Haupt & Co., for example, caused a loss of some $27 million which could in no way be anticipated in advance.

Mr. Ralph DeNunzio reached this same conclusion in responding to a question put to him by Senator Edmund Muskie in a letter of August 5 in which Senator Muskie asked:

"The extent of financial exposure, in dollar terms, which firms . . . might create either to the Exchange or the new SIPC."

To which Mr. DeNunzio replied in a letter of August 11:

"I am satisfied that nobody can make a realistic or useful evaluation of dollar terms of exposure, whether upon the basis of customer protection without limit as to amount (as in an Exchange Special Trust Fund liquidation) or protection of a customer to the extent of a $50,000 limit."

Our experience in connection with current liquidations involving the Exchange's Special Trust Fund bears out the accuracy of this statement, as estimates of possible liability made in advance of or after the liquidation was commenced, have been subject to substantial variation during the early part of a liquidation and until an audit can be completed.

The Exchange did, however, make a detailed study earlier this year of possible future trust fund size. We concluded at that time that a program for the availability of a $80 to $100 million customer protection fund would be sufficient for the needs of the foreseeable future.

This determination was reached by analyzing items relating to member organizations such as the gross income of member organizations dealing with the public, a calculation of those firms' mean net expenses, and comparisons of liabilities, capital, size of firms and their gross income over a four-year period.

Based on these analyses, we concluded that a program as proposed in the SIPC bill, leading to a $150 million fund should be sufficient for the foreseeable future. This conclusion, in our opinion, continues valid today and in the future.

Recent events in connection with litigation surrounding liquidations which are being handled under the Exchange's Special Trust Fund procedure have brought into sharp focus the need for the liquidation procedures which are included in the SIPC bills.

The appointment of a liquidator pursuant to the procedure in the SIP bills stays any proceedings under the bankruptcy laws so that customer accounts can be delivered out promptly while a liquidation using Special Trust Funds is voluntary and is dependent upon the voluntary forbearance of creditors of the firm.

I hope that we have answered the two questions raised by the Commission staff. As you have expressed on a number of occasions, public confidence in the Nation's securities markets is important to the economy of the Nation. The SIPC bill will go a long way to improving and restoring the public's confidence in our markets. If the SIPC bill is not passed by the Congress, this will serve to diminish public confidence and, thereby, intensify the financial problems of broker-dealers.

Sincerely,

ROBERT W. HAACK.

Mr. WILLIAMS of New Jersey. Mr. President, S. 2348 would establish a Federal Broker-Dealer Insurance Corporation in order to protect the many millions of Americans who invest in securities against brokerage firm failure.

Over the last 6 months, the need to protect consumers who leave their securities with broker-dealers for safekeeping has become an absolute necessity. During that period, some of our Nation's largest stockbrokers have teetered on the brink of financial insolvency, while many smaller firms have either dissolved or merged with their competitors. Only large infusions of capital have saved F. I. Dupont and Hayden-Stone from financial run. Goodbody & Co., our Nation's fifth largest stockbroker, has been absorbed by Merrill Lynch, contingent upon and indemnification payment of $30 million from New York Stock Exchange member firms.

The insolvency of a Goodbody or Dupont could create havoc in the securities industry due to the inter-relationship between broker-dealers. The real losers would, of course, be our Nation's small investors, many of whom have invested a significant portion of their savings in securities. It is imperatve that these investors, who are the backbone of a healthy economy, be fully protected against brokerage firm failures. They should not be forced to bear the brunt of this administration's disastrous economic policies with which this Nation is now forced to live.

Recognizing the precarious position facing the securities industry and our Nation's small investors, Senator MUSKIE, in June of 1969, introduced the bill before the Senate today—a bill to insure investor accounts held by brokerage firms in an amount up to $50,000. During hearings held before the Securities Subcommittee, of which I am chairman, it was suggested that a securities industry task force working with the SEC, the Treasury Department, and our subcommittee give further consideration to this problem. This bill before the Senate today is a result of these deliberations. Mr. Ralph DeNunzio, Chairman of the Task Force, should be commended for his leadership in this area. The proposed legislation not only creates lasting investor protection from insolvency but also, for the first time, gives the SEC the power to regulate the use of free credit balances and to prohibit the hypothecation of customer securities. By allowing the SEC to correct any abuses which may have occurred in these areas, S. 2348 couples investor insurance with securities industry reform.

Although the corporation administering the insurance program will be able to borrow up to $1 billion from the U.S. Treasury, an occurrence which we all hope will never occur, the first $150 million will be raised solely from assessments made upon members of the securities industry. In addition, the Directors of the Corporation will consist of the Chairman of the SEC, the Chairman of the Federal Reserve Board, the Secretary of the Treasury, and two members of the securities industry. This preponderance of public directors will, in my opinion, insure against any abuses in Treasury borrowing.

The need for S. 2348 is obvious. Small investors must be protected. Public confidence must be restored in our Nation's securities markets.

While I, for one, am not satisfied with each and every section of this proposal especially in the areas of free credit balance regulation, capital requirements, and assessments based upon risk, this bill certainly moves in the right direction.

I have applauded the work of the Senator from Maine on the pending legislation, from its introduction to this moment on the floor of the Senate. I join with him in his hope that there will be a more fundamental study—indeed, a more profound study—of the entire securities industry.

As chairman of the Securities Subcommittee, I intend to propose an in-depth, far-reaching inquiry into all phases of the securities industry, including the use of free credit balances and the hypothecation of customer securities. From such an inquiry, lasting legislative solutions will be found, so that what has occurred in the past will not be repeated in the future. At that time, I would hope that legislation could be enacted which would give total protection to all of our Nation's investors.

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

Mr. WILLIAMS of New Jersey. I yield.

Mr. MUSKIE. Mr. President, I should like to express my appreciation to the distinguished chairman of the subcommittee for his statement. We have worked together on this legislation for many months. He and his staff have been of tremendous assistance to us.

Recently, we discussed the difficulty of getting a much needed, thoroughgoing study of the practices of the industry. In line with the statement I made earlier, and the one that the Senator from New Jersey has just made, I think it should be greatly reassuring to the House and Senate—it surely is to me—that the Senator from New Jersey considers it possible to undertake what will be a time-consuming and difficult responsibilty; but it needs to be done. He and I agree wholeheartedly on that.

Under the principle of self-regulation, many practices have developed that should be looked at, reviewed, and changed in accordance with our best understanding of the problems as we become more expert.

I very much applaud the Senator's statement.

Mr. WILLIAMS of New Jersey. We will work together. I look forward to that, and I thank the Senator from Maine for his kind comments.

Mr. McINTYRE. Mr. President, I rise to propose an amendment but before I offer it—it has been worked out between the Senator from Maine (Mr. MUSKIE) and myself—I should like to say a few words about the pending bill.

To begin with, well over a year ago when the Senator from Maine introduced this legislation, few, if any, of us could foresee the tremendous need which would arise for this sort of investor protection. The distinguished junior Senator from Maine, however, understanding the nature of the crisis which was to burst upon us this year, did foresee the problem and deserves the thanks of all Americans who are interested in strong, viable financial markets.

This legislation is, however, just the first step of many which must be taken before our securities markets may regain their health. During the past decade, under the pressure of heavy trading volume, the securities markets of the Nation have displayed structural weaknesses which must be corrected. The managers of those markets have failed to reorganize themselves in order to cope with the new demands which have been made upon them. They have been short-sighted, at times greedy, at times too unconcerned with the welfare of their own customers. They have risked their customer's funds for their own profit. They have, on too many occasions, chosen the narrow private way over the broad publice interest. They have been unresponsive to those few of their own colleagues who have sought to lead the marketplace toward new ways of thinking about the problems confronting them.

And so, as an essential first step, we are now considering legislation made necessary by the failure of the securities markets to adequately protect investors. Much more needs to be done, in terms of new regulation and reorganization. This action today marks the beginning of a long series of actions which must be taken to provide long-term investor protection.

After the Committee on Banking and Currency completed its action on the bill before us, S. 2348, I and others of my colleagues, including the distinguished Senator from Maine, still entertained doubts about a few details in the bill. Accordingly, we have met together and have agreed on a compromise provision affecting two sections.

First, this compromise would reduce the maximum insurance-type protection per account from $50,000 to $20,000. This amendment would bring investor protection in line with the protections which the Congress has already made available to depositors in banks and shareholders in savings and loan associations. Such a reduction would still provide full protection to all small investors and would provide more of an incentive to larger investors to be more concerned with the financial soundness of the firms they designate to hold their money.

Second, the compromise amendment would adopt language passed by the House in place of language now in the bill as a result of an amendment which I had offered in executive session of the committee.

As originally proposed to the Senate, this bill would require the participation of all registered broker-dealers in SIPC. I and many of my colleagues on the Committee felt that such a sweeping requirement for membership would inadvertently include many persons whose registration as broker-dealers was not functionally related to the type of risks which the bill covers. Accordingly, I prepared language to exempt all broker-dealers whose activities did not involve such risks to investors.

After the unanimous adoption of this provision, the SEC, the Treasury, and the New York Stock Exchange all felt that it could result in so diminishing the revenue base of SIPC that the financial soundness of the insurance fund might be too weakened to perform effectively. I disagreed with this contention, but at the urging of the Senator from Maine I have examined the method which the House has adopted to exclude certain broker-dealers from SIPC membership and have found that method satisfactory. Accordingly, the amendment which I now offer will substitute the House language for the Senate language.

I believe that this amendment will continue to preserve the basic purpose of the Senate bill, while eliminating any confusion about the soundness of the insurance fund. I have made one change in the House language, dropping two words "open end" which had the inadvertent effect of requiring brokers who advised closed end investment companies to be included in SIPC. This change has the approval of the SEC staff.

Mr. President, I send the amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered and the amendment will be printed in the RECORD at this point.

The text of the amendment is as follows:

On Page 65, Line 16, strike "$50,000" and insert "$20,000".

On Page 47, line 12 strike all after "corporation" down through line 18, and insert: "other than persons whose business as a broker or dealer consists exclusively of (i) the distribution of shares in registered open end investment companies or unit investment trusts, (ii) the sale of variable annuities, (iii) the business of insurance, or (iv) the business of rendering investment advisory services to one or more registered investment companies or insurance company separate accounts."

Mr. BENNETT. Mr. President, will the Senator from New Hampshire yield?

Mr. McINTYRE. I yield.

Mr. BENNETT. I can understand, approve, and support the concept that the insurance coverage for cash be reduced to $20,000, because that brings it in line with the insurance coverage for cash deposits in savings and loan institutions and banks, as well as credit unions; but I wonder whether the Senator would consider keeping the $50,000 on securities, because in many cases that amount is—I was going to say reasonable. I think, in terms of the kind of new protection we are trying to offer, it might be more acceptable and more efficient in restoring confidence if the figure in the original bill with respect to securities only were left at $50,000 and the $20,000 applied to the cash.

Mr. McINTYRE. I would say to the Senator from Utah that when this matter of the $50,000 protection limit first came to my attention in executive session, I could not understand why we were going to such a high figure, particularly, as I considered the commingling of the accounts. I got to thinking that a broker should be responsible for the funds of his investor client, so I was thinking—in talking to the distinguished Senator from Maine—of reducing the $50,000 protection to what the average man and woman in America who puts his money in savings and loan institutions or banks gets with the $20,000 protection. Here today,

for the first time, I have been approached with this suggestion that not only should the account be protected for $20,000 in cash but insurance protection should be extended to $50,000 in securities that might be held by a broker-dealer who went into bankruptcy, or in some way lost his financial soundness.

I am not prepared to accept that on such short-term notice, but I would say to the Senator from Utah that my staff informs me this matter could go to conference. It is a little new to our staff, as it is to me. I would have no objection if the conferees discuss this in the 2 or 3 days. This may be an intelligent suggestion and worthwhile. I would have no objection, after we have a better opportunity for study, to cease my opposition if the study so indicates.

Mr. BENNETT. I appreciate that comment and that suggestion.

Mr. President, I would like to make the further point that the small investor does not leave his securities with the company as a matter of practice. It is the man who is generally in and out of the market who, for his own convenience, leaves his securities there so that he does not have to go through the process of getting certificates, and so on.

I would think that the people who would be more apt to leave securities with the broker would be more apt to have in the area of $50,000 in securities than $20,000. But I certainly agree with the suggestion made by the author of the amendment that we study the matter between now and the time the bill goes to conference and try to work it out.

Mr. McINTYRE. Mr. President, I do not want to detract from anything I have just said with reference to the idea of exploring this matter of requiring $50,000 in securities and $20,000 in cash. I have been concerned with the risk we are trying to protect.

I would call the Senator's attention to the risks which are protected against by this bill.

The greatest risk involves cash held in free credit balances and securities held as collateral for margin accounts. The people we are most interested in protecting—small investors, widows, orphans, beneficiaries of trusts, and others, are being poorly and reprehensibly served if they are keeping large amounts of cash with their broker. They are being poorly served if they have large investments on margin. They are being poorly cared for, if they are beneficiaries of trusts, if their certificates are not locked up in a bank safety deposit box. And so I feel that the large, $50,000 insurance protection is not needed for that class of investor.

That is why I feel that the $50,000 seems to be entirely too high. I agree with the thought raised here that we should consider the matter in conference.

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

Mr. McINTYRE. I yield.

Mr. MUSKIE. Mr. President, as already indicated in the discussion, I have discussed this amendment with the distinguished Senator from New Hampshire. Both of the points covered by his amendment were raised in the committee and were considered in the committee and, I think, were not altogether resolved to the satisfaction of all committee members at that time. So, it is apparently still an open question.

I have discussed it with the distinguished Senator from New Hampshire, the distinguished Senator from Utah, and other interested Senators in connection with the pending legislation. Accordingly, I am willing to agree to the amendment. I think that all others concerned come under the conditions suggested in the colloquy between the Senator from New Hampshire and the Senator from Utah.

I will add this further observation with respect to the Senator's first point. That is the proposed reduction of coverage from $50,000 to $20,000.

We have not been able to get any firm judgment from the Commission or from the industry as to the difference this change might make upon any potential drain upon the fund. I have been told by some that it would not make too much difference. Nevertheless, I think the objective of the Senator from New Hampshire is clear and is understood. I have no objection to it.

Mr. McINTYRE. Mr. President, certainly the amendments that the Senator from Maine and I have worked out together go a long way toward devloping what I would consider to be the solvency of the bill. We are eliminating the small dealer that I thought should be exempt and are reducing the amount of coverage from $50,000 to $20,000.

Mr. MUSKIE. Mr. President, with reference to the second point in the amendment, the point is that under the bill as it was reported to the Senate, the McIntyre amendment as it came out of the committee would have reduced the income of the fund by close to $5.5 million. As I understand, the change which would be made by the present McIntyre amendment, it would cause the revenue to be reduced to something over $1 billion. So, the amendment very much strengthens the solvency of the fund.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, I have read the amendment. It strikes me that each part is divisible. Is the amendment divisible?

The PRESIDING OFFICER. The amendment is clearly divisible.

Mr. JAVITS. Mr. President, I demand a division of the amendment.

The PRESIDING OFFICER. The amendment will be divided.

Mr. JAVITS. Mr. President, let me say that I think this bill is one of the most important things we will do in this Congress. I think the whole country and the securities industry should be eternally grateful to the Senator from Maine (Mr. MUSKIE), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Utah (Mr. BENNETT), the Senator from Illinois (Mr. PERCY), and the other members of the Banking and Currency Committee who have brought us to this concurrence.

I have no desire to ruffle the water at all. My interest in the legislation is attributable to the danger posed by recent financial developments to our country and to the securities industry, most of which is concentrated in New York.

I have bird dogged this particular bill for literally months. There would be grave risk of a national financial collapse if some of the really big brokerage houses were to close. We might then be experiencing a terrible economic situation not only in this country but throughout the world.

I know of the fortitude that the Senator from Maine (Mr. MUSKIE) and the other members of the committee exercised to bring about this concurrence of view. However, we have always been faced with the question of adequacy. Indeed, one of the big things that held up action on this bill was the desire to have an adequate guarantee of funding and a guarantee figure that would be impressive enough for the investor to be confident that if he suffered loss, it would be made good.

I had the aggregate figure of $3 billion in mind. That was the original figure in the bill of the Senator from Maine. However, for reasons that were persuasive to him, and therefore, to me, that figure was reduced to $1 billion.

I did not expect that we would have any further reduction in coverage. The Senator from Utah has properly put his finger right on the sore spot: even a relatively small investor might have as much as $50,000 in securities. The account of the traditional widow and orphan might frequently fall somewhere in that bracket. Certainly many relatively small investors have more than $20,000. Twenty thousand dollars is a perfectly good figure for insurance of cash accounts. But $50,000 is definitely more appropriate to the securities accounts of people dealing with brokerage houses.

If the amount is less than that, we generally find that accounts with mutual funds, closed end funds, and investment banks are involved. However, the broker in dealing with a customer is generally properly covered with a $20,000 cash balance. However, I think that we do need coverage to the extent of $50,000 of securities.

I am deeply concerned about letting a bill leave here with a floor amendment in it that cuts the coverage so materially.

I have had a lot of experience in conferences. What we take out of a bill on the theory that it can be restored in conference in some kind of a trade frequently is lost forever. We could go into conference and find that the House conferees say, "That is perfectly swell. The House recedes." Then we have a guarantee of only $20,000 for securities and cash.

Mr. President, I think that before we vote this amendment, which involves a very major change in the bill, we ought to consider its consequences most seriously.

I appreciate the feeling of the Senator from Maine that he is willing to take the amendment. However, I point out that if we do take it, it would not be without peril. I was not informed of any plan to offer this amendment. However, I am not on the committee, and I would not necessarily hear about it.

I do not think the world knows about it. In general the people who are interested in this matter throughout the country assume we are putting a $50,000 guarantee limit on this and not cutting it down to $20,000. The $20,000 is not a magical figure. It is only the figure for FDIC and bank deposits. I can see the analogy to cash deposits but not to securities.

So I would like to make this suggestion to the Senator from New Hampshire, whom I respect, and I do not impute anything to him other than the highest motives. Might it not be possible, in his judgment, to separate the guarantee limits for securities and for cash, according to the thoughts of the Senator from Utah (Mr. BENNETT), and endorse a somewhat higher figure, not necessarily $50,000, but say $35,000, for securities? Then, that issue, as an issue, will be before the conferees and we will have what the brokers call some "stop loss" in that the Senate will not face the possibility of going to conference and finding that the House agrees to the $20,000 figure. I have been caught at the post like that before and the feeling is embarrassing, but it can happen here if we do not guard against it.

Mr. PERCY. Mr. President, I think the Senator from New York has raised a very important point. The comparison between a savings account and a securities account really cannot be made. How many people keep a savings account of that size? They are using those for current needs; that is not their life savings. But I can think of thousands of employees who come up for retirement every year and their employer faces them with a choice of whether the person retiring wants to take out his accrued retirement benefits and manage it himself or leave it in some annuity form. Suddenly a husband and a wife are faced with the fact that their entire life savings and retirement benefits have accrued and they have to do something with them. They may place them in the hands of a brokerage firm if they feel that is the best way to have those funds actively managed and working.

So when a person is 65 years of age, and has 20 more years to go, $20,000 is a very small amount of money; whereas that amount in a savings account is a great deal of money.

When I think back to the tens of thousands of employees in my own previous company, I can think of milling machine operators and drillpress operators who have accrued a substantial retirement benefit well in excess of $50,000. Some people have worked for Sears, Roebuck for 30 or 40 years that has a very liberal profit-sharing retirement fund and they have quite a bundle accrued and for some longtime employees it can get into the hundreds of thousands of dollars, but they have to make that stretch for years to cover their retirement. So $50,000 as an upper limit did not seem unreasonable to me, $20,000 seems unreasonably low.

I thank the Senator for bringing out this point.

Mr. McINTYRE. Mr. President, I believe the Senator from New York was in the Chamber when I had a colloquy with the Senator from Utah. This proposal was suddenly raised here out of nowhere about $50,000 in securities as opposed to or in conjunction with $20,000 cash. As a result of my colloquy with the Senator from Utah, and discussing the matter with members of the staff, it is my information that this issue of separation the securities and the cash will be a matter in conference. Now, it seems well to leave it at that point. It would give the staff an opportunity to review the matter—to determine whether or not there is any real good sense in this question of $20,000 cash and $50,000 securities.

Speaking for myself, I want to say to the Senator from New York that I am not particularly enamored with this legislation. We felt very much handicapped as we tried to elicit statistical information from this self-regulated industry. It proved that the self-regulated industry does not give us the facts we would like to have in order to proceed intelligently.

The amendment the Senator has now asked to have divided is, as in the case of so many things in the Senate and the House of Representatives, a matter of compromise.

I am the one who had to give in. In connection with the little independent back in my home town, and back in the small town in New York who does not commingle his accounts, who is going to be asked to chip in, I agreed to put him back in. There is a big question as to whether or not in the case of serious difficulty he would have adequate funds for paying his assessments.

I know the Senator does not mean to upset the applecart by coming in now and talking about $30,000 or $50,000 in securities, but I am becoming disenchanted with the entire bill.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. JAVITS. I yield to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, the Senator from New York has been interested in this bill from the beginning and he has offered to be of every assistance in working out problems which have arisen with respect to it in order to ease its passage through the Senate and the House of Representatives. This task has not been easy to perform. A great many Senators have had questions about the bill on both sides of every issue that it involves.

When I introduced the bill a year ago last summer it had no support anywhere, including the securities industry and the administration. Then, as the difficulties of the market emerged and became exposed there was greater and greater concern about them and eventually the administration and others rallied behind the idea for this kind of insurance. This happened about midsummer, but even since that time it has been difficult to move this bill along because of the uncertainty of the conditions of the industry and the very real doubts of Senators, like the Senator from New Hampshire.

Because of those uncertainties we have undertaken to put together a bill to meet all the questions that have been raised. The questions of the Senator from New Hampshire are real. I understood them and I sympathized with them.

The amendment which is before us, and on which the Senator from New York requested a division, represented the agreement I had reached with the Senator from New Hampshire on the two points that troubled him. I realize that agreement binds only the Senator from New Hampshire and me. But what I am saying is that in order to get the bill to this point in what may be the next to the last week of the session, it has been necessary to work out all these problems, including this one, in a way to resolve doubts of Senators about the bill. That is why I have indicated to the Senator from New Hampshire that I will agree to his amendment and support it, because I think in the form in which it is at the present time it contributes to the prospects for passage of the legislation.

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

Mr. MUSKIE. I yield.

Mr. JAVITS. I am very sympathetic. The Senator knows that. I appreciate what the Senator has done, and I want to help him.

Did the committee analyze or get in the testimony the proportion of securities compared with the proportion of cash that would be covered? Does the Senator have any idea?

Mr. MUSKIE. No. I wish to say to the Senator that this is the type information it has been impossible to get from the securities industry, from the Commission, and this has been the kind of information which has raised the doubts that have moved the Senator from New Hampshire and other Senators.

May I say to the Senator that this amendment has been discussed with representatives of the SEC. The industry has known about it. We checked in both quarters to get all doubts that might be expressed from those sources. Then we reached agreement on the amendment.

Mr. JAVITS. What was their attitude?

Mr. MUSKIE. The SEC is willing to have the McIntyre amendment. They are going to press in conference for the point of view expressed by the Senator from Utah (Mr. BENNETT). They understand this is a new proposal, or a new form of proposal, but they do not press for serious consideration of it on the Senate floor. They will press it in conference. They are willing to take the amendment in its present form.

Mr. JAVITS. What would happen if I should offer an amendment to the amendment to cover securities up to $35,000, for example? To what extent would that upset the actuarial propositions which the Senator is laying down in the debate?

Mr. MUSKIE. The actuarial propositions are not known, because so little is known of the details in the broker-dealer houses. It is that uncertainty that has plagued the bill from the beginning. If the Senator offers that amendment, I will support the McIntyre amendment, because that was the agreement I made with him and brought to the floor. I think we can live with it. After all, we started the FDIC with a $10,000 ceiling. We moved the ceiling up to $20,000 only

recently, in the last year or two. So the prospect of increasing the coverage in conference is not an unreasonable one.

Mr. JAVITS. May I be frank with the Senator, as he always is with me, and as the Senator from New Hampshire (Mr. McINTYRE) always is with me? I do not want, with millions and millions of people involved, to miss the forest for the trees because we have to scale down our original intentions. In other words, I fear that we are going to take the least expensive route to please perhaps some small brokers and dealers, because they do not want to spend the money—and I cannot blame them—and miss the big purpose of the bill. That is what worries me.

What worries me is the fact that we are going to scale down the whole conception of what we are trying to accomplish in order to suit some people who do not feel happy about paying the small tab, and thereby miss the basic purpose of reassuring the community of investors that they at least have something that stands between them and the improvidence of the individual broker.

I ask that question because I think there is a moral responsibility here. If the Senator wants me to go along with this without a contest, he takes upon himself the moral responsibility of writing down the value of the guarantee just because we have to look after the interests of the small dealers.

Mr. MUSKIE. We asked the Commission, and I am sure the Commission was aware, from the sources of information that were available to it, what change this would make upon the potential drain on the fund. It was their impression, without any precise information upon which to form an opinion, that there would not be a significant change to the potential drain upon the fund.

That is the argument I used to the Senator from New Hampshire in undertaking to dissuade him from offering his amendment in the first instance. Finally, since he insisted on it, I comforted myself by accepting his amendment.

May I say to the Senator in addition: There is no way of knowing in what amounts securities are held for particular customers. There is another point. If the $20,000 limit on securities is unrealistic in terms of the holdings of particular customers, they can break up their security accounts.

Mr. JAVITS. May I ask the Senator from New Hampshire a question? Would the Senator from New Hampshire be willing to take a $25,000 limit? I know that does not seem very different, but in that way the Senate would present a proposal on which there could be negotiations, so that there could be a distinction between the money and the securities.

I wish the Senator would give consideration to that proposal. Let us at least show a distinction between cash and securities when we go into conference. Perhaps something good will come out of it. It may not, but at least let us have a crack at it so that we will have the idea of dividing the money from the securities.

Would the Senator consider that?

Mr. McINTYRE. Mr. President, may I first say to the Senator from New York that one of the principal reasons in my own mind why I resist this entire idea is that this is a very complicated subject. At no time in my recollection during either the executive sessions or other considerations by the committee did we have the benefit of information on which this split type of protection was to be considered. Today, when it first came up, and it was brought to my attention by the Senator from New Jersey (Mr. WILLIAMS), I immediately went to the staff and asked them if they could tell me whether it was a good idea, a poor idea, or what. They all asked for more time to study it.

I do not pose as having all the expertise on the inner sanctums of the markets of New York so that I would want to hold fast on an amendment as a result of a compromise or agreement, without its having been considered in hearings.

Mr. JAVITS. This could be dropped in conference, but the issue of the difference between $20,000 and $50,000 would be there, with the dynamics of different treatment for securities and for money. All I am trying to do is get something into the bill which would indicate that there is a field for settlement, for negotiation. Perhaps it will not be done. Perhaps nothing will happen. Perhaps the $20,000 will come out of conference just as the Senator wants it, but at least let us make the distinction between securities and money.

Certainly, I recognize, and the Senator from Illinois (Mr. PERCY) has just explained it very feelingly, that there is a difference between bank accounts and brokerage accounts, that there are different volumes of resources involved.

I think, if we are to turn out something that is meaningful, we should not just shut our eyes and take the FDIC figures.

Again, I respect the arrangements Senators have made, but we are here on the floor to make proposals. We might just as well legislate in committee if we are not going to be permitted to say anything about it because the manager and the proponent of an amendment decided that they were going to get together. Now we find ourselves locked out and asked to just be quiet. I do not think I should do that, and I do not think anybody would want me to do that.

Mr. MUSKIE. May I say, in all good will, the Senator has been asking me how he could help to get the bill moving along. I assume in each case he meant what specific things with respect to the bill he had an influence on that might eliminate objections. That is what I was doing with this amendment. I am sorry the Senator implies that is an objectionable way to handle the business of the Senate, but the Senator from New Hampshire had a legitimate question. In the committee, I think properly, we discussed it and resolved it by a vote, but not to the satisfaction of every member of the committee. The issue was still alive. As the Senator indicated, he "birddogged" me on it all along. This is how we worked it out.

I recognize the Senator's right in trying to change it. I am certainly not going to hold that against him.

What we tried to do is to work out these problems. This is not the only way. An extended debate on any item could stimulate other Senators to resurrect sleeping doubts about this bill before the day is over.

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

Mr. JAVITS. I have the floor, Mr. President.

Mr. BENNETT. Will the Senator yield to me?

Mr. JAVITS. May I just say this: I think what the Senator says is absolutely right, were it not for the fact that the committee presented a bill to us with $50,000. That is the substantive aspect of it.

With all my desire to help get a bill passed—and it is very real, and it will be apparent throughout this debate—that does not mean I can suborn my judgment, and accept a bill I think would be unwise.

I do not think the Senator from Maine would ever misconstrue my desire to get a bill out, because he knows I think it is of vital importance.

I yield to the Senator from Utah.

Mr. BENNETT. I ask the Senator from New Hampshire in order to make sure that this balance of $50,000 and $20,000 will actually be in conference. Would the Senator from New Hampshire agree to modify his amendment just enough to say "$20,000 cash or securities," so they will be separated that much, and so that the House of Representatives cannot say, "Under the circumstances, we cannot consider those as two separate propositions"?

Mr. McINTYRE. First of all, I think the legislative history that has been filled out here this afternoon, with my own colloquy with the Senator from Utah, and with the interest that has been generated now—because this is the first time we have heard of this split type of protection—undoubtedly will mean that the matter will be in conference. I am not likely to be a conferee, but to make everyone a little happier, I will be somewhat accommodating, if I may have the attention of the distinguished Senator from New York and the distinguished Senator from Utah. If I may have their attention, how would it be, in order that they may be reassured, if we take the $20,000 figure and call it "cash and securities"?

Several Senators addressed the Chair.

Mr. BENNETT. I think it should be "cash or securities," because we do not want to say that the total of cash and securities put together can be only $20,000. I do not think that is what the Senator wants.

Mr. McINTYRE. I say a $20,000 limitation, whatever it may be.

Mr. BENNETT. That is right.

Mr. McINTYRE. Would the Senator be satisfied with that?

Mr. BENNETT. I think it would make it easier in conference to treat the two separately, than if they were handled the same way.

Mr. MUSKIE. Mr. President, I ask, for purposes of clarification, whether we are now talking about two figures that are cumulative.

Mr. BENNETT. No.

Mr. MUSKIE. Because, as I understood the Senator's amendment, the total coverage for cash and securities would be $20,000. If the coverage is $20,000 for cash and $20,000 for securities, then the total available to a single customer at a single broker-dealer house is $40,000. Is that what the Senator intends in his new proposal?

Mr. BENNETT. That is not what I intended, Mr. President.

Mr. MUSKIE. I think other Senators understood it was to be $20,000 for all cash and securities.

Mr. BENNETT. The thing I am trying to work out is a technical point. I do not want to go to conference with the House of Representatives, and have them say, "In your bill cash and securities are lumped together; therefore, we cannot separate them."

If I am hypercritical, and there is no such technical problem, I will withdraw my question. Does the Senator see what I am trying to get at?

Mr. MUSKIE. Yes, but I also see the complications, because when you do that, you also open up the question of whether they are cumulative. If you have a total set out of $20,000, $30,000, or $40,000, then it can be any combination of cash and securities.

Mr. BENNETT. That was not my intention.

Mr. MUSKIE. No, but I point out the difficulty of phrasing an amendment that does not lead to that dilemma. That is one of the reasons I thought it made sense to take this issue to conference, without complicating it here on the floor of the Senate.

Mr. BENNETT. I do not want to complicate it, but I do not want to be foreclosed in conference by having them say, "We have to consider the Senate level as for cash and securities, because that is the way you have it in your bill."

Mr. MUSKIE. Up to now, the implication has been that we are dealing with an account which is all cash, in which case the coverage ought to be $20,000, or an account that is all securities, in which case it ought to be $50,000. No attention has been addressed to the question, what if you have a combination; what then will be the limitation on the two?

That has not been worked out in colloquy, with no suggestions as to what the formula ought to be in that instance. That is why I think it makes more sense to go to conference, and I think this legislative history this afternoon indicates, as far as the Senate is concerned, that that is one of the options we want open, as to what is to be the limit.

Mr. BENNETT. Perhaps our colloquy has accomplished the purpose I sought to accomplish, then.

Mr. WILLIAMS of New Jersey. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from New Jersey.

Mr. WILLIAMS of New Jersey. Being the cochairman of the Securities Subcommittee, and therefore considering it possible that I might be a conferee, at this point I am somewhat unclear as to what the objective is.

I thought the objective, of the McIntyre amendment was to limit the insurance coverage to $20,000 in value and that the $20,000 was not to be defined in terms of cash or securities. It was to be a ceiling.

I also thought that an effort was being made to refine that, with a ceiling amount on cash, and with an additional amount to be covered in securities. I did not hear all of the colloquy, but I thought the Senator from New York was suggesting a $20,000 ceiling on insurance for cash held by the broker.

Mr. JAVITS. That is right.

Mr. WILLIAMS of New Jersey. And an additional amount in terms of the coverage of the value of securities.

Mr. JAVITS. $25,000, I suggested.

Mr. WILLIAMS of New Jersey. That is clear to me. As a conferee, I would know those were the amounts we were dealing with, a cash amount, so defined, and a securities amount. Is that what has evolved?

Mr. JAVITS. It has not evolved——

Mr. McINTYRE. Mr. President, will the Senator yield to me?

Mr. JAVITS. I have the floor. I just want to finish what I am saying.

Mr. McINTYRE. Is the Senator from New York still holding the floor?

Mr. JAVITS. Well, I can yield it, and happily, but I wanted to answer the question of the Senator from New Jersey. I do technically have the floor.

I just want to answer by saying we had not evolved anything really. I had latched on to the suggestion that was made that we might differentiate between securities and cash, and thereby preserve all we could of Senator McINTYRE'S amendment, by limiting it to $20,000—because when I heard his argument, he emphasized cash—and provide a higher figure for the account which has securities in it, over and above $20,000. So, if we adopted the formula I suggested to him, if a man had $15,000 in securities and $20,000 in cash, he would be covered for the whole $35,000. If he had $18,000 in cash and $17,000 in securities, he would be covered. If the securities in the account exceeded $15,000, then he would be covered up to $35,000. That is really what I was shooting at, but the Senator from New Hampshire apparently does not find that agreeable, and the Senator from Maine feels that would force what he had understood was enabling him to keep the bill; and the objections to it are in balance; and this is what is giving me great concern, very frankly.

Mr. President, I yield the floor.

Mr. McINTYRE. Mr. President, I just want to tell my good friend from New Jersey that I had hoped we were about ready to put this motion to a voice vote, to adopt this amendment, with the feeling that the colloquy that had transpired here would raise this issue for the conferees.

The Senator knows and I know that the first word I heard about splitting the guarantee between securities and cash reached my ears from the Senator about an hour ago.

I would like the benefit of not being pushed, on this floor, to eat something I do not know very much about; but I would agree, since it seems to be reasonable and to have some sense to it, to have the question go to conference. And I believe that is where it would go, if the Senator would just take it easy.

Mr. WILLIAMS of New Jersey. As a potential conferee, I believe it now makes sense to me. Apparently the effect of the last statement of the Senator from New Hampshire is that he believes that the conferees could go, in conference, to an amount in cash and another amount in securities?

Mr. McINTYRE. The staff tells me that this whole matter would be in conference. The House bill has the maximum coverage at $50,000, and we have it at $20,000. The Senator from Illinois and the Senator from Utah are raising, as is the Senator from New Jersey, the question of different treatment for cash and securities, which I had never considered before. No Member of the Senate, to the best of my knowledge, had considered this until an hour or two ago. I am perfectly willing to let that go to conference and to let the conferees decide what is best.

Mr. JAVITS. 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. BENNETT. 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. BENNETT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The Senator will state it.

Mr. BENNETT. Mr. President, we have had a discussion as to the separability of the insurance rates on these two types of risk coverage, and I ask the Chair whether, in fact, this separation could be accomplished in conference under the language of the amendment. if it is germane.

The PRESIDING OFFICER. The amendment of the Senator from New Hampshire is divisible. The Senator from New York has called for a division.

The Chair understands that the bill is likely to be passed after first striking all after the enacting clause and passing a new bill. Under rule XXVII, the conferees would have more leeway than they would under specific amendments. Rule XXVII, section 3, provides as follows:

3. (a) In any case in which a disagreement to an amendment in the nature of a substitute has been referred to conferees, it shall be in order for the conferees to report a substitute on the same subject matter; but they may not include in the report matter not committed to them by eiher House. They may, however, include in their report in any such case matter which is a germane modification of subjects in disagreement.

Mr. BENNETT. I thank the Chair.

Mr. JAVITS. Mr. President, I should like to repeat a question that I asked the manager of the bill. I asked him whether he had any figures on the division in brokerage accounts between cash and securities. At that time, he was

not quite prepared to give me an answer. I wonder whether he is now.

Mr. MUSKIE. We have overall figures which indicate that broker-dealers hold $4 billion in cash and $47 billion in securities. We have no figures to tell us in what increments and to what extent the $47 billion in securities is held in individual broker-dealer houses. So that we have no basis upon which to evaluate the impact in terms of coverage of either the $20,000 or the $50,000 or the $35,000 limitation.

Mr. JAVITS. Except that we know that there is 10 times as much in securities in the hands of brokers as there is cash. So it is logical to assume, as there are not that many differences in the customers, that securities preponderate by 10 to 1. It seems to me that that bears very heavily upon the proposition that if we are going to do something really effective, we ought to do more, materially more, with respect to securities than we do to cash.

I should like to read into the RECORD the provision from the bill of the House on this subject. It is on page 3, lines 8 to 13, and reads as follows:

(7) the term "insured customer account" means the net amount due any customer from his account maintained with an insured broker or insured dealer (after deducting offsets of any debit balances of cash and the value of any debit balances of securities) less any part thereof which is in excess of $50,000;

That is to be contrasted with the definition in the bill before the Senate, which is found at page 65, lines 12 to 17, which reads as follows:

(11) In order to provide for prompt payment and satisfaction of the net equities of customers of the debtor, the corporation shall advance to the trustee such moneys as may be required to pay or otherwise satisfy claims in full of each customer but not to exceed $50,000 for each customer;

Mr. President, I ask the Senator from Maine whether he defines the words "net equities of customers of the debtor" to include both cash and securities?

Mr. MUSKIE. I would say yes, I do.

Mr. JAVITS. And does he similarly define the words in the House bill which say "the net amount due any customer from his account" to include cash and securities?

Mr. MUSKIE. That would be my interpretation, although the House bill, of course, was written on the House side.

Mr. JAVITS. Therefore, the Senator, when he goes to conference, will feel that he has a right to negotiate to make this figure higher in toto—that is, we raise the $20,000 from the higher estimate, or separate the concept of the securities from the concept of the cash in the way of what is guaranteed, on the ground that the guarantee is intended to cover both in a particular account.

Mr. MUSKIE. Yes. In my judgment, there is no doubt on that point. Let me put it this way, so that there is complete clarification. The $50,000 ceiling in the Senate bill as reported by the committee could conceivably include all cash or all securities or any combination. The $20,000 in the McIntyre amendment could include cash or securities or any combination. So if we want to go to a different figure between, that could conceivably include cash or securities or any combination. That being so, it seems to me, within the total, that we can indicate some division.

Mr. JAVITS. The coverage could be between cash and securities, that seems to be clear; or there could be a higher figure for an account containing securities than for an account which contains only cash.

Mr. MUSKIE. Yes, I would think so.

Mr. JAVITS. So that, for example, if we took the $35,000 figure, we could confine that to an account which has securities in excess of $20,000.

Mr. MUSKIE. Yes, in accordance with the example that the Senator put earlier in colloquy with the Senator from Illinois and the Senator from Utah. I agree.

Mr. JAVITS. What is the restriction on the number of accounts a particular customer can retain?

Mr. MUSKIE. There are no restrictions in the bill.

Mr. JAVITS. There is no definition which defines more than one account?

Mr. MUSKIE. No.

Mr. JAVITS. He can maintain a number of accounts then?

Mr. MUSKIE. Just as anyone can maintain several savings deposits under the FDIC.

Mr. JAVITS. He can also go to a different broker, and not have to keep the same one?

Mr. MUSKIE. Yes.

Mr. JAVITS. I have such regard for the Senator from Maine in what he is trying to do that although I shall vote a loud no against this amendment, I shall let it go at that, hoping that he will maintain the reputation, which he has many reasons for cherishing right now, by being realistic when he gets into conference.

I can assure the Senator that I know something about this business and if we want to make the guarantee meaningful, we must go to a materially higher figure regarding securities, and we want to make it meaningful.

Mr. MUSKIE. The $50,000 limit was in the original bill last year.

Mr. JAVITS. The committee sustained the Senator from Maine.

Mr. MUSKIE. Yes. So it is a figure that I was persuaded was realistic months ago, and I still think it is realistic. Now as to what the Senator from New Hampshire (Mr. MCINTYRE) was indicating, it seems to me the environment has now developed for thoughtful and serious consideration of this matter.

Mr. PERCY. Mr. President, I should like to reiterate my support for the full $50,000. My impression is that here we are trying to protect people. Let us take the case of a retiree and his wife. They suddenly take their money out of a profitsharing or a pension plan and go over to a brokerage house and say, "This is my life savings." They have taken it out in cash, of course, say $50,000 in cash; but as soon as they invest it they work it down to the point on the average where they have 10 percent cash and 90 percent securities and they may have reserves to keep moving it around. The customer should be protected for the entire amount, without any distinction, between cash and securities.

Mr. MUSKIE. I would agree. May I add a point which underlies the concern expressed by the Senator from New Hampshire, that this retired customer, of whom the Senator from Illinois speaks, would not need to be concerned if there had been, under the whole principle of self-regulation, a segregation of customer cash and securities from that of the broker-dealer's house. So that I would hope, in addition to the insurance we are providing here, that there would be a reform of the practices of the broker-dealer houses in order to avoid risks, in addition to providing adequate insurance.

Mr. JAVITS. I know that bank insurance goes for every customer. Even if he has $100,000, his first $20,000 is covered.

Mr. MUSKIE. That is right.

Mr. JAVITS. I am ready to vote on the first of the two amendments.

Mr. MCINTYRE. Mr. President, I move adoption of the amendment as modified.

The PRESIDING OFFICER. The clerk will restate the amendment as modified.

The LEGISLATIVE CLERK. On page 65, line 16, strike "$50,000" and insert "$20,000."

The PRESIDING OFFICER (Mr. SAXBE). The question is on agreeing to the first part of the amendment of the Senator from New Hampshire.

The amendment was agreed to.

The PRESIDING OFFICER (Mr. SAXBE). The question is on agreeing to the remainder of the amendment of the Senator from New Hampshire (Mr. MCINTYRE).

The remainder of the amendments was agreed to.

The second part, or remainder of the amendment, reads as follows:

On page 47, line 12 strike all after "corporation" down through line 18, and insert: "other than persons whose business as a broker or dealer consists exclusively of (i) the distribution of shares in registered open end investment companies or unit investment trusts, (ii) the sale of variable annuities, (iii) the business of insurance, or (iv) the business of rendering investment advisory services to one or more registered investment companies or insurance company separate accounts."

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1096

Mr. HARTKE. Mr. President, I call up my amendment, No. 1096, and ask that the language which appears on page 9, line 16, which is a clerical error, be deleted from the bill.

The PRESIDING OFFICER. The amendment will be so modified and will not be read but will be printed and shown in the RECORD as requested.

The text of the amendment as modified is as follows:

On page 31, strike out lines 12 and 13, and insert in lieu thereof the following:

"TITLE I—SECURITIES INVESTOR PROTECTION ACT OF 1970

"SEC. 101. This title may be cited as the 'Securities Investor Protection Act of 1970'."

On page 31, line 14, strike out "SEC. 2" and insert in lieu thereof "SEC. 102".

On page 72, line 18, strike out "SEC. 3" and insert in lieu thereof "SEC. 103".

On page 73, line 8, strike out "SEC. 4" and insert in lieu thereof "SEC. 104".

On page 73, line 8, strike out "Act" and insert in lieu thereof "title".

On page 73, line 9, strike out "Act" and insert in lieu thereof "title".

At the end of the bill, add the following new title:

"TITLE II—FEDERAL REINSURANCE OF PRIVATE PENSION PLANS ACT

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Federal Reinsurance of Private Pension Plans Act'.

"DEFINITIONS

"SEC. 202. As used in this title—

"(a) The term 'pension fund' means a trust, pension plan, or other program under which a employer undertakes to provide, or assist in providing, retirement benefits for the exclusive benefit of his employees or their beneficiaries. Such term does not include any plan or program established by a self-employed individual for his own benefit or for the benefit of his survivors or established by one or more owner-employees exclusively for his or their benefit, or for the benefit of his or their survivors.

"(b) The term 'eligible pension fund' means a pension fund which meets the requirements set forth in section 401 of the Internal Revenue Code of 1954 with respect to qualified pension plans.

"(c)(1) The term 'insured pension fund' means an eligible pension fund which has been in operation for not less than three years and, for each of such years, has met the requirements set forth in subsection (b) and has been insured under the program established under this title.

"(2) Any addition to, or amendment of, an insured pension fund shall, if such addition or amendment involves a significant increase (as determined by the Secretary) in the unfunded liability of such pension fund, be regarded as a new and distinct pension fund which can become an 'insured pension fund' only upon compliance with the provisions of paragraph (1) of this subsection.

"ESTABLISHMENT OF INSURANCE PROGRAM

"SEC. 203. There is hereby established in the Department of Labor a program to be known as the Federal insurance program for private pension plans (hereinafter referred to as the 'program'). The program shall be administered by, or under the direction and control of, the Secretary of Labor (herein referred to as the 'Secretary').

"CONTINGENCIES INSURED AGAINST UNDER PROGRAM

"SEC. 204. (a) The program shall insure (to the extent provided in subsection (b)) beneficiaries of an insured pension fund against loss of benefits to which they are entitled under such pension fund arising from failure of the amounts contributed to such fund to provide benefits anticipated at the time such fund was established, if such failure is attributable to cessation of one or more of the operations carried on by the contributing employer in one or more facilities of such employer.

"(b) The rights of beneficiaries of an insured pension fund shall only be insured under the program to the extent that such rights do not exceed—

"(1) in the case of a right to a monthly retirement or disability benefit for the employee himself, the lesser of 80 per centum of his average monthly wage in the five-year period for which his earnings were the greatest, or $500 per month;

"(2) in the case of a right on the part of one or more dependents, or members of the family, of the employee, or in the case of a right to a lump-sum survivor benefit on account of the death of any employee, an amount found by the Secretary to be reasonably related to the amount determined under clause (1) above.

In the case of a periodic benefit which is paid on other than a monthly basis, the monthly equivalent of such benefit shall be regarded as the amount of the monthly benefit for purposes of clauses (1) and (2) of the preceding sentence.

"(c) If an eligible pension fund has not been insured under the program for each of at least the three years preceding the time when there occurs the contingency insured against, the rights of beneficiaries shall not be insured.

"PREMIUM FOR PARTICIPATION IN PROGRAM

"SEC. 205. (a) Each eligible pension fund may, upon application therefor, obtain insurance under the program upon payment of such annual premium as may be established by the Secretary. Premium rates established under this section shall be uniform for all pension funds insured b the program and shall be applied to the amount of the unfunded obligations of each insured pension fund. The premium rates may be changed from year to year by the Secretary, when the Secretary determines changes to be necessary or advisable to give effect to the purposes of this title; but in no event shall the premium rate exceed one-half of 1 per centum for each dollar of unfunded obligations.

"(b) The Secretary, in determining premium rates, and in establishing formulas and standards for determining unfunded obligations and assets of pension funds, shall consult with, and be guided by the advice of, the Advisory Council (established by section 208).

"(c) If the Secretary (after consulting with the Advisory Council) determines that, because of the limitation on rate of premium established under subsection (a) or for other reasons, it is not feasible to insure against loss of rights of all beneficiaries of insured pension funds, then the Secretary shall insure the rights of beneficiaries in accordance with the following order of priorities—

"First: individuals who, at the time when there occurs the contingency insured against, are receiving benefits under the pension fund, and individuals who have attained normal retirement age or if no normal retirement age is fixed have reached the age when an unreduced old-age benefit is payable under title II of the Social Security Act, as amended, and who are eligible, upon retirement, for retirement benefits under the pension fund;

"Second: individuals who, at such time have attained the age for early retirement and who are entitled, upon early retirement, to early retirement benefits under the pension fund; or, if the pension fund plan does not provide for early retirement, individuals who, at such time, have attained age sixty and who, under such pension fund, are eligible for benefits upon retirement;

"Third: in addition to individuals described in the above priorities, such other individuals as the Secretary after consulting with the Advisory Council, shall prescribe.

"(d) Participation in the program by a pension fund shall be terminated by the Secretary upon failure, after such reasonable period as the Secretary shall prescribe, of such pension fund to make payment of premiums due for participation in the program.

"REVOLVING FUND

"SEC. 206. (a) In carrying out his duties under this Act, the Secretary shall establish a revolving fund into which all amounts paid into the program as premiums shall be deposited and from which all liabilities incurred under the program shall be paid.

"(b) The Secretary is authorized to borrow from the Treasury such amounts as may be necessary, for deposit into the revolving fund, to meet the liabilities of the program. Moneys borrowed from the Treasury shall bear a rate of interest determined by the Secretary of the Treasury to be equal to the average rate on outstanding marketable obligations of the United States as of the period such moneys are borrowed. Such moneys shall be repaid by the Secretary from premiums paid into the revolving fund.

"(c) Moneys in the revolving fund not required for current operations shall be invested in obligations of, or guaranteed as to principal and interest by, the United States.

"AMENDMENT TO INTERNAL REVENUE CODE

"SEC. 207. (a) Section 401(a) of the Internal Revenue Code of 1954 (relating to definition of qualified pension and other similar plans) is amended by adding at the end thereof the following new paragraph:

"'(11) Notwithstanding the preceding provisions of this subsection, no pension fund which, for any taxable year is insurable under the Federal Reinsurance of Private Pension Plans Act, shall be a qualified pension plan under this section if such fund is not insured for such year under the program established under such Act.'

"(b) Section 404(a)(2) of such Code (relating to deductibility of contributions to employees' annuities) is amended by striking out 'section 401(a) (9) and (10)' and inserting in lieu thereof 'section 401(a) (9), (10), and (11)'.

"(c) The amendments made by this section shall be effective with respect to taxable years which begin not less that six months after the date of enactment of this title.

"ADVISORY COUNCIL

"SEC. 208. (a) There is hereby created a Federal Advisory Council for Insurance of Employee's Pension Funds (herein referred to as the 'Advisory Council'), which shall consist of nine members, to be appointed by the President, by and with the advice and consent of the Senate, at least two of whom shall be representatives of labor and at least two of whom shall be representatives of employers. The President shall select, for appointment to the Council, individuals who are, by reason of training or experience, or both, familiar with and competent to deal with problems involving employees' pension funds and problems relating to the insurance of such funds. Members of the Council shall be appointed for a term of two years.

"(b) Members shall be compensated at the rate of $100 per day for each day they are engaged in the duties of the Advisory Council and shall be entitled to reimbursement for traveling expenses incurred in attendance at meetings of the Council. The Advisory Council shall meet at Washington, District of Columbia, upon call of the Secretary who shall serve as Chairman of the Council. Meetings shall be called by the Secretary not less often than twice each year.

"(c) It shall be the duty of the Advisory Council to consult with and advise the Secretary with respect to the administration of this title."

A. PURPOSE OF THE PROGRAM

The purpose of this amendment is to establish a Federal system of reinsurance for private pension plans. The program would be financed by premiums to be paid by pension funds as a condition of qualification for favorable tax treatment under the Internal Revenue Code. The reinsurance sytem is similar in concept to the program for insuring investors under S. 2348, the Securities Investor Protection Act, which would be title I of this bill.

B. NEED FOR THE PROGRAM

Congress has provided through legislation strong incentives for the establishment of private pension plans. Although the response has been gratifying in terms of the number of such plans which have been instituted, the very fact that most pension programs have been in existence for so few years, has created a serious problem. Since most pension plans

are newly created they are still far from being fully funded even where an adequate program of funding has been undertaken. In fact, present tax regulations preclude the funding of past service liabilities in less than about twelve years.

As a result termination of a pension plan may mean that the funds accumulated are inadequate to pay full pensions even to those nearing retirement age, let alone to protect the benefits of other workers who may find that the security they thought they had established for their older years, through the accumulation of pension credits, has disappeared overnight.

This reinsurance proposal would insure to the worker at the pension security which he has rightly come to expect; and because of its self-financing feature would not result in the expenditure of 1 cent of public funds. It would protect a worker's investment in a pension fund just as his savings are insured if deposited in a savings bank or a savings and loan association by insurance through a Government corporation. It would also insure the obligations of the fund to make future payments to him just as a mortgagee's right to receive future mortage payments is insured by Federal Housing Administration. And, most important, it would recognize proper priorities by protecting wage workers no less than those fortunate enough to have money to invest in stocks.

C. PENSION RIGHTS PROTECTED

Based on a conservative actuarial study of the limited data available, the maximum premium rate set by the bill is adequate to protect all credits earned under private pension plans against the risk of termination. Those who are concerned about the adequacy of the premium should be further reassured by the fact that it is higher than that set out in some of the other proposed legislation on this subject. If the premium proves to be excessive there are provisions to reduce it. If, by some chance, the premium should prove to be insufficient, the bill establishes a series of priorities for protection.

The highest priority would go to those who have already retired and who are receiving a pension and to those who are eligible to retire under the terms of their plan and who have attained normal retirement age. Next in line for consideration would be those who are eligible to retire by virtue of having attained the age specified in the plan for early retirement. If early retirement is not provided, age sixty, the usual age for early retirement, would be used.

Finally, reinsurance would be provided for all other pension credits in an order to be determined, if necessary, by the Secretary of Labor on the basis of expert advice.

This last classification would provide the extensive coverage of early earned pension credit referred to earlier as the ultimate goal of this proposal. The desirability of such extensive coverage, if at all feasible, need not be restated. Since the degree to which pension liabilities are to be covered is not made contingent on the vesting provisions of the individual pension funds, the question of what measures, if any, should be taken to establish broader vesting of pension rights in on-going pension plans need not be considered here.

It should be understood that insurance of credits for those not yet at retirement age would not mean immediate payments under the pension reinsurance system. Payments would only be made when the individual reaches retirement age. This delay also represents an additional guarantee that the premium can be set at a proper and adequate level and can even out the effect of short term fluctuations in plan terminations.

D. PENSION PLANS ELIGIBLE FOR INSURANCE

The proposal contemplates insurance for all private pension plans which qualify under the Internal Revenue Code and which have been in operation and have paid premiums for a specified number of years before the insurance became effective. The program would exclude "pay as you go" plans but would include all funded plans whether the funding payments are deposited with an insurance company or in a trust fund. The program would cover those plans which provide for terminal funding, those which provide for the funding of all future service liabilities but only pay interest on unfunded liability, and those which provide for the funding of both past and future service liabilities. It is recognized, of course, that since these different types of plans have significantly different levels of funding, that the unfunded liabilities will vary from plan to plan. Since it is this unfunded liability that will be insured, the amount of the individual plan's premiums will be computed on the basis of the amount of unfunded liability.

The bill does not propose any funding requirements beyond those already imposed by the Internal Revenue Code. However its administration will lead to the accumulation of experience which will allow an informed judgment on whether any additional funding legislation is necessary. Such legislation might be desirable if it is determined that the reinsurance scheme would progressively become more expensive because of the large unfunded liabilities of aging firms.

E. RISKS AGAINST WHICH THE SYSTEM SHOULD INSURE

A pension reinsurance system must take into account all risks to earned pension credits if it is to provide a meaningful sense of security to the employee. These risks fall into two categories: (1) risks to the plan which depend on the degree to which it is funded, and (2) risks to the plan which depend on forces outside of it and which operate irrespective of the extent to which it is funded.

A clear example of a risk in the first category would be the case of a partially funded plan terminated because of the business failure of the employer. In such a case the risk insured against would be its unfunded liability which is attributable to the rights which are insured. As previously pointed out, the premium for insurance of this risk would be determined by the amount of unfunded liabilities.

Since the reinsurance plan is basically underwriting the benefit levels set forth in the plan, the amount of the unfunded liability, both for the purpose of determining the liability insured and the premium charged, would be determined on the basis of a set of standard actuarial assumptions and procedures. These actuarial assumptions and procedures would be determined by the Secretary on the basis of meetings with the expert Advisory Council established specifically for the purpose of consultation on the proposed program.

When the employer has not gone out of business, but has closed a plant or reduced the work force, continued funding of the past service liability may become such a burden as to jeopardize the existence of the remaining operation. To protect the rights of both terminating and continuing employees, the bill provides sufficient flexibility so that where there is a partial termination as determined in accordance with Internal Revenue Service Regulations (Code, sec. 401 (a) (7)), an appropriate portion of the assets could be allocated to the terminating employees. The reinsurance would then pick up any additional liability on behalf of those employees. The employer would continue operation of his plan, with the remaining assets, on behalf of the continuing employees.

Where there is no termination, the program would not normally be applicable but if there is a severe reduction in the work force due to cessation of some operations, it is contemplated the program would include regulatory provisions permitting assumption of a part of the liabilities. The severity of a reduction in work force would be measured by whether the per capital past service amortization payment on a plan exceeds some specified percentage (for example, 200 percent) of the initial per capital past service amortization payment. The reinsurance would assume any past service liability financing required which is in excess of the specified percentage.

A second type of risk different from those discussed above and which should be indirectly insured against, is the risk of depreciation of the funded assets. The overall degree of risk involved in such situations is probably very slight. However, the bill would allow the establishment of formulas and standards concerning the assets which can be deducted from gross liabilities to establish the unfunded liabilities. Assets of dubious value or held without adequate guarantees of fiduciary responsibility could be wholly or partially excluded from calculations with the result that the insurance premium would increase. The bill would therefore do its part in promoting high standards of administration and investment.

F. ESTABLISHMENT AND ADMINISTRATION OF REINSURANCE SYSTEM

The reinsurance program should be placed under the direction of the Secretary of Labor since his department is responsible for the protection of workers and already collects detailed annual information on assets, costs and actuarial liabilities under the Pension and Welfare Plans Disclosure Act and duplication of reporting can thus be avoided. Close cooperation will be required with the Internal Revenue Service which would impose the sanction of disqualification on plans which do not participate in the program and which could make a plan ineligible for the program if it failed to satisfy its minimum funding standards. Cooperation would also be desirable with the Social Security Administration which has the machinery to notify beneficiaries of rights. Further, these two agencies also have useful technical expertise.

The legislation authorizes the Secretary to borrow moneys from the Treasury for the establishment of a reinsurance fund. This money would be repaid by the premiums which the fund would receive and the legislation would thereby achieve a self-financing status at no cost to the public.

Mr. HARTKE. Mr. President, the legislation the Senator from Maine (Mr. MUSKIE) would establish—S. 2348—is a federally chartered corporation to protect securities investors against losses resulting from financial failure of broker-dealer firms. The amendment I offer would protect the private pensions of millions of American workers through Federal insurance of their pension plans. I believe the need for insurance plans which would protect both the securities investor and the average wage earner is obvious. The justice of offering protection not only to investors, but also to American workers is equally clear.

It goes without saying that I applaud the basic intent and purpose of S. 2348. When President Nixon spoke to this problem in his economic speech of June 17, and called it one of the measures needed to "help the people who need help most in a period of economic transition," I quickly indicated my support. And it has been my pleasure to support the previous initiative and imaginative leadership of the distinguished junor Senator from Maine (Mr. MUSKIE). Senator MUSKIE was the original sponsor of this

bill and when it becomes law it will be because of his efforts.

But it is vital to discuss at this time a problem of at least equal importance which lends itself to a similar remedy. And that is the problem of private pension plan failures. Let us examine the dimensions of the problem. In 1940, private retirement plans covered 4.1 million employees. In 1950, this coverage had jumped to 9.8 million. By 1960 it was 21.2 million, and by 1965 it was well over 25 million eligible workers. During the same period, assets generated by the plans rose from $2.4 billion in 1940 to more than $12 billion in 1950, $52 billion in 1960, and $85.4 billion in 1965.

Today it is estimated that close to 27 million workers are covered by pension plans and their combined assets exceed $100 billion, or more than four times the assets of the Federal old age and survivors insurance fund.

This rapid growth of private pension plans from 1940 to 1970 can be attributed to a number of factors. Among these are the continuing industrialization trend, the favorable tax treatment afforded to pension plans, the expanded influence of the American labor movement, and the special economic conditions which prevailed during World War II.

The continued vigorous growth in the absolute number and the worth of pension plans, has made the problem of pension plan failure increasingly serious. Between 1950 and 1965, 4300 pension plans were terminated. These plans covered 225,000 employees. On the average, approximately 20,000 workers a year had their pensions affected by plan failures. A study conducted by the Bureau of Labor Statistics indicated that there was a "marked upward trend" in the frequency of pension plan terminations during this 1950 to 1965 period. The Bureau of Labor Statistics attributed this uptrend to the dramatic increase in the number of plans. It is predictable, therefore, that the number of plan failures will continue to increase with the creation of new plans. But as yet there is no protection—I repeat, no protection—for the worker who is unfortunate enough to be with a company which fails and leaves him with no pension benefits.

My own interest in this problem dates from 1964 and the failure of the Studebaker Corp.'s pension program in South Bend. When Studebaker closed its doors in South Bend, Ind., the workers pension plan had $25 million in assets, but there were more than 10,000 employees who had a claim on that amount. Of that 10,000 employees, there were 4,000 workers between the ages of 40 and 59 with at least 10 years of experience—sufficient to give them vested rights under the Studebaker plan—who received only 15 percent of the equity they had invested in the program. Even worse, an additional 2,900 workers received absolutely nothing on their investment.

The tragedy of Studebaker is but the most striking example of a problem which is as bad today as it was in 1964. Today's economic uncertainties fairly well guarantee that there will be a dramatic upturn in the number of pension plan failures in the next few months. In the absence of some system of pension plan insurance, it is certain that the workers affected by these most recent failures will have their pension expectations for the future severely compromised.

Since the Studebaker closing, I have introduced legislation in each successive Congress designed to meet the problem. This legislation establishes a Federal insurance program which would be self-financing through premiums assessed on the unfunded liabilities of all eligible pension plans. A pension plan would be eligible for this Federal insurance protection only if it met present qualifying requirements of section 401 of the Internal Revenue Code. These are the same requirements which determine the eligibility of pension funds to tax exempt status.

The legislation provides that every eligible pension plan shall pay a uniform premium based upon the unfunded obligations of each insured fund, but in no case will this premium exceed one-half of 1 percent for each dollar of unfunded obligations. The Secretary of Labor, whose department is given general jurisdiction over the reinsurance program, is given general authority to set the premium rate. The program is placed under the direction of the Secretary of Labor since his department is already charged with the protection of workers' interests and already collects detailed annual information on assets, costs, and actuarial liabilities under the Pension and Welfare Plans Disclosure Act. It is recognized that close cooperation will be required with the Internal Revenue Service which would impose the sanction of disqualification on plans which do not participate in the program and which would make a plan ineligible for the reinsurance program if it failed to satisfy the minimum funding standards established by IRS.

My legislation authorizes the Secretary to borrow money from the Treasury for the establishment of a reinsurance fund. It is not contemplated that this initial Treasury loan should have to exceed $10 million in amount. This loan would then be repaid as soon as sufficient incoming premiums are received from covered pension programs.

Since this reinsurance plan is underwriting the benefit levels set forth in each insured plan, the amount of the unfunded liability in individual funds would be determined on the basis of a set of standard actuarial assumptions and procedures. These actuarial assumptions and procedures would be determined by the Secretary of Labor in cooperation with an expert Advisory Council established for this, as well as other purposes. It is anticipated that these actuarial standards will not unduly deprive pension fund trustees of flexibility in the management of a plan's unfunded liability.

When the employer has not gone out of business, but has closed a plant or reduced the work force, continued funding of the past service liability may become such a burden so as to jeopardize that existence of his remaining operations. To protect the rights of both terminating and continuing employees in this situation, this legislation provides sufficient flexibility so that where there is a partial termination determined in accordance with present IRS regulations, an appropriate portion of the assets could be allocated to the terminating employees. The Federal reinsurance program would then pick up any additional liability on behalf of those employees. The employer would continue operation of his plan, with the remaining assets, on behalf of the continuing employees.

It should be clearly understood that insurance of pension credits for those not yet at retirement age would not mean that the pension reinsurance system would be liable for immediate payment upon a plan's failure. Rather, payments would only be made when the individual worker reaches retirement age. This guaranteed delay in the payment of pension benefits under the reinsurance system further insures that the insurance premium established by the Secretary of Labor will be adequate to meet even short-term fluctuations in the rate of plan terminations.

If by some chance, however, the premium set by the Secretary proves inadequate, this legislation establishes a series of priorities for protection of the employee benefits. The highest priority would go to those who have already retired and who are receiving a pension and to those who are eligible to retire under the terms of their plan and who have attained normal retirement age. Next in line for consideration would be those who are eligible to retire by virtue of having attained the age specified in the plan for early retirement. If early retirement is not provided, age 60, the usual age for early retirement, would be used. Finally, reinsurance would be provided for all other pension credits in an order to be determined, if necessary, by the Secretary of Labor on the basis of expert advice.

This brief analysis was meant to show that my proposal directly meets the numerous problems created by pension plan failures but is not so technical that it will deprive pension funds of needed flexibility.

Critics of the pension reinsurance concept have claimed that a pension reinsurance program, with its additional cost to management, would stifle the growth of private pension plans. I think this is clearly incorrect. The enormous increase in the number of plans since 1940, with a parallel increase in their worth, is indicative of their tremendous popularity. A proposal which would better guarantee that these plans will not disappoint the expectations of those they are supposed to benefit should not materially hinder their expansion, but should help.

Of late it has become fashionable for these same critics to argue that pension reinsurance proposals are not needed because the number of pension plan terminations is "insubstantial." I believe this argument is likewise flawed. As I have indicated, more than 20,000 workers a year—on the average—have their pensions affected by plan failures. I do not consider this to be insubstantial. I do not consider this to be minimal. I do consider it to be wrong.

It is for that reason that I offer this legislation as an amendment to S. 2348

and urge that it become title II of the pending legislation. I am impressed by the speed with which the Congress has acted to protect the pension benefits of those who would invest in the stock market. I hope that it will not do less for the average American worker whose future security depends upon the strength of his pension.

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

Mr. HARTKE. I yield.

Mr. PERCY. First, I would like to commend the Senator from Indiana for bringing up this matter and calling to our attention a very serious problem.

I know the Senator's deep feeling about the Studebaker situation. As an employer at that time with some close proximity to the Studebaker plant, the company I was associated with interviewed a great many of those workers. The tragic part was that even when they were placed in other industry and found other jobs, for some of those employees there was involved the loss pension fund savings over a quarter of a century or 30 years.

At that time there occurred to me the wrongness of our procedures and systems in the private sector that would enable that to happen. Many things can be done, of course. Individual companies can invest much faster, to prevent a failing situation. But many times we have an employee transferred out of a company or laid off and they are not fully protected in their pension rights, or perhaps only 20 percent after 20 years, so there is a hardship in that situation.

I feel there is an area here for government protection. Many avenues need to be explored other than just the case of a failing company. This is a very serious situation.

I would like to ask whether the letter that Leonard Woodcock sent to members of the committee has been printed in the RECORD.

Mr. HARTKE. It has not been and it should be.

Mr. President, I ask unanimous consent that the letter may be printed in the RECORD.

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

SEPTEMBER 25, 1970.

U.S. SENATE,
Washington, D.C.

DEAR SENATOR: I am advised that Senator Hartke intends to offer his bill, S3517 to provide for reinsurance of pension benefits, as an amendment to S2348, the bill to protect Wall Street speculators against losses due to failure of their brokers.

My purpose in writing is to urge, with all the emphasis at my command, that you support the amendment.

I hope you will forgive me for saying bluntly, because I feel so strongly about this subject, that I do not understand how Senators can in good conscience act in haste to protect speculators while continuing to ignore the long-standing need for protection of promised pension benefits.

I am enclosing a copy of an earlier letter I sent you to refresh your recollection of what is involved.

I do most earnestly beseech your help in this matter on behalf of many thousands of Americans who need it urgently.

Sincerely yours,

LEONARD WOODCOCK,
President.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA-UAW,
Detroit, Mich., July 2, 1970.

DEAR SENATOR: I am writing to you and to other members of the Congress to urge that at least as much consideration be given to public reinsurance of the accumulated private pension rights of workers as is being given to bailing out both Wall Street speculators whose brokers go bankrupt and the stockholders of the Penn-Central Railroad.

In his June 17 televised address on the state of the economy, President Nixon told the nation that we are in transition from a wartime to a peacetime economy. Senator Mansfield and economic indicators suggest that the word for our situation is recession. We in the UAW are struck by the fact that whether we are in an economy of war, peace or transition, in recession or what passes for prosperity, the conduct of government and economic affairs remains too largely in the grip of a double standard: all Americans are equal, but some Americans are more equal than others. Walter Reuther used to refer to this double standard as Park Avenue socialism for the rich and free enterprise for the poor. The President's program "specifically addressed to help the people who need help most in a period of economic transition" reflects that double standard. Mr. Nixon called for:

"Establishment of an insurance corporation with a Federal backstop to guarantee the investor against losses that could be caused by financial difficulties of brokerage houses . . ."

Yet he made no reference to and indicated no support for a longpending proposal to provide similar insurance to meet the urgent need of wage-earners and lower-salaried workers who stand to lose the protection of privately negotiated pensions if the companies they work for should go out of business before their pension programs are fully funded. Yet the closing of plants and the wiping out of workers' pension rights are an obvious potential consequence of a transition from war to a peace enonomy, while it is difficult to see any necessary connection between such a transition and trouble in brokerage houses.

Again, the collapse of the Penn-Central Railroad has brought on the spectacle of Administration figures falling over each other in their haste to shore up the managements and to protect the stockholders of the Penn-Central and other threatened lines through massive infusions of Federally guaranteed loans. The Secretary of Transportation admitted that such action to help the Penn-Central management would be "gambling" on "high-risk loans." Nevertheless he attempted to panic the Congress and the country with the hobgoblin of nationalization of the railroads if the risk were not taken. And the President himself, in his June 17 speech on the economy, authorized the gamble by calling for:

"Legislation that will enable the Department of Transportation to provide emergency assistance to railroads in financial difficulties."

We in the UAW are not in principle critical of financial aid to stricken corporations. Nor are we necessarily opposed to action to protect investors or even speculators from losses stemming from financial difficulties of brokerage houses. Yet we ask: Are these people—the well-heeled managements of conglomerate corporations and others affluent enough to be able to speculate in Wall Street—among "the people who need help most in a period of economic transition"?

We think not. These people may need help, but they certainly need help less than the poor, the unemployed, and millions of aging Americans for whom retirement brings a severe slash in income that frequently means ending their days in poverty.

The President gave a thought to these older Americans in his economic speech, proposing that the Congress tie Social Security benefits to the cost of living. This would be helpful, but tying a poverty retirement income to the cost of living would merely guarantee an unruffled prolongation of poverty.

It is the gross inadequacy of Social Security benefits that has given privately negotiated pension rights such crucial importance in workers' hopes and plans for retirement. Yet the President was silent with respect to the plight of the many American workers who own no railroads and possess no stock portfolios to speak of, only a private pension promise that offers them hope of a standard of life in retirement beyond the bare minimum possible under Social Security. Public reinsurance of private pension funds—similar to the insurance provided since the 1930s for bank deposits and akin to the backstop Federal protection the President asks for investors—would bring all of us closer together and nearer to fulfillment of the American dream of which Mr. Nixon spoke to such applause in his address to the Junior Chambers of Commerce.

The number of persons dependent upon private pension plans is far greater than the number of Wall Street speculators and Penn-Central stockholders whose problems have generated the urgent concern and precipitate haste of an army of would-be rescuers. Some 28 million persons are presently covered by private pension plans and it is forecast that 42 million will be covered by 1980.

In contrast to the handful of brokerage firms that have experienced difficulties and the one railroad recently forced into receivership, some 4,000 pension plans were terminated in the United States between 1955 and 1965. These terminations, all too frequently, subjected affected workers to the double tragedy of lost jobs and loss of substantial prospective pension rights at a stage in life when they had little or no opportunity to earn further pension entitlement.

We in the UAW have been pressing since 1961 for an insurance program to protect private pension funds. Delegates to a UAW convention that year, comparing the promissory nature of bank deposits and pension plans, declared:

"Pension plans also represent private promises, this time by employers, which they may not be able to keep if they get into deep financial difficulties before the plans have been fully funded. These plans are so widespread and private pensions to supplement social security have become such an integral part of our system of providing for retirement that their protection must also be accepted as an essential feature of public policy. The catastrophe to the worker who sees the security which his pension rights represent to him swept away by the failure of an employer is just as great as the catastrophe of the depositor who loses his lifetime savings in a bank failure. The solution is essentially the same."

Congress in the relatively prospering early 1960s was not impressed by the reality or urgency of this problem and failed to enact legislation which would have shored up the security of workers' pensions. Then, 5 days before Christmas 1963, the last car came off the South Bend line of the Studebaker Corporation, and as a result some 4,400 workers between the ages of 40 and 59, who had earned a vested pension right through ten or more years of service to the corporation, found that right meaningless when their plant shut down with only enough money in the fund to provide pensions to workers age 60 and over. As a result, workers with as much as 40 years of seniority who, even if they found another job, were too old to start acquiring new pension credits from another employer, were left stranded.

The collapse of Studebaker dramatized the predicament of its workers and of workers in other companies who might also find the pa-

per promises implicit in unfunded pension rights repudiated as a result of plant closings. Still the Congress failed to enact a pension reinsurance law, leaning heavily on the argument that great technical difficulties in framing such a law stood in the way.

As of February 26, 1970, when Walter Reuther made a plea for a pension reinsurance law in one of his last statements to the Congress, the opposition no longer rested on technical difficulties; it was more or less conceded that, as Mr. Reuther said, for a small premium cost spread universally over all plans, they could be protected. The argument had now shifted to the claim that there was no need for such a protective mechanism, since only a small percentage of workers were affected in what was after all but an "incidental failure" of the present system.

Mr. Reuther stated that this is the logic to be expected from a computer but not from a human being. He called for:

"A balanced combination of adequate public and private pension plans, with appropriate public support assuring the fulfillment of expectations of the private sector . . ."

And he stated:

". . . As the richest nation in the world we cannot continue to deny our older citizens their measure of economic justice and human dignity. We must act now to assure society's promise to present retirees and to avoid the potential failure for even a small number of the millions of workers rightfully anticipating a secure retirement."

The closing down of plants or operations is not a rare occurrence in any industry in our economy. In our own industry, we think of Hudson, Studebaker, Packard, Kaiser-Fraser as well as a host of smaller companies. Nor has it been rare in recent years for plants to close or operations to end, wiping out the hopes of security in retirement for men and women too old to start from scratch on other jobs. In recent years the UAW has been obliged to close out negotiated pension plans for a variety of reasons: a fire totally destroying the plant; the close-out of a smaller plant bought by a larger company; part of an operation discontinued because an obsolescent plant had become uneconomic. The latest closing of a plant under contract to UAW took place on July 1, 1970, with its pension plan 11 years away from full funding. Among the victims of that closing were a man and a woman, both 52 years old, each with 37 years of service. Because of their age, their entire 37 years with the company were washed out as far as pension benefits are concerned.

When plants are closed down, there is apt to be talk about "the price *we* pay for progress"—yet that price is too often inequitably distributed, entailing, for example, a more efficient operation for the employer but unemployment and a wiped-out pension promise for the worker. Certainly from the fruits of the progress that we are all supposed to enjoy, assurance can be given that the security of pension benefits will be maintained.

The President speaks of the people who need help in a period of economic transition. But it should be clear that for wage earners and to a somewhat lesser extent for salaried workers, the "transition economy" is not a sometime thing but a permanent aspect of their lives. Blue-collar workers particularly work and live all their lives on the cutting and bruising edges of technological and economic change, in war and peace, in sickness and health, in youth and age. A special White House panel that studied the problems and needs of blue-collar workers has within the last few days transmitted a report to the President urging Administration action to deal with the economic and social needs of such workers, whom the report described as economically trapped and socially scorned. It is primarily these workers and their families, rather than railroad managers and speculators, who need help.

We detect a disproportion in the rationing of the President's concern, a show of preference for a kind of Wall Street or Easy Street welfare state which if indulged by the Congress would come dangerously close to—if it did not actually arrive at—a politics of class verging on the classic Marxian strain.

In this disturbing situation, we feel that the Congress has a strong role to play and a considerable responsibility to play it. The question of establishing a pension reinsurance system has been in Congressional limbo for years. The President of the United States has asked the Congress to produce legislation to insure investors against their losses. We earnestly hope that the Congress will now see the substantive and symbolic merit of enacting a pension reinsurance law without further unseemly delay. Having thus offered assurance of retirement security to American workers, the Congress could then go on with good grace to consider the security needs of Wall Street speculators.

If we are to bring this country together, we are going to have to curb the impulse of Wall Street socialism in favor of much larger doses of Main Street and back-street democracy—on both sides of the railroad tracks. Treating Americans more equally would facilitate our progress not only toward a peacetime economy but toward a more peaceful society as well. Enactment of a law to protect negotiated pension funds would be one firm step in that direction.

Sincerely yours,

LEONARD WOODCOCK,
President, International Union, UAW.

Mr. PERCY. It is desirable to have the letter in the RECORD because the letter forthrightly lays out the problems. As Mr. Woodcock indicates, and he is blunt about it, he cannot understand how in good conscience Congress could act to protect speculators. I quibble with his wording as we are not talking about investors as speculators. We are talking about millions of Americans who are investing. But it is true there is always risk when one invests in anything, including U.S. savings bonds. What Mr. Woodcock is saying we cannot ignore the long standing need for protection.

I agree. I would like to ask the Senator this question. There are other areas, other than the failing company, that should be looked at. We should look at faster investing and transferability because many times employees could move to some other area but they do not dare to do so because they would lose their pension rights. Has any arrangement been made for hearings with the Committee on Finance? I think it is urgent that we have hearings covering workers' rights.

Mr. HARTKE. First, I thank the Senator for his endorsement of this proposal. I think the proposal is a worthy one.

The other items were raised before the Committee on Finance in 1968. Other committees have held hearings on the questions of pensions and what they do for people.

This has been one of my objections to wage and price controls because in the pension system, that was the way in World War II to avoid wage increases. That is a fact of life, but it did work benefits for the working people.

The question of cost is an extremely difficult question which is going to require a lot of thought, and will be much difficult to implement.

However, take the man who has a pension plan and feels he cannot give up his pension, and, therefore, he is forced to stay in a job he may hate every day, and he may hate it all the more because he has not been able to extricate himself from that job. That is slavery to a person's job. The man wants to work and provide for his family, but he has no mobility because of the pension plan. We always say we have a free and mobile society, and that is true. However, a pension has a great deal to do with a person's mobility.

If we can pass the tripod legislation which will be before the Senate next week, the legislation dealing with social security, welfare planning and imports in one package we might have time next year to devote to pensions. Otherwise I do not know when we will be able to do so.

Mr. PERCY. That is a big if. I would hope that we could still take it up next year. The Committee on Finance will be able to go into this matter again. Has the Senator from Indiana any understanding with the Committee on Finance as to whether the committee can look forward to hearings on this matter of protecting pension rights?

Mr. HARTKE. I have found that in the Committee on Finance I can have hearings that I request if I am willing to be the lone man who does the hearing. I am willing to conduct hearings myself.

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

Mr. HARTKE. I yield.

Mr. JAVITS. I wish to tell the Senator in advance I am going to oppose his amendment. I do that because he is my friend and I do not want him to answer my question without knowing that.

Could the Senator give us an estimate of the annual premium called for under his amendment?

Mr. HARTKE. How much will be collected?

Mr. JAVITS. The amendment states one-half of 1 percent of unfunded liability.

We are entitled to know how much that is.

Mr. HARTKE. That is determined by the Secretary of Labor. The percentage amount would be one-half of 1 percent.

Mr. JAVITS. So the Senator can give us no money estimate of the amount of premium payable every year.

Mr. HARTKE. No such estimate is available. I do not think one can be made until a study is made by the Department of Labor in this field. In certain areas there has not been the most efficient regulations to deal with control of pension plans.

Mr. JAVITS. Does the Senator know that the Senate appropriated $265,000 to a subcommittee of the Committee on Labor and Public Welfare headed by the Senator from New Jersey (Mr. WILLIAMS) expressly for the purpose of examining into all phases of this matter, including reinsurance; that that subcommittee has issued a very broad scale questionnaire to the pension funds of the Nation and has arranged for the compilation of the replies, and the committee is heavily engaged in that now in finding out the very things the Senator said need to be found out before he can

give a money estimate of what it would cost a year.

Mr. HARTKE. I have not said that is the purpose of the $265,000 that has been allocated for a study. That study is much broader and it deals with what the Senator from Illinois referred to. We held extensive hearings in 1965 in the Committee on Finance on this matter. The information which is available is sufficient for us to move into one limited field of pensions. I am not in disagreement that there is a lot of work to be done in the field, as the Senator from Illinois indicated, and the Committee on Labor and Public Welfare is going to have plenty to do with that $265,000.

Mr. JAVITS. Will the Senator advise us whether or not it is true that in the 1966 hearings to which he referred former Secretary of Labor Wirtz questioned this very proposition?

Mr. HARTKE. I understand he did.

Mr. JAVITS. Mr. President, I ask unanimous consent that the testimony of former Secretary of Labor Wirtz be inserted in the RECORD at this point.

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

TESTIMONY OF FORMER SECRETARY OF LABOR W. WILLARD WIRTZ

We are at the start, as the President has said, of "a great new era for older Americans," when we are beginning to recognize "the right to an adequate income," "the right to a decent home," and "the right to a meaningful retirement." The private pension system is a vital element in the achievement of these rights.

This is a matter of personal financial security for millions of individuals. Annual benefit payments from these plans now total some 3 billion—to almost 3 million beneficiaries. By 1980, coverage of these plans is expected to increase from the approximately 25 million employees now covered to about 42 million. Over the same period, the present $85 billion held in these funds will probably grow to $225 billion. Mr. Chairman, members of the committee, we have gotten used to figures so large that their impact is sometimes lost on us. I can only point out that these are figures of magnitude which in my judgment warrant the country's most serious attention to this problem.

These facts make it plain that the Nation, as a whole, has a major stake in the private retirement system. Although no public funds are utilized directly to finance private pensions, practically all private plans have met the qualifications for special income tax treatment. As a result, a given pension system can be financed by a 30-percent-lower rate of contributions. The burden of these tax reductions is, of course, shifted to other taxpayers. Private retirement plans, moreover, represent a force of substantial magnitude in the financing of the economy, the mobility of labor, and the later lives of the plan participants.

These important considerations require a continuing public concern with the operations of private pension plans. Congress has already demonstrated this concern in enacting various provisions of the Tax Code, the Labor Management Relations Act, the Securities Exchange Act, and the Welfare and Pension Plans Disclosure Act.

More recently, the public stake in the private pension plan system was emphasized when the President established in March 1962 a Committee on Corporate Pension Funds and Other Private Retirement and Welfare Programs. I have had the privilege of serving as Chairman of this interagency Committee which looked into a broad range of problems relating to private welfare and pension plans. In its January 1965 report, the Committee recommended a number of measures to strengthen the private pension system. I should like to interrupt, Mr. Chairman and members of the committee, to pay my respects to that Commitee with which it was my pleasure to work. It is a Committee which has taken its assignments more seriously than any other which it has been my privilege to work with while I have been in the Government. It reached unanimous conclusions on every single point. It favored, for example, strengthening the minimum standard for funding and introducing a standard for vesting. It went on to suggest that a system of insurance to protect beneficiaries in the event of plan termination was "worthy of serious study." That appears at page 58 of that report which I should like to offer as part of the record before this committee, identifying it as "Public Policy and Private Pension Programs," a report to the President on private employee retirement plans by the President's Committee, for such disposition as the committee may care to make of it.

(The report, "Public Policy and Private Pension Programs," was filed with the committee.)

This hearing is concerned with a specific proposal to enact such a system of insurance. It is aimed at providing protection for beneficiaries in the event the pension plan is terminated without sufficient funds to meet accumulated pension obligations. To the breadwinner who has planned his retirement in the expectation of regular pension payments, the failure to fulfill these payments is obviously a crushing blow to his hopes, his plans, and his aspirations. I would like to commend this committee for these hearings, for inquiring into a matter which is at once highly complex and highly charged with the public interest.

It is clear that many plans do not now afford beneficiaries adequate protection against the loss of their accrued benefits. Employers customarily reserve the right to discontinue contributions at any time and do not assume contractual liability for any deficiency if the assets in the fund are not adequate to pay the benefits under the plan. If the plan is terminated for any reason, the employer has no further obligation to contribute to the fund.

Union agreements may somewhat minimize these risks. Multi-employer agreements, for example, typically provide for a fixed rate of contributions, such as 10 cents an hour or 3 percent of payroll. Single employer plans, on the other hand, may require that a specified funding plan be followed to provide certain benefits. Nominal plan plus amortization of past service costs over 30 years just as an example. Yet in all these instances, the employer's obligation ceases when and if the plan should terminate.

Let me illustrate the problem by referring to the experience of the pension plans of a few prominent concerns. In general, these plans were operated in the same prudent manner as those of other highly respected corporations. Yet, in each case the plan termination left many employees without the retirement protection on which they had been relying. You have already referred, Mr. Chairman, to what is the classic example, the 1964 closing of the South Bend, Ind., plant of the Studebaker Corp. In this instance, the available assets were adequate to assure all eligible participants of full pension payments. However, these payments so depleted the fund's assets that employees with vested rights—those between ages 40 and 60 and with 10 years of service—received lump sum payments that were equal to only 15 percent of their accrued benefits. No payments were made to the remaining participants.

A similar situation occurred when the Packard Motor Co. shut down its Detroit plant in 1955–56 and terminated its plan in 1958. The Steelworkers union has listed 30 plans that have terminated owing to plant closings in the past half-dozen years. They include such plants as Superior Steel in Pittsburgh and Atkins Saw in Indianapolis.

To help meet the problem of plan failures owing to bankruptcy, the Department of Labor has, for a number of years, actively supported legislation which would treat payments due to funds or plans as wages for the purpose of the Bankruptcy Act. Such treatment would entitle these obligations to a limited priority under that act. While legislation of this type might be helpful, it is obviously an answer to only a very small part of the problem. The law could be brought to bear only if the employer had an outstanding legal obligation to the fund. Little benefit would be derived if the employer's assets were insufficient to meet even its priority debts. And, in almost all terminations, the problem is not that employers are delinquent in their payments to the fund but rather that the fund's assets, including any such delinquencies, are not sufficient to pay the accumulated pension obligations.

The Welfare and Pension Plans Disclosure Act, which the Department of Labor administers, is of limited usefulness, too, in this area. As important as this law is, it affords little or no protection against failures due to discontinuance of operations by an employer, poor business judgment, decline in value of fund assets, or other such causes. The act specifically denies the Secretary of Labor any authority "to regulate, or interfere in the management of, any employee welfare or pension benefit plans," except for the limited purpose of inquiry into investments and actuarial assumptions, under special procedures and on presumption that the act has been violated.

The legislation which you are considering today, S. 1575, is a serious constructive attempt to deal with these difficulties and to provide beneficiaries of private pension plans with limited protection through a Federal reinsurance program. For this and other reasons already stated, I wholeheartedly endorse the purposes and objectives of this bill.

In considering this proposal, it is important to keep in mind that there are often no perfect solutions to difficult problems. Until others come up with better answers, this bill, honestly put as it is, is as much entitled to the field of our consideration as any other proposal aimed at correcting these obvious ills.

In discussing this issue, it is important for the committee to keep in mind that this proposal is aimed at providing an important aspect of protection to plan participants; namely, protection in the event of the plan's termination. There are, however, additional public policy issues closely related to this problem. Among these are possible discrimination in coverage of the plan, protection against a plan's failure to provide benefits for lack of vesting, inadequate funding, and possible abuse of fiduciary responsibility in the management of pension funds. The present proposal, therefore, must be viewed as one possible step toward providing additional protection for plan participants, but it is by no means the only step which should be considered.

The difficulties in the path of developing a feasible system of insurance for private pension plans are many. The bill before you makes an admirable attempt to meet a number of these problem areas. Yet its provisions do raise some complex issues which require further study and discussion. I would like to refer to a few.

Perhaps the most important problem area involves the question of standards. If the Federal Government were to take upon itself the obligation of insuring private pension funds, compliance with certain minimum operating standards would appear to be required. Without standards to assure adequate funding, prudent investment practices, and competent, honest management of these

plans, a reinsurance program could have the effect of subsidizing imprudent procedures and inadequate funding.

It is important to recall that other, somewhat analogous, Federal insurance programs embody necessary controls or standards. The Federal Housing Administration, for example, does not insure mortgages unless both the borrower and the property meet certain minimum standards. Similarly, the Federal Deposit Insurance Corporation and the Savings and Loan Insurance Corporation have standards that loans and investments must meet in order that banks and savings and loan associations may continue the insurance of their deposits.

Another question concerns the appropriate rate structure. The proposed legislation covers losses attributable to cessation of either part or all of an employer's operations and losses which occur when investments must be sold to pay benefits. There is little information available indicating how the risk of loss varies for these perils among types of employers and types of plans. It seems desirable that any rate structure reflect these differences in risk.

Other questions arise with respect to S. 1575. For example, it provides for termination of insurance protection whenever a plan or its operation fails to comply with basic requirements of the insurance system. The consequences of any such termination of insurance protection would, of course, fall most heavily upon the beneficiaries. Other methods of enforcing compliance should be seriously considered.

These are some of the problem areas which would appear to require additional study. In some areas, a start toward such study is being made. The Department of Labor, in cooperation with the Internal Revenue Service, has undertaken a special study of plan terminations aimed at identifying more closely the reasons for termination and their prevalence. I can give you, if you are interested, Mr. Chairman and members of the committee, just some of the prime indications of the study as it has already been undertaken but they will perhaps be very preliminary and inconclusive. An interagency task force is currently exploring problems affecting private pension plans. This group has planned a series of meetings with various groups outside of Government, including representatives of business, labor, and interested professional groups, to discuss a full range of problems, including reinsurance proposals.

Let me emphasize that these efforts currently underway can only serve as a starting point. By themselves, they cannot provide sufficient information to formulate an effective reinsurance program. Further studies wil undoubtedly be necessary. The Department of Labor intends to pursue these efforts with all due dispatch and to the limit of its available resources. We will work in collaboration with other Federal agencies concerned—especially the Treasury Department—and will provide the fullest cooperation to your committee in the development of legislative proposals.

Our efforts will be strengthened by the concern this committee is displaying by holding these hearings. We recognize full well the key role which the private pension system is playing in assuring retirement security to millions of employees. In general, this system has operated effectively, efficiently, and honestly. However, its continued success must not be jeopardized by certain weaknesses which not only may lead to the loss of retirement protection for many individuals, but also may undermine the public's confidence in the promise of the private pension system.

Thank you, Mr. Chairman.

("Federal Reinsurance of Private Pension Plans," Hearing before the Senate Committee on Finance, 89th Cong., 2nd Sess., on S. 1575, Aug. 15, 1966, at pps. 9–13.)

Mr. JAVITS. Mr. President, I wish to be recognized whenever the Senator is through.

Mr. HARTKE. Mr. President, can we proceed on this matter?

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. HARTKE. Mr. President, if there is no further discussion on this amendment——

Mr. JAVITS. Mr. President, there is going to be lots of discussion.

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

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

Mr. HARTKE. For what purpose?

Mr. HART. For a comment on the amendment the Senator has offered.

Mr. HARTKE. Yes.

Mr. YARBOROUGH. Mr. President, may I ask the Senator to yield to me for a privileged matter?

Mr. HARTKE. Mr. President, I yield to the Senator from Texas for a privileged matter, with the understanding that I do not lose the floor.

The PRESIDING OFFICER. Without objection, it is so ordered, and the Senator from Texas is recognized.

Mr. YARBOROUGH. Mr. President, this take only a brief time. I would not do this except for time exigencies.

FAMILY PLANNING SERVICES AND POPULATION RESEARCH ACT OF 1970—CONFERENCE REPORT

Mr. YARBOROUGH. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2108) to promote public health and welfare by expanding, improving, and better coordinating the family planning services and population research activities of the Federal Government, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. 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 December 3, 1970, pp. 39871–39873, CONGRESSIONAL RECORD.)

Mr. YARBOROUGH. Mr. President, I urge my colleagues to support this conference report on S. 2108, the Family Planning Services and Population Research Act of 1970. This act was introduced by the Honorable JOSEPH TYDINGS and cosponsored by 18 of us with him.

This legislation is designed to make comprehensive, voluntary family planning services and information readily available to everyone in the United States desiring such information. To perform this task and coordinate the Federal Government's programs in this area, an Office of Population Affairs is established in the Department of Health, Education, and Welfare.

The legislation includes project grants to public agencies and nonprofit organizations, formula grants to State health agencies, training grants for developing needed manpower, research grants, and money for informational and educational materials. While the Senate receded from its 5-year program to that of 3 years, we were able to get the general adoption of the Senate's funding levels, with the lone exception of construction grants which were not agreed to in the conference.

Specifically, the bill authorizes $382 million over the next 3 years for family planning programs, comprised of $72.75 million for fiscal year 1971, $129 million for fiscal 1972, and $180.25 for fiscal year 1973. These higher Senate-passed authorizations are necessary to give the needed emphasis and funding to developing a sound program of Federal assistance in the area of family planning.

At this time, Mr. President, I want to pay tribute to the distinguished senior Senator from Maryland, who is on the floor. While this bill comes out of my committee, the senior Senator from Maryland (Mr. TYDINGS) introduced the bill with 18 cosponsors, of which I am one. It was due to his diligence, that the bill went through the Health Subcommittee, the full Committee on Labor and Public Welfare, and passed the Senate overwhelmingly and went to the House.

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

Mr. YARBOROUGH. I yield to the Senator from Maryland, who was the principal author of the bill and did so much to bring the bill to fruition.

Mr. TYDINGS. Mr. President, I thank the distinguished chairman of the Committee on Labor and Public Welfare for his comment and for his efforts in seeing this legislation pass the Congress of the United States. I introduced the bill with some 18 cosponsors, as the Senator indicated, was proud to do so. Representatives BUSH of Texas and SCHEUER of New York headed the cosponsorship list in the House. There were some 60 cosponsors in the House of Representatives.

The Senator from Texas (Mr. YARBOROUGH) was the first chairman of the Senate Committee on Labor and Public Welfare to hold hearings on such legislation. This is the third bill in the third Congress along these lines which I have introduced, and I am delighted that S. 2108 now becomes the law of the land.

It took some doing. We had to wear down the resistance of certain of the bureaucrats in HEW in order to get the bill passed.

I might say that it was a bit of a struggle to get some members of the administration to support S2108. Finally with some pushing, they changed their initial stance, which was in opposition, into support of the bill. With much work by many people, the bill was passed on the floor of the Senate, and passed, I should point out, without a dissenting vote.

Hearings were held in the House of Representatives. And the measure passed the other body. With the leadership of Representatives STAGGERS and PAUL ROGERS, along with the Senate conferees, the bill was perfected in conference. It now goes to the President for signature.

It may well be that this is one of the most significant pieces of domestic legislation to pass the Congress—not only in this Congress but in recent Congresses. It certainly is a crucial and much needed health measure.

I would again like to pay tribute to the Senator from Texas (Mr. YARBOROUGH), and Representatives BUSH of Texas and SCHEUER of New York for their leadership in securing passage of this bill. The bill puts the Congress of the United States on record in the belief that all mothers, no matter how poor, should have the right to determine the spacing and number of their children, a right that the rich and affluent mothers already have, and that further research should be carried on in the field of basic reproduction, and biological, gynecological, and contraceptive technology, just as such research should be pursued in the other health fields. The importance of this legislation can not be minimized. It represents a much needed step forward.

Mr. YARBOROUGH. Mr. President, I am grateful to the distinguished Senator from Maryland for his kindness toward me. I hapepn to be chairman of the committee and was in a position to facilitate the progress of the bill. Credit should go to the Senator from Maryland's persistence and willingness to do the work.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. JAVITS. Mr. President, I just wish to say that I introduced the administration's bill, which contained many of the provisions in the bill now before us to improve and expand the family planning services of the Federal Government. I think the Senator from Maryland (Mr. TYDINGS) has rendered a signal service to the country in the way he has worked so hard to get the concept of family planning accepted. I joined the Senator from Texas (Mr. YARBOROUGH) in working matters out in conference. I am very glad we were successful.

Mr. TYDINGS. Mr. President, I have one word.

The distinguished Senator from New York (Mr. JAVITS) was the ranking minority member both of the Health Subcommittee and of the full committee. It is the judgment of many that if it had not been for the leadership of Senator JAVITS, the administration might not have reversed its initial position and supported this legislation. Senator JAVITS' work and leadership in this particular aspect was crucial to the successful enactment of this legislation. I think his efforts should be recognized and commended.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

MESSAGE FROM THE HOUSE

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

S. 528. An act to provide that the reservoir formed by the lock and dam referred to as the "Millers Ferry lock and dam" on the Alabama River, Ala., shall hereafter be known as the William "Bill" Dannelly Reservoir;

S. 1100. An act to designate the comprehensive Missouri River Basin development program as the Pick-Sloan Missouri Basin program;

S. 1499. An act to name the authorized lock and dam No. 17 on the Verdigris River in Oklahoma for the Chouteau family;

S. 1500. An act to name the authorized lock and dam No. 18 on the Verdigris River in Oklahoma and the lake created thereby for Newt Graham; and

S. 3192. An act to designate the navigation lock on the Sacramento deepwater ship channel in the State of California as the William G. Stone navigation lock.

The message also announced that the House had agreed to the amendment of the Senate to the amendments of the House to the bill (S. 3431) to amend sections 13(d), 13(e), 14(d), and 14(e) of the Securities Exchange Act of 1934 in order to provide additional protection for investors.

SECURITIES INVESTOR PROTECTION ACT OF 1970

The Senate resumed the consideration of the bill (S. 2348) to establish a Federal Broker-Dealer Insurance Corporation.

Mr. HARTKE. Mr. President, I yield to the Senator from Michigan.

Mr. CRANSTON. Mr. President, over the last 2 years the general economic situation in the country has steadily deteriorated. Interest rates are at a near record high level, unemployment has soared to 5.8 percent and the latest cost of living figures show an annualized increase of 7.2 percent.

All segments of the economy have been severely jolted by the economic downturn. Needless to say, the securities industry is no exception. Wall Street is indeed in a crisis, as the cover story on one of the national news magazines declared a couple of weeks ago.

Over the past several months, approximately 150 brokerage firms throughout the country have been forced to liquidate. In my home State of California between July 1968 and July 1970, eight brokerage firms became insolvent, resulting in a loss to California investors in the neighborhood of $2 million.

The failure of one of the country's largest brokerage firms was narrowly avoided by a merger arranged at the 11th hour.

All these failures and near failures add up to one thing: a loss of confidence by the investing public in the securities industry.

I am deeply concerned over the plight of these investors. Many of them are small investors who have been literally wiped out because there is no Government or industry fund to protect them. Investors who have not been wiped out are unable to get their cash or securities back because their assets are frozen in bankruptcy proceedings which might take years to resolve.

S. 2348, is designed to protect investors against losses due to the failure of broker dealer firms. Under it, a nonprofit corporation would be set up to maintain and administer an insurance fund to protect a customer's losses up to $50,000 resulting from a broker dealer firm's insolvency.

I support this legislation and believe that it is a good first step toward giving the investing public the type of protection it needs.

I commend Senator MUSKIE for originally introducing this legislation and for the excellent job he has done on its behalf.

As a member of the Senate Banking and Currency Committee, I will continue to work with Senator MUSKIE and the other members of that committee to seek ways to make sure that the investing public is given maximum protection.

Just as I favor legislation to protect the investor in the securities market, so do I believe it fair, just, and essential that we have legislation to protect the worker whose investment is in the form of his contribution to his company pension fund.

Currently there is no legislation that will protect a worker's pension in the event a company's pension plan fails.

Senator HARTKE stated that his studies show that between 1954 and 1969, more than 10,000 company pension plans have failed, resulting in 400,000 workers with reduced or no pensions at all.

With the economic situation as it is, there is a distinct possibility that many more companies and their pension plans will go under, leaving thousands of workers out in the cold.

On September 29, 1970, Senator HARTKE introduced amendment No. 967 to S. 2348. Senator HARTKE's amendment provides for Federal reinsurance of private pension plans. The Hartke amendment is designed to afford to the working man—who does not have the funds to invest in the stock market—the same type of protection that is extended by S. 2348 to the securities investor.

The only form of investment that the average working man makes is his contribution to his company's pension plan.

I agree with Senator HARTKE, that we should act now to protect the American workers investment. I support the Hartke amendment and I urge my colleagues to give it their support.

Mr. HART. Mr. President, I shall be very brief. I simply rise to commend the Senator from Indiana for bringing to the floor today this amendment, which provides an opportunity, as I see it, to do something for the man about whom so many speeches have been made—the blue collar, honest, hard-working American.

The right of a family breadwinner to have an adequate pension is now rooted deeply in our tradition. Social security benefits are accepted parts of the system. Private pensions as a supplement to social security are today strong underpinning for the retirement needs of millions of our fellow citizens. In fact, some 21 million workers are covered by private pensions on file with the U.S. Department of Labor.

The issue before us is how we can best protect the private pension plan from sudden, unexpected collapse. This is not an imaginary fear—it happens; in a period of economic recession it happens increasingly. Plants shut down, a company goes bankrupt, a corporate takeover closes down an oldline operation. There are dozens of economic reasons why a particular operation can cease operation in good times and bad. What happens to the pension plans for the

workers in those situations? Sadly, the pension rights for literally thousands of innocent employees in these circumstances is lost, without any way of recovering.

The classic example of a company shutdown was the case of the Studebaker Co. of South Bend, Ind. Here was a revered name in manufacturing which came to the end of the road, with the result that thousands of Studebaker workers lost all or most of their pension rights.

Let me cite an example in Michigan. On July 1 of this year the Gulf & Western's Metals Forming Co. in Ecorse, Mich., with 170 members of a UAW local shut down permanently. The company's pension plan was 11 years from full funding and thus there are not enough funds to meet all obligations for workers either presently retired or soon to be retired. And the pension rights for younger workers are entirely wiped out.

It is estimated conservatively that between 1955 and 1965 some 4,000 plus pension plans have been terminated. In the company I have just cited were a man and a woman, both of them 52 years old, each with 37 years of service to this company. Because of their age their pension benefits were wiped out. Something is seriously wrong when instances like this are permitted.

Mr. President, something is radically wrong with our scale of values if we guarantee stock speculation and do not guarantee the private pensions of millions of American workers who have worked long years with the full expectation that the money set aside for their pensions will be there when they reach retirement.

In my own city of Detroit we have the case of two large automobile companies—Packard and Hudson—which went out of business, yet workers who had invested years of their lives and had moneys set aside for pensions, had their pension rights evaporate without a dime to show for it.

So what I am talking about can happen to large, prestigous concerns as well as to smaller, more marginal operations.

The concept of pension reinsurance is ingeniously simple. It merely says that a small amount of insurance should be paid into a Federal fund to protect the pension rights of companies which suffer economic termination. We are not talking about huge outlays here. Some 500 plans a year suffer termination, affecting an average of 25,000 workers. By requiring that all unfunded liabilities of private pension plans be assessed a small premium, the heartache of lost pension rights can be eliminated at no cost to the American taxpayer and at very slight cost to the corporations which have accumulated reserves of $120 billion in private pension plans.

Let me state also that adequate protection to private pensions will serve as a curb against inflation at a time when inflation is still running rampant in the land. Those citizens who are retired on pensions are not putting any inflationary pressure on the economy, far from it. But if private pensions are obliged to run the obstacle course, the tendency in collective bargaining will be for less negotiation of pensions, and more bargaining for straight wage increases.

If the Senate votes to protect private pensions, it will be a signal for bargainers to negotiate more pensions and ease up, perhaps, on the drive for more outright money in the pay envelope. Too many workers have seen their pension money dry up and disappear. The fear that pension funds are not a reliable source of income is already present in many negotiations today.

If the Senate wants to strike a blow at inflation, let it vote to insure the pension rights of the private pension plans in this country. And it will be at no cost to the American taxpayer. Not a penny will be added to the Federal budget by adoption of the amendment by the Senator from Indiana (Mr. HARTKE), which I have over the years cosponsored.

Let me remind my colleagues that full funding of private pensions does not occur until 25 or 30 years after the inception of a plan. Therefore, we are not suggesting any procedure to rescue the improvident or the careless. Sometimes there is no other recourse for a business than to move or to close down. What we are saying, however, is that workers with long years of service, with their own money set aside for purposes of a pension, should not bear the brunt of these corporate decisions. A Federal insurance program—very similar to bank deposit insurance—should spread the risk and be made part of the cost of any private pension plan. This is fair, this is just. And millions of hard working Americans will be the better for it.

We hear a lot today about the plight of the blue-collar worker. He works hard. He pays his taxes—he pays, in fact, more than his fair share. Yet there is little done for him or for his family. Many blue-collar workers are deeply cynical about a system which votes farm subsidies for wealthy farmers, yet compels him to pay high local property taxes and bear an inequitable part of the Federal tax burden.

To those in the Senate who are troubled by the inequities visited upon the American blue-collar worker, let me suggest that passage of this amendment will right a deep wrong. Pension money is money which workers earn. It is money set aside in their name. It is money they expect to get back upon their retirement. Yet the blue-collar worker knows that many pensions have disappeared, that hard work, saving, and prudence have not paid off.

I share the concern for the deep sense of alienation felt by working Americans and I say to my colleagues that they can strike a blow in the Senate today for the blue-collar worker by making sure that every last pension credit earned is as good as the trust of the U.S. Government.

Mr. President, while we are attempting to take care of the investor, let us also attempt to take care of that man, too.

The case for pension reinsurance is simple—it is fair, it is right, it is noninflationary, and it will do something for the group in America which needs reassurance that the system is working. I urge passage of the amendment.

Mr. HARTKE. Mr. President, allow me to clarify a point raised by the Senator from New York (Mr. JAVITS) about opposition of the Secretary of Labor to the bill in 1966. That opposition was one of those "damn-with-faint-praise" types of opposition. He said it was a good bill; he endorsed every proposal in it, said that they had a thorough study being made by a joint committee, covering all the facts and the evidence, and that they would be ready to come forward with a program in a very short period of time.

I find that studies of that type are fraught with delaying tactics, but accomplish nothing worthwhile. So, from 1960 to 1970, we have been waiting on someone to do something about something which is very important. Evidently somewhere along the line, someone forgot that workers' pension plans were one of the important items. So I would like to say, for all the high regard in which I hold Secretary Wirtz—and still do; I just saw him today—I still say, that that type of action in the administration, which has become more prejudiced than it was in the past, is certainly not one to recommend it for constructive legislation.

Mr. JAVITS. Mr. President, if I may have order, I think I can explain my position in about 3 minutes.

Mr. President, the points made by the Senator from Indiana, insofar as they go—and I emphasize that—are entirely valid. That is, there should be reinsurance of pension funds. The only difficulty is that, approaching it as he does, the Senator had better realize how much is involved in money, in premiums payable every year, and secondly, that we would be papering over a structure which is itself so vulnerable that I cannot predict the extent of the liability to the Government if we do this in the manner proposed by the Senator from Indiana.

What we are trying to do, by way of pension and welfare fund legislation, in the Committee on Labor and Public Welfare, is to arrive at a statute which has standards of vesting, funding, fiduciary responsibility, et cetera. All the Hartke amendment does is provide reinsurance of the existing structure, whatever that may be.

We all realize the disappointment which was suffered, for example, in respect to the Studebaker failure. That is what set me thinking about this issue; and that is why I introduced the first pension bill in 1967, which included vesting, funding, reinsurance and fiduciary standards.

Now we have worked up to the point where we have the Committee on Labor and Public Welfare making a comprehensive survey, at a cost of a quarter of a million dollars, as to what really is happening with respect to pension and welfare funds, and the point will be—and the administration now recognizes that we must have legislation next year—that we will then have standards of funding, vesting, and fiduciary responsibility. I ask unanimous consent that a recent article in the Wall Street Journal, which testifies to the administration's intentions, be inserted in the RECORD at this point.

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

ADMINISTRATION MAY SEND WIDER REFORMS FOR PENSION PLANS TO CONGRESS NEXT YEAR

(By Byron E. Calame)

WASHINGTON.—The Nixon Administration is "taking a fresh look" at ways to better protect workers' pension-plan rights and hopes to propose broader reform legislation next year than a bill it sent Congress this session.

The legislation proposed by President Nixon last March, which would tighten Federal regulation of private pension-plan administrators, is languishing on Capitol Hill and isn't expected to be acted on this year. Officials had indicated last March that the administration hadn't any plans to propose broader legislation.

Labor Department sources said yesterday, however, that the current "aim" of the Administration is to send a broader pension plan reform bill to Congress sometimes next year. But they noted that the actual drafting of any bill will require a pulling together of ideas currently being considered in several departments of the Executive Branch.

"We're now taking a fresh look at all the problems and issues to see what we can come up with," Laurence H. Silberman, Under Secretary of Labor, said in a Honolulu speech yesterday. But he emphasized in the address to the National Foundation of Health, Welfare and Pension Plans that the Labor Department's proposals for pension-plan reform "are still in a very fluid state."

In outlining some of the key reform measures under consideration at the Labor Department, Mr. Silberman cautioned that "nothing I say . . . should be interpreted as the Administration's position."

Vesting standards are "a big issue" in the move for broad reform. Mr. Silberman asserted. Vesting standards guarantee workers a portion of their pension benefits if they leave a company before retirement age.

"It's estimated," he noted, "that one-third to one-half of all plan participants will never receive a benefit, either because their plans don't provide for vesting or because they have terminated before a vested right has been earned."

The department is considering several approaches to vesting, Mr. Silberman said. "One idea is to amend the Internal Revenue Code to require that all tax-qualified plans must provide for 50% vesting after five years of service," he said, "with an additional 10% vested each year thereafter until 100% vesting is achieved after 10 years of service."

Another proposal would require all tax-qualified plans to provide for 50% vesting when a worker's age and years of service add up to 45; an additional 10% would be vested each year thereafter until 100% vesting was achieved. Under both proposals, plans would lose their tax-exempt status if they failed to meet the requirement.

The department's No. 2 man noted that the first idea would have "a relative bias" in favor of younger workers, while the second would tend to be more advantageous to older workers.

Turning to the funding of plans, the other major issue in seeking any reforms, Mr. Silberman said the department is considering approaches that wouldn't involve setting minimum standards for employer contributions to assure that assets would always be in line with obligations.

INSURANCE ONE ALTERNATIVE

Termination insurance seems to be an "attractive" alternative, Mr. Silberman said. The department is considering both mandatory and voluntary approaches to termination insurance, he indicated. Such insurance would protect the benefits of workers covered by a plan that folds; about 500 plans involving about 25,000 workers collapse each year, he noted.

Mr. Silberman said one proposal under study would call for "mandatory insurance with premiums related to the adequacy of funding—the higher the level of funding, the lower the premium." Amplifying, he said: "This would provide the incentive for more adequate funding without the necessity of a lot of rules and regulations specifying just how much, by what data and in what way. And it would also provide the benefit protection we seek when plans are terminated."

A "lot more study" has to be given to the issue of portability, or the preservation of pension rights as a worker moves from job to job, the official said. "It seems to us," he continued, "that a lot of what could be accomplished through portability can be accomplished through improved vesting."

Broad bills with provisions for vesting, portability and funding standards have been introduced by individual Congressmen in the current session. But the Administration hasn't taken a position on them.

The Labor under secretary predicted that legislation incorporating most of the provisions of the Administration's present bill to tighten the regulations applying to plan administrators has "an excellent chance" of being passed in the next session of Congress. The pending bill would impose "fiduciary" responsibilities and duties on persons controlling employee-benefit funds, require administrators to provide additional information about retirement plans and broaden the investigatory and enforcement powers of the Labor Secretary in the pension plan area.

Mr. JAVITS. Mr. President, with such comprehensive legislation, we will not just be papering over any speculative plan, no matter whether good, bad, or indifferent, which is all this amendment would do. I beg Senators to go up and read it. It just says it is an insurance proposition, to reinsure pension and welfare funds, at a premium of 0.5 percent a year.

What does that premium amount to? The Senator from Indiana will not give us an estimate of what he says are the unfunded obligations, so the best we can do is take the resources of the pension and welfare funds. These resources amount to $126 billion; so we are talking about premium payments, here, which, I think, will ultimately be perfectly justified, but we are putting an added tax upon American business running into the hundreds of millions of dollars, just on an amendment to a bill dealing with insurance on brokerage accounts, because no one is paying any particular attention to them.

Mr. President, such a reinsurance of a papered-over structure which is full of inequities, full of dangers, full of risks, full of speculations, would seem to me to be the most outrageous kind of irresponsibility, especially in view of the fact that we now have on going an effort to draw a piece of legislation which will include pension reinsurance that really means something.

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

Mr. JAVITS. I would like to finish my thought. Nothing in the world would suit me better than to lock arms with my colleague from Indiana, and do our utmost, with his help and participation as a member of the Committee on Finance, to work out a scheme by which to regulate and reinsure. But it seems to me that just to reinsure a pig in a poke, and impose a one-half percent premium, as to which we have not the remotest evidence of what it would amount to, is the most irresponsible kind of legislating I ever saw.

Mr. PASTORE. Who will have to pay the premium?

Mr. JAVITS. The premium will be paid by workers and management.

Mr. PASTORE. Out of the fund?

Mr. JAVITS. Certainly. By American business. And it just seems to me to be the height of irresponsibility. Much as I appreciate and have in my heart the same feeling Senator HARTKE does, I just cannot see how anyone who knows about this—and that is what we want, some individual Senators with knowledge, because we all have different areas of expertise—can possibly sit still and let this amendment pass.

Mr. HARTKE. Mr. President, first, I point out that this is not a contribution to employees by employers. The amendment very clearly says that the contribution will be made by employers. The fact that it will entail an additional cost certainly is true. It is also true that for 20,000 people denied their opportunity to benefit from their pension plans, it costs them something even more important than the contribution from business.

Let me ask the Senator a question, though, about this committee and its appropriation of over a quarter of a million dollars. When is the last time that committee met?

Mr. JAVITS. That committee is currently at work, taking a survey. The survey has been sent out, and the results of the survey are now in the process of being compiled. The Senate passed on the survey.

It is, at this minute, one of the most diligently followed-through operations and, in my judgment, one of the most efficient we have ever run here in the Senate.

Mr. HARTKE. Is it not true that no public hearings have been held in this matter since 1968?

Mr. JAVITS. The only reason for no public hearings having been held is that there has been no basis for them.

Mr. HARTKE. In other words, for 2 years there has been no basis for a public hearing of a committee, which has a quarter of a million dollars to study this important matter, when there is already in the office of the Secretary of Labor a complete study on this matter, which was completed by a joint administrative group 4 years ago. Is that true?

Mr. JAVITS. That is unfair, I say to the Senator, because the committee was given its money this spring, after making an excellent case, after hearings, that there was no basis upon which to frame legislation. It is running, as I have said, one of the most intelligent, thorough, and efficient surveys of pension funds in this country, and it will really produce the basic material upon which Congress will be able to act and upon which intelligent hearings can be held and intelligent questions asked.

We are always charged with this off-the-top-of-our-head business, and that is the trouble with this amendment. Yet, when we are trying to do a job, the Senator would accuse us of not tending to our duties or of being superficial. We are trying to dig into something, instead of bringing some glittering amendment to the floor which does not have any basis in fact.

Mr. HARTKE. I say to the Senator from New York that the fact is that we have been into this subject in great depth. The departments have made a study, and those studies are available for any Senator who wishes them. The studies demonstrate conclusively that the facts in this amendment are sufficient to cover the uncovered parts of pension plans in existence today. The highest estimates are that it would probably not exceed three-tenths of 1 percent. That is why we left leeway up to five-tenths of 1 percent in the case of a pension plan which the Internal Revenue Service determined had sufficient unfunded assets, which still needed to be covered.

The fact is that there is no disagreement on one point: That the Internal Revenue Service has not been as diligent as it should have been in coming forward with some of these facts. But that is the fault of the Internal Revenue Service and the administration on the pension funds.

If we follow the procedures recommended by the Senator from New York, we have no idea when we are going to have any type of insurance of pension plans. It is all right to take care of the Wall Street merchants and make sure that those people, just because they experienced a severe drop in their stock values and because some of their people went broke and because some people lost money as a result—it is all right to take care of those people, who are working from their abundance. But when it is taken from the working man's table—as the Senator from Illinois said earlier—who contributes in his lifetime for as much as 30 years, and you try to help him, all of a sudden we have to go into another prolonged study.

Mr. JAVITS. Mr. President, the man who is putting up his money for pension funds will not be done any good by being provided the kind of Federal insurance. That will fall on its face because every unsound and speculative plan in this country will be papered over. This kind of insurance would cover pension plans, regardless of whether they are properly managed, whether they provide vesting, or whether they are properly funded. The Federal Government would be underwriting it, and it would collapse of its own weight and be such a disaster as to make Federal insurance impossible, if this is the improvident way in which we are going to do it.

The Senator has made many general statements, but he cannot answer the single question: What is the Senator's estimate of the amount of the premium charge required if we do exactly what he wishes to do in this amendment? Nevertheless, the Senator says there are many reports, and so forth; but he says:

There are no figures on that. I cannot tell you what this is going to cost.

It seems to me that that immediately indicates that something is wrong somewhere. Also, I think it is pretty reckless.

Mr. HARTKE. May I say to the Senator——

Mr. JAVITS. Please let me finish. I have the floor, and I did not interrupt the Senator.

I may say to the Senator, also, that I think it is pretty rough to make these accusations against a committee of the Senate which has just been given, within the last few months, a substantial sum of money to do a very material and major job on this subject. I am the ranking minority member of that committee—the Senator from New Jersey (Mr. WILLIAMS) is the chairman, but he is engaged in the conference on occupational health and safety—which is actually doing this job in order to give us the basis to legislate.

All we have from the Senator from Indiana is the general statement that many studies have been made. Will the Senator now get to work—I will be happy to sit down and listen to him—and tell us exactly what the studies are, where they come from, and what they say?

Mr. HARTKE. I will be happy——

Mr. JAVITS. Mr. President——

Mr. HARTKE. Will the Senator let me answer?

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The Senator from New York has the floor.

Mr. JAVITS. Mr. President, we can have a little decorum in the Senate. This is not an arguing contest.

I see that the Senator from New Jersey (Mr. WILLIAMS) has entered the Chamber.

I say to the Senator from New Jersey that what we are arguing about now is the amendment of Senator HARTKE to establish a reinsurance scheme for pensions. I have just stated that the Senator from New Jersey is the chairman of a subcommittee which is now engaged in a massive survey, financed with money appropriated by the Senate, in order to ascertain the factual basis for pension and welfare fund legislation, including reinsurance.

Senator HARTKE has just told me that our committee has not had any hearings, and the implication is that we had better just forget about it and that it would be best to go right ahead and adopt the amendment for reinsurance which is before the Senate now because it is very necessary.

Mr. President, the thing that I deprecate so much with an amendment of this character, which moves in a highly desirable field in which we ought to legislate, is that when it is brought up, it compels people like myself to oppose it because it is improvident, and it gets a black eye, for no reason, in terms of the objective we are trying to serve.

I was arguing in defense of the work we are trying to do, and I said to Senator HARTKE—and I repeat it—that nothing would please me better than to lock arms with him and really do a job on this matter. I thought it was highly improper to reinsure something which we know in many instances to be basically and actuarially unsound and speculative, with no idea as to what the liabilities involved will be, until we find out what the situation is.

I yield to the Senator from New Jersey.

Mr. WILLIAMS of New Jersey. I appreciate the Senator from New York informing the Senate of my reasons for not being present in the Chamber.

I appreciate the Senator from New York stating that and also explaining the complexity of the work of my subcommittee and for his thorough understanding of what the situation is with respect to pensions.

At this point, my subcommittee has out thousands of inquiries, trying to get basic information on pension funds. The Senator from New York has been instrumental in forming the questions that are part of the basis of our study. We are far from complete. Many funds have not even replied as of today as to what their situation is on pension funds. That is No. 1.

No. 2, at this moment, in office space assigned to us in the Capitol, we have on loan from the General Accounting Office accountants who are examining the material that has been submitted.

This is all basic work that has to be done before we can intelligently go to the protracted hearings that will be necessary.

If the Senator from New York would yield further, I should like to ask the Senator from Indiana if he could fill in the gaps in my recollection as to when this idea was introduced as legislation and was referred to the Committee on Labor and Public Welfare. I cannot recall that it was.

Mr. HARTKE. Mr. President, the point I was going to raise is one of jurisdiction. This legislation is long past due. It was considered in the Finance Committee. So far as I am concerned, we have had hearings on it there.

Mr. WILLIAMS of New Jersey. But what does that have to do with the pension and welfare work that has been assigned to our committee? This was not assigned.

Mr. HARTKE. So far as the bill is concerned, it has been assigned to the Senate Finance Committee. It deals with one portion of the problem. The work assigned to your committee is broad. It deals with a study of this question. We are not attempting to cover that. We are attempting to cover new ground, trying to do as we did with bank deposit insurance. And I should note in this regard that when the Senate considered the legislation creating a Federal Deposit Insurance Corporation, this body had no better knowledge of the potential cost of the program.

William Jennings Bryan suggested that in 1908 in a campaign. We had to wait until 1933 for Franklin Delano Roosevelt to come along and insure bank deposits. I would imagine that if we continue this way, we would have to await a collapse of pension plans before we would have action.

So far as this type of system is concerned, there were sufficient reasons to adopt this legislation in this narrow field. There is no attempt made to deal with other matters. I am on the Committee on Aging where some of these problems have been raised with the distinguished chair-

man. Part of the information came out of the hearings we conducted in 1966 in the Finance Committee which were the basis of the Older Citizens Act.

If the Senator from New York would look, he would find that he himself has taken into his bill certain provisions of the bill which I originally introduced, and he is using it. I have no objection to that. The point is that the Senator from New York speaks differently now. Things will not be any better after completion of the study until Internal Revenue comes in with a final statement as they are required to do. Only when they qualify the funds for tax exempt status, will we learn how much is funded and how much is proper and whether they can continue to have a tax exempt status. That is a question for them. It is not difficult. There is no difficulty there at all. The only difficulty that presents itself at this moment is, that the Senator from New York feels we are attempting to take over a job which is being done by one of the committees. That is not true in any way whatsoever. We are taking one section with which I have been long identified. I personally feel the hearings and the evidence clearly show that the need for pension reinsurance is way past due.

Secretary Wirtz, when he testified before us, endorsed everything about the bill at that time, except he wanted to complete a study. Now we hear the same argument, that there is a study in progress, but the study is down in the Office of the Secretary of Labor, and that it is taken from the Internal Revenue, the Secretary of the Treasury, and the Secretary of Labor. And that study is 4 years old. It is not gathering dust in my office because I know what is in it.

Mr. JAVITS. Mr. President, I think it would be a great mistake if the Senate got the impression that this is a question of jurisdiction. I am not built that way. I could not care less; nor the idea that we need to complete the study before we can act, and if the facts are clear then we have got to act again. That is not characteristic of me. The main point of the amendment is neither of those. The main point I am making is that we cannot have insurance without any regulation. We do not know yet how to regulate. That is the reason for these inquiries.

Insurance without regulation is completely improvident. We are talking about a premium of $600 million a year. If that is paid by the employer, it will go into higher prices. If it is paid by the worker, then it will come out of his paycheck.

We are papering that over in a structure which has no regulation whatever. The Senator from Indiana (Mr. HARTKE) himself admits that the Internal Revenue Service is doing a bad job. We know that. That is why we want some law that will do a good job. Thus, we are papering over, I think, improvident plans with an insurance scheme where the liability must be infinitely greater than if we had any kind of regulation. My guess is nothing will come of it. I do not believe the conferees would ever agree on this, even if it is within the rules of the House to accept it, which I do not think it is, on this particular bill. The Senate must realize how improvident it is to move in such a massive way with this amendment, with a broad scale insurance scheme which is not limited on liability. This does not have any $20,000, $50,000 limit or anything else. The premiums are all estimated—and it is the only thing we can estimate on, the assets of the funds, $600 million a year and the insurance plans, where we do not know the authority or what provisions are envisioned for funding, or what is backing up the reasons, yet the Senator wants us to insure there. We do not want to insure where we do not have any control over what we are insuring.

This amendment is highly improvident. For that reason I strongly oppose it.

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. JAVITS. 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 question is on agreeing to the amendment of the Senator from Indiana as modified.

Those in favor signify by saying "aye." Those opposed signify by saying "nay."

The nays have it.

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

The PRESIDING OFFICER. The result has been announced.

Mr. BYRD of West Virginia. Mr. President, I make a point of order that the Chair did not say that the nays appeared to have it, so as to give the Senator from Indiana an opportunity to ask for a division before a result was announced.

I respectfully make that point of order.

Mr. PASTORE. Division.

Mr. JAVITS. Division, Mr. President.

Mr. MUSKIE. Mr. President——

Mr. BYRD of West Virginia. Mr. President, I ask for a ruling on my point of order.

The PRESIDING OFFICER. The voice vote having been announced, it is final.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment as modified was rejected.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

Those in favor signify by saying "aye."

Those opposing signify by saying "nay."

The yeas appear to have it. The yeas do have it. The motion is reconsidered.

Mr. HARTKE. Mr. President, I ask for a division on the vote.

The PRESIDING OFFICER. A division is requested.

Those opposed please stand and be counted.

The amendment as modified is rejected.

The bill is open to further amendment.

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

The PRESIDING OFFICER. The bill will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. It is a long amendment, and I will explain it.

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

The amendment order to be printed in the RECORD reads as follows:

On page 32, strike out lines 1 through 3, and insert in lieu thereof the following: "members of national securities exchanges, except such brokers, dealers, or members (1) who are excepted or exempted from membership under subsection (h) (1) of this section, (2) whose application from membership is rejected under the provisions of subsection (h)(2) of this section. The corporation shall be subject,".

On page 47, line 8, before "Every" insert "(1)".

On page 47, line 9, strike out "or there after becomes".

On page 47, line 19, after "Any" insert "person who, on the effective date of this section, is a".

On page 47, line 20, after "change" insert "but".

On page 47, line 23, before the period insert "in accordance with the provisions of paragraph (2) of this subsection".

On page 48, between lines 4 and 5, insert the following new paragraphs:

"(2) (A) Any person who applies for registration under section 15(b) of this title after the effective date of this section, unless exempted from membership under paragraph (1) of this subsection, shall apply for membership in the corporation on the date on which he files his application for registration. Before approving the application for membership in the corporation of any such person, the board of directors shall consider—

"(i) the history, financial condition, and management policies of the applicant;

"(ii) the economic advisability of insuring the applicant without undue risk of the fund;

"(iii) the general character and fitness of the applicant's management; and

"(iv) such other facts and circumstances as the Board determines to be relevant and appropriate for its consideration.

"(B) The board of directors shall reject the application of any person for membership in the corporation if it finds that the applicant's reserves are inadequate, that its financial condition and policies are unsafe or unsound, that its management is unfit, or that its membership in the corporation would otherwise involve undue risk to the fund. Upon the rejection of any application for membership, the board of directors shall notify the applicant and the commission of its decision and the reason for the decision.

"(C) Upon the approval of any application for membership in the corporation, the board of directors shall notify the applicant and shall issue to it a certificate evidencing the fact that it is, as of the date of issuance of the certificate, a member of the corporation under the provisions of this section."

"(D) Any decisions made by the corporation under this subsection shall be subject to revocation by the commission.

"(3) Not later than six months after the effective date of this section, the corporation shall compile a list of unsafe or unsound practices by members in conducting their business and report to the Congress on the steps the corporation is taking to eliminate those practices under the authority of existing law and its recommendations concerning additional legislation which may be needed

to eliminate those unsafe or unsound practices.

Mr. PROXMIRE. Mr. President, before explaining the amendment, I commend the fine leadership exercised by the Senator from Maine (Mr. MUSKIE) in bringing this important and vital legislation to the floor.

This bill is of crucial importance to the 27 million Americans who own common stock and to the additional millions of Americans who own stock indirectly through pension funds or mutual funds. The recent wave of failures on Wall Street has sent shock waves throughout the financial community and threatens to weaken the public's confidence in our capital markets.

The legislation reported by the committee will provide the customers of brokerage firms with protection in the event the brokerage firm fails. Customers who maintain credit balances or securities with their broker would be insured for up to $50,000 in the event the brokerage firm failed. This, of course, has been modified by the McIntyre amendment. The legislation is similar in concept to Federal deposit insurance provided to the customers of commercial banks, savings and loan associations, or credit unions. It insures that the investing public will not be called upon to pay for the financial troubles of brokerage firms which overextend themselves.

In most respects, the bill reported by the committee is a fair and workable bill. However, in my view there is one serious deficiency. This is the lack of membership requirements.

As presently drafted, all broker-dealers or members of national securities exchanges would automatically be entitled to membership in the Securities Investors Protection Corporation—SIPC—and would thus have their customer accounts insured. This is a substantial departure from the procedures established by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration. Commercial banks, savings and loan associations, and credit unions are not automatically entitled to deposit insurance. They must apply for insurance and meet certain standards before they can be insured. The reason is to protect the assets of the insurance fund. If deposit insurance were extended to any financial institution regardless of its solvency or managerial capacity, the losses could increase substantially. These losses would, of course, be borne by the more soundly managed financial institutions. They would be paying the premiums to support the insurance program.

In the case of the broker-dealer insurance bill, there is no way the SIPC can reject brokerage firms who present an undue risk to the insurance fund. It is somewhat analogous to a life insurance company agreeing to insure all applicants without conducting an examination. Under these circumstances, the life insurance company would soon go broke. A similar financial threat is presented to the SIPC and to the U.S. Treasury which is obligated to lend up to $1 billion to the SIPC in the event that it cannot cover its losses. So, the customer is ultimately responsible. For that reason, we have a particular obligation to provide as much protection as possible.

Moreover, the SIPC has no authority to revoke the insurance of a broker-dealer if it engages in unsafe or unsound practices. By way of contrast, the FDIC, the FSLIC, and the National Credit Union Administration can revoke the deposit insurance of a commercial bank, a savings and loan association, or a credit union if it engages in unsafe or unsound practices. While this authority is rarely used, it does strengthen the effectiveness of the Federal government's supervision over insured banks, savings and loan associations, or credit unions. Thus, the potential losses to the insurance fund and to the public are minimized.

During the committee's executive session on the legislation, I offered an amendment which would have required the SIPC to screen all broker-dealers and reject those who were not financially qualified to receive Federal insurance. This is the same procedure which was established when deposit insurance was set up for commercial banks and other financial institutions. However, in the case of broker-dealers, there are certain practical difficulties. Given the present climate of uncertainty on Wall Street, if a broker-dealer were to be denied Federal insurance, such denial could easily trigger a run upon the brokerage firm. If the firm were forced to liquidate, its customers could suffer a severe financial hardship, which is directly contrary to the objectives sought by the legislation.

For this reason I withdrew the amendment. However, I believe it is possible to establish membership requirements to protect the solvency of the insurance fund without creating the psychological problems entailed by an immediate rejection. I therefore have sent to the desk an amendment designed to achieve these ends.

First of all, the amendment would provide that all brokers or dealers or members of national securities exchanges who were in operation prior to the effective date of the legislation would be automatically entitled to insurance as provided in the reported legislation.

Secondly, new firms which were established after the effective date of the legislation would be required to apply for insurance and meet certain standards of financial eligibility before they were given insurance. These standards would be similar to those contained in the Federal Deposit Insurance Act and the National Credit Union Share Insurance Act which was recently approved by the Congress. The SIPC would be directed to consider the history, financial condition, and management policies of the applicant, the economic advisability of insuring the applicant without undue risk of the fund, and the general character and fitness of the applicant's management. These are the same standards which have been applied for 37 years by the Federal Deposit Insurance Corporation with respect to commercial banks. I believe they constitute a sound precedent for administering the broker-dealer insurance program.

Mr. President, I would hope that the distinguished manager of the bill could accept this amendment. It is based upon the sound precedents which have been established in other Federal insurance programs. I see no reason to depart from those precedents in this legislation. To do otherwise would open the insurance fund to potentially heavy losses, and risk the funds provided by the U.S. Treasury. As long as the Federal taxpayers are standing in back of the SIPC, he is entitled to reasonable safeguards. In my view, it would be unsound and unwise to establish an insurance program without at the same time providing for specific standards of eligibility and for revoking the insurance where necessary and in the public interests.

Third, my amendment would require SITC to compile a list of unsafe or unsound practices by brokerage firms and report on what actions it is taking to eliminate those practices under the authority of existing law. The SITC must also give Congress its recommendations on any additional legislation which may be added to curb unsafe or unsound practices. This report would be due in 6 months.

The Senator from Maine (Mr. MUSKIE) has indicated there are a number of questionable practices engaged in by brokerage firms. Now that the U.S. Government is making a direct financial commitment to the securities industry, I believe it is essential to eliminate any unsafe or unsound practices as soon as possible.

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

Mr. PROXMIRE. I am happy to yield to the distinguished Senator from Utah.

Mr. BENNETT. Mr. President, the Senator from Wisconsin knows of the concern of the Senator from Utah that inadvertently his amendment might transfer some of the authority and responsibility of the SEC to this new private corporation. It is my understanding this has been corrected.

Mr. PROXMIRE. As I understand it, the amendment specifically provides that SEC can reject any action in this regard by SIPC.

Mr. BENNETT. So SIPC cannot take any action with respect to anyone it is insuring or refusing to insure, which SEC cannot review.

Mr. PROXMIRE. The Senator is correct.

Mr. BENNETT. I thank the Senator.

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

Mr. PROXMIRE. I yield.

Mr. MUSKIE. I have discussed this amendment at considerable length with the Senator from Wisconsin. The amendment undertakes to implement amendments that were added to the bill in committee that insure or supplement the insurance program. The Senator from Wisconsin, since the bill was reported, has developed this mechanism to implement that objective.

I recommend that the Senate agree to the amendment.

Mr. PROXMIRE. I wish to say to the Senator that, as he knows, this amendment was somewhat different when I first proposed it. The Senator from Maine did suggest a moderation or change in the amendment which I think made it

much more practical and acceptable. Thanks to his assistance I think the amendment would provide both protection and meet the practical objections he raised.

Mr. MUSKIE. Mr. President, at this point I think it would be helpful to have printed in the RECORD the first 14 lines of page 52 of the bill, which, in effect, are supplemented by the Senator's amendment.

I ask unanimous consent that the excerpt may be printed in the RECORD.

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

"(4) In addition to and without limiting the powers of the Commission under this subsection, the Commission may request the corporation to adopt any specified alteration of or supplement to the bylaws, rules, or regulations of the corporation, or to repeal any such bylaw, rule, or regulation. If the corporation fails to adopt such alteration or supplement or to effect such repeal within thirty days after such request, the Commission is authorized by order to alter, supplement, or repeal the bylaws, rules, or regulations of the corporation in the manner requested, or with such modifications of such alteration or supplement as it determines, after appropriate notice and opportunity for hearing, to be necessary or appropriate in the public interest or to effectuate the purposes of this section.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator form Wisconsin.

The amendment was agreed to.

Mr. MUSKIE. 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. 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.

Mr. HART. Mr. President, I was not in the Chamber when the able Senator from Texas discussed the concept of the broker-dealer insurance bill.

Mr. COTTON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. COTTON. I think what the Senator is saying is important, and may be leading up to something, but we cannot hear him.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Michigan.

Mr. HART. Mr. President, obviously as a cosponsor of Senator MUSKIE's broker-dealer bill, I support this proposal and will vote for its enactment.

However, I am deeply troubled by the question of priorities. Today we propose to enact this bill to protect generally those with enough money to engage in market investments and yet we continue to neglect to protect those who are being robbed of life-support funds by insolvencies.

The broker-dealer bill would protect customers whose general economic status as market investors and traders would represent more than modest financial means. Twenty-six million customers have about $50 million in securities and cash in the hands of brokers.

These customers should be protected—especially during these days when business stresses put more and more persons in risk of losing their savings.

But there is another group of consumers who need similar protection—and who have it not. These are the claimants and policyholders of property casualty insurance companies which go insolvent.

In the past 12½ years, 141 property-casualty insurance companies have become insolvent. More than 1 million consumers suffered direct losses of more than $200 million in unpaid claims and unearned premiums.

Further—generally to their amazement and horror—more than one-half million policyholders of insolvent mutual companies found they were assessed for more than $60 million to pay off the debts of the companies which supposedly had been protecting them. Some of the policyholders—who did not or could not come up with their assessment—were threatened with jail.

More than 5 million consumers were hurt indirectly by these insolvencies through loss of legal defense, loss of claims and uninsured judgments and the time and money necessary to secure new insurance.

With the exception of retirees and widows, investors generally can hope to recoup from stock market losses by earning replacement money. That possibility evaporates when we are talking of a man disabled for life so he may not work but who finds the insurance company which should have compensated him is insolvent.

Hearings before the Senate Antitrust and Monopoly Subcommittee—dating back to 1965—and more recently before the Commerce Committee demonstrate that consumers need desperately the same kind of protection from insolvent insurers as S. 2348 gives customers of broker-dealers.

They would have this protection under S. 2236, a bill to establish a Federal Insurance Guaranty Corporation introduced by the senior Senator from Washington (Mr. MAGNUSON) on behalf of myself and five of our colleagues.

In truth, Mr. President, I would have tinges of conscience if I voted for the broker-dealer bill without urging this body for some commitment to act on the Federal Insurance Guaranty Corporation in the near future.

As my colleagues know, the bill has been ordered reported by the Senate Commerce Committee. But no action has been taken on the House side this year.

The bill reported by the Commerce Committee is the product of some nine executive sessions. It is a bill that should have bipartisan support and closely parallels the administration proposal. It is legislation that members of both parties agree is greatly needed.

As the administration witness put it during the Commerce Committee hearings:

Federal legislation is needed to guarantee that every citizen, every policyholder and every claimant is properly and fully compensated for his insured losses.

The FIGC also has the support of the American Insurance Association, whose members write one-third of the property and casualty business.

In a letter to me, the AIA stated:

We feel the protection of the public calls for a strong and viable insolvency bill. . . .

As I said, the Commerce Committee has put much work into this proposal and has reported a good bill.

It is true that one set of statistics could be read to make the need for this bill seem less today than when the Antitrust Subcommittee first uncovered the problem.

Back in 1965, only three States had solvency plans to protect their residents when insurers went under. Today there are 23 States with such plans—plans which would not be pre-empted by the Federal fund.

However, the five States in which 40 percent of the insolvencies and more than half of the financial losses—in other words $100 million worth—have occurred still have no such plans.

Establishment of the Federal operation—at an estimated cost of four cents per $100 of premium per year—seems like a good investment to me.

Not only would we protect the consumers in the 26 States and the District of Columbia without funds, but we would have a central clearinghouse for information on insolvencies.

The hearings made clear that many of these insolvencies need not have occurred and would not have if such a central clearinghouse did exist.

As one witness put it, "many of these companies were established to go bankrupt." Time-after-time, the fly-by-night operators piled up the premiums, milked the company and moved on to another state to begin all over again.

As Miriam Ottenberg pointed out in an August 12, 1970, story in the Washington Evening Star, these were not nickel and dime operations.

One company had collected $10 million in premiums before its principals were indicted. Another allegedly milked a company of $1 million in 2 months. I remind you that that is policyholders' money—which no longer would be available to repair damage to people and property as it was intended to be. When a company goes insolvent little money is available for claims. For example, in three of Missouri's failures, court-approved claims against the companies totaled $3.4 million. But the assets available to meet those claims totaled only $271,000.

These operators were able to milk the consumer because there was no one watching or aware that the same bad apples were turning up in different States.

Mr. President, as I said, this fund would not interfere with existing State plans—in fact establishment of the Federal fund may well encourage more States to enact plans.

If an insolvency occurred, the States with plans would handle the liquidation. When it came to the payout, the money would come from the Federal fund.

Given the opportunity, I am confident that most consumers would be happy to pay a nickel or dime yearly to get the

protection the Federal Insurance Guaranty Corporation would give.

As we prepare to help the stock market investors, I plea for the same kind of protection for consumers whom we require to buy insurance but do not guarantee they will get what they paid for.

Some protection seems simple justice.

Mr. President, I ask that two articles on the subject be printed at this point in the RECORD.

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

BUSINESS INSURANCE: REGULATORY IRREGULARITIES

Illinois, notorious for its shameful record of insurance company failures, has increased its league-leading record by three with the recent folding of Prudence Mutual Casualty Co. and Freedom Insurance Co. and a request by the Illinois Insurance department that Universal Mutual Casualty Co. be placed in liquidation. The request for liquidation of Universal Mutual is the 33rd such request filed in Illinois in the past ten years, an insolvency record that far surpasses that of any other state.

Yet these insurance company insolvencies are different in the sense that all three companies were interlinked, sharing at times the same addresses and the same officers who are now accused of benefiting financially at the expense of policyholders and claimants. The failures are different, too, in the sense that they indicate regulatory irregularities on the part of past and present directors of insurance in Illinois.

Much of the insurance insolvency record in Illinois is properly placed at the administrative doorstep of former Insurance Director Joseph Gerber, who was removed from office shortly before he would have assumed the presidency of the National Assn. of Insurance Commissioners. It was during Mr. Gerber's tenure as insurance director that a number of the insolvent companies were licensed. Indeed, it is quite clear that some companies that were licensed under Mr. Gerber's regime were clearly intended to be what they call in Illinois "six-year companies," firms that are organized, collect premiums, pay handsome salaries and expense accounts, and doggedly resist claims until the court backlog catches up with them.

In the Prudence-Freedom-Universal mess, two successors to Mr. Gerber are implicated. According to a *Business Insurance* report on April 27, "Prudence Mutual was under investigation by former Illinois Insurance Director John F. Bolton at the same time that he licensed Freedom, the second high-risk company, to Mr. (Norman) Howard on Jan. 14, 1969. By October of that year Prudence had been placed in rehabilitation under Mr. Howard, who had been named a special deputy by the new insurance director, James Baylor. A state's attorney's investigator described the move as "quite unusual.'"

Defenders of Mr. Baylor's appointment of Norman Howard as a special deputy at a time that his company was under investigation by the insurance department maintain that the appointment was made because Mr. Howard is black and Mr. Baylor has a commendable concern about fostering insurance availability in the black community. But this defense hardly seems sufficient because of other regulatory irregularities.

In the course of organizing Freedom Insurance Co., Mr. Howard and his associates obtained a check for $500,000 from Responsibility Security Underwriters Inc., a firm wholly owned by Ralph Jacobson of Affton, Mo. Officials of the Missouri insurance department told *Business Insurance* that Mr. Jacobson, who registered Responsibility Security Underwriters Inc., as a "fictitious name" with the Missouri secretary of state, is a former insurance broker who had been on the Missouri department's "bad list" for a long time.

One wonders why the Illinois insurance department was not on speaking terms with the Missouri department in this instance, especially since Mr. Jacobson's check bounced after it was deposited in the Independence Bank of Chicago, whose officers failed to amend a standard audit submitted to the department confirming that Freedom had $600,000 on deposit.

It was another case of regulatory irregularity, a case in which the insurance department failed to go behind the balance sheet to question the financial soundness of a company in the hands of a group that was running another insurance company into insolvency.

There are no figures yet available to indicate what the public's loss will be from the failures of Prudence Mutual Casualty Co. and Freedom Insurance Co. as well as the indicated insolvency of Universal Mutual Casualty Co. But it is clear that claimants, both individuals and corporations, will lose substantially when financial affairs of the insolvent insurers are untangled and liquidated.

There is an unfortunate misconception of some businessmen who view insurance company insolvencies with indifference. Some misguided corporate officials labor under the mistaken impression that insurance company insolvency losses fall chiefly on the poor people who must buy the high-risk auto insurance that is typically marketed by the companies that go bankrupt. This idea is simply not true.

Losses imposed by insurance company insolvencies fall upon any individual or company who happens to have a valid claim against the bankrupt insurer. Claims of insolvent insurers are settled on a pro rata basis by liquidators appointed by state insurance commissioners. If there is only 10¢ left to settle $1 in adjudicated claims, that's what unfortunate claimants get.

The insurance industry, stung by criticism and proposals for Federal action in the insolvency area, is making frantic efforts—particularly in Illinois—to have state insolvency measures adopted that would assuage the headaches of victims of insurance company failures. We are eager to see effective action taken on the problem, whether at the Federal or state level.

However, it should be kept in mind that no form of insolvency protection can be wholly effective if regulatory irregularities continue in state insurance departments in Illinois and elsewhere. The tangled affairs of Prudence-Freedom-Universal were brought about because insurance directors in Illinois were not sufficiently concerned about the integrity of the insurance business to ask the right questions at the right time. We can no longer afford to tolerate a regulatory climate in which one state fails to check with another about guarantors and in which the president of an impaired company is given an opportunity to mishandle the management of another company. Such oversights go to the very heart of the state insurance regulatory mechanism, which is only as strong as its weakest link.

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

CON MEN, 1970 STYLE: INSURANCE SWINDLERS TYPICAL OF NEW BREED

(By Miriam Ottenberg)

A Nassau-based insurance company with neither assets nor a license to do business anywhere in the United States collected $10 million worth of insurance premiums all over this country before the principals were indicted.

A Miami crowd gained control of an Alaskan insurance company and allegedly milked it of close to $1 million in two months before one of the promoters was arrested on a charge of possessing half a million dollars worth of stolen securities.

Some Midwest promoters took over a long-established Milwaukee insurance company operating in 10 states and methodically diverted the assets until the public lost over $43 million and the company went into liquidation. The promoters were convicted but at least one of them is known to be involved now in an international bank and insurance scheme.

These swindlers are typical of today's financially hep con men.

The takeover and looting of insurance companies is a pattern now being repeated across the country as wide-ranging financial plunderers leave a trail of bankrupt insurance companies, defrauded stockholders and unpaid claims.

NATIONWIDE RAMIFICATIONS

Currently, 81 cases, many with nationwide ramifications, are being investigated by postal inspectors and 44 indictments have been obtained so far by United States Attorneys.

Chief Postal Inspector W. J. Cotter, who has assigned more inspectors to insurance frauds because of the reported increase in cases, said the situation may be worse than reports indicate.

"The usage of 'suitcase' companies chartered in the Bahamas has become so widespread and suspect that mere registration at that point may be regarded as a danger signal," he said.

"More recently, sophisticated operators have utilized English insurance companies with impressive sounding names as shells behind which to operate fraudulently in this country."

Over the past two years, Cotter reported, an increasing number of insurance companies as well as banks and other financial institutions have been swindled through the use of stolen and worthless securities.

The swindlers pledge the stolen securities with banks as collateral for large loans. When the loan isn't paid and the bank tries to convert the collateral to cash, the theft emerges.

ANOTHER GIMMICK

Another gimmick used by the crooks is to pledge stolen stocks as collateral for the issuance of paid-up life insurance policies. In turn, these policies are applied as collateral for huge loans. When the loan goes into default, the bank goes back to the insurance company which discovers belatedly that the securities it accepted were stolen.

Sometimes, an insurance company taken over by the swindlers is in on the deal. Thus, when the bank, before making the loan, calls the insurance company to make sure the policies offered as collateral are indeed fully paid up, the insurance company assures the bank that these policies are as good as gold. It's only later that the bank finds the gold is tarnished.

In many cases now being investigated by postal inspectors, insurance companies have been acquired, large insurance policies have been issued and large loans have been made on the basis of worthless promissory notes of some "charitable" foundation.

HEAVY LOSSES

Showing up often in these deals is the Baptist Foundation of America, Inc., which is not affiliated with any major Baptist group. Federal investigators have found that some of the foundation's multi-million-dollar assets are not nearly as valuable as claimed and some—including vast parcels of land—can't even be located.

Since banks have suffered heavy losses from accepting the foundation's promissory notes, they are now loath to believe the foundation's balance sheet.

The foundation's financial affairs, the misuse made of some of its notes and the ques-

tionable company it keeps are now being investigated by the Postal Inspection Service, the Securities and Exchange Commission, Internal Revenue Service, Justice Department and California's attorney general.

Approximately $600,000 worth of the foundation's notes were listed in the much-inflated assets of the Community National Life Insurance Co. of Tulsa, Okla.

That company, which issued huge insurance policies to New York mobster John Masiello and other Cosa Nostra figures, was declared insolvent and placed in receivership last year.

PAPER FORTUNE

Indicted last fall, the company's top official and fellow conspirators pleaded guilty or were convicted of conspiring to defraud several institutions through the fraudulent use of life insurance policies as collateral for loans.

In its five years of building a paper fortune, Community National gained control of other insurance companies—and left them poorer—by increasing the amount of its own stock from 100,000 to 900,000 shares and then trading the stock at rigged prices to stockholders of whatever company was to be the target of the proposed takeover.

Sometimes a promoter manages to buy an insurance company with its own assets. It's illegal but it's been done.

Four men brought the controlling stock of the Crown Insurance Co., of Huntington, W. Va., with funds obtained from bank loans. Then the loans were repaid with the insurance company's own money.

The principal promoter pleaded guilty to mail fraud charges after approximately $1 million was diverted from the company and 4,700 claims totalling $5 million went unpaid.

And sometimes as a once healthy insurance company is looted into insolvency, the players change so frequently that even with a scorecard you can't tell who's at bat.

Take the case of State Fire & Casualty Co., a Miami insurer which was taken over by a Chicago insurance company with which it merged in December 1965. The president of the Chicago company became the chairman of the Miami company until sometime in 1967 when he resigned.

ORDERED LIQUIDATED

There have since been these developments: He and a former officer were indicted last May on charges of diverting the insurance company's assets. Earlier, State Fire was ordered liquidated by a Florida Court after it found the company was insolvent by more than $8 million. And State Fire has changed hands at least three times.

For a time, State Fire was owned by a company at least partly owned by a New York associate of hoodlums recently convicted of interstate transportation of stolen securities.

Stolen securities repeatedly crop up in the investigation of insurance company takeovers.

In the case of the Miami crowd now under indictment for the alleged million-dollar milking of an Alaskan insurance company, it was the arrest of one of the principals for possessing stolen securities that triggered the postal investigation of the looted insurance company.

But the investigation didn't come soon enough for the insurance company. Like so many other insurance companies looted by the new breed of con man, this one went into receivership.

Mr. HART. Mr. President, I conclude by saying that while it is desirable that we make some effort to protect the investor who leaves his securities with the brokerage house, we should remember that there are many more millions of American consumers who have every right to look to us to provide this same measure of protection in view of the failure of casualty insurance companies.

In my book, the consumer in the latter case is much more likely to be more grievously damaged, because he, as an average American consumer, is not likely to be the kind of man or woman who leaves an investment portfolio with a security broker. Quite to the contrary, he would be hard put to find security money. His trouble is to find his insurance company, but he cannot, because it has folded.

The Senator from Texas, I am advised, filed and had printed in the RECORD the bill I have described in the form of an amendment to this bill.

Given this opportunity to bring to the attention of our colleagues the proposal of the Commerce Committee, I would hope, if not in this session, promptly in the next session they will respond to this unmet need.

I yield the floor.

NEEDED PROTECTION FOR INSURANCE POLICYHOLDERS; AN AMENDMENT TO S. 2348

Mr. YARBOROUGH. Mr. President, for many years the largest group in America without an effective lobbying force was the consumer. Now, at long last, the voice of the individual consumer, which happens to be all of us, is being heard.

Each year, every family in America spends an average of $200 for casualty and property insurance. Each family needs this type of insurance protection. But, tragically, in too many instances, when an automobile accident or fire, or some other type of casualty occurrence takes place, the policyholder finds that his insurance company is insolvent and cannot pay its obligations.

This legislation is intended to provide the same kind of protection for property, casualty, and surety insurance policyholders as is now provided to depositors in banks or saving and loan associations through the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation, respectively.

The bill would create a Federal Insurance Guaranty Agency, similar to FDIC and FSLIC, to pay off policyholders in the event of an insolvency on the part of a guaranteed company. It would be funded by a minimal assessment on guaranteed companies of one-twenty-fifth of 1 percent of yearly net direct written premiums.

All insurers doing business in interstate commerce would be required to apply for guarantee status, and all insurers certified as solvent by their State supervisory authority would be granted guarantee status. Such status could be revoked upon motion by the State supervisory authority or the Guaranty Agency with the concurrence of the State authority. Such action would be analogous to the withdrawal of the Federal meat inspection privilege and would, in effect, put a company out of business.

Basic authority for examination and regulation of insurance companies would be left with the State authorities, but the Guaranty Agency could demand reports on the financial condition of guaranteed companies. In the event of an insolvency, the Federal Agency would not become involved if the domiciliary State had an insolvency plan in effect, except to make the money available for paying the policyholder claims. If the domiciliary State had no insolvency plan, the Federal Agency would step in to liquidate the company and make payments directly to policyholders.

There is a current situation in Texas, which illustrates the need for this legislation. On August 17 of this year, two Texas insurance companies, the Dealer's National of Dallas and Liberty Universal of Fort Worth were placed in receivership and are now in the process of liquidation. Neither of these two companies had ever had particularly profitable underwriting experience.

The liquidator of the Texas companies has expressed the opinion that none of the policyholders is likely to get full settlement, and many of them may get nothing.

Mr. President, this legislation is direly needed. The consumers of America, who must protect their automobiles and property with insurance, and who must have the right to collect their just damages against the liability carrier on an automobile which causes them injury, must not be left holding the bag by fly-by-night, underfinanced insurance companies. This legislation will not only provide them with protection in the company-insolvent situation, but will have the effect of policing the insurance industry so that companies which are destined for insolvency can be eliminated from the market before insolvency occurs.

Mr. President, I send to the desk an amendment and ask that it be printed in full in the RECORD.

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

On page 31, line 12, immediately after the word "Investor", insert the words "and Insurance Policyholder".

On page 31, between lines 13 and 14, insert the following title caption:

"TITLE I—SECURITIES INVESTOR PROTECTION"

On page 31, line 14, strike out "Sec. 2", and insert in lieu thereof "Sec. 101".

On page 72, line 18, strike out "Sec. 3," and insert in lieu thereof "Sec. 102".

On page 72, line 18, strike out "Sec. 3", and insert in lieu thereof "Sec. 103"; and on lines 8 and 9 substitute the word "title" for the word "Act".

TITLE II—INSURANCE POLICYHOLDER PROTECTION

At the appropriate place at the end of the bill insert the following new title:

DEFINITIONS

SEC. 201. As used in this Act—

(1) The term "insurer" means any enterprise engaged in the business of issuing insurance policies in interstate commerce or engaged in the business of issuing policies which are reinsured (in whole or in part) in interstate commerce.

(2) The term "local insurer" means any enterprise engaged in the business of issuing insurance policies solely within one State.

(3) The term "participating insurer" means any enterprise whose property, casualty, or surety insurance policies are guaranteed under this Act.

(4) The term "policy" means (a) any contract of direct property, casualty, or surety insurance, including any endorsements thereto and without regard to the nature or

form of the contract or endorsements, insuring against legal liability and/or loss contingencies, other than those provided for by life, title, disability, mortgage guaranty, and ocean marine insurance; (b) any agreement written by the insurer or reinsurer in favor of a self-insurer; or (c) any agreement written by an insurer or reinsurer in favor of another insurer assuming 100 per centum of all obligations of the ceding insurer.

(5) The term "policy required to be guaranteed" means: (a) any policy insuring against legal liability, loss contingencies, or both, issued by any insurer (or its agent) to any named insured (including any individual, partnership, association, or corporation) residing in any State or having a principal place of business in any State; or (b) any policy issued by any insurer insuring property of a named insured which property has permanent situs in any state at the time the policy is issued.

(6) The term "net direct premiums written" means direct gross premiums written on policies required to be guaranteed under this Act less return premiums thereon and dividends paid to policyholders on such direct business.

(7) The term "policyholder claim" means (a) a claim of a policyholder claimant or insured or his assignee within the coverage of a policy, arising out of an occurrence wherein such policyholder claimant or insured suffered damage or is subject to liability for damages within the coverage of the policy; or (b) a claim by a policyholder or insured for return premium arising out of the termination of the policy by reason of insolvency; or (c) a claim by any person having a claim against his insurer under any insolvency protection provision which claim arises out of the insolvency of a participating insurer; or (d) a claim of a participating insurer operating under a State insolvency plan for expenses incurred in connection with the review and evaluation of the validity of a claim of a policyholder, claimant, or insured.

(8) The term "Administrator" means the Administrator of the Federal Insurance Guaranty Agency (hereinafter referred to as the "Agency").

(9) The term "Fund" means the Federal Insurance Guaranty Fund as described in section 9(b).

(10) The term "interstate commence" means trade or commerce among the several States, or between the District of Columbia or any possession of the United States and any State or other possession, or within the District of Columbia.

(11) The term "State" means any State, any possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands;

(12) The term "State supervisory authority" means the agency or individual of the State of domicile of the insurer having responsibility for regulating the business of insurance within that State: *Provided*, That in the case of an insurer organized under the laws of a foreign country, the term "State supervisory authority" means the agency or individual of the jurisdiction where such insurer is organized having responsibility for regulating the business of insurance within such jurisdiction.

(13) The term "State insolvency plan" means legislative and administrative action by the State supervisory authority and the legislative body designed to prevent insolvencies, and, to facilitate indemnification of policyholders and claimants when an insolvency occurs, including but not limited to ensuring of the availability of sound assets of participating insurers, the availability of summary proceedings, the efficient marshaling of assets, the recovery of improperly transferred assets, the prompt notification of policyholders and persons with claims against policyholders as to the pendency of liquidation proceedings, and the participation of insurers doing business in the State in reviewing and evaluating the validity of policyholder claims. The State supervisory authority shall certify to the Administrator that the State has a State insolvency plan.

(14) The term "operating expenses" includes all administrative expenses of the Agency, including salaries, office supplies, and other incidental business expenses but does not include: (a) allocated and unallocated claim and loss expenses arising from payment of policyholder claims, or (b) interest on any Treasury loans (but does include payment of interest on capital stock advanced).

CREATION OF AGENCY

SEC. 202. There is hereby created a Federal Insurance Guaranty Agency which shall guarantee, as hereafter provided, the contractual performance of participating insurers and which, in connection therewith, shall have the powers hereinafter granted.

MANAGEMENT

SEC. 203. (a) ADMINISTRATOR.—The management of the Agency shall be vested in an Administrator appointed by the President, by and with the advice and consent of the Senate. The Administrator shall hold office for a term of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the person whom he shall succeed: Provided, however, That upon the expiration of his term of office the Administrator shall continue to serve until his successor shall have been appointed and shall have qualified. The Administrator shall be ineligible during the time he is in office and for two years thereafter to hold any office, position, or employment in any participating insurer; and he shall not be an officer or director of any participating insurer or hold stock in any participating insurer; and before entering upon his duties as Administrator he shall certify under oath that he has complied with this requirement and filed such certification with the Agency.

(b)(1) There is hereby established an Advisory Committee consisting of eleven members appointed by the Administrator. Of the members of the Committee, one shall be the Special Assistant to the President on Consumer Affairs, four shall be selected from among representatives of the private insurance industry (including one representative of the reinsurance industry), four shall be representatives of State insurance authorities, and two shall be consumer representatives of the general public.

(2) The Administrator shall designate a Chairman and a Vice Chairman of the Committee.

(3) Each member shall serve for a term of two years or until his successor has been appointed, except that no person who is appointed while a full-time employee of a State or the Federal Government shall serve in such position after he ceases to be so employed, unless he is reappointed.

(4) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

(5) The Chairman shall preside at all meetings, and the Vice Chairman shall preside in the absence or disability of the Chairman. In the absence of both the Chairman and Vice Chairman, the Administrator may appoint any member to act as Chairman pro tempore. The Committee shall meet at such times and places as it or the Administrator may fix and determine, but shall hold at least four regularly scheduled meetings a year. Special meetings may be held at the call of the Chairman or any three members of the Committee, or at the call of the Administrator. A majority of the members shall constitute a quorum for the transaction of business.

(6) The Committee shall review general policies of the Agency and advise the Administrator with respect thereto, assist in obtaining the cooperation of insurers, industry groups, and Federal and State agencies, consult with and make recommendations to the Administrator with respect to carrying out the purposes of this Act, and perform such other functions as the Administrator may, from time to time, assign. The written reports and recommendations of the Committee shall be made available by the Administrator to the public.

(7) The members of the Committee shall not, by reason of such membership, be deemed to be employees of the United States, and such members, except the one who is a regular full-time employee of the Government, shall receive for their services, as members, the per diem equivalent to the rate for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, when engaged in the performance of their duties, and each member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title for persons in the Government service employed intermittently.

POWERS

SEC. 204. (a) Upon the date of enactment of this Act, the Agency shall have power—

(1) to make contracts, and execute all instruments necessary and appropriate in the exercise of its powers;

(2) to sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Agency shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof without regard to the amount of controversy; and the Agency may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect. No attachment or execution shall be issued against the Agency or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court. The Administrator shall designate an agent upon whom service of process may be made in any State, territory, or jurisdiction in which any participating insurer does business;

(3) to appoint through the Administrator such officers, employees, attorneys, agents, adjusters, and other persons as may be necessary for the performance of its duties, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. Nothing in this Act or any other act shall be construed to prevent the appointment and compensation as an officer or employee of the Agency of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof;

(4) to prescribe through its Administrator rules not inconsistent with law, regulating the manner in which its general business may be conducted and the privileges granted to it by law may be exercised and enjoyed;

(5) to exercise by its Administrator, or duly authorized officers or agents, all powers specifically granted by the provisions of this Act, and such incidental powers as shall be necessary to carry out the powers so granted;

(6) to require information and reports from any participating insurer;

(7) to report to State supervisory authorities on matters affecting the solvency of participating insurers; and

(8) to prescribe by its Administrator such rules and regulation as it may deem necessary to carry out the provisions of this title.

(b) No individual, association, partnership, or corporation, other than the Agency, shall hereafter use the words "Federal Insurance Guaranty Agency" or any combination of such words, as the name or part thereof under which he or it shall do business. Any violation of this subsection shall be punishable by a fine of not exceeding $1,000 for each day during which such violation is committed. This subsection shall not make unlawful the use of any name or title which was lawful on the date of enactment of this Act.

ADMINISTRATION

SEC. 205. (a) The Administrator shall administer the affairs of the Agency fairly and impartially and without discrimination. The Administrator shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid within the limitations imposed by this Act. The Agency, with the consent of the head of any department or agency of the Federal Government, or of any State government, may avail itself of the use of information, services, and facilities thereof in carrying out the provisions of this Act.

(b) APPLICATION FOR GUARANTY STATUS.—Each insurer shall, and each local insurer may, make application to the Agency for guaranty status under this Act. Such application shall be in such form and contain such information as the Agency shall by regulation prescribe.

(c) GRANTING OF GUARANTY STATUS; CERTIFICATION OR REFUSAL THEREOF.—

(1) The Administrator shall grant any insurer or local insurer properly making application guaranty status for six months.

(2) Within six months of the initial granting of guaranty status each participating insurer must obtain certification of its solvency from its State supervisory authority.

(3) If the State supervisory atuhority certifies the solvency of the participating insurer, the Agency shall retain said participating insurer on guaranty status. If the State supervisory authority refuses to certify the solvency of any participating insurer, the Agency shall treat the refusal as if it were a recommendation for revocation under paragraph (1) of subsection (e) of this section.

(4) In the case of an insurer organized under the laws of a foreign country, the Agency may also require certification of a State supervisory authority of a State in which the insurer is licensed or is an approved surplus line insurer.

(d) REPORTS TO THE AGENCY.—Each participating insurer shall make to the Agency reports of condition which shall be in such form, at such time, and shall contain such information as the Administrator may reasonably require by rules promulgated in accordance with section 553 of title 5 of the United States Code. The Administrator may require reports of condition to be published in such manner, not inconsistent with any applicable law, as he may direct. Every participating insurer which fails to make or publish any such report within ten days of its due date shall be subject to a penalty of not more than $1,000 for each day of such failure, which penalty shall be recoverable by the Agency for its use.

(e) REVOCATION OF GUARANTY STATUS.—Any participating insurer may have its guaranty status revoked if its State supervisory authority so recommends or if the State supervisory authority concurs in a motion of revocation made by the Agency. The Agency shall give any participating insurer who has attained guaranty status thirty days written notice of intention to terminate its guaranty status and opportunity to correct the deficiencies of its operation which are stated in that notice as grounds for termination. Any participating insurer, prior to termination, shall upon request be granted an opportunity for a hearing which shall be conducted in accord with the provisions hereinafter provided.

(f) HEARINGS AND JUDICIAL REVIEW.—

(1) Any hearings provided for in this Act shall be held in the Federal judicial district or in the territory in which the principal officer of the insurer is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code. Such hearing shall be public, unless the Agency, in its discretion, after fully considering the views of the party afforded the hearing, determines that a private hearing is necessary to protect the public interest. After such hearing, and within ninety days after the Agency has notified the parties that the case has been submitted to it for final decision, the Agency shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and cause to be served upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection. Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in paragraph (2) of this subsection, and thereafter until the record in the proceeding has been filed as so provided, the Agency may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Agency may modify, terminate, or set aside any such order with permission of the court.

(2) Any party to the proceeding may obtain a review of any order by filing in the court of appeals of the United States for the circuit in which the principal office of the insurer is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the Agency be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Agency and thereupon the Agency shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall, except as provided in the last sentence of said paragraph (1), be exclusive, to affirm, modify, or set aside, in whole or in part, the order of the Agency. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28 of the United States Code.

(3) The commencement of proceedings for judicial review under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Agency.

PENALTIES

SEC. 206. (a) Any insurer (other than a local insurer) issuing any insurance policy which is required to be but is not guaranteed under this Act shall forfeit to the United States a sum of not more than $1,000 for each and every day that such policy is in effect and is not guaranteed under this Act. Such forfeiture shall be payable to the Agency for its use. The Agency is authorized to collect any unsatisfied forfeiture claim from the directors and officers of the insurer individually. This subsection shall take effect upon the expiration of one year after the effective date of this Act.

(b) Whoever falsely advertises or otherwise misrepresents by any device whatsoever that any insurance policy is guaranteed by the Federal Insurance Guaranty Agency, or by the Government of the United States, or by any instrumentality thereof, shall be fined not more than $1,000, or imprisoned not more than one year, or both.

PAYMENT OF GUARANTY

SEC. 207. (a) PAYMENT OF POLICYHOLDER CLAIMS AGAINST PARTICIPATING INSURERS WHICH ARISE IN A STATE WHICH HAS A STATE INSOLVENCY PLAN.—

(1) The liquidator appointed by the State supervisory authority or other appropriate authority shall present as soon as practicable, and at periodic intervals, the policyholder claims against any participating insurer which have been finally determined administratively or judicially under applicable State law to be valid in a fixed amount.

(2) The Agency shall pay such claims to the liquidator as quickly as possible in order to provide the public the insurance protection that would have been available but for the liquidation.

(b) PAYMENT OF POLICYHOLDER CLAIMS AGAINST PARTICIPATING INSURERS WHICH ARISE IN A STATE WHICH DOES NOT HAVE A STATE INSOLVENCY PLAN.—Whenever any participating insurer is placed in liquidation the Agency shall pay all policyholder claims in the following manner:

(1) The liquidator appointed by the State supervisory authority shall present as quickly as practicable such claims to the Agency which is authorized to investigate, examine, adjust, compromise, or settle any such claim.

(2) The Agency shall investigate, examine, adjust, compromise, or settle such claims as quickly as possible in order to provide the public the insurance protection that would have been available but for the liquidation.

(3) The Agency shall present the liquidator with a complete report of the disposition of such claims and itemize the payout by the Agency.

(4) The Agency is authorized to defend any action pending or brought against the policyholder or the insured for an insurable event occurring before or fifteen days after the date of issuance of the liquidation order.

(c) (1) The Agency shall be entitled to any valid claim against the liquidator up to an amount equal to the liabilities of such insurer paid by the Agency. Payment of such claim shall follow the normal order of distribution of the liquidation laws of the State.

(2) If the policyholder claims paid by the Agency arise in a State which has a fund created by a pre-insolvency assessment mechanism, the Agency shall be reimbursed for its payments to the extent there are funds available.

(d) When the Agency is aware that a participating insurer is in danger of becoming insolvent, in order to prevent such insolvency the Agency, in the discretion of the Administrator, is authorized to make loans to such insurer upon such terms and conditions as the Administrator, in consultation with the State supervisory authority, may prescribe.

(e) Any person (including any individual, partnership, association, or corporation) having a claim against his insurer under any insolvency protection provision contained in his insurance policy, which claim arises out of the insolvency of a participating insurer, may file a claim with the liquidator for the total amount of the alleged loss without first proceeding against the insurer. If any person having a claim against his insurer under any insolvency protection provision contained in his insurance policy first proceeds against the liquidator, the Agency is subrogated to the rights of that person against his insurer. If any person first proceeds against his insurer, any valid claim against the liquidator will be reduced by the amount

recovered from his insurer under any insolvency protection provision contained in his insurance policy.

(f) When a participating insurer who has issued assessable policies is liquidated, the Agency shall exercise discretion when claiming against the assets of the liquidated insurer in order to avoid, so far as possible, the imposition of unreasonable assessments on policyholders who were unaware of the assessment exposure.

FINANCING

SEC. 208. (a) ADVANCEMENT.—The Agency shall have an advancement in the form of capital stock of $10,000,000 which shall be divided into shares of $1,000 each. The total amount of such capital stock shall be subscribed to by the Secretary of the Treasury. For the purpose of making payments for such stock the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purpose for which securities may be issued under such Act are extended to include such purchases. The Agency shall make annual payments to the Secretary of the Treasury as interest on the amounts advanced to the Agency on stock subscription, from the time of such advance until the amounts thereof are repaid, at a rate determined annually by the Secretary of the Treasury, taking into consideration the current average market yields on outstanding marketable obligations of the United States.

(b) GUARANTY FUND.—

(1) Funds obtained by the Agency from the sale of capital stock, as provided in subsection (a) of this section, and from guaranty fees collected pursuant to subsection (c) of this section shall be deposited in the guaranty fund which is hereby established. The fund shall be held by the Agency and used by it for carrying out its guaranty functions under this Act, and for operating expenses arising in connection therewith not to exceed $3,500,000 per year.

(2) Whenever after retirement of the outstanding Treasury shares issued pursuant to subsection (a) of this section the net asset value of the fund exceeds one-eighth of 1 per centum of the annual net direct premiums written by all participating insurers, the Agency shall waive the requirements for fees as herein stated: *Provided*, That such requirement shall be reinstated whenever the net asset value of such fund is less than one-eighth of 1 per centum of the annual net direct premiums written by all participating insurers: *Provided further*, That no distribution or rebate shall be made by reason of the fact that the total amount in fees collected by the Agency at any time exceeds one-eighth of 1 per centum of such annual direct written premiums. In determining net asset value for the purposes of this paragraph, the Administrator shall include estimated liabilities that may be chargeable to such fund.

(3) The Agency shall retire as rapidly as practicable, having due regard to the need to maintain at all times the solvency of the fund, the capital stock of the Agency which is held by the Treasury.

(4) In the event that the Congress should repeal this Act, any moneys remaining in such fund at that time, after redemption of any outstanding capital stock, repayment of any outstanding loans from the Treasury under subsection (d) of this section and discharge of all expenses and obligations under this Act, shall be returned to the participating insurers pro rata in accordance with the guaranty fees they have paid into the fund.

(5) In the event that the Congress should reduce the size of the fund specified in subsection (b) of this section, any excess in the fund above the new statutory limit shall be returned to the participating insurers pro rata in accordance with the guaranty fees they have paid into the fund.

(c) ASSESSMENTS.—

(1) National annual assessments—

(i) Each calendar year following the year in which the application of a participating insurer was certified, such participating insurer shall pay to the Agency a guaranty fee. This fee, which shall be equal to one twenty-fifth of 1 per centum of the net direct premiums written on policies required to be guaranteed by the participating insurer during the year, shall be assessed annually based on net direct premiums written during the period January 1 through December 31.

(ii) On or before the last day of the first month following the above-mentioned period, each participating insurer shall file with the Agency a certified statement showing the net direct premiums written by such insurer during that period. In the event that accurate information is not available at that time, an estimate may be filed: *Provided, however*, That a final certified statement must be filed not later than sixty days from the last day of the reporting period.

(iii) The certified statements required to be filed with the Agency under subparagraph (ii) of this paragraph shall be in such form and set forth such supporting information as the Administrator shall prescribe and shall be certified by the president of the insurer or any other officer designated by its board of directors to be, to the best of his knowledge and belief, true, correct, and complete and in accordance with this Act and regulations issued thereunder. The assessment payments required from participating insurers under subparagraph (i) of this paragraph shall be made in such manner and at such time or times as the Administrator shall prescribe, provided the time or times so prescribed shall not be later than sixty days after filing the certified statement setting forth the amount of assessment.

(iv) Except as otherwise provided in this subsection, the Administrator shall prescribe all needful rules and regulations for the enforcement of this subsection. The Administrator may limit the retroactive effect, if any, of its rules or regulations.

(v) The Agency may (1) refund to a participating insurer any payment of assessment in excess of the amount due to the Agency, or (2) credit such excess toward the payment of the assessment next becoming due from such insurer and upon succeeding assessments until the credit is exhausted.

(vi) Any participating insurer which fails to make any report of condition under subsection (d) of section 6 of this Act or to file any certified statement required to be filed by it in connection with determining the amount of any assessment payable by the insurer to the Agency may be compelled to make such report or file such statement by mandatory injunction or other appropriate remedy in a suit brought for such purpose by the Agency against the insurer and any officer or officers thereof in any court of the United States of competent jurisdiction in the district or territory in which such insurer is located.

(vii) The Agency, in a suit brought at law or in equity in any court of competent jurisdiction, shall be entitled to recover from any participating insurer the amount of any unpaid assessment lawfully payable by such insurer to the Agency whether or not such insurer shall have made any such report of condition under subsection (d) of section 6 of this Act or filed any such certified statement and whether or not suit shall have been brought to compel the insurer to make any such report or file any such statement. No action or proceeding shall be brought for the recovery of any assessment due to the Agency, or for the recovery of any amount paid to the Agency in excess of the amount due to it, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except where the participating insurer has made or filed with the Agency a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of assessment, in which case the claim shall not be deemed to have accrued until the discovery by the Agency that the certified statement is false or fraudulent.

(viii) Should any participating insurer fail to make any report of condition under subsection (d) of section 6 of this Act or to file any certified statement required to be filed by such insurer under any provision of this section, or fail to pay any assessment required to be paid by such insurer under any provision of this Act, and should the insurer not correct such failure within thirty days after written notice has been given by the Agency to an officer of the insurer, citing this subparagraph, and stating that the insurer has failed to file or pay as required by law, all the rights, privileges, and franchises of the insurer granted to it under this Act shall be thereby forfeited. Whether or not the penalty provided in this subparagraph has been incurred shall be determined and adjudged after hearing in the manner provided in section 6(f) of this Act. The remedies provided in this subparagraph and in the two preceding subparagraphs shall not be construed as limiting any other remedies against any participating insurer, but shall be in addition thereto.

(ix) Any participating insurer which willfully fails or refuses to file any certified statement or pay any assessment required under this Act shall be subject to a penalty of not more than $1,000 for each day that such violations continue, which penalty the Agency may recover for its own use.

(2) Post-insolvency assessments—

(i) Whenever the Agency has advanced funds in excess of those available from the sale of its capital stock and collected guaranty fees in order to perform its guaranty function under this Act and has not recovered said funds (including any interest due because of such advancement) from the assets of the insurer upon final liquidation, then the Agency shall seek recovery of said funds by making a national post-insolvency assessment not to exceed one-eighth of 1 per centum of the net direct written premiums annually in accordance with procedures detailed in paragraph (1) of this subsection.

(3) Nothing in this Act shall be construed to deny the several States the right to levy taxes or require license fees for insurers doing business within their jurisdiction: *Provided, however*, That no participating insurer shall be required to pay any pre- or post-insolvency assessment or fee under any State insurers insolvency or liability security fund law which guaranty insurance policies of that insurer that are guaranteed pursuant to this Act.

(d) TREASURY LOANS.—The Agency is authorized to borrow from the Treasury, and the Secretary of the Treasury is authorized and directed to loan to the Agency on such terms as may be agreed to by the Agency and the Secretary such funds in the judgment of the Administrator of the Agency is from time to time required for insurance purposes, not exceeding in the aggregate $100,000,000 outstanding at any one time, or such further sum as the Congress, by joint resolution, may from time to time determine: *Provided*, That each loan made pursuant to this subsection shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of such loans. For such purpose the Secretary of the Treasury is authorized to use a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the pur-

poses for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include such loans. Any such loan shall be used by the Agency solely in carrying out its functions with respect to such insurance. All loans and repayments under this subsection shall be treated as public debt transactions of the United States.

AGENCY MONEYS; INVESTMENT

SEC. 209. Money of the Agency not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States: *Provided*, That the Agency shall not sell or purchase any such obligations for its own account and in its own right and interest, at any one time aggregating in excess of $100,000 without the approval of the Secretary of the Treasury: And provided further, That the Secretary of the Treasury may waive the requirement of his approval with respect to any transaction or classes of transactions subject to the provisions of this section for such period of time and under such conditions as he may determine.

EXEMPTION FROM TAXATION

SEC. 210. All notes, debentures, bonds, or other such obligations issued by the Agency shall be exempt, both as to principal and interest, from all taxation (except estate and inheritance taxes) now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority: *Provided*, That interest upon or any income from any such obligations and gain from the sale or other disposition of such obligations shall not have any exemption, as such, and loss from the sale or other disposition of such obligations shall not have any special treatment, as such, under the Internal Revenue Code, or laws amendatory or supplementary thereof. The Agency, including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Agency shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other property is taxed.

FORMS OF OBLIGATIONS

SEC. 211. In order that the Agency may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this Act, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Agency, to be held in the Treasury subject to delivery, upon order of the Agency. The engraved plates, dies, bed pieces, and other material executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Agency shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other such obligations.

REPORTS; AUDITS

SEC. 212. (a) The Agency shall annually make a report of its operations to the Congress as soon as practicable after the 1st day of January in each year. Such report shall include a statement with respect to the status and scope of the fund established pursuant to section 9, together with such recommendations concerning its adequacy or inadequacy as the Agency deems necessary or desirable.

(b) The financial transactions of the Agency shall be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Agency are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Agency pertaining to its financial and other operations and determined necessary by the Comptroller General to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Agency shall remain in possession and custody of the Agency.

(c) The fiscal year of the Agency shall be the calendar year. A report of the audit for each calendar year shall be made by the Comptroller General to the Congress not later than July 15 following the close of the calendar year. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President and to the Agency at the time submitted to the Congress.

GOVERNMENT CORPORATION CONTROL ACT

SEC. 213. (a) Section 101 of the Government Corporation Control Act, as amended (31 U.S.C. 846), is amended by adding after "Federal Housing Administration", the following: "Federal Insurance Guaranty Agency".

(b) To the extent of any inconsistency between the provisions of this Act and the provisions of the Government Corporation Control Act, the provisions of this Act shall govern.

SEPARABILITY CLAUSE

SEC. 214. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

Amend the title so as to read: "A bill to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges, and to provide greater protection to insure policyholders and claimants."

Mr. MOSS. Mr. President, the Senator from Texas (Mr. YARBOROUGH) has submitted an amendment and discussed the need for protection for insurance policyholders and discussed recent insolvencies in his own State of Texas. I should like to join in the remarks of the Senator from Texas and to point out a similar situation that exists in my State of Utah. Two recent occurrences involving my own State have underscored the urgency of this matter for me.

The first concerns the insolvency of one of the companies alluded to by the Senator from Texas (Mr. YARBOROUGH). I recently received a letter from a lady in Salt Lake City detailing the unfortunate experience of her son with Liberty Universal Insurance Co. of Fort Worth, Tex.

He is an enlisted man in the U.S. Navy, stationed at Portsmouth, N.H. After 2½ years, he finally managed to save enough money from his Navy salary to make the down payment on a new car, but then experienced difficulty in obtaining insurance in New Hampshire. However, on August 2 of this year his mother obtained coverage for him from Liberty Universal, through an agent in Salt Lake City. On August 5, his new car was stolen and has not been recovered. On August 17, Liberty Universal was declared insolvent, and is in process of liquidation.

Because of the serious depletion of this company's assets and its heavy investment in Dealers National Insurance Co., which was declared insolvent at the same time, it seems highly unlikely that this young man will receive more than a token settlement, if that. Neither Texas nor Utah have an insurance insolvency law, and although the State of New Hampshire, of which this young man is an involuntary resident, does have such a law, it will not cover his situation because Liberty Universal was not authorized to do business in the State.

As a result, this young man, who is serving his country well has lost his downpayment, his car, and his insurance premium. All he has left is the monthly payments which he must make on an enlisted man's pay. It is indeed a sad and shameful situation. And I am certain that there are others who are even worse off—perhaps widowed or permanently disabled.

The second situation which prompted me to speak out on this matter concerns the current financial difficulty of Federated Security Life Insurance Co. of Salt Lake City. This company is now undergoing a rehabilitation procedure because its assets have been diverted and depleted to such an extent that its solvency and the policyholders' equity are seriously threatened.

Federated Security was founded as a mutual benefit association by local interests in Salt Lake City, Utah, in 1950 and was converted to a stock company in 1951.

In 1965, a 58-percent controlling interest was acquired by Oregon National Life Insurance Co., which had been formed in Portland the preceding year. During 1967 and 1968, Oregon National's interest, which was held through a holding company, Trans National Service Corp., was increased to 93.3 percent through an exchange of stock. However, the two companies continued to be operated as separate entities. On July 30, 1969, Trans National Service Corp., the Oregon national holding company, sold its stock interest in Federated Security to Kaymac Industries, a Dallas, Tex., holding company, for approximately $3.5 million. At the time it was sold, Federated had approximately $10 million in assets and apparently was in no serious difficulty. However, the new management has diverted over $6 million of Federated's assets to the Kaymac holding company and used the proceeds to purchase interests in various other enterprises.

The company apparently has about $3.5 million in remaining assets. Although Kaymac is still the owner of record, the matter is now in the hands of the Utah courts. The State insurance commissioner hopes to complete a rehabilitation plan within the next few weeks to provide for the acquisition of

Federated by a sound insurance company.

Whether or not such a plan can be worked out and will succeed in salvaging the company, remains to be seen. In the meantime, policyholders are continuing to pay premiums, but death benefits are being held up. As I noted previously, Utah has no insurance insolvency law to protect policyholders should the rehabilitation plan fail and the company become insolvent.

During 1969, Kaymac also obtained approximately 86 percent of the common stock of Transwestern Life Insurance Co. of Billings, Mont. After the acquisition, the management of this company passed into the hands of the same individuals who brought Federated Security to its present sad state. Whether or not Transwestern will suffer a similar fate remains to be seen. However, if the past is any guide, it appears quite likely that it will.

Mr. President, I think it is high time that the Congress put a stop to the kinds of situations I have just described and which are occuring with increasing frequency, by enacting the Federal Insurance Guaranty Agency Act.

This bill was considered in the Committee on Commerce and was ordered reported by that committee. I ask unanimous consent that the report accompanying S. 2236 be placed on the desk of each Senator so that Senators may have an opportunity to acquaint themselves with the problems at which the proposed legislation is directed.

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

Mr. HARTKE. Mr. President, I am fully cognizant of the need to insure investors against potential financial disaster in the form of broker-dealer failures.

It is for much the same reason that I support legislation to provide similar protection against insurance company insolvencies. Even more than the lure of Wall Street, insurance has become a vital part of everyday life for all Americans. Protection against insurance company insolvencies in needed to maintain public confidence in the integrity and reliability of the private insurance mechanism.

At least 143 property and casualty insurance companies have become insolvent in the past 12 years. More than 1 million Americans have suffered direct financial loss totaling more than $200 million from these insolvencies. Under the pressures of the current recession, the rate of insurance company insolvencies may be increasing. We know of eight insolvencies just in the last year—more may be reported in the future.

In addition to those who suffer directly from insurance company bankruptcies, many more suffer indirect consequences. In the same 12-year period that a million Americans suffered $200 million in direct losses, an additional one-half million policyholders had to pay out more than $60 million to bail out mutual insurance funds to which they had belonged.

It is also no secret that insurance company insolvencies victimize those Americans least able to pay. Insolvencies are particularly frequent among companies which insure low-income city dwellers. Ironically, these are the people who pay most dearly on what is commonly held to be a high-risk market. The victimization of low-income people is aggravated by the tendency of large insurance companies to cancel and refuse to renew high-risk policies. High-risk insurance is thus ushered into the hands of less reputable, and financially less durable companies.

The simple fact is that more people have suffered and will continue to suffer from insurance-company insolvencies than from broker-dealer bankruptcies. Millions of Americans have invested an important part of their future in our private insurance system. Now we have an opportunity to bolster their confidence in that system and the security they gain from participating in it.

A Federal Insurance Guarantee Corporation would indemnify the otherwise helpless victims of insurance insolvencies. It would also aid States in their efforts to prevent insolvencies through adequate regulation of their dealings.

Recently some States have begun to protect their citizens against insolvencies by improving statutes. But these efforts have been frustrated by the interstate and international nature of the insurance industry. State efforts to indemnify the claimants of insolvent companies are similarly hampered.

In the five States—including my home State of Indiana—where the most insolvencies occur, there is no insolvency protection whatsoever.

The need for the type of legislation we are speaking of today was most shockingly illustrated in Indiana this summer. The events bringing insolvency to the Wabash Fire & Casualty Co. provide a classic example of the way inadequate legislation, inattentive public officials, and unethical business practices can combine to cheat the public.

The Wabash Fire & Casualty case is also instructive of the way in which millions of Americans have been cheated and threatened with financial disaster in this most vital area of American life. I would like to take a few moments to bring the salient facts of the Wabash insolvency to the attention of my colleagues.

This company was taken over by individuals from outside the State in 1965. One of the men who was made responsible for the company's operations had previously been associated in two enterprises with an individual who has been indicted and convicted for grand theft involving the acquisition of another insurance company and depletion of its assets.

The new management moved the company's headquarters to another State and embarked on a totally new underwriting policy limiting its policies to substandard, high risk, automobile and residential fire coverage, a policy which soon led to severe deterioration of the company's underwriting position.

Concurrently, through the use of a holding company device, the new management began to manipulate the insurance company's assets to the financial benefit of the holding company. For example, the holding company, Wabash Consolidated Corp., "purchased" from Wabash Fire & Casualty a large block of stock in Eagle Savings and Loan Association of Cincinnati. This stock had constituted 44 percent of the company's total assets. The "purchase" price of almost $2,990,000 was supposedly equivalent to the insurance company's original purchase price plus acquisition costs. However, the valuation placed on this stock, in Best's insurance reports, was over $3,810,000, a difference of some $820,000, in favor of the holding company. Moreover, the insurance company received no cash for the stock—just the holding company's 5-year second trust note, with no principal payments due until maturity. Thus the whole transaction was a paper one.

The holding company merged Eagle with another savings and loan it had acquired for $2,805,000 and just over a year later sold the merged company for almost $12,263,000, netting a total profit of some $6,468,000 on the entire transaction.

In some further swapping of assets between the holding company and the insurance company, the latter received a company known as Middletown East Developing Corp. The Development Corp.'s commercially zoned property was reportedly appraised at $990,000. Shortly thereafter, in May 1970, the holding company sold Wabash Fire & Casualty to Midwest Financial Corp., ostensibly for $1,000,000. Under the terms of sale Midwest Financial was to pay $10,000 in cash and reconvey title to Middletown East Development Corp. to Wabash Consolidated Corp. within 2 years. In this manner an additional $990,000 of the insurance company's assets would be diverted to the holding company.

Finally, on August 25, 1970, the Indiana commissioner of insurance obtained a court order enjoining further transactions under the agreement between Wabash Consolidated Corp. and Midwest Financial Corp. and placed Wabash Fire & Casualty Co. in liquidation. According to Best's insurance reports, the last time the Indiana Insurance Department had previously examined the company's affairs was December 31, 1965, just after it changed hands.

The Senate Committee on Commerce has made several unsuccessful attempts to find out from the Indiana insurance commissioner, Mr. Oscar Ritz, how many Indiana citizens will be left without insurance coverage as a result of this insolvency and how much money they stand to lose. When the last such inquiry was made, on October 9, the commissioner stated that such information would have to be obtained from the liquidator he had appointed, who happens to be the deputy commissioner of insurance, Mr. Robert Matthews. However, an attempt to telephone Mr. Matthews was unsuccessful, because his business telephone number is unpublished and was therefore not available even to the telephone operator.

As I said earlier, the Wabash Fire & Casualty insolvency is a classic example of the way in which American consumers are being betrayed by certain sly businessmen and inattentive public officials. It is even more disturbing to note that the same individuals who brought Wabash Fire & Casualty to its present sad state have also acquired control of two other Indiana insurance companies, Indiana Bonding & Surety Co. and Asso-

ciates Life Insurance Co., both of Indianapolis.

The demise of the Wabash Fire & Casualty Co. is just one example—albeit a shocking one—of the need to protect the American consumer from insurance company insolvencies.

This protection should emphasize prevention and indemnity. Incidents like the Wabash insolvency can be prevented by helping States to improve their regulatory mechanisms and by monitoring certain interstate transactions of insurance companies.

The indemnity is needed to restore public confidence in the insurance industry as well as to prevent personal tragedies in cases where we fail to prevent insolvencies. Even if Indiana's insurance commissioner and his appointee, the liquidator, do discover the extent of loss to Indiana citizens, they will not be easily consoled. For Indiana is one of the States which offer no protection to policyholders.

This is the type of tragedy which can be prevented. Legislation to protect policyholders against insurance insolvencies affords an opportunity to build new confidence in a vital area of concern to millions of Americans.

Mr. MOSS. 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.

POISON PREVENTION PACKAGING ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2162.

The PRESIDING OFFICER (Mr. JORDAN of Idaho) laid before the Senate the amendment of the House of Representatives to the bill (S. 2162) to provide for special packaging to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting household substances, and for other purposes, which was to strike out all after the enacting clause, and insert:

SECTION 1. This Act may be cited as the "Poison Prevention Packaging Act of 1970".

SEC. 2. For the purpose of this Act—

(1) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(2) The term "household substance" means any substance which is customarily produced or distributed for sale for consumption or use, or customarily stored, by individuals in or about the household and which is—

(A) a hazardous substance as that term is defined in section 2(f) of the Federal Hazardous Substances Act (15 U.S.C. 1261(f));

(B) an economic poison as that term is defined in section 2a of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135(a));

(C) a food, drug, or cosmetic as those terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); or

(D) a substance intended for use as fuel when stored in a portable container and used in the heating, cooking, or refrigeration system of a house.

(3) The term "package" means the immediate container or wrapping in which any household substance is contained for consumption, use, or storage by individuals in or about the household, and, for purposes of section 4(a)(2) of this Act, also means any outer container or wrapping used in the retail display of any such substance to consumers. Such term does not include—

(A) any shipping container or wrapping used solely for the transportation of any household substance in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof, or

(B) any shipping container or outer wrapping used by retailers to ship or deliver any household substance to consumers unless it is the only such container or wrapping.

(4) The term "special packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

(5) The term "labeling" means all labels and other written, printed, or graphic matter (A) upon any household substance or its package, or (B) accompanying such substance.

SEC. 3. (a) The Secretary, after consultation with the technical advisory committee provided for in section 6 of this Act, may establish in accordance with the provisions of this Act, by regulation, standards for the special packaging of any household substance if he finds that—

(1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance; and

(2) the special packaging to be required by such standard is technically feasible, practicable, and appropriate for such substance.

(b) In establishing a standard under this section, the Secretary shall consider—

(1) the reasonableness of such standard;

(2) available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;

(3) the manufacturing practices of industries affected by this Act; and

(4) the nature and use of the household substance.

(c) In carrying out this Act, the Secretary shall publish his findings, his reasons therefor, and citation of the sections of statutes which authorize his action.

(d) Nothing in this Act shall authorize the Secretary to prescribe specific packaging designs, product content, package quantity, or, with the exception of authority granted in section 4(a)(2) of this Act, labeling. In the case of a household substance for which special packaging is required pursuant to a regulation under this section, the Secretary may in such regulation prohibit the packaging of such substance in packages which he determines are unnecessarily attractive to children.

SEC. 4. (a) For the purpose of making a household substance for which a standard has been established pursuant to this Act readily available to elderly or handicapped persons who may be unable to use special packaging and to those households without young children, such household substance may be packaged in packages not complying with such standard if—

(1) such substance is supplied to the consumer in at least one popular size package which complies with such standard; and

(2) the packages which do not meet such standard bear, in conformity with regulations of the Secretary, conspicuous labeling stating: "This product is also available in special packaging which is recommended for use in households with young children".

In the case of a household substance dispensed pursuant to an order of a physician, dentist, or other licensed medical practitioner who is authorized to prescribe, such substance may be sold in noncomplying packaging only when directed in the order of such practitioner or when requested by the purchaser.

(b) Whenever the Secretary determines that any household substance packaged in noncomplying packages is not also being supplied by a manufacturer or packer in popular size packages which comply with the standard established for such substance, he may, after giving the manufacturer or packer an opportunity to comply with the purposes of this Act, by order require such substance to be packaged by such manufacturer or packer exclusively in special packaging complying with such standard if he finds, after opportunity for hearing, that such exclusive use of such packaging is necessary to accomplish the purposes of this Act.

SEC. 5. (a) Proceedings to issue, amend, or repeal a regulation prescribing a standard under section 3 shall be conducted in accordance with the procedures prescribed by section 553 (other than clause (B) of the last sentence of subsection (b) of such section) of title 5 of the United States Code unless the Secretary elects the procedures prescribed by subsection (e) of section 701 of the Federal Food, Drug, and Cosmetic Act, in which event such subsection and subsections (f) and (g) of such section 701 shall apply to such proceedings. If the Secretary makes such election, he shall publish that fact with the proposal required to be published under paragraph (1) of such subsection (e).

(b) In the case of any standard prescribed by a regulation issued in accordance with section 553 of title 5 of the United States Code, any person who will be adversely affected by such a standard may, at any time prior to the 60th day after the regulation prescribing such standard is issued by the Secretary, file a petition with the United States Court of Appeals for the circuit in which such person resides or has his principal place of business for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based his standard, as provided in section 2112 of title 28 of the United States Code.

(c) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there was no opportunity to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary in a hearing or in such other manner, and upon such terms and conditions, as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original standard, with the return of such additional evidence.

(d) Upon the filing of the petition under subsection (b) the court shall have jurisdiction to review the standard of the Secretary in accordance with subparagraphs (A), (B), (C), and (D) of paragraph (2) of section 706 of title 5 of the United States Code. If the court ordered additional evidence to be taken under subsection (c), the court shall also review the Secretary's standard to determine, if, on the basis of the entire record before the court pursuant to subsections (b) and (1), it is supported by substantial evidence. If the court finds the standard is not so supported, the court may set it aside. With

respect to any standard reviewed under this subsection, the court may grant appropriate relief pending conclusion of the review proceedings, as provided in section 705 of such title 5.

(e) The judgment of the court affirming or setting aside, in whole or in part, any such standard of the Secretary 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 of the United States Code.

SEC. 6. (a) For the purpose of assisting in carrying out the purposes of this Act, the Secretary shall appoint a technical advisory committee, designating a member thereof to be chairman, composed of not more than eighteen members who are representative of (1) the Department of Health, Education, and Welfare, (2) the Department of Commerce, (3) manufacturers of household substances subject to this Act, (4) scientists with expertise related to this Act and licensed practitioners in the medical field, (5) consumers, and (6) manufacturers of packages and closures for household substances. The Secretary shall consult with the technical advisory committee in making findings and in establishing standards pursuant to this Act.

(b) Members of the technical advisory committee who are not regular full-time employees of the United States shall, while attending meetings of such committee, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, 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, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

SEC. 7. (a) Section 2(p) of the Federal Hazardous Substances Act (15 U.S.C. 1261 (p)) is amended—

(1) by striking out "which substance" in the part preceding paragraph (1) and inserting in lieu thereof "if the packaging or labeling of such substance is in violation of an applicable regulation or order issued pursuant to section 3 or 4 of the Poison Prevention Packaging Act of 1970 or if such substance"; and

(2) by adding the following after and below paragraph (2):

"The term 'misbranded hazardous substance' also includes a household substance as defined in section 2(2)(D) of the Poison Prevention Packaging Act of 1970 if it is a substance described in paragraph 1 of section 2 (f) of this Act and its packaging or labeling is in violation of an applicable regulation or order issued pursuant to section 3 or 4 of the Poison Prevention Packaging Act of 1970.".

(b) Section 2z(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135(z)(2)) is amended by striking out the period at the end of paragraph (h) of such section and inserting in lieu thereof "; or" and by adding at the end thereof a new paragraph as follows:

"(i) If its packaging or labeling is in violation of an applicable regulation or order issued pursuant to section 3 or 4 of the Poison Prevention Packaging Act of 1970."

(c) Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end thereof a new paragraph as follows:

"(n) If its packaging or labeling is in violation of an applicable regulation or order issued pursuant to section 3 or 4 of the Poison Prevention Packaging Act of 1970."

(d) Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end thereof a new paragraph as follows:

"(p) If it is a drug and its packaging or labeling is in violation of an applicable regulation or order issued pursuant to section 3 or 4 of the Poison Prevention Packaging Act of 1970."

(e) Section 503(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(2)) is amended by striking out "and (h)" and inserting in lieu thereof ", (h), and (p)".

(f) Section 602 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 362) is amended by adding at the end thereof a new paragraph as follows:

"(f) If its packaging or labeling is in violation of an applicable regulation or order issued pursuant to section 3 or 4 of the Poison Prevention Packaging Act of 1970."

SEC. 8. Whenever a standard established by the Secretary under this Act applicable to a household substance is in effect, no State or political subdivision thereof shall have any authority either to establish or continue in effect, with respect to such household substance, any standard for special packaging (and any exemption therefrom and requirement related thereto) which is not identical to the standard established under section 3 (and any exemption therefrom and requirement related thereto) of this Act.

SEC. 9. This Act shall take effect on the date of its enactment. Each regulation establishing a special packaging standard shall specify the date such standard is to take effect which date shall not be sooner than one hundred and eighty days or later than one year from the date such regulation is final, unless the Secretary, for good cause found, determines that an earlier effective date is in the public interest and publishes in the Federal Register his reason for such finding, in which case such earlier date shall apply. No such standard shall be effective as to household substances subject to this Act packaged prior to the effective date of such final regulation.

Mr. MANSFIELD. Mr. President, I move that the Senate disagree to the amendment of the House to S. 2162, a bill to provide for special packaging to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting household substances, and for other purposes; ask for a conference with the House on the disagreeing vote 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. MAGNUSON, Mr. HART, Mr. MOSS, Mr. PEARSON, and Mr. GOODELL conferees on the part of the Senate.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination and withdrawing a nomination was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. JORDAN of Idaho) laid before the Senate a message from the President of the United States submitting the nomination of Thomas J. Houser, of Illinois, to be a member of the Federal Communications Commission, and withdrawing the nomination of Sherman Unger, of Ohio, to be a member of the Federal Communications Commission, which nominating message was referred to the Committee of Commerce.

SECURITIES INVESTOR PROTECTION ACT OF 1970

The Senate resumed the consideration of the bill (S. 2348) to establish a Federal Broker-Dealer Insurance Corporation.

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

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

Mr. PERCY. Mr. President, I should like, first, to indicate my admiration once again for the distinguished Senator from Maine (Mr. MUSKIE) on his leadership in this field. I know that this is getting to be a very complex matter but the basic thrust of what he is trying to accomplish should and must be preserved. This is not a protectionist bill for the broker as such. It is for people. We have had some specific instances where individuals have been hurt. Three small investment brokerage firms have failed. We are all aware of the situation involving the Goodbody Co., where arrangements have been made by the securities industry and the New York Stock Exchange to take care of that situation. But prior to that, three companies failed, one of them in the city of Chicago, involving losses for 6,000 individuals.

Mr. President, I hold in my hand a telegram dated December 8, 1970, by Robert W. Haack, president of the New York Stock Exchange which reads:

> The Chairman, Vice Chairman and President of the New York Stock Exchange would like to restate the exchange's position announced previously on November 17 regarding the customers of First Devonshire Corporation, Charles Plohn & Co. and Robinson & Co., Inc. Following passage of the SIPC legislation, they will strongly recommend to the board of governors of the exchange that the exchange provide assistance if necessary to the customers of these three firms. Such assistance under the Exchange constitution requires board and membership approval.

Mr. President, the House of Representatives in its debate on this issue considerably strengthened the hand of Mr. Haack in the colloquy that they had with respect to the passage of the bill.

An article published in the Wall Street Journal of December 2, 1970, from which I quote, states in part:

> Rep. Moss (D., Calif.), the bill's manager, stressed that the insurance fund isn't intended to cover possible losses by customers of three currently distressed firms, First Devonshire Corp., Charles Plohn & Co. and Robinson & Co.
>
> But Rep. Moss repeated to the House the previously announced "commitment" he has received from the New York Stock Exchange that it will protect customers of these three firms from any losses. Any "breach of faith" by the exchange on this "firm commitment" would prompt his securities subcommittee to press the legislation directing the exchange to make good any losses, Rep. Moss said.

Mr. President, as I read the telegram, of which other Senators have received

copies also, this is not exactly a commitment. It is a best effort, but only an attempt on the part of the President of the New York Stock Exchange, because he does not have sole authority; but it would considerably strengthen his hand to make whole the losses suffered by innocent customers that have not been covered by this legislation.

We ourselves should indicate that the Senate feels as strongly as the House about this matter, that our vote on this legislation will take into account the feeling that the securities industry itself should take care of not just one of the largest companies but also the customers of the three smaller companies who have been injured by this action because they have not been covered.

I would very much appreciate the comments of the manager of the bill as well as those of the ranking minority member of the Committee on Banking and Currency.

Mr. MUSKIE. Mr. President, may I say to the Senator from Illinois that I appreciate his raising this point. It has been one that has concerned us as we have tried to resolve the various problems which have been raised. Before and after the bill was reported from the committee, we specifically pursued this particular one. We have all received, I think, copies of the telegram which the Senator has just read.

I, too, read it as a commitment from President Haack and the board of governors of the New York Stock Exchange to make the strongest possible case to the board and to the membership. I think they should understand that we accept that as a commitment on their part and that we would feel let down if the result is anything but a success.

I feel and have felt, long before we discussed this in terms of the impact upon the legislation, that they had a responsibility to the customers of these three firms. I felt that the exchange, in setting up the trust funds to deal with the customers of firms in difficulty, and to protect them, had held out to the public, in effect, that no customer would lose money because of failure of broker-dealers who are members of the exchange, although from their point of view, in terms of minimum obligation, their obligation may seem marginal in terms of the public's point of view and the right to rely on the exchange's assurance. But its objective is not to let any of these customers down. In terms of that assurance, the exchange had an obligation. So I think that this telegram reflects an intent and an attitude as such to do everything possible to see to it that the objective set out in the telegram is achieved.

Mr. PERCY. Mr. President, I very much appreciate the comments of the Senator from Maine. I am very much reassured by them. As a member of the minority on the committee, I would be even more reassured if my senior Republican colleague shared those opinions.

Mr. BENNETT. Mr. President, the exchange went to the limit of its resources and beyond, in order to take care of a very large problem; namely, Goodbody's problem. It seems to me they would be expected to assume the responsibility to take care of the three little ones also. After saying that they will go to the extent of $30 million over their $55 million trust fund, because the problem with Goodbody is so great that it will shake up many communities including my own of Salt Lake City, I do not think they can say that these three small companies do not mean very much in the total overall effect, so we do need to worry about them. Having, as the Senator from Maine said, held out this hope, this assurance, that they must be expected, in good conscience to assume responsibility for the small ones.

Does the Senator from Illinois know whether these are the only ones now without exchange support or assistance?

Mr. PERCY. Mr. President, to the best of my knowledge this is true. I have not researched it thoroughly. However, certainly we would have heard, I think, by now if there were any others. I would think that this colloquy would be all that would be necessary.

These are men of honor who deal in a profession in which they must deal every day on each other's word. I would not think it would be at all necessary for the House or the Senate to direct that the exchange do this when we have had this best effort telegram, reinforced by this colloquy. I feel quite certain that we have strengthened President Haack's hand sufficiently so that I do feel they will carry forward as they have committed themselves.

Mr. BENNETT. Mr. President, I hope that before too long they can send us another telegram telling us that they have worked out a program to help the customers of these three small firms.

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

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MUSKIE. Mr. President, I ask unanimous consent that the vote on final passage take place not later than 6 o'clock this evening.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, and I will not object, I know that the Senator means to waive rule XII.

Mr. MUSKIE. The Senator is correct. Mr. President, I include that in my request.

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

What is the will of the Senate?

AMENDMENT NO. 1095

Mr. BROOKE. Mr. President, I call up amendment No. 1095 and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 73, line 7, it is proposed to insert the following:

"SEC. 4. Section 15(c) of the Securities Exchange Act of 1934 is amended by adding the following:

"'(6)(A) No broker or dealer or member of a national securities exchange shall hold in custody or under a lien any money, security, or other property received from or on behalf of any customer, except that such broker may hold in custody or under a lien or may lend or pledge an amount of such securities that is fair and reasonable in view of the indebtedness of said customer to said member, broker, or dealer and in compliance with such rules and regulations as the Commission may prescribe for the protection of investors.

"'(B) When a broker or dealer or member receives or holds securities that are fully paid for or in excess of the amount which can be held in custody or under a lien or under a loan or pledge under this section or receives any moneys or other property from or on behalf of any customer, except in the ordinary course of business to complete a transaction for such customer, such member, broker, or dealer shall—

"'(i) promptly deliver such securities, money, or other property to such customer, or

"'(ii) upon the written consent of such customer, place or maintain such securities, money, or other property in the custody of either a bank which has at all times an aggregate capital, surplus, and undivided profits of such specified minimum amount as may from time to time be prescribed by the Commission, or of a clearing corporation, central depository, or similar facility subject to such qualifications as the rules and regulations of the Commission may prescribe in the public interest and for the protection of investors. Such securities, money, or other property shall not be removed by the broker or dealer from such bank, clearing corporation, central depository, or similar facility, except upon the specific authorization of such customer to complete a transaction for the account of such customer or for delivery to such customer or his designee and subject to such rules and regulations as the Commission may prescribe in the public interest and for the protection of investors.

"'(C) This subsection shall become effective pursuant to regulations promulgated by the Commission. In no event, however, shall the effective date of this subsection be later than one year from the date of enactment of this Act.'"

On page 73, strike lines 8 and 9, and insert in lieu thereof the following:

"SEC. 5. The amendments made by this Act shall take effect upon the date of enactment of this Act, unless otherwise specified herein."

Mr. BROOKE. Mr. President, 30 million Americans presently own shares in U.S. industry including 1,214,000 citizens of my own State of Massachusetts. The bill which we are considering today seeks to protect these investors from losses resulting from broker-dealer insolvencies.

It would do this by establishing the Securities Investor Protection Corporation which would maintain and administer an insurance fund providing coverage against customer losses up to $50,000 per account. The insurance fund would, at the outset, aggregate $75 million in lines of credit and cash raised by broker-dealer assessments. Ultimately, the industry contribution would reach $150 million in cash.

As a backstop, Treasury borrowing authority in the amount of $1 billion would

be available in the event of exhaustion of industry funds. It should be noted that an assessment or "transactions charge" may be imposed on the public in the event Treasury borrowing takes place.

Thirty million investors might well ask whether this bill and the companion piece of legislation passed by the House truly protect investors, at the lowest cost to the public, or whether this bill represents protection for the industry at a time when reforms are vitally needed?

If our goal is to protect the investor, then it is important to determine how the typical investor subjects himself to risk when using the services of a broker-dealer. As the Senate Banking and Currency Committee report states, we are attempting to insure against customer losses arising from broker-dealer insolvencies. These losses occur because investors are unable to withdraw both cash and securities from bankrupt broker-dealers which have neglected to segregate customer property from their own property.

Proper segregation of customer's cash is generally considered to be impossible unless steps are taken to "escrow" these funds and deposit them with banks or other financial institutions.

It is considerably easier to require the proper segregation of securities; however, it is an industry practice to hold these securities in "street name" and thus proper segregation of customers' securities is seldom achieved.

If, as industry representatives contend, customers' cash (or "free credit balances") cannot be adequately segregated and securities are seldom adequately segregated, then investors must seek relief from a "single and separate fund" at the time bankruptcy occurs along with other investors similarly situated. In the process, they may well receive only partial refunds on their investments.

This bill improves the chances that investors owning fully paid securities which have been entrusted to broker-dealers for safekeeping will receive their property. It does so by relaxing the requirement that such property be "specifically identifiable" and thus permits securities held in bulk segregation or in central certificate services to be deemed "specifically identifiable".

The bill under consideration does not, however, increase the investor's chances that he will regain the entire amount of cash which he entrusted to the brokerage house prior to its demise. The amendment which I offer is designed not only to strengthen the rules regarding proper segregation of customer's securities, but is also designed to provide new rules regarding the escrowing of investor's cash which has been entrusted to broker-dealers for safekeeping.

I believe that failure to adopt these rules will result in the passage of a bill which purports to provide assurance to the public that all is well, but in fact fails to address the potential source of investor losses.

There are few in the industry who would challenge the concept that broker-dealers should be treated as fiduciaries when it comes to the handling of investors' property. Certainly, public confidence in our national securities markets has been built over the last 30 years on the concept that while investors might take risks in the market with respect to certain investments, their funds and securities were nevertheless safe when held by federally regulated broker-dealers.

This feeling of security has been, to a large degree, illusory since broker-dealers have been free to use free credit balances for their own needs to finance margin transactions, to satisfy broker-dealer operating needs and to take advantage of investment opportunities in equity securities which broker-dealers could not respond to in the absence of ready customer cash.

It is time that Congress put a stop to these practices and get to the bottom of the problems which are exposing investors to unreasonable risks. There are a number of people who have observed that if such reforms are instituted, there will be little need for the broker-dealer bill which is being considered today. While strict adherence to these rules would certainly lessen the need for reliance on Treasury borrowing authority since industry funding should be sufficient to meet foreseeable losses, the Senate bill contains many worthwhile provisions which should be retained.

Certainly, insurance is important to protect against losses on the part of broker-dealers who fail to comply with the proposed rules regarding the escrowing of free credit balances and the segregation of securities set forth in my amendment. The bill also establishes procedures for the prompt and orderly liquidation of bankrupt firms. In doing so, the bill makes worthwhile changes to the Bankruptcy Act.

The bill also amends section 15(c)(3) of the Securities Exchange Act to reiterate the SEC's broad powers to provide safeguards with respect to the financial responsibility of broker-dealers. This provision is necessarily vague and therefore is adequately supplemented by the amendment which I offer regarding the escrowing of cash and securities.

It is also interesting to note that the Senate Committee report implicitly recognizes the need for this amendment by making membership in the insurance corporation compulsory only for those brokers and dealers who hold securities and/or free credit balances for customers. As the committee report states:

> The thrust of this [rule] . . . is to permit exemption of those firms which do not, in the nature of their business, expose public customers to risk of loss.

Thus, where free credit balances or securities are not held, insurance is not deemed to be necessary. It follows from this general proposition that adequate safeguards must be developed to protect these two types of investor property. This amendment, in my opinion, adequately addresses this problem.

Mr. President, there is ample precedent for the proposed amendment. Section 6d of the Commodity Exchange Act imposes strict rules regarding the segregation of investors' property involved in futures trading. I believe that we must apply similar rules to broker-dealers serving investors who utilize our national securities markets.

There are those who argue that while stringent rules should be enacted regarding the use of customers' cash and securities, imposition of such rules at this time would strike a fatal blow to an already crippled industry. This argument is premised on the fact that the securities and industry self-regulated bodies have given tacit approval over the years to the use of free credit balances for whatever purposes broker-dealers have seen fit. These practices must be curtailed; however, the industry must not be disrupted in the process.

Thus, the imposition of these rules must be phased in over a reasonable period of time, thereby enabling the industry to seek other sources of capital. I therefore propose an effective date not later than 1 year after the date of enactment of the act. I believe this proposal meets the concerns of those who are fearful of disrupting the industry and yet, at the same time, insures that there will be the proper separation of customers' property from brokerage house property within a reasonable period of time.

To argue for even less stringent regulation is to ignore the very causes which have undermined investor confidence in our national securities markets over the last few months. We cannot ignore the broker-dealer liquidations which have occurred and the effect which these events have had on the investing public in general.

To enact the present bill without reaching the abuses which have prompted our concern would be to enact legislation which, in effect, pays the doctor for his services regardless of whether steps have been taken to improve the patient's health. I cannot accept and I hope Congress will not accept such a practice.

Broker-dealers who hold investors' cash and securities must be treated as fiduciaries with respect to their customers' property. The bill which we are considering, if amended in the manner which I propose, will reach this result.

I am also introducing an amendment which specifies that the Securities Investor Protection Corporation will terminate its operation and dissolve within 2 years unless its operating authority is renewed by Congress. This amendment is designed to result in closer congressional scrutiny of the progress of industry reforms and to enable results of industry studies to be considered when renewing the corporation's charter. I do not anticipate that Congress will fail to renew this authority; however, I believe the 2-year life will insure that greater congressional scrutiny of industry reforms occurs.

Mr. President, I modify my amendment as follows:

On page 73, at the end of line 7, add the following: "Such rules and regulations shall require the maintenance of reserves with respect to customers' deposits or credit balances, as determined by such rules and regulations."

On page 73, after line 7, insert the following:

"SEC. 4. Section 15(c) of the Securities Exchange Act of 1934 is amended by adding the following:

"'(6)(A) No broker or dealer or member of a national securities exchange shall hold in custody or under a lien any security, or other property received from or on behalf of customers, except that such broker may hold in custody or under a lien or may lend or pledge an amount of such securities that is fair and reasonable in view of the aggregate indebtedness of said customers to said member, broker, or dealer and in compliance with such rules and regulations as the Commission may prescribe for the protection of investors.

"'(B) When a broker or dealer or member receives or holds securities that are fully paid for or in excess of the amount which can be held in custody or under a lien or under a loan or pledge under this section or receives any moneys or other property from or on behalf of any customer, except in the ordinary course of business to complete a transaction for such customers, such member, broker, or dealer shall—

"'(i) promptly deliver such securities, money, or other property to such customer, or

"'(ii) upon the written consent of such customer, place or maintain such securities, or other property in the custody of either a bank which has at all times an aggregate capital, surplus, and undivided profits of such specified minimum amount as may from time to time be prescribed by the Commission, or of a clearing corporation, central depository, or other facilities including those of the broker dealer subject to such qualifications as the rules and regulations of the Commission may prescribe in the public interest and for the protection of investors. Such securities, money, or other property shall not be removed by the broker or dealer from such bank, clearing corporation, central depository, or similar facility, except upon the specific authorization of such customer to complete a transaction for the account of such customer or for delivery to such customer or his designee and subject to such rules and regulations as the Commission may prescribe in the public interest and for the protection of investors.

"'(C) This subsection shall become effective pursuant to regulations promulgated by the Commission. In no event, however, shall the effective date of this subsection be later than one year from the date of enactment of this Act.'"

On page 73, strike lines 8 and 9, and insert in lieu thereof the following:

"SEC. 5. The amendments made by this Act shall take effect upon the date of enactment of this Act, unless otherwise specified herein."

The PRESIDING OFFICER. The amendment is so modified.

The Senator from Massachusetts has the floor.

Mr. BROOKE. Mr. President, I have sent a further modification of the amendment to the desk.

The PRESIDING OFFICER. The amendment is further modified.

The amendment, as further modified, is as follows:

On page 73, line 7, insert the following:

"SEC. 4. Section 15(c) of the Securities Exchange Act of 1934 is amended by adding the following:

"'(6)(A) No broker or dealer or member of a national securities exchange which is a member of the Securities Investor Protection Corporation shall hold in custody or under a lien any security, or other property received from or on behalf of customers, except that such broker may hold in custody or under a lien or may lend or pledge an amount of such securities that is fair and reasonable in view of the aggregate indebtedness of said customers to said member, broker, or dealer and in compliance with such rules and regulations as the Commission may prescribe for the protection of investors.

"'(B) When such broker or dealer or member of a National Securites Exchange receives or holds securities that are fully paid for or in excess of the amount which can be held in custody or under a lien or under a loan or pledge under this section or receives any moneys or other property from or on behalf of any customer, except in the ordinary course of business to complete a transaction for such customer, such member, broker, or dealer shall—

"'(i) promptly deliver such securities, money, or other property to such customer,

"'(ii) upon the written consent of such customer, place or maintain such securities, money, or other property in the custody of either a bank which has at all times an aggregate capital, surplus, and undivided profits of such specified minimum amount as may from time to time be prescribed by the Commission, or of a clearing corporation, central depository or other facilities including those of the broker dealer subject to such qualifications as the rules and regulations of the Commission may prescribe in the public interest and for the protection of investors. Such securities, money, or other property shall not be removed by the broker or dealer from such bank, clearing corporation, central depository, or similar facility, except upon the specific authorization of such customer to complete a transaction for the account of such customer or for delivery to such customer or his designee and subject to such rules and regulations as the Commission may prescribe in the public interest and for the protection of investors.

"'(C) This subsection shall become effective pursuant to regulations promulgated by the Commission. In no event, however, shall the effective date of this subsection be later than one year from the date of enactment of this Act.'"

On page 73, strike lines 8 and 9, and insert in lieu thereof the following:

"SEC. 5. The amendments made by this Act shall take effect upon the date of enactment of this Act, unless otherwise specified herein."

The PRESIDING OFFICER. What is the will of the Senate?

Mr. MUSKIE. Mr. President, will the Senator from Massachusetts yield so that I may request the yeas and nays on final passage?

Mr. BROOKE. I yield.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Massachusetts has been recognized.

Mr. BROOKE. 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. BROOKE. 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. BROOKE. Mr. President, the purpose of the amendment, which I have introduced, is to require the segregation of securities held by the broker-dealers. At the present time broker-dealers hold for safekeeping and for the convenience of their customers securities which have been entrusted to them and these securities have been commingled with their own. As a result of failure of several of the broker-dealers in the country and the resulting bankruptcies, there has been great difficulty in segregating the securities of the customer from the securities of the broker-dealer. This also has been a fact with cash that is held by the broker-dealer after securities have been sold by them; and it also has been a practice in the industry that this cash and these securities have been used by the broker-dealer houses for their own operational needs.

The purpose of the amendment, as modified, is to make it mandatory that reserves be established for the protection of the cash which is held by broker-dealers belonging to investor customers. The other purpose of the amendment is to make it mandatory that the securities in the aggregate be segregated, those of the investor customers from the securities of the broker-dealers. This has been a very serious matter in recent days because of the fact that there have been bankruptcy proceedings and it has been difficult, if not impossible, to identify the securities and certainly even more difficult to identify the cash. This is an attempt to have the broker-dealers move in the direction of the segregation of both cash and securities.

We have great faith and great confidence in the stability of the investment industry. We do not condone the practice, however, of commingling of cash or of securities and it is suggested very strongly that this industry take warning that Congress is concerned and wishes them to move as quickly as they possibly can so that there will be no risk at all to investors who have permitted them to hold their cash and to hold their securities in safekeeping.

It is regrettable that this practice has been established, in most instances without the knowledge and consent of the investors. If we are to stop the erosion of public confidence in broker-dealers, in the investment securities industry and, generally, in the industries of this Nation, we must pass this legislation which will begin to restore that confidence through maximum protection for the investors.

Now, this does not mean that we have achieved maximum protection at the present time. We have tried in this amendment to eliminate some of the risk with the hope that as the industry stabilizes, as the economy improves, we will have complete protection for the investor.

It is significant that this amendment has been proposed to the plan which has been introduced by the distinguished manager of the bill, the Senator from Maine (Mr. MUSKIE). Here we are attempting to give again security to the investor through both participation by the broker-dealers themselves and with insurance guarantees from the Federal Government. That is a big step; it is a giant step; it is an important step, and an essential step.

Mr. President, the purpose of the amendment is to go even further and strengthen that insurance program by providing essentially for reserves, segregation of aggregate securities, and hopefully in the near future to move to complete segregation of cash and securities.

So, Mr. President, the modified amendment which I have submitted will be a strengthening amendment, in my opinion, to the bill which is presently before the Senate. I hope the amendment will be agreed to and accepted by the com-

mittee and that when they go to conference, they will be able to hold the provision in conference because that will be a very important step in restoring confidence of the public in our investment industry.

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

Mr. BROOKE. I yield.

Mr. MUSKIE. Mr. President, I wish to compliment the Senator for developing the amendment in the form in which it is now before us. The amendment sets out an objective which I think is essential, an objective which the committee regarded as essential. The problem has been in achieving it in light of the present conditions in the industry, the present economic situation, and the difficulty of making the transition from conditions as they are to conditions as they should be.

For example, these broker-dealer houses hold something like $4 billion in customer cash. To segregate it overnight would require the industry to raise cash in the amount of $4 billion to replace that cash.

Mr. President, that would be impossible to do under present market conditions or conditions we could anticipate in the next year. I think the Senator has found the formula to move in that direction meaningfully and effectively. The Senator's amendment requires the Commission to begin or that the Commission have the authority to set regulations requiring beginning the processes of setting aside a reserve to preserve customer's cash.

The Commission should move as rapidly as it can do so, as rapidly as the industry can respond, in that direction. I think this is a viable formula. I think it is an effective one. I think to include it in the bill is a distinct service. I compliment the Senator from Massachusetts and will, of course, support it.

Mr. BENNETT. Mr. President, will the Senator from Massachusetts yield?

Mr. BROOKE. I yield.

Mr. BENNETT. I would like to join the manager of the bill in expressing great satisfaction at the manner in which this matter has been worked out. We need to find a new basis, we need to find a transition method, by which we can move from the present situation to a situation of assurance and safety based on reserves, and I will join the author of the amendment and the manager of the bill in supporting the amendment, and urge that the Senate support it.

Mr. BROOKE. Mr. President, I thank my distinguished colleagues, the floor manager and the ranking Republican member of the Banking and Currency Committee, for their support of the amendment.

I think that the amendments previously accepted by the floor manager, which provide that there be a study, that the committee make an indepth study, of the various practices of broker-dealers and report back to Congress, will enable us to be afforded information which will be helpful to us in determining how we best can protect the individual investor as well as the aggregate of investors.

I think, in addition, the reserves we have provided for and the authority being vested in the Securities and Exchange Commission for the promulgation of rules and regulations could result in working toward a reserve fund which would be of maximum protection to the investor. I am not prepared at this time to say what that should be. I do not know, but I do believe that the SEC can and, indeed, must promulgate such rules and regulations as would give us maximum security. Perhaps at the beginning, since this would be immediate, it could of course take into consideration the economic conditions facing the country, but work toward maximum security, which may be 90 percent or 100 percent. I frankly do not know. I think that may be accomplished, and I think we are headed in the right direction.

Mr. McINTYRE. Mr. President, will the Senator yield for a question or two?

Mr. BROOKE. I yield.

Mr. McINTYRE. I think the Senator touched on what I wanted to inquire about at the end of his answer to the floor manager's statement. The Senator from Massachusetts said he expects these reserves to reach 90 percent.

Mr. BROOKE. Frankly, I do not know. I just threw those figures out. It may be necessary to cover 90 percent or it may be necessary to cover 100 percent. I do not know which figure is necessary.

Mr. McINTYRE. I think it would be very interesting, by way of legislative history, to inquire about the time element. Would the Senator from Massachusetts expect it to go to 90 percent in 2 years, or would it go to 50 percent in 6 months, or 60 percent in 1 year, or 90 percent?

Mr. BROOKE. I would expect that immediately when it goes into effect, the SEC would promulgate rules and regulations. Its members would have to take into consideration the economic conditions in establishing what the initial goal would be. It might be 25 percent. It may be dangerous to use these figures because, as I have said, the SEC would have many factors to consider in establishing the formula. But the goal of the SEC would be to establish a formula which gives maximum and complete protection to the investing public.

Mr. McINTYRE. What would the Senator think would be a reasonable time to reach that goal?

Mr. BROOKE. I frankly cannot say whether it would be a year or 2 years. I just do not know. I cannot foresee what the economic conditions will be at that time. We are all hopeful that the economy has turned around and that it will turn up, and the investment industry will improve accordingly. We are very much heartened by what has happened in recent days. But we frankly do not know. We will have to wait and see. So I would not want to say a year or two. I would hope, however, that we could reach it within a year or two—no more, perhaps even less. There is the possibility of an even more limited time. I think, in vesting this authority in the SEC, we will have to rely on it and depend on it for maximum protection.

Mr. McINTYRE. The Senator's feeling is 2 years as a maximum, and, hopefully, a more rapid time?

Mr. BROOKE. That is no more than a hope. I would hope they could do it in 2 years. I do not know. I would not want the legislative history to indicate that we were putting a deadline on them, because we do not know what the circumstances will be.

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

Mr. BROOKE. I yield.

Mr. MUSKIE. I think we all agree that we wish that goal had been achieved at some point in the past. The problem is to adjust from things as they are to what they ought to be. They ought to move as fast as possible. We are trying to build a fire under the industry to move it as rapidly as possible. That was the purpose of the Proxmire amendment; the provision in the bill which the Senate committee adopted; and the colloquy had between the Senator from New Jersey and other Senators of the need for an indepth study of the industry. In these ways we hope to move into reforms involving segregation of cash and securities of the customer from those of the dealers themselves.

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

Mr. BENNETT. I think the Senator has yielded the floor.

Mr. PROXMIRE. I can say to the Senator from Massachusetts, without asking a Senator to yield, that I commend him very warmly on his amendment. It is an essential amendment. He has done an excellent job in working out the problems involved, although I think the original amendment was a good one and could have been supported by the Senate.

As I understand, it would have provided that funds held by brokers, which really belong to the investors, should be put in escrow within 2 years. After all, it is money that does not belong to the brokers. I learned only in the last few days, and I am sure many people do not know this, that brokers hold somewhere between $3 billion and $4 billion of other people's money that they are using, on which they are making a return of 8 to 10 percent.

That is the problem, because, when they use that money, they speculate with it. The result has been that some brokerage firms have gone into bankruptcy, and the investors have lost their money, or have been on the verge of losing their money, and may lose it.

So I think the amendment proposed by the Senator from Massachusetts is an excellent amendment. He has shown us a practical way to make it effective. I warmly commend him, and I ask unanimous consent that I be listed as a cosponsor.

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

Mr. BROOKE. Mr. President, I am very happy to accept the Senator from Wisconsin as a cosponsor of the amendment.

I certainly agree that the initial, original amendment was a strong amendment and one we would like to have had. I am not sure it would have been supported by the Senate, because I think the Senate has to take into consideration the stability of the investment industry and the economic conditions facing the Nation; but I think this is a necessary first step. The Senator is quite right in the figures involved. Even under this

amendment, the interest on the segregated cash which would be held would still inure to the benefit of the broker-dealer, and not to the benefit of the investor. So we are not taking anything away from the investment industry; we are trying to protect them, but at the same time to protect their customers, namely, the investing public.

I thank the distinguished Senator.

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

The amendment was agreed to.

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment reads as follows:

Amend sec. 35(m)(6) at page 58, line 5, by striking the period after the word "debtor," inserting a comma and adding the following: "but the Court shall not stay as against a bona fide purchaser, as defined under the Uniform Commercial Code or in other applicable state law, the right to enforce such a lien."

Mr. BENNETT. Mr. President, this legislation establishes procedures for the prompt and orderly liquidation of SIPC members whenever required. These procedures are to be conducted as if they were under section 60(e) of the Bankruptcy Act, which section is the present bankruptcy law governing liquidation of stockbrokers. Certain shortcomings have become apparent in section 60(e), as it applies, specifically, to liquidation of broker/dealers. Therefore, this bill provides that SIPC members will be liquidated in special proceedings outside the Bankruptcy Act. The actual liquidation procedure will be conducted in accordance with, and as though it were being conducted under the provisions of chapter 10 of the Bankruptcy Act, which allows business reorganizations, provided however, that no plan of reorganization shall be filed. A trustee shall be appointed and shall have all the powers and duties of a trustee under the Bankruptcy Act. These liquidation procedures have been carefully designed to allow flexibility, to meet the special needs in liquidation of broker/dealers to assure that the customers can receive prompt return of their securities and cash held by such broker/dealers.

The basic purpose of these procedures is to give the trustee authority to return, as promptly as possible, specifically identifiable property to customers of the broker/dealers, to pay to customers moneys advanced by SIPC which has been left with such broker/dealers and to operate the business of the debtor in order to complete open contractual commitments of the broker/dealer. SIPC will be subrogated to the rights of the customers to the extent it has advanced moneys to the trustee and stand as a preferred creditor in the liquidation proceedings. Finally, the trustee shall complete the liquidation of the broker/dealer.

It is anticipated that even under these procedures liquidation of the broker/dealer could take some considerable period of time to complete. Customer's securities which are held by the firm could well decline in value if the customer were required to wait until liquidation was completed. The protection afforded by this bill could not be effective unless the means were given for those customers to promptly receive their securities. This is the basic purpose of the legislation.

The legislation contemplated that secured and general creditors should participate in the liquidation proceedings and receive payment of their claims as in normal bankruptcy. The reorganization procedures of chapter 10 of the Bankruptcy Act were adopted to give the trustee the maximum flexibility in managing the affairs of the broker/dealer pending liquidation. This procedure is necessary to meet the special requirements of this legislation.

One power given to the trustee and the court in chapter 10 proceedings, which is not generally available under section 60(e), is the power of the court to stay enforcement by creditors of their right to set off and their right to enforce valid nonpreferential liens against property of the debtor. This stay authority is discretionary but may be necessary, for a period of short duration, to allow an orderly commencement of liquidation procedures, to pay the claims of customers and to complete stock transaction orders of the debtor entered prior to the final date. This procedure generally, will in no way be detrimental to the rights of creditors because the stay authority is specifically stated to not abrogate any such rights.

However, in one specific instance, the exercise of this stay order could be detrimental to the rights of a creditor. Creditors who hold securities pledged by the broker/dealer as collateral against loans where that creditor is a "bona fide purchaser" should not be stayed from enforcing their right to immediate foreclosure against such collateral, if necessary. Normally, these creditors will be financial institutions which hold loan accounts with the broker/dealer to facilitate trading and margin security operations. These loan accounts are active and change daily both with regard to the amount of loan and the amount and type of securities pledged. These types of loans are an integral part of the securities business. These creditors run the same risk as customers of substantial detriment and loss in the event the market value of those securities falls during the stay period. The status of a "bona fide purchaser" for value is well established in every jurisdiction and existing law should remain the same as regards the rights of such "bona fide purchaser."

As a practical matter, the threat of such a stay order by a court could well precipitate such creditors into calling such loans and enforcing their rights prior to the filing of liquidation proceedings. Because of the nature of these loan accounts these creditors would in most cases be aware that a broker/dealer is in financial difficulty. In such instances the activity and daily turnover in these accounts will either cease or be sharply reduced. It would appear to be to the advantage of the customers and the trustee that maximum flexibility be allowed in negotiating with such creditors to continue such loans, withdraw the securities, and liquidate those loans in an orderly manner. Prompt receipt of the securities by the customers could well be more valuable to the customers than a payment in cash by the trustee for the value of the securities. So long as the creditor has the right to foreclose against such collateral at any time, that creditor will be encouraged to continue the loans and cooperate with the trustee in paying the amounts due and delivering the securities pledged to the trustee and the customers. It is the clear intent of this legislation to facilitate and encourage such cooperation and flexibility and to discourage precipitate actions by creditors which will be damaging to the rights of customers.

Should these creditors also hold cash accounts of the broker/dealer they are not damaged and would suffer no detriment from a stay of enforcement of their rights to use such cash as a set off against a loan under section 68 of the Bankruptcy Act. The right to set off can only be delayed, not abrogated.

This amendment would accomplish these objectives by amending section 35(m)(6) at page 58, line 5, by providing that the court under its stay authority could not stay the rights of a "bona fide purchaser" to enforce a valid nonpreferential lien. This amendment merely reflects existing bankruptcy law as regards the rights of a "bona fide purchaser" and would appear fully justified to accomplish the basic intent of this legislation.

Mr. President, I ask the manager of the bill if he is prepared to accept the amendment.

Mr. MUSKIE. Yes, I am. I think it is a necessary technical amendment, and I support it.

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

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, I shall take just a moment of the Senate's time. I understand there was a discussion at a time when I did not happen to be present in the Chamber about the customers of the brokerage firms which have gotten into difficulties, that will not be covered by this bill, and that a telegram of communication was produced from Mr. Robert W. Haack, president of the New York Stock Exchange.

I think perhaps it would also be of help to us if a telegram which I have received from the chairman of the board of the exchange, who is himself a leading broker and represents, in a sense, those who will be paying out the money, should go into the RECORD. The telegram is very brief, and I should like to read it. It shows why I have bird-dogged the Senator from Maine on this bill:

Assuming the SIPC legislation presently pending in Congress becomes law, I will recommend to the board of governors that the exchange provide assistance, if necessary, to the customers of the First Devonshire Corp.,

Charles Plohn & Co. and Robinson & Co. I am confident that the board of governors would follow my recommendation.

BERNARD J. LASKER,
Chairman of the Board,
New York Stock Exchange.

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

Mr. JAVITS. I yield.

Mr. MUSKIE. I express my appreciation to the Senator for adding this communication to the RECORD on this point. It is obvious that many Senators, including the Senator from Illinois, the Senator from Utah, the Senator from New York, and myself, have been concerned about the customers of those firms, and I think this is a welcome addition to the RECORD.

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

Mr. JAVITS. I yield.

Mr. BROOKE Mr President, I commend the Senator from New York. I think this assurance is essential if we are to restore customer confidence. I think this is a valuable contribution.

Mr. JAVITS. I think we all ought to bear in mind that the people who are going to pay the money are entitled to a little credit. The stock exchange members recognize that the reputation, not just of that institution, but of the whole industry, is at stake. They can take care of the situation as long as it remains within manageable dimensions. We are taking care of the problem if it becomes unmanageable. They should get credit for the fact that we are going to act as we are, because they are going to take care of what has already happened.

The PRESIDING OFFICER. The bill is open for further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2348) was ordered to be engrossed for a third reading, and was read the third time.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 4557) to amend Public Law 91–273 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 19877) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. BLATNIK, Mr. JONES of Alabama, Mr. JOHNSON of California, Mr. DORN, Mr. CRAMER, Mr. HARSHA, and Mr. DON H. CLAUSEN were appointed managers on the part of the House at the conference.

The message further announced that the House had passed a bill (H.R. 19928) making supplemental appropriations for the fiscal year ending June 30, 1971, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 19928) making supplemental appropriations for the fiscal year ending June 30, 1971, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

LEGISLATIVE PROGRAM

Mr. BENNETT. Mr. President, in behalf of the minority, I should like to inquire of the majority leader as to whether he can inform the Senate what the schedule will be tomorrow.

Mr. MANSFIELD. Mr. President, the unfinished business—and I wish the Chair would correct me on this if I am in error—is H.R. 18306, having to do with international financing. I understand there may well be some votes on that measure tomorrow, so the Senate is on notice.

Then conference reports as they become available, and maybe—just maybe—the library services bill; but that is a matter which will be considered tomorrow, plus unobjected to items on the calendar.

Mr. BENNETT. I also ask the majority leader whether he intends to bring the Senate into session on Saturday.

Mr. MANSFIELD. No.

SECURITIES INVESTOR PROTECTION ACT OF 1970

The Senate continued with the consideration of the bill (S. 2348) to establish a Federal Broker-Dealer Insurance Corporation.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Committee on Banking and Currency be discharged from further consideration of H.R. 19333, and that the Senate proceed to its immediate consideration.

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

Thereupon the Senate proceeded to consider the bill (H.R. 19333), to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges.

Mr. MUSKIE. I move to strike out all after the enacting clause and substitute the language of S. 2348, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to substitute the Senate language.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

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

The bill (H.R. 19333) was read the third time.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. CRANSTON). 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. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. ELLENDER), the Senator from Minnesota (Mr. MCCARTHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

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

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Nebraska (Mr. HRUSKA), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oregon (Mr. HATFIELD) is absent on official business.

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

Also the Senators from Kansas (Mr. PEARSON and Mr. DOLE), the Senator from Florida (Mr. GURNEY), and the Senator from California (Mr. MURPHY) are necessarily absent.

If present and voting, the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. HATFIELD), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Kansas (Mr. PEARSON), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 77, nays 0, as follows:

[No. 425 Leg.]

YEAS—77

Aiken	Gore	Muskie
Allen	Gravel	Nelson
Allott	Griffin	Packwood
Baker	Harris	Pastore
Bellmon	Hart	Pell
Bennett	Hartke	Percy
Bible	Holland	Prouty
Boggs	Hollings	Proxmire
Brooke	Hughes	Randolph
Burdick	Inouye	Saxbe
Byrd, Va.	Jackson	Schweiker
Byrd, W. Va.	Javits	Scott
Cannon	Jordan, N.C.	Smith
Case	Jordan, Idaho	Spong
Church	Kennedy	Stennis
Cook	Long	Stevens
Cooper	Magnuson	Stevenson
Cotton	Mansfield	Symington
Cranston	Mathias	Talmadge
Curtis	McClellan	Thurmond
Eagleton	McGee	Tydings
Ervin	McIntyre	Williams, N.J.
Fannin	Metcalf	Williams, Del.
Fong	Miller	Young, N. Dak.
Fulbright	Montoya	Young, Ohio
Goodell	Moss	

NAYS—0

NOT VOTING—23

Anderson	Gurney	Murphy
Bayh	Hansen	Pearson
Dodd	Hatfield	Ribicoff
Dole	Hruska	Russell
Dominick	McCarthy	Sparkman
Eastland	McGovern	Tower
Ellender	Mondale	Yarborough
Goldwater	Mundt	

So the bill (H.R. 19333) was passed.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion was agreed to.

The title was amended so as to read: "A bill to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges."

Mr. MUSKIE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees.

The motion was agreed to and the Presiding Officer (Mr. BYRD of Virginia) appointed Mr. SPARKMAN, Mr. PROXMIRE, Mr. WILLIAMS of New Jersey, Mr. MUSKIE, Mr. BENNETT, Mr. TOWER, and Mr. PACKWOOD conferees on the part of the Senate.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments on H.R. 19333 and that the bill be printed as passed by the Senate.

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

Mr. MUSKIE. Mr. President, I ask unanimous consent that S. 2348 be indefinitely postponed.

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

Mr. MANSFIELD. Mr. President, the distinguished Senator from Maine (Mr. MUSKIE) has again demonstrated his outstanding legislative skill and ability. His complete understanding of all of the many complex issues contained in this proposal was largely responsible for its overwhelming acceptance by the Senate.

To this measure he brought the great skill and ability that he devotes to all legislative proposals that gain his strong support and leadership. Providing protections for the millions of securities investors in this land is clearly an undertaking of the highest importance. The Senate is indebted to Senator MUSKIE.

Equally to be commended is the distinguished Senator from Utah (Mr. BENNETT), the able and distinguished ranking member of the Committee on Banking and Currency. His splendid cooperation and assistance was indispensable to the full and efficient consideration of this proposal. The same may be said for the efforts of the distinguished Senator from New York (Mr. JAVITS). Representing among his constituency the heart of the investment community, his contribution on this measure was particularly significant.

Noteworthy as well, during the consideration of this measure, was the participation of many other Senators. The Senator from New Hampshire (Mr. MCINTYRE), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Indiana (Mr. HARTKE) and the Senator from Massachusetts (Mr. BROOKE) all made valuable contributions and gave us the benefit of their thoughtful views. We are grateful to them.

AUTHORIZATION FOR U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF WEST VIRGINIA TO HOLD COURT AT MORGANTOWN

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 4262, a bill which is at the desk, which was favorably reported by the Committee on the Judiciary today. The matter has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 4262) to authorize the United States District Court for the Northern District of West Virginia to hold court at Morgantown.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 129(a) of title 28, United States Code, is amended to read as follows:

"Courts for the Northern District shall be held at Clarksburg, Elkins, Fairmont, Martinsburg, Morgantown, Parkersburg, and Wheeling.".

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent, at the request of the Committee on Labor and Public Welfare, that the Senate go into executive session to consider a nomination on the Executive Calendar.

The PRESIDING OFFICER (Mr. BYRD of Virginia). Without objection, it is so ordered.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The assistant legislative clerk read the nomination of Sidney J. Marland, Jr., of New York, to be Commissioner of Education.

Mr. MANSFIELD. Mr. President, I have received a number of communications on this nomination. It is my understanding that it was reported unanimously by the Committee on Labor and Public Welfare.

If there were a rollcall vote on this nomination, I believe I would vote in opposition to it, but I do not intend to ask for a rollcall vote at this time.

The PRESIDING OFFICER (Mr. BYRD of Virginia). Without objection, the nomination is considered and affirmed.

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

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

LEGISLATIVE SESSION

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

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

U.S. PARTICIPATION IN CERTAIN INTERNATIONAL FINANCIAL INSTITUTIONS

The PRESIDING OFFICER (Mr. BYRD of Virginia). The Chair now lays before the Senate the unfinished business which the clerk will state.

The ASSISTANT LEGISLATIVE CLERK. H.R. 18306, to authorize U.S. participation in increases in the resources of certain international financial institutions, to provide for an annual audit of the Exchange Stabilization Fund by the General Accounting Office 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.

A POINT OF ORDER ON ANNOUNCEMENT OF VOICE VOTE

Mr. BYRD of West Virginia. Mr. President, earlier today, I made a point of order to the effect that, in my judgment, the Chair should not have announced the result of a voice vote without first having made a declaration that the yeas and nays "seemed to prevail," so as to have given the senior Senator from Indiana an opportunity to request a division or to request a yea and nay vote by a rollcall if so desired.

The Presiding Officer at the time—for whom I have the highest regard—ruled, quite correctly, Mr. President, that after the result of a voice vote has been announced, it is too late to ask for a division vote.

However, I feel that attention should be called to the precedents of the Senate. I particularly call attention to page 727 of the book titled "Senate Procedure," where reference is made to the CONGRESSIONAL RECORD of May 5, 1947:

Objection has been made to the Presiding Officer announcing the result of a *viva voce* vote prior to a declaration that the ayes or the noes seemed to prevail, as the case might be.

Mr. President, with all due respect, I do think it is bad procedure to announce the result of a voice vote when there is clearly a division of opinion on the question, as there was in this instance, without first indicating what the result appears to be.

In such a situation, I think that the Chair should announce that the "yeas" appear to have it, or the "nays" appear to have it, so as to give a Senator time

to ask for a division, if he so desires, or to ask for a rollcall vote before being precluded from doing so.

Obviously, if no voices are raised on one side of a question, the Chair would not be expected to follow the procedure I have stated. But in this instance there were voices raised on both sides of the question.

When the Chair summarily announces a result, then a Senator has no opportunity to request a division or a rollcall vote. His only alternative is to ask for a reconsideration of the vote.

I merely raise this point at this time so that, for the RECORD, objection will again be made—as it was in 1947—to this procedure, and I hope that the acting parliamentarian will be more careful in assisting the Presiding Officer to avoid a recurrence hereafter.

Mr. GRIFFIN. Mr. President, will the Senator from West Virginia yield for a comment?

Mr. BYRD of West Virginia. I yield.

Mr. GRIFFIN. I want to associate myself with the remarks the Senator has just made, and point out what I think is implicit, perhaps, in his statement; namely, that if the procedure—to which the distinguished Senator from West Virginia is indicating some objection—were to be followed, we would seldom have a situation where we would not have a rollcall vote.

I think, in the interests of expediting the business of the Senate, that we do not want to have to have a rollcall vote every time, but if Senators believe or get the impression that they would not be able to ask for a rollcall vote, then they would never take the chance of having a voice vote.

It seems to me that the procedure which the distinguished Senator from West Virginia is recommending and asking that the precedents in regard thereto be strengthened, it would serve the interests of the Senate if, in the future, we could consistently follow that pattern.

Mr. BYRD of West Virginia. I thank the able minority whip for his contribution to the RECORD on this point. Again I want to make it clear that I have taken the floor at this time, not to criticize the Presiding Officer. I do believe, however, that objection for the RECORD should be made, as it was made in the precedent which I have cited, and it has been for that purpose only that I have spoken.

I have since discussed this matter with the Parliamentarian and I have been assured that, henceforth, persons serving as acting parliamentarians will take great care to assist the Presiding Officer in acting accordingly before the result of a voice vote is announced.

SUGGESTIONS FOR MORE EXPEDITIOUS TRANSACTION OF BUSINESS AND BETTER ORDER AND DECORUM IN THE SENATE

Mr. BYRD of West Virginia. Mr. President, on the day before yesterday, the distinguished Senator from California (Mr. CRANSTON) inserted in the RECORD a memorandum containing several proposals on behalf of himself and Senators HUGHES, SCHWEIKER, and SAXBE, to expedite the business of the Senate from day to day.

The Senator from California, and those other Senators who worked with him in preparing the proposals, discussed their suggestions with me upon a number of occasions. The able Senator from California also brought to the attention of the Democratic Policy Committee the memorandum of proposals that had been prepared. I want to compliment Senator CRANSTON and the other Senators I have mentioned. I think they have performed a signal service in bringing to the attention of the Senate the imperative need to improve upon its procedures so that the business of the people may be better expedited.

Among those proposals, I should like to express my support for especially the following:

First. Special orders for recognition of Senators should follow the conclusion of unfinished business each day.

Second. A maximum time limit should be placed on rollcalls, a 20-minute limit being ample, and the vote should be immediately announced by the Chair without further delay.

Third. Study should be given to Senator MAGNUSON'S proposal that consideration of authorization bills not be in order after a specific date, say May 1 or June 1 of each year.

Fourth. Senate hearings on all appropriation bills should be initiated as early as possible without waiting for House passage.

Fifth. The reading of lengthy prepared speeches should be minimized as much as possible, excerpts therefrom being generally sufficient for release purposes.

Sixth. Notwithstanding the right of any Senator to demand a rollcall on any matter before the Senate, restraint should be exercised by all Senators in requesting rollcalls, especially on relatively insignificant matter. Annually, much time is consumed, and increasingly so, by rollcalls—and quorum calls.

Seventh. Legislation to separate budget and legislative sessions should be considered.

Eighth. Legislation switching from a fiscal to a calendar year should be given study.

Ninth. The morning hour should be extended from 2 to 3 o'clock; that is, from 2 to 3 hours on each legislative day.

Again I take this opportunity to compliment Senators CRANSTON, SAXBE, HUGHES, and SCHWEIKER for having acted to bring about a more speedy execution of the Senate's business. They have done a good job. I trust that the foregoing suggestions will receive careful consideration by the joint leadership and by all Senators on both sides of the aisle.

May I say parenthetically that by my mere singling out these proposals, from among all those submitted by the able Senators to whom I have alluded, I do not mean to imply that I would oppose the other proposals. I do think that these nine I have enumerated are of especial significance and importance. I would certainly want to see careful consideration given to their implementation.

Mr. President, I have some additional proposals which I would like respectfully to suggest for a more expeditious transaction of business and for better order and decorum in the Senate.

I am going to take the time of the Senate—I hope I will not impose too long on other Senators—to read these proposals into the RECORD.

They are as follows:

First. Standing Senate Rules VII and VIII should be allowed to work. Over the last 15 years, these two rules have been disregarded to a large extent, and I feel that the joint leadership may wish to go back to the original practice of enforcing these rules. After all, the Standing Rules of the Senate have evolved through decades of experience, and their purpose is to expedite Senate business. The current practice, by unanimous consent, of permitting 3-minute speeches during morning business—the common experience being that the "3-minute speech" is often extended to 5 or 10 minutes and, in some instances, has resulted in colloquies consuming 30 to 40 minutes or an hour and more, by unanimous consent—should end.

If rules VII and VIII were to control, routine morning business would be expedited; the calendar would be kept to a minimum; and lengthy speeches would be the exception rather than the rule, inasmuch as they would normally only occur, first, at the conclusion of action on the unfinished business or, if germane, during consideration of unfinished business, and, second, when calendar items were motioned up during the morning hour.

In view of the practice that has obtained during recent years—that of allowing 3-minute speeches, often with numerous extensions, during morning business—I recognize that there might be some dissatisfaction on the part of Senators who wish to make brief statements early in the day. I, therefore, would suggest that, following the four items which appear in paragraph one of Rule VII, which "the Presiding Officer shall then call for, * * *," a fifth item be added after "concurrent and other resolutions." The item could be denominated "morning business speeches," and these could be limited to 2 minutes or, if the leadership prefers, they could be limited to 3 minutes, but, in any event, it should be understood and agreed to that there would be no extensions allowed. In this way, Senators who wish to make brief statements early in the day would be accommodated and would not be forced to wait until the close of the unfinshed business at the end of the day; moreover, the time otherwise gained by the strict application of Senate Rules VII and VIII would not be lost by extensions of additional time to any Senator. In other words, any Senator would have 3 minutes, and 2 minutes only.

Second. The Pastore rule—rule VIII, paragraph 3—should be extended from 3 hours to 5 hours each day.

As Senators are aware, this rule is triggered by the "conclusion of the morning hour," which is at the end of the first 2 hours of each legislative day; it is also triggered by the laying down of either "unfinished business or pending business" on any calendar day. Once it is running, it runs presently for the next

3 hours. Under my suggestion, it would run for 5 hours after having been first triggered. It is possible, of course, by unanimous consent, to delay the triggering of this rule on any day until the unfinished business is laid before the Senate, thus avoiding the rule's being triggered by a minor transaction of business during the first few minutes of a day's session. As so often happens, much of the first 3 hours under the rule is spent on 3-minute speeches—where it has no application—and other small items before the unfinished business is laid before the Senate. It is, therefore, least effective at the time when, indeed, its application should be most felt.

Third. Senators who are to act as floor managers on bills, and so forth, should be urged to be on the floor promptly so as to minimize delay.

Fourth. During the first few weeks of next year, Senate sessions should be limited to 2 or 3 days per week until the calendar is filled. This would permit the committees to get a headstart on the preparation of legislation for floor debate.

Fifth. All Senators should be urged to keep staff members off the Senate floor except when in the actual performance of their official duties. Senate business can be better expedited in an atmosphere of order and decorum.

Sixth. Senators serving as Presiding Officer should fully acquaint themselves with Standing Rule XIX, which places a duty upon the Chair "to enforce order on his own initiative and without any point of order being made by a Senator."

Seventh. Mr. President, I think that when votes are taken on controversial measures, that arouse great public interest, generally those Senators who have had more experience in presiding over the Senate should be assigned to the chair. They will be, I think, more comfortable in enforcing order and decorum in the Chamber and in the galleries during moments when such enforcement is most difficult.

I say this with no disrespect and no reflection on those Members of the Senate who have had less experience in presiding.

I want to observe, in fact, that all of our younger Members have presided over the Senate in a very fine way.

Eighth. Finally, I would hope that all Senators would, in the future, refrain from objecting when efforts are made to clear the floor of Senate aides whose presence is obviously not needed in the Chamber. I respectfully call attention to rule XXXIII under which the privilege of the floor is accorded to clerks to Senate committees and clerks to Senators "when in the actual discharge of their official duties." Last week, during the vote on the SST, it will be recalled that I announced the presence on the floor of 82 clerks to Senators.

This was in addition to the officers and employees of the Senate who are regularly on the Senate floor, that is, Senate pages, Policy Committee staff members, Sergeant at Arms personnel, and secretaries and assistant secretaries to the majority and minority leaders. A gallery is regularly set aside for clerks to Senators, and such personnel should not be permitted to add to the confusion in the Chamber by remaining on the floor when they are not "in the actual discharge of their official duties." Of course, any Senator can ask unanimous consent to have staff personnel remain on the floor to render assistance if need be. The privilege of the floor should not be abused, but staff personnel are not to blame if we, as Senators, do not insist on enforcement of rules XIX and XXXIII. Order and decorum will be more conducive to a better handling of the people's business.

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

Mr. BYRD of West Virginia. I yield to the distinguished Senator from California.

Mr. CRANSTON. Mr. President, on behalf of Senators SAXBE, HUGHES, SCHWEIKER, and myself I wish to thank the distinguished Senator from West Virginia for his kind comments about the modest efforts we have undertaken to stimulate consideration of and hopefully, to bring about some changes in Senate procedures that would make the Senate, perhaps, more efficient, more responsible, and more responsive.

The Senator from West Virginia was very helpful to us in our early deliberations. He has had more experience with rules and he knows more about the rules and what can and what cannot be done under the rules. We are grateful to him for his help in this respect.

I am delighted he has come up with suggestions of his own, supplementing our suggestions, and that he has commented on those suggestions we have presented to all Members of this body.

I hope other Senators will follow the example of the distinguished Senator from West Virginia and come up with ideas to make the Senate procedure more efficient and expeditious.

Mr. BYRD of West Virginia. I thank the Senator. I appreciate the diligence of the able Senator from California. It was because of his efforts and the efforts of his colleagues that I was stimulated to come forward with these few modest suggestions of my own.

ORDER FOR ADJOURNMENT TO 11 A.M. TOMORROW

Mr. CRANSTON. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 11 a.m. tomorrow.

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

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. CRANSTON. Mr. President, if there be no business to come before the Senate I move, in accordance with the previous order, that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to, and (at 6 o'clock and 23 minutes p.m.) the Senate adjourned until tomorrow, Friday, December 11, 1970, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate December 10, 1970:

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Houser, of Illinois, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1964, vice Robert Wells.

IN THE ARMY

The following-named persons for reappointment in the active list of the Regular Army of the United States, from temporary disability retired list, under the provisions of title 10, United States Code, section 1211:

To be colonel

McConnell, Wayne D., xxx-xx-xxxx.

To be captain

Vernon, Helena M., xxx-xx-xxxx

The following-named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be lieutenant colonel

Ostrom, Thomas R., xxx-xx-xxxx.

To be captain

Wilson, Joe H. R., xxx-xx-xxxx.

To be first lieutenant

Smith, John C. B., xxx-xx-xxxx.

To be second lieutenant

Freeley, Douglas A., xxx-xx-xxxx.

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Baggett, Ronald L., xxx-xx-xxxx.
Brown, Joseph I., xxx-xx-xxxx.
Connolly, Robert R., xxx-xx-xxxx.
Dinkins, Robert L., xxx-xx-xxxx.
Gardner, David L., xxx-xx-xxxx.
Hutchins, Edwin M., Jr., xxx-xx-xxxx.
Keels, Roger L., xxx-xx-xxxx.
Murray, Edward L., xxx-xx-xxxx.
Porter, Marion T., xxx-xx-xxxx.
Simmons, James W., xxx-xx-xxxx.
Smith, Otto B., xxx-xx-xxxx.
Stapleton, John P., xxx-xx-xxxx.
Stefanowich, Daniel R., xxx-xx-xxxx.
Tate, Granville, xxx-xx-xxxx.

To be captain

Campbell, Grady C., Jr., xxx-xx-xxxx.
Ciconte, Joseph A., xxx-xx-xxxx.
Coffee, Charles W., xxx-xx-xxxx.
Cupero, Hamil M., xxx-xx-xxxx.
Eichel, Thomas F., xxx-xx-xxxx.
Foster, James M., xxx-xx-xxxx.
Garner, Darrell E., xxx-xx-xxxx.
Hall, Robert D., xxx-xx-xxxx.
Howd, James A., Jr., xxx-xx-xxxx.
Johnson, Richard H., xxx-xx-xxxx.
Jones, John B., xxx-xx-xxxx.
Kendall, William F., xxx-xx-xxxx.
Knight, Robert C., xxx-xx-xxxx.
Lyde, Willie J., xxx-xx-xxxx.
May, George R., xxx-xx-xxxx.
McKimmey, James R., xxx-xx-xxxx.
Mitchell, Stanley E., xxx-xx-xxxx.
Moore, George R., xxx-xx-xxxx.
Noyes, James L., xxx-xx-xxxx.
Ponzillo, Mark, Jr., xxx-xx-xxxx.
Powe, Marc B., xxx-xx-xxxx.
Sudduth, Dora M., xxx-xx-xxxx.
Sutherland, John H., xxx-xx-xxxx.
Tindall, James E., xxx-xx-xxxx.
Turner, Robert W., xxx-xx-xxxx.
Wallace, William F., xxx-xx-xxxx.

To be first lieutenant

Bambini, Adrian P., Jr., xxx-xx-xxxx.
Baergen, Jacob D., xxx-xx-xxxx.
Boshier, Maureen L., xxx-xx-xxxx.
Carl, William E., xxx-xx-xxxx.
Carr, Byron H., xxx-xx-xxxx.
Crawley, Ned W., xxx-xx-xxxx.
Daugherty, Marcus A., xxx-xx-xxxx.
Duval, Aaron D., xxx-xx-xxxx.
Edge, Rodney A., xxx-xx-xxxx.
Farris, William S., Jr., xxx-xx-xxxx.

Fontaine, Kent W., xxx-xx-xxxx
Greaney, Arthur L., xxx-xx-xxxx
Greenhalgh, William T., xxx-xx-xxxx
Gross, Ray A., Jr., xxx-xx-xxxx
Hair, Walter S., xxx-xx-xxxx
Halverson, Robert L., xxx-xx-xxxx
Hartfield, Robert S., xxx-xx-xxxx
Haslitt, James E., Jr., xxx-xx-xxxx
Heaston, Charles D., xxx-xx-xxxx
Herrington, James W., xxx-xx-xxxx
Hitchcock, John T., xxx-xx-xxxx
Johnson, Larry G., xxx-xx-xxxx
Johnson, Robert G., xxx-xx-xxxx
Kerr, Thomas H., xxx-xx-xxxx
Kinsella, Michael L., Jr., xxx-xx-xxxx
Kobey, David, xxx-xx-xxxx
Kurlansik, Edward, xxx-xx-xxxx
Lassetter, Gary W., xxx-xx-xxxx
Lauer, Donald M., xxx-xx-xxxx
Leach, Edward D., xxx-xx-xxxx
Leibner, Kenneth R., xxx-xx-xxxx
Lockwood, Robert S., xxx-xx-xxxx
Loyd, George C., III, xxx-xx-xxxx
McCarty, Robert T., xxx-xx-xxxx
McLellan, Malcolm R., Jr., xxx-xx-xxxx
McMains, James R., xxx-xx-xxxx
Morrison, George R., xxx-xx-xxxx
Mortis, Robert W., xxx-xx-xxxx
Nardozza, Anthony J., xxx-xx-xxxx
Nichols, Dale L., xxx-xx-xxxx
Nilsen, Roy M., xxx-xx-xxxx
O'Dell, Thomas E., xxx-xx-xxxx
O'Neill, Edwin A., xxx-xx-xxxx
Orians, Frank J., xxx-xx-xxxx
Ortiz, Teofilo, Jr., xxx-xx-xxxx
Petrucci, Vincent A., xxx-xx-xxxx
Petty, Pharies, xxx-xx-xxxx
Phillips, Bruce B., xxx-xx-xxxx
Plank, Gordon H., xxx-xx-xxxx
Slotter, Sandra L., xxx-xx-xxxx
Smith, Charles L., xxx-xx-xxxx
Smith, John A., xxx-xx-xxxx
Sweet, Brian R., xxx-xx-xxxx
Templer, Terrell S., xxx-xx-xxxx
Thomas, James A., III, xxx-xx-xxxx
Tice, Gary L., xxx-xx-xxxx
Todd, Maylon J., xxx-xx-xxxx
Wray, George L., III, xxx-xx-xxxx

To be second lieutenant

Brown, Richard A., xxx-xx-xxxx
Cherry, Edmond B., III, xxx-xx-xxxx
Eckberg, David J., xxx-xx-xxxx
Harrison, David G., xxx-xx-xxxx
Harsh, Michael K., xxx-xx-xxxx
Henery, Edward N., xxx-xx-xxxx
Hicks, Gail S., xxx-xx-xxxx
Higgins, Walter E., xxx-xx-xxxx
Kugel, Elizabeth E., xxx-xx-xxxx
Larson, Douglas F., xxx-xx-xxxx
Latimer, Larry D., xxx-xx-xxxx
Love, Geoffrey T., xxx-xx-xxxx
Mackinnon, Charles C., xxx-xx-xxxx
McLaughlin, John D., Jr., xxx-xx-xxxx
Miskimon, Gary E., xxx-xx-xxxx
Morris, John G., xxx-xx-xxxx
Moscatelli, Edward J., xxx-xx-xxxx
Mott, Loran C. P., xxx-xx-xxxx
O'Halloran Peter F., xxx-xx-xxxx
Palmer, Richard L., xxx-xx-xxxx
Reddick, Terry M., xxx-xx-xxxx
Ruzycki, Mary S., xxx-xx-xxxx
Sheppard, Samuel J., xxx-xx-xxxx
Smith, Cynthia D., xxx-xx-xxxx

The following-named distinguished military students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290.

Ayers, Donald R., xxx-xx-xxxx
Baker, Geoffrey B., xxx-xx-xxxx
Baker, Stuart W., xxx-xx-xxxx
Berry, Luther W., xxx-xx-xxxx
Curtis, Anthony G., xxx-xx-xxxx
Duncan, Neil R., xxx-xx-xxxx
Hoge, George F., Jr., xxx-xx-xxxx
Holland, Curtice E., Jr., xxx-xx-xxxx
Johnson, Lawrence H. III, xxx-xx-xxxx
Klemski, James H., xxx-xx-xxxx
Lavigne, John O. W., xxx-xx-xxxx
Long, Jeffrey C., xxx-xx-xxxx
Ursillo. John A., xxx-xx-xxxx

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps Candidates) to be permanent Ensigns in the Line or Staff Corps of the Navy, subject to the qualification therefor as provided by law:

Franklin S. Achille
Blair Ackerbauer
Harold S. Adams, Jr.
James J. Adams
Arthur A. Adkins
Harvey J. Adkins
Daniel J. Aldrich
John W. Alexander
James M. Allen
Robert W. Allin
Clare R. Allshouse
Thomas B. Almy
Magnus S. Altmayer
Frank C. Alvidrez
David C. Ammerman
Christopher E. Anderson.
John H. Anderson, Jr.
Joseph E. Anderson, Jr.
Leonard M. Anderson
Walter J. Apley, Jr.
Francis J. Archdeacon, Jr.
Stephen V. Archibald
Ralph F. Armstrong
Hollis D. Arnold
James P. Arnold
David Ashton, Jr.
Kenneth A. Attoe
Richard A. Austin
Terrance S. Bach
Joseph E. Baggett
Timothy L. Baker
David O. Bailey
Everett A. Bailey
Stephen L. Bakaley
Allen D. Baker
Nicholas E. Baldasari
Mark C. Banworth
Robert A. Barcinski
Richard L. Barnett
Kenneth P. Barnum
John S. Barrington
Timothy R. Barron
Daniel A. Barrow
John A. Bartley
Stephen A. Bartosh
Roger W. Bartram
Robert W. Bauer
Dale T. Baughman
Mark T. Bausili
Leslie J. Beassie
Daniel A. Beatty
David N. Beauchamp, Jr.
Michael C. Beavers
Gregory P. Becker
Ronald A. Bedell
Ronald J. Beelman
Dennis R. Beeson
Werner J. Beier
Stephen L. Bekkedahl
Robert D. Belcher
David H. Bell
Douglas A. Bell
Jacques T. Bellairs
Thomas E. Benim
Eric R. Berg
Robert D. Berger
Michael S. Berns
John D. Bertelson
Jerome E. Bickler
James E. Birchall, Jr.
Gerry N. Bird
Robert R. Bird
Denzil J. Biter
Gregory A. Blair
Thomas B. Blair II
Larry L. Blakesley
William E. Blase
James S. Bloxom
Geoffrey P. Boardman
David L. Bocchino
Richard A. Boeckman
Ronald C. Bogle
Joseph A. Bohannon
George R. Boller
Richard W. Bond
Patrick J. Bonner
Paul M. Boomhower
James E. Booth
Thomas M. Boothe
Thomas Boriotti
Kerry C. Bott
Kenneth V. Botton
Frederick L. Bovier
Ira L. Bowles III
Michael H. Boyce
Patrick J. Boyer
Edward J. Brandenburg
Thomas L. Breitinger
Mark E. Brender
Buck Brinson, Jr.
Richard I. Broker
David A. Brooks
Charles W. Brown
Douglas L. Brown
Henry S. Brown
James B. Brown
Jesse H. Brown
John R. Brown
Mark W. Brown
Steven J. Brown
Richard H. Brownley, Jr.
Herbert L. Buchanan III
Everett R. Buck, Jr.
James L. Bullock
Keith E. Bunch
Paul R. Bunnell
George E. Buntrock III
William F. Burgess
Peter W. Burkland
Bruce D. Burroughs
Dennis E. Buschbaum
Ronald D. Bussey
Thomas C. Butcher, Jr.
Bruce A. Butler
Frank K. Butler, Jr.
Thomas A. Butler
Stephan A. Byers
William D. Cady
John J. Cahill
Warren L. Caldwell, Jr.
Bruce S. Campbell
Edward P. Campbell
Richard D. Campbell
Stephen R. Canfield
John D. Cann
Robert J. Carden
Richard J. Carlson
William A. Caroli
Danny R. Carpenter
Louis B. Carpenter III
Robert W. Carr, Jr.
Larry J. Carter
Michael W. Carter
Robert C. Carter, Jr.
William P. Caruthers
John J. Casey, Jr.
John W. Caskey, Jr.
Richard D. Casselman
Thomas A. Caughlan
Robert G. Chadwell
Stephen P. Chamberlain
Gerald E. Champagne
Jeffrey D. Chandler
Christopher H. Chaney
Lee A. Chapin
Carl E. Chapman
Peter M. Chase
James W. Chattin
Eric C. Christenson
David W. Civalier
Jeffrey R. Clack
Augustus W. Clark III
James S. Clark
Thomas C. Clark
Gary W. Claunch
Gregory Clayton
Richard J. Clopper
Brian L. Coatney
Bruce A. Coats
James P. Cobb
John M. Cocke
Perry C. Cofield, Jr.
John M. Colcord
John L. Cole
James T. Collins
Timothy F. Columbia
Bruce A. Colvin
William D. Connell
Michael J. Connelly
William R. Conner III
Richard P. Conover
Denis S. Conroy
Robert J. Coolbaugh
Ward J. Cooper
Max A. Corley
Michael C. Cortney
Pat A. Costa
Stephen H. Costanzo
William R. Cottrel
Thomas B. Courtney, Jr.
Robert F. Cowherd
Terrence A. Cox
David E. Cozad
Mark J. Cramer
Timothy G. Creath
James W. Creech
Terry A. Crescimanno
Miles M. Croom
Paul E. Crow
James Q. Crowe
Robert K. Crowe
John L. Cummins
Richard M. Cunningham
Stephen L. Cupps
James P. Curran
Stephen C. Curtis
Stephen K. Cusick
Charles J. Dale
John M. Dalonzo
James S. Damron
Thomas L. Daniels
Donald L. Davis
Douglas N. Davis
Hartley R. Davis II
John A. Davis
Kenny D. Davis
Michael E. Davis
William B. Davis
Michael K. Dawson
Fay Day, Jr.
Raymond E. Dean
Robert J. Decesari
James P. Denson
Jerry W. Derrick
Lewis F. Desandre
Jack C. Dessommes
Graham R. Devey
Robert S. Devins
David P. Devlin
Van D. Dewitt
Lawrence L. Dick
Thomas P. Dickey, Jr.
Thomas E. Dierckman
Albert P. Difrancesco
Frank J. Dobrydney
Geoffry M. Doermann
Balfour J. Donald
Dale M. Doorly
John R. Dornan
Stephen E. Downing
Terryll Dougherty
Roland C. Dubay
John B. Dubeck
Stephen L. Dubinsky
Frank J. Dudek
Ronald T. Duff
Thomas E. Dunkelberger
Barry C. Dunlap
William C. Dvorak
James R. Dyer
Edward R. Dykes
Philip J. Eakin
Anthony F. Earley, Jr.
John S. Earwaker III
Stephen W. Easley
David T. Easter
William P. Eastin
Robert W. Edmonds
David P. Edson
Kerry C. Ekdahl
James E. Ellis
Robert B. Ellis
Joseph D. Emerson
Douglas T. Engel
Richard L. Engelen
Jerome R. English
Richard S. Enzinger
Charles A. Erickson
Steven C. Erickson
Bradley P. Etherton
Michael L. Ettredge
Michael E. Ewers
Terry D. Exstrum
Sheldon N. Fages
George Farkas III
William J. Farmer, Jr.
Thomas W. Farrand
Anthony J. Farrell
Cyril T. Faulders III
Joseph L. Fazio
Walter F. Fennell, Jr.
John A. Fergione, Jr.
David F. Fetterman
John E. Fichter
David A. Fields
Lawrence W. Findeiss
Jerry M. Fine
Michael P. Finn
Halsey R. Fischer
John B. Fleming, Jr.
Richard P. Fleming, Jr.
Stephen L. Flickinger
James H. Flora
Christopher G. Foe
Edward P. Foote, Jr.
Kenneth C. Fortgang
John I. Foster, Jr.
William W. Foster
Edward C. Fox
Terrance C. Frame
Joel S. Frank
John S. Fredericksen
Robert J. Freeman
Robert H. Freund
Robert A. Frey
Paul Friedman, Jr.
Paul S. Fromer, Jr.
Robert D. Frnka
Donn L. Fryman
Dana A. Fuller, Jr.
Daniel R. Fuller
Richard H. Funke III
Daniel E. Gabe
John H. Galberry
Thomas H. Gannon
Lawrence E. Garcia
James E. Garifalos II
Philip C. Garriss
Paul G. Gausch
David K. Gebert
Karl E. Geci
Norman D. Geddes
Michael T. Gehl
Donald G. Geiger
Richard A. Geel
Garry L. Gerlach
Robert L. Gill, Jr.
Timothy D. Gill
John K. Gillen
Jay T. Gillogly
Dale E. Giordano
Gary A. Glatzmaier
Patrick F. Golden
Joseph F. Golding
Marc L. Goldschmitt
Richard E. Gordohn
John J. Gorman, Jr.
William R. Gossett
William J. Grace
John E. Graham

William R. Graham
Charles A. Grant, Jr.
Barton L. Green II
John L. Greeno
James D. Gribben
James C. Griffith II
Robert D. Griffith
Ronald K. Griswold
Stanley R. Groenig
Mark S. Groman
Mitchell I. Gross
Paul J. Grotjahn
Henry L. Grover
David A. Grupe
Stanley K. Gryde, Jr.
David M. Gubanc
Bruce P. Gudenkauf
David R. Guebert
John E. Gulas
Gary W. Gulden
Frank H. Gurry, Jr.
Robert H. Guthrie
Richard F. Haas, Jr.
Oliver J. Hadden, Jr.
Ronald S. Hagadone
Thomas A. Hahn
Herbert W. Hall
Thomas C. Hall
Michael J. Halligan
Edward F. Halloran, Jr.
Alexander M. Hallmark
Howard W. Hamilton, Jr.
William L. Hamilton III
Russell E. Hammond
Robert E. Haney
John T. Hanley, Jr.
Richard K. Hanneman
Harold E. Hansen, Jr.
David R. Happ
David R. Harbaugh
Lloyd T. Harden, Jr.
Samuel R. Hardman, Jr.
Sidney W. Hare
John M. Hargesheimer
William C. Harmon
Glen T. Harper
Eldon D. Harris
Ronald E. Harris
Thomas E. Harris
John M. Hart
Philip N. Hart
Donald D. Harvey III
Gary W. Harvey
Timothy F. Hass
Russell L. Hatcher, Jr.
William S. Hawver
Bradd C. Hayes
John A. Hayes
Gregory E. Head
Joseph R. Hedrick
Donald E. Heath
Charles J. Heatley III
James A. Heinz
James F. Heleniak
James C. Helfrich
William E. Hellmann
Charles K. Henderson
Haywood H. Henderson, Jr.
Loring K. Henn
David M. Herald
Alan K. Herbst
Frederick S. Herring
James E. Hesler, Jr.
Glenn E. Hess
Paul D. Hickey
Harry B. Hill
Steven C. Hill
Jerome H. Hines
Robert G. Hocker, Jr.
Charles T. Hoepper
Gerald L. Hoewing
Edward L. Hogg
Nathaniel L. Holland, Jr.
William W. Holland
Robert H. Holloway
Marshall V. Holstrom
Hubert D. Hopkins, Jr.
Michael L. Hoppus
Michael H. Hoskins
Timothy L. Houck
Timothy P. Houlihan
David G. Howard
Arthur E. Howell III
Kenneth S. Howell
Joel P. Hoxie
James A. Hribar
Allen L. Hubbard
Thomas D. Huffman
Thomas F. Hughes
Joseph R. Hugill
Patrick E. Hurley
John W. Hussey, Jr.
Norman E. Houston, Jr.
Stephen C. Hutchins
William S. Igo
Harold L. Inabinet
Kenneth R. Ives
Charles H. Jackson IV
Floyd S. Jackson
Walter A. Jackson
Robert B. Jacobs
Christopher P. Jamison
Edwin S. Jankura, Jr.
Joseph J. Jannik, Jr.
Jens A. Jensen
Garrison W. Jaquess
Joseph R. Jelinski, Jr.
Michael O. Jenkins
Phillip L. Jody
Jeffrey K. Johnsen
Daniel T. Johnson
David M. Johnson
Eric C. Johnson
Jerry R. Johnson
John C. Johnson
Johnny W. Johnson
Michael B. Johnson
Ralph P. Johnson
Steven A. Johnston
Charles W. Jones, Jr.
Douglas C. Jones
Francis Jones
Roger N. Jones
Thomas R. Jones
Hardy R. Josephson
James H. Judson
William T. Kaloupek
Steven R. Kaltneckar
Jonathan L. Kaplan
James E. Karlovich
Fred G. Karnas, Jr.
Walter J. Kasianchuk
Jonathan D. Kaskin
Lige H. Kasmiroski III
Vincent P. Kazmer
Philip V. Keenan
James W. Kehoe, Jr.
James S. Keith
William B. Keller
Daniel C. Kelly
Dennis J. Kelly
James B. Kendall
Francis J. Kennedy, Jr.
Thomas E. Kennedy
Philip D. Kessack
Stephen F. Kessler
Jeffrey B. Kidder
Clark E. Kilroy
Robert L. Kimmel
John P. King
Donald E. Kirkland
Larry R. Klein
Joseph R. Kletzel II
Walter W. Knauss III
Robert M. Knight
Bruce R. Knowles
Ronald B. Koch
Andrew Koczon
John M. Kopec, Jr.
Frank K. Kotarski
Douglas A. Kranch
Donald W. Krech
Kenneth L. Kreutzer
Frederick B. Kruger, Jr.
John W. Krupsky
James D. Kuemmel
James R. Kuhlman
Robert N. Kurrasch
Danny E. Lakes
Clinton L. Laing
Robert B. Lambert
Lawrence C. Lane, Jr.
John L. Langenheim
Richard R. Langevin
Gary W. Lankenau
Jean B. Lapointe
Gilbert C. Lappano
James A. Lasswell
Thomas H. Lauer II
Dennis J. Leary
Francis N. Lee
Thomas E. Lee
Kenneth L. Leiby, Jr.
Edwin M. Leidholdt, Jr.
Joseph E. Leinenbach, Jr.
Lewis E. Leinenweber
Anthony W. Lengerich
John A. Leon, Jr.
Peter J. Leonard
John D. Leppert
Richard D. Leroy
John C. Lessel
Allan A. Lewandowski
Frank L. Lewis, Jr.
Kirk T. Lewis
Mark S. Lindsay
William H. Lindsay III
Robert T. Liseno
William H. Little
Anthony A. Loague
Theodore W. Long
Gregory S. Loring
Paul M. Loring
Douglas E. Lott
Michael D. Lowe
Robert S. Lowry
Randal S. Luce
John D. Ludowise
Robert W. Luigs
James B. Lundberg
Charles A. Luskey
William D. Lynch
Curtis W. Lytle
Robert J. McCabe
Thomas L. McCarriar, Jr.
William W. McClary
Lex L. McClellan
Patrick M. McClellan
Ronald L. McClure
Craig V. McConnell
Robert C. McCormick
Daniel R. McCort
Michael G. McCotter
James K. McDermott
Terrance S. McDonald
Douglas M. McDuff
William J. McEntee
Clyde E. McFarland, Jr.
Gary O. McGee
John W. McGillvray, Jr.
Paul E. McGilvray
Peter J. McGovern
Robert J. McGrody, Jr.
William W. McKinley
James M. McKinstray
Peter J. McLaughlin
Timothy M. McLaughlin
Peter McLean III
John B. McLeod
Donald F. McMann
Donald E. McManus
James F. McMartin III
Donald H. McNamara
Thomas J. McNeal
Mark H. McPherson
Marion L. McQuigg, Jr.
Joseph M. McSweeny
Richard E. McVoy, Jr.
Patrick MacCarthy
Richard S. MacDonald
John D. Mackenzie
James F. Mader
Norman W. Madge
Douglas R. Magnant
Robert L. Mahan
John W. Maher
William B. Mahony
Richard A. Maloney
Robert S. Maloney III
Craig R. Mann
William B. Manning III
Michael A. Marini
Conrad F. Marosek
Colin L. Martin
David P. Martin
George W. Martin III
Graham H. Martin
Mulford Martin III
Paul H. Martin
Nathan P. Martino
Robert R. Martin
John J. Martinoli, Jr.
Martin J. Martinson
Paul A. Mathew
Rodney F. Matsushima
Dennis W. Maxfield
James W. May
John D. Maxey
John K. Mell, Jr.
Kevin G. Mercier
Daniel W. Merdes
Robert S. Meyett
James M. Middleton, Jr.
Edward Mihalak
Bruce E. Millenbach
Craig S. Miller
Douglas L. Miller
George R. Miller
Glenn H. Miller
Lee C. Miller
Peter Miller, Jr.
Philip W. Miller
Robert A. Miller
Stephen W. Miller
Steven M. Miller
Thomas J. Milne
Dwight C. Mims
John B. Miner
Stephen C. Mischen
David E. Mitchell
Donald R. Mitchell
Frank A. R. Mitchell
James A. Mitchell
Herald S. Mizer
Michael A. Moffitt
Timothy P. Monahan
Anthony M. Monopoli
James H. Montgomery
Ben Moore III
Michael J. Moore
Richard E. Moore II
William E. Moore
Emmett J. Moran
Michael D. Moran
Gregory C. Morgan
Christopher P. Moriarty
John W. Morrison
John W. Morrisset
Gary K. More
John J. Morris
James K. Mosher
William G. Muller
Stephen V. Munson
Gregory S. Murray
Randall W. Myers
John J. Nacht
David G. Naderson
Robert J. Nacion
George F. Nafziger
Robert C. Nall
Edmund G. Nasief, Jr.
John J. Needham, Jr.
Craig S. Nelson
States L. Nelson
Christopher P. Nemeth
Richard C. Neville
Laurence H. Newton
Thomas A. Newton, Jr.
Eldon E. Nichol
Dan M. Nichols
Jerry L. Nicholas
Frederick C. Nightingale
James R. Nise
Michael A. Niss
James T. Noland, Jr.
Bruce A. Nottke
Sven T. Nylen III
David A. Oberg
Michael W. Oboyle
Patrick D. O'Boyle
James J. O'Connor, Jr.
Brendan J. O'Donnell
Hugh K. O'Donnell
Robert J. Ogden
Robert F. Ogurek
Kenneth L. Okeson
Kenneth L. Olson
Michael J. O'Neill
Kevin D. O'Neill
Dwayne A. Oslund
Andrew A. Ostrow
Karl R. Ottesen, Jr.
Park H. Owen III
Richard L. Owen, Jr.
Mark T. Pachuta
Elton T. Page III
John M. Page, Jr.
Steven G. Page
Jerry J. Palm
Carleton A. Palmer
William W. Palmer III
Aldo T. Paoletti
Thomas F. Patterson, Jr.
Roy L. Paul
Gerald R. Pech
Stephen S. Penley
Roger E. Penrod
Keith A. Perkins
Edmund L. Perz
Richard M. Petersen
Neil G. Peterson
Mark H. Petitte
John N. Petrie
Randolph A. Petty
Alvis S. Pharr, Jr.
Don A. Phillips
William R. Phillipson
John L. Piecuch
William B. Pierce
Barry E. Pilger
Timothy H. Pinkham
William C. Pitcher
Clifford C. Pittman
Ernest D. B. Pittman
Robert C. Pizzano
Joseph Pluta, Jr.
James A. Polk
Mark E. Pollard
Weston J. Pollock
Steven H. Ponthan
Stephen D. Porter
Thomas L. Potter
John R. Powell
John G. Prantil
Scott C. Proctor
Robert W. Prunty, Jr.
Paul F. Pugh
William N. Pugh
Michael P. Pumilia
Kenneth W. Quigley
John M. Quinn III
Richard E. Quinn, Jr.
Jeffrey D. Quint
Mark A. Rader
Michael J. Ragnetti, Jr.
Richard K. Raines
Steven E. Rasmussen
James R. Ray
Samuel L. Ray
Peter C. Redmayne
Michael D. Redshaw
Donald G. Reinertsen
Ronald A. Renner
Philip R. Resch, Jr
Mark P. Rice
Albert D. Rich III
Charles C. Richards
Isaac E. Richardson III
Steven D. Richardson
John S. Ridley, Jr.
William H. Rigby, Jr.
Robin L. Ringler
James R. Rinker
Robert Rivera
David J. Rizy
David G. Roach
Ralph D. Roberts, Jr.
John M. Robins
Douglas R. Robinson
Richard D. Roda
Richard L. Rodgers
Robert W. Roesch, Jr.
John W. Rogers
Stacy A. Roscoe
Robert W. Rose, Jr.
John C. Ross
Roger D. Ross
Mark W. Rossi
Robert E. Rottman
Robert C. Rubel
David B. Rummer
Robert S. Runnion III
Leonard R. Rupertus
Dennis H. Rutledge
William C. Rutledge
Michael J. Sage
Michael J. Salerno
Jack J. Samar, Jr.
Robert D. Sampson
Charles G. Sandell
James H. Sanders
James A. Santangelo
Thomas H. Sartain
John C. Sassen
Daniel T. Saunders
Duane R. Sawyer
Dorsey D. Schaper
Joel R. Schapira
Ned A. Scheerhorn
Gregory A. Schilling
William G. Schmidt
Robert W. Schmidt
Kim B. Schier
James F. Schilder
Stanley C. Schlegel
James E. Schmidkunz
James W. Schmidley
Stephen R. Schmitt
William E. Schmitt
Jeffrey W. Schneider
Robert L. Schneider
Thomas D. Schrader
John J. Schuler
Patrick D. Schultea
Jerry O. Schutt
Mark P. Schultz
James L. Schulze, Jr.
Jay S. Schutzman
Edward G. Schwarz
Martin H. Schwedhelm
Robert D. Seaton
Robert M. Seeger
William A. Seiss
Gregory N. Seminoff
Robert E. Severson
Alfred N. Sevi
LeLand S. Shackelford
Seigfried L. Shalles
Leonard W. Shea
Glenn W. Sheehan
Gary R. Shellhammer
Frederic A. Shepard
Walter T. Sheppard
John C. Sherrard
Charles S. Sharrocks, Jr.
Martin V. Sherrard
Robert D. Shields
Richard Y. Shintani
Ronald K. Shobe
Charles K. Shoemaker
Kenneth D. Short
Robert L. Shiffman
Stephen L. Sides
Eugene J. Siembieda, Jr.
James D. Simila
Donald B. Sims, Jr.
Mark R. Sivers
John A. Sixta, Jr.
Robert W. Skaggs
Robert T. Skelton

William S. Skibitsky
Richard M. Slettvet, Jr.
Mark S. Sloat
John A. Slusser
Craig H. Smith
Harris L. Smith
Jeffrey C. Smith
Lawrence D. Smith
Robert W. Smith
Steven C. Smith
Steven T. Smith
Samuel A. Smith
Stuart W. Smith
Thomas P. Smith
William T. Smitherman
Frank W. Snell
Stephen F. Snell
Thomas R. Snook
Richard M. Snow
Thomas E. Sobolewski
Steven J. Sonntag
Joseph R. Soriano
John E. Soron
Gary G. Sowers
William D. Spiegel, Jr.
Peter L. Staffel
Jay D. Stanke
John G. Stanke
Lester L. Starr, Jr.
William A. Steele, Jr.
Charles S. Steinert
Michael W. Stephens
Lawrence A. Stevens
John G. Stevenson
Frank W. Stewart
Robert D. Sterusky
Richard M. Stewart
Robert A. Stratman
James N. Strock
Steven H. Stokes
Christopher J. Stockwell
Timothy G. Stone
Louis O. Storm II
William H. Stubblefield
Mark J. Stull
Frederick C. Sturz
Eugene Sullivan
Kerry J. Sullivan
Ronald G. Sumrow
John L. Sunday
Melvin L. Sundin
Robert N. Swacker
Francis E. Sweeney
Anderson H. Swepston
Rudolph L. Tamayo, Jr.
Frederick L. Tampe
Frank R. Tappen
Dean E. Taylor
Robert W. Taylor, Jr.
Mark J. Tempest
Gary M. Tennesen
Thomas E. Tennison
Paul D. Thayer
John L. Thom, Jr.
Clarence E. Thomas, Jr.
William J. Thomson
Peter M. Thompson
Lee H. Thonus
Robert A. Thorley
James T. Thornton
Peter B. Thornton
James W. Tinsley, Jr.
David J. Tobergte
Dale E. Todd
David K. Todd
Jordan L. Torgerson
Kenneth W. Towers
William P. Treadwell
Stephen B. Troutman
Michael A. Trudell
John E. Tufts
Charles A. Tulley III
Terrence W. Tull
Richard S. Turk
John S. Turner
Edward P. Tynan
Michael F. Uebelherr
Brian C. Underwood
Norbert S. Unger, Jr.
John B. Ullman
Michael L. Ustick
Thomas J. Utschig
Steven W. Vagts
Richard H. Valade
Larry W. VanFleet
Frank L. Vandeman, IV
Michael E. Vanderpool
Peter M. Vandyk
Raymond T. Vanhaute
John O. Vannatta
Leroy D. Vansciver
Edward S. VanVleet
David L. Vercellino
John P. Villarosa
James S. Vintar
James W. Voss
Christopher M. Wachter
Ray K. Waddell
Cort D. Wagner
Henry M. Wagoner
David L. Walker
James H. Walker
Richard W. Walker
James R. Wallace
Gregory E. Walsh
James M. Walsh, Jr.
Michael J. Walsh
John J. Walters
Victor M. Walz, Jr.
Charles G. Ward
Charles R. Ward
Edward C. Warres
Robert J. Washington
Robert M. Wasko, Jr.
Dale M. Watson
Samuel R. Watson
Alexander Y. Watt, Jr.
Richard K. Weaver
Lincoln P. Webb
John R. Weigand
Charles F. Welles
Randolph R. Wells
Jeffrey G. Wendle
Michael H. Wesner, Jr.
Ernest E. Wessman
Michael C. West
Richard D. West
Steven B. Westover
Edwin F. Weyrauch
Charles D. Wheatley
Richard L. White
Russell A. White
John D. Whitney
William F. Whitson
James R. Wieferich
Ronald L. Wiggins, Jr.
Mark L. Wilant
Steven G. Wilbur
James P. Wilcox
Raymond K. Wilde
Ted S. Wile
Alan D. Will
Lester P. Wilkinson
Alastair G. Williams
Dale E. Williams
Donald W. Williams
Richard L. Williams
Scott K. Williams
John D. Williamson
Michael L. Willoughby
John L. Windrow
Gregory J. Winsky
Christopher S. Wilson
David G. Wilson
Michael E. N. Wilson
Fredrick P. Wilton
Terrance H. Wolfsen
John S. Wood
Robert H. Wood II
Allen G. Woodall
Donald L. Woodard
Kevin J. Woods
William D. Woodyard
Eric H. Worrall
Joseph C. Worth III
Casey W. Wright
Larry C. Wright
Charles S. Wunsch
Patrick R. Wyatt
James A. Yale
Kingston Cheng Wu Yong
John P. Yost
David R. Young
Robin H. Young
Bruce C. Zablow
James M. Zachary
Ronald F. Zavaglia
Mark E. Zimmerman
Andrew D. Zinn

The following-named (Naval Enlisted Scientific Educational Program Candidates) to be permanent Ensigns in the Line or Staff Corps of the Navy, subject to the qualification therefor as provided by law:

Alexander, Ronald K.
Alger, James A.
Allen, Dale I.
Appleby, Robert T.
Arnold, Berthold K.
Bardwell, Robert R.
Barker, Jimmy L.
Barnett, Harry E.
Barnett, Richard L.
Bateman, Clifford B.
Beaudet, Carl A.
Beck, Ardie L.
Benziger, Philip E.
Bien, Jay K.
Blair, Coy L.
Blauvelt, Russell M.
Bohm, Edward A.
Bohrer, Herbert A.
Boucher, David L.
Branaman, Larry G.
Bolton, Patrick J.
Breedlove, Rodger D.
Brown, Harry P., Jr.
Brown, Lonnie C.
Bullock, Martin L.
Burlison, John R.
Burtt, Chester A.
Cash, Louie Oliver
Cauchon, Richard P.
Cech, Ladd M.
Christy, Leonard C.
Coghill, Cortlandt C., III
Conte, Enrico E.
Cook, Roger D.
Corbin, James H.
Covington, George B.
Curry, Ronald N.
Daugherty, Jack E.
Davis, Thomas E.
Day, Edward W.
Deacon, Glenn R.
Delaney, Dennis M.
Dresner, Jay D.
Driscoll, Michael L.
Duquette, Marc R.
Durst, David P.
Duzy, Charles A.
Dykstra, David A.
Easterday, Kenneth P., Jr.
Ebright, Arthur L.
Eden, Michael S.
Endo, Victor
Erken, Donald C.
Estes, James L.
Faith, Everett W., Jr.
Faurie, Bruce R.
Felton, Bobby J.
Filka, Ronald A.
Fishel, Henry G.
Foltz, Ricky A.
Foraker, Allen S.
Fredricks, John A.
Funk, William T.
Gafney, Edward J., III
Gauthier, Normand C.
Gearhart, Michael W.
Gecan, Anton S., Jr.
Girvin, Charles R.
Glynn, Dennis W.
Graves, Davie W.
Gray, Charles L.
Gronroos, William E.
Gunia, Earl G.
Gunn, Donald P.
Gurke, Lee S.
Hagstrom, David W.
Hall, Larry W.
Hart, William S.
Hartmuller, Roger L., Jr.
Haseltine, Raymond F.
Herris, John W.
Henson, John W.
Higgins, Timothy
Hinz, Donald E.
Hitt, Curtis W.
Hobart, Joseph R.
Hoffoss, Peter O.
Jerome, Douglas J.
Johanek, James F.
Johnson, Kenneth P.
Johnson, Philip G.
Jones, Jimmie G.
Jones, Walter E.
Kane, Dennis L.
Kelso, Robert B.
Kemp, Dieter K.
Kendall, Gene R.
Keyser, Emmett M., III
Kocmich, Eugene J.
Kortman, Gregory M.
Kosar, Peter G.
Kraft, Robert A.
Kramer, Klaas
Kubic, Tad A.
Kubovchik, John F., Jr.
Kulikowski, Joseph G.
Larrabee, Daniel A.
Lavery, William Harry
Leichtnam, James J.
Leonard, Richard W.
Lewis, Jerry L.
Liberatore, Donald J.
Louden, Peter E.
McComb, Lorne B.
McConkey, David L.
McDevitt, Gerald R.
McKay, Duane L.
Mace, Frederick E.
Mallory, Harry B.
Marshall, Melvin E., Jr.
Martin, Donald L.
Martinez, Luis C.
Masters, William D.
Meade, John T.
Melton, Daryl K.
McLochlin, John M.
Mendez, Robert (NMN)
Merwin, Ronald Jo
Micone, Theodore R.
Mitchum, Kenneth R.
Modes, Ronald W.
Morgan, James C., Jr.
Mori, Donald P.
Morris, Ralph L.
Mulkern, Trent C.
Neely, Frederick C.
Nelson, Stephen C.
Newman, Don R.
Nichols, Thomas J.
Nicholson, Harry X.
Norris, John A.
O'Dea, James E.
Offerdahl, David C.
Oliver, Thomas A.
Onyon, Dale E.
Orton, Frederick C.
Palanca, Rodney A.
Parks, Philip Douglas
Pearson, Charles W., III
Polwarth, John B.
Powers, Lynn Frederick
Price, Michael L.
Reed, Billie M.
Reitz, Stephen L.
Reynolds, John C.
Richards, Philip E.
Richards, Ronald C.
Rickman, Loy D., Jr.
Rickman, William L.
Rider, John D.
Rose, Robert R.
Royal, David E.
Russell, Donald C.
Rustchak, Daniel F.
Rutkowski, Edwin G.
Savage, Robert R.
Sax, Karl, II
Schaeffer, Jacob D.
Schnellenberger, James E.
Scott, Kenneth H., Jr.
Sellers, Ronald E.
Sentman, Orville L.
Sexton, Ralph J.
Shaw, Samuel D.
Shockley, William R.
Simmons, Roger S.
Simonds, Robert H.
Simpkins, Earl L.
Sitterson, Allan E.
Sipe, Michael M.
Smith, Gary L.
Smith, Paul T.
Somers, Larry L.
Speer, John P.
Stark, Richard R.
Stelling, Geoffrey H.
Struble, James F.
Suman, Steven M.
Summerlin, Michael Don
Taylor, Joseph E.
Thaggard, Robert S.
Thompson, Alan J.
Thompson, Jerry D.
Thomson, David D.
Tomlinson, Philip F.
Trytten, Dean O.
Uplinger, Joseph C.
Vanhoy, William A.
Walker, William F.
Weatherington, Michael W.
Weaver, Charles S.
Weaver, Vaughan C.
Weber, Frank C.
Wellman, William E.
Welsh, Harold K., Jr.
Westbrook, Gary M.
Wharton, Darryl M.
Whitelatch, Robert C.
Wittenber, Jan J.
Yeatman, Lawrence L.
Zuorro, Kenneth J.

The following-named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualification therefor as provided by law:

Rodney A. Gray
John T. Kennard

William W. Stuart, Jr. (Naval Reserve officer) to be a lieutenant commander in the Dental Corps of the Navy, for temporary service subject to the qualification therefor as provided by law.

Gerald J. Nowak, to be a permanent lieutenant and temporary lieutenant commander in the Medical Corps of the Navy in lieu of permanent lieutenant (junior grade) and temporary lieutenant as previously nominated and confirmed, subject to the qualification therefor as provided by law:

William N. Moon; U.S. Navy retired to be reappointed from the temporary disability retired list as a permanent chief warrant officer W–4 in the Navy, subject to the qualification therefor as provided by law:

James L. Frazier, Naval Reserve Officer to be a permanent lieutenant and a temporary lieutenant commander in the Dental Corps, in lieu of permanent lieutenant (junior grade) and temporary lieutenant as previously nominated to correct grade subject to the qualification therefor as provided by law:

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the Line or Staff Corps of the Navy, subject to the qualification therefor as provided by law:

Robert C. Allen
James B. Andersen
David G. Anderson
Robert B. Austin, Jr.
James E. Blanton II
Lewis R. Bond III
Jack W. Brouhard
Michael P. Callaway
Russel C. Colten
Gary M. Craft
David R. Crompton
France P. Davis, Jr.
Leroy W. Davis II
David S. Ensminger
Russell E. Gandy
Mark W. Hoffmann
Boyce W. Huss
Richard S. Kaiser, Jr.
Richard R. Kindberg
Philippe M. Lenfant
Michael A. Lutkenhouse
Michael H. Lutz
Paul B. McElwatn
Stephen C. Mischen
Kenneth E. Peterson
Thomas C. Pyles
Robert C. Rautenberg
Christopher A. Rusch
Rory L. Schlueter
Charles N. Sherman
William M. Sigler III
Craig P. Staude
Nicholas J. Stas
Brian L. Toms
James J. Wemlinger
David G. Wilson

Prince E. Denton (civilian college graduate) to be a permanent lieutenant and a temporary lieutenant commander in the Dental Corps of the Navy subject to the qualification therefor as provided by law.

The following-named (Naval Reserve officers) to be permanent lieutenants and temporary lieutenant commanders in the Dental Corps of the Navy, subject to the qualification therefor as provided by law:

William C. Johnston
Frank U. Perry

Patrick J. Haney (Naval Reserve officer) to be a permanent lieutenant (junior grade) and a temporary lieutenant in the Dental Corps of the Navy, subject to the qualification therefor as provided by law.

The following-named (Naval Reserve officers) to be permanent lieutenant commanders and temporary commanders in the Medical Corps of the Navy, subject to the qualification therefor as provided by law:

William S. Moore
Kurt Sorensen
James E. Wenger

The following-named (Naval Reserve officers) to be permanent lieutenants and temporary lieutenant commanders in the Medical Corps of the Navy, subject to the qualification therefor as provided by law:

Larry D. Cordell	William F. McKenzie
Ronald P. Digiacomo	William T. Mason
James H. Hall III	David A. Neal
Donald L. Johnson	Albert L. Roper II
Shun Hung Ling	Edward A. Sherwood
Antonio Tamara	William C. Welch
George G. Telesh	Allan Ka-lun Yung
Robert L. Vickerman	

The following-named (Naval Reserve Officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Medical Corps of the Navy, subject to the qualification therefor as provided by law:

Douglas P. Boldon	Stephen A. Grzenda
Stephen Boyle	Robert S. Howell, Jr.
Wesley L. Coker	Floyd R. Hyatt
Edgar L. Corte's	James L. Knavel
Max A. Dean	Robert J. Koterbay
John C. Donaldson	Daniel J. MacNeil
Norris W. Dyer	Trent W. Nichols, Jr.
Jay R. Grossman	Samuel G. Ogle
John A. Gastright	Douglas A. Palenschat
Glenn C. Parrish	Edward D. Williams
Richard S. Rose	James D. Woods
Douglas F. Thomas	James J. Zelenak

CONFIRMATION

Executive nomination confirmed by the Senate December 10, 1970:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Sidney P. Marland, Jr., of New York, to be Commissioner of Education.

WITHDRAWAL

Executive nomination withdrawn from the Senate December 10, 1970:

FEDERAL COMMUNICATIONS COMMISSION

Sherman Unger, of Ohio, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1964, vice Robert Wells, which was sent to the Senate on July 24, 1970.

HOUSE OF REPRESENTATIVES—*Thursday, December 10, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The law of God is in his heart: None of his steps shall slide.—Psalms 37:31.

Almighty God, our Father, we thank Thee for the open door of a new day which makes available to us once again the steps that lead to a better and a brighter life. Guide us, we pray Thee, that in this generation we may find the way to good will toward men, freedom among men, justice between men, and peace in the hearts of men.

Bless every lover of liberty, every effort for the growth of free institutions, and every endeavor to make democracy work on our planet. This is our task and our mission. May we prove ourselves worthy of it and play our full part in climbing the steps toward this glorious achievement.

"Give me the heart, to hear Thy voice
and will
That without fault or fear I may fulfill
Thy purpose with a glad and holy zest,
Like one who would not bring less than
his best."

In the spirit of Him who leads us from strength to strength, we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

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

H.R. 2214. An act for the relief of the Mutual Benefit Foundation;

H.R. 2335. An act for the relief of Enrico DeMonte;

H.R. 7267. An act to require the Foreign Claims Settlement Commission to reopen and redetermine the claim of Julius Deutsch against the Government of Poland, and for other purposes;

H.R. 7830. An act for the relief of James Howard Giffin; and

H.R. 12173. An act for the relief of Mrs. Francine M. Welch.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 19436. An act to provide for the establishment of a national urban growth policy, to encourage and support the proper growth and development of our States, metropolitan areas, cities, counties, and towns with emphasis upon new community and inner city development, to extend and amend laws relating to housing and urban development, and for other purposes; and

H.R. 19877. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 19877) entitled "An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RANDOLPH, Mr. YOUNG of Ohio, Mr. MUSKIE, Mr. JORDAN of North Carolina, Mr. COOPER, Mr. DOLE, and Mr. GURNEY to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 3070. An act to encourage the development of novel varieties of sexually reproduced plants and to make them available to the public, providing protection available to those who breed, develop, or discover them, and thereby promoting progress in agriculture in the public interest.

The message also announced that the Senate agreed to the amendment of the House to the bill (S. 3431) to amend sections 13(d), 13(e), 14(d), and 14(e) of the Securities Exchange Act of 1934 in order to provide additional protection for investors with an amendment in which concurrence of the House is requested to the foregoing bill.

The message also announced that the Senate agreed to House amendments to a bill of the Senate (S. 3785) to amend title 38, United States Code, to authorize educational assistance to wives and children, and home loan benefits to wives, of members of the Armed Forces who are missing in action, captured by a hostile force, or interned by a foreign government or power, with amendments, in which concurrence of the House is requested to the foregoing bill.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 106. An act for the relief of Ida Kunstmann, Waldermar F. Kunstmann, and Anneliese E. Kunstmann;

S. 1035. An act for the relief of certain postal employees at the Elmhurst, Ill., Post Office;

S. 1779. An act for the relief of Bogdan Bereznicki;

S. 3168. An act for the relief of Daniel H. Robbins; and

S. 4557. An act to amend Public Law 91–273 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The Speaker laid before the House the following communication from the Clerk of the House of Representatives:

DECEMBER 10, 1970.

The Honorable the SPEAKER,
U.S. House of Representatives.

DEAR SIR: Pursuant to authority granted on December 10, 1970, the Clerk received from the Secretary of the Senate today the following message:

That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the